AGENDA

CITY COUNCIL - REGULAR MEETING
CITY OF BANNING, CALIFORNIA

July 8, 2025
5:00 p.m.
In Chambers

Council Chambers
99 E. Ramsey Street
Banning, CA 92220

The following information comprises the agenda for the regular meeting of the Banning City Council, a joint meeting of the City Council and Banning Utility Authority, and the Banning City Council sitting in its capacity as the Banning Successor Agency Board.

This meeting is being held via Zoom so that members of the public may observe and participate in this meeting electronically. If you participate in this meeting via Zoom, you are agreeing to abide by the City's Zoom Community Standards for Public Meetings (provided in full on the last page of the agenda). *Esta reunión se lleva a cabo en la Cámara y a través de Video/Teleconferencia en Zoom para que los miembros del público puedan observar y participar en esta reunión de manera electrónica. Si elige participar en esta reunión a través de Zoom, acepta cumplir con los Estándares comunitarios de Zoom para reuniones públicas de la ciudad (que se proporcionan en su totalidad en la última página de la agenda).*

To observe and participate in the online video portion of the meeting through your personal computer or device, follow this link:
https://us02web.zoom.us/j/82012644588?pwd=RwqtJC8xehLDKZvr3LEKOf9u8uP2pt.1

Dial in: +1 669 900 9128

Meeting ID: 820 1264 4588
Password: 92220

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

1. CALL TO ORDER

1.1 **INVOCATION**
Performed by Pastor Doug Purcell of Banning United Methodist Church

1.2 **PLEDGE OF ALLEGIANCE**

1.3 **ROLL CALL**

2. AGENDA APPROVAL

2.1 **AGENDA APPROVAL**

3. PRESENTATIONS

3.1 City of Banning Purchasing Department has been awarded the National Procurement Institute's Achievement of Excellence in Procurement (AEP) award for 2025.
Recommendation: Recognize Procurement Staff for their hard work and dedication to the City of Banning and the procurement profession.

3.2 Acorns to Oaks Presentation
Recommendation: Requested by Mayor Flynn.

4. REPORT ON CLOSED SESSION

Phaedra Norton, Interim City Attorney

5. PUBLIC COMMENTS, CORRESPONDENCE, APPOINTMENTS, AND REPORTS

5.1 **PUBLIC COMMENTS**

5.2 **CORRESPONDENCE**

5.3 **APPOINTMENTS**

5.4 **CITY COUNCIL COMMITTEE REPORTS**

5.5 **ANNOUNCEMENTS FROM CITY COUNCIL MEMBERS**

5.6 **CITY MANAGER'S REPORT**

5.7 **CITY ATTORNEY'S REPORT**

5.8 **CITY TREASURER'S REPORT**

6. CONSENT ITEMS

The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council/Banning Utility Authority/Successor Agency Board wishes to remove an item for separate consideration.

6.1 Consideration of Resolution 2025-03 UA, Authorizing the Purchase of a 2026 Ford F-550 Regular Cab Chassis with a Wach's Valve Skid for a Total Cost of $232,257.01
Recommendation: Adopt Resolution 2025-03 UA.

6.2 Consideration of Resolution 2025-98, Approving the Cooperative Agreement with Riverside County for Fire Services
Recommendation: Adopt Resolution 2025-98.

6.3 Consideration of Resolution 2025-99, Approving a Professional Services Agreement (C01134) with Rincon Consultants, Inc. for Preparation of Annual Progress Reports on Housing to Fulfill Statutory Mandates Under Government Code Section 65400 and 65700
Recommendation: Adopt Resolution 2025-99.

6.4 Consideration of Resolution 2025-100, Amending Administrative Policy (AP) No. B-35 – Grant Management/Administration
Recommendation: Adopt Resolution 2025-100.

6.5 Consideration of Resolution 2025-101, Approving Amendment No.1 to the Professional Services Agreement with Rick Engineering, Inc. in the Amount of $20,930 for the Design of

Ramsey Street Water Main Replacement.
Recommendation: Adopt Resolution 2025-101.

6.6 Consideration of Resolution 2025-102, Approving Final Parcel Map 38659 and Release the Map for Recordation; Authorize Staff to Sign the Project Improvement Agreement and Final Parcel Map; Accept Faithful Performance and Labor and Material Bonds for Public Improvements
Recommendation: Adopt Resolution 2025-102.

6.7 Consider Resolution 2025-103, Approving a 2-Year Contract with a 1-Year Optional Extension to Terminix International Company, LP For City Wide Facilities and As-Needed Pest Control Services For a total of $75,000.
Recommendation: Adopt Resolution 2025-103.

6.8 Consideration of Resolution 2025-104, Amending the Classification & Compensation Plan for the City of Banning

Recommendation:

Adopt Resolution 2025-104.

6.9 Consideration of Resolution 2025-105, Rescinding City Council Resolution 2025-59, Resolution 2025-60, and Ordinance 1609 for Approvals Related to an Industrial Development Consisting of 1,320,284-Square Foot Warehouse Building on Approximately 131.28-Acres of Vacant Land Generally Located East of Hathaway Street and North of Interstate 10
Recommendation: Adopt Resolution 2025-105.

6.10 Consideration of Accepting Easements from North Pointe Development for Right of Way, Maintenance and Access, and Temporary Construction necessary for the Sun Lakes Boulevard Extension Project
Recommendation: Accept Easements from North Pointe Development for Right of Way, Maintenance and Access, and Temporary Construction necessary for the Sun Lakes Boulevard Extension Project

6.11 City of Banning's Hexavalent Chromium Compliance Plan
Recommendation: Receive and file.

6.12 Accepting a Quitclaim of Existing City Easements Related to the Improvement of Tract Map No. 37389-6, PA 9A Within the Atwell Specific Plan
Recommendation: Staff recommends that the City Council accept a quitclaim of existing easements from Tri Pointe Homes for electric utility purposes for Tract Map No. 37389-6, PA 9A within the Atwell development for the maintenance of the City-owned electric distribution system.

6.13 Consideration of Second Reading and Adoption of Ordinance 1610, Adopting the Fire Hazard Severity Zones within the City of Banning Based on Maps Provided by the California Department of Forestry and Fire Protection by Amending the Banning Municipal Code Section 8.16.020 and Chapter 15.28
Recommendation: Waive the second reading of the text in its entirety, read by title only, and adopt Ordinance 1610:

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE FIRE HAZARD SEVERITY ZONES WITHIN THE CITY OF BANNING BASED ON MAPS PROVIDED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE

PROTECTION BY AMENDING THE BANNING MUNICIPAL CODE SECTION 8.16.020 AND CHAPTER 15.28

7. PUBLIC HEARINGS

7.1 Public Hearing on Vacancies to Comply with Assembly Bill 2561
Recommendation: Hold a public hearing; and Receive and file this report in compliance with AB 2561.

7.2 Consideration of (1) Resolution 2025-106, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38576, for the Subdivision of the 131.28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-107, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1611, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation
Recommendation:
1. Adopt Resolution 2025-106.
2. Adopt Resolution 2025-107.
3. Introduce and conduct first reading of, by title only, Ordinance 1611: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

8. REPORTS OF OFFICERS

8.1 Consideration of Resolution 2025-108, Authorizing the Submittal of a Grant Application Under the Bureau of Reclamation WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Program for Fiscal Year 2023 and for Fiscal Year 2024 for up to 25% of the Total Project Costs, Up To $30 Million, for the Wastewater Treatment Plant and Recycled Water Upgrades and Authorizing the City Manager to Executed Related Grant Agreement to Receive Funding
Recommendation: Adopt Resolution 2025-108.

8.2 Consideration of Resolution 2025-109, Authorizing the Submission of an Application to the California Infrastructure and Economic Development Bank for Financing for the Wastewater Treatment Plant and Recycled Water Upgrades Project
Recommendation: Adopt Resolution 2025-109.

8.3 Consideration of Resolution 2025-110, Approving an amendment to Purchasing Policy No. B-30 to streamline and enhance the procurement and purchasing process
Recommendation: Adopt Resolution 2025-110.

8.4 Consideration of Resolution 2025-111, Authorizing a Property Rental Agreement for the Wanderlust Pop-Up Food Truck Festival through December 27, 2025, the Extension of the Event's Temporary Use Permit (TUP) and the Continued Waiver of Certain Fees Associated with Event

Recommendation: To guide the City's decision-making, staff recommends the City Council consider the following two primary options:

- **Option 1:** Authorize approvals for extending event on Sundays through December 2025 (or July 2026) at 150 E. Ramsey Street, require Applicant cover sanitary costs, and waive fire inspection fees
- **Option 2:** Authorize approvals for the event as an annual seasonal Summer event from the first Sunday in June through the last Sunday in August at 150 E. Ramsey Street

Provide direction on responsibility of sanitation for event, including possibility of City constructing a porta-potty enclosure and continue covering sanitation services through 2027, with annual Council review.

8.5 Consideration of Resolution 2025-97, Authorizing the Budget Appropriation for Lease Payments on Motorola Radios, Purchased Under Prior Resolution 2024-22, in an Amount Not to Exceed $641,560.80
Recommendation: Approve Resolution 2025-97.

8.6 Consideration of Resolution No. 2025-112 to Approve Budget Appropriation to fund the SWAG contract
Recommendation: Approve Appropriation for SWAG contract in the amount of $48,502/month for a not to exceed total of $582,024 for FY2026 from the General Fund.

9. DISCUSSION ITEMS

9.1 Chamber of Commerce lease agreement

Recommendation:

Review lease agreement between the City of Banning and the Banning Chamber of Commerce

10. ITEMS FOR FUTURE AGENDAS

10.1 **NEW ITEMS**
10.2 **EXISTING ITEMS**

11. ADJOURNMENT

Next Regular Meeting – August 26, 2025

Zoom Community Standards for Public Meetings

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

- Your microphone must remain on mute, and you may only unmute your microphone when/if you are recognized by the Mayor.
- Your camera must be turned off unless/until you are recognized by the Mayor.
- To indicate a desire to make Public Comment, you must use the Raise Hand function. The Mayor will not recognize those who have not used the Raise Hand function.
- Public Comment from Zoom attendees will immediately follow in-person comment from members of the public in Council Chambers.

- If you fail to adhere to these community guidelines, **you may be removed** for disrupting the meeting occurring in Council Chambers. You may rejoin the meeting but may be removed for each violation of these community standards.
- The chat function will be disabled for all City Council meetings on Zoom.

Estándares comunitarios de Zoom para Reuniones Públicas

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

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

AFFIDAVIT • DECLARACIÓN JURADA

IT IS HEREBY CERTIFIED under the laws of the State of California that the above agenda was posted on the City's website (www.banningca.gov) as well as the Bulletin Board at Banning City Hall, located at 99 E Ramsey Street, Banning, CA 92220, at least 72 hours in advance of the meeting.

Vickie Sellers, Elected City Clerk
Secretaria Municipal Electa

PUBLIC NOTICE • NOTICIA PÚBLICA

Meeting Agendas and Notices

Interested in receiving email and/or text notifications of upcoming City Council meetings? Sign up for meeting notifications through the City's website. Pursuant to amended Government Code §54957.5(b), staff reports and other public records related to open session agenda items are available on the City's website (www.banningca.gov/).

Public Comment

Agenda Items

Any member of the public may address this meeting of the City Council on any item appearing on the agenda. A five-minute limitation shall apply to each member of the public and no member of the public shall be permitted to share their time with any other person.

Non-Agenda Items

Any member of the public may address this meeting of the City Council on any item which does not appear on the regular meeting agenda but is of interest to the general public and is an item upon which the City Council may act. A three-minute limitation shall apply to each member of the public and no member shall be permitted to share their time with any other person. No action shall be taken, nor discussion held by the City Council, on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of §54954.2 of the Government Code.

Special Assistance/Accessibility Requests

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

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

CONTACT • CONTACTO

City Clerk's Office | 951-922-3102 | CityClerks@banningca.gov
99 East Ramsey Street, Banning, California 92220

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Barbara Mason, Chief Procurement Officer**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**City of Banning Purchasing Department has been awarded the National Procurement Institute's Achievement of Excellence in Procurement (AEP) award for 2025.**

RECOMMENDATION:

Recognize Procurement Staff for their hard work and dedication to the City of Banning and the procurement profession.

BACKGROUND:

The NPI AEP Award, officially the Achievement of Excellence in Procurement (AEP) Award®, is a prestigious recognition presented by the national Procurement Institute (NPI) to public and non- profit organization that demonstrate excellence in their procurement practices. It signifies a commitment to innovation, professionalism, productivity, e-procurement, and leadership within the procurement organization.

JUSTIFICATION:

The City of Banning has been awarded the AEP award for 2025, marking its 8th year in a row.

FISCAL IMPACT:

n/a

ALTERNATIVES:

n/a

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. 2025 Agency History - By The Numbers.pdf

CALIFORNIA HISTORICAL AEP AWARDEES

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	CONS
City of Sunnyvale, CA					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	26
County of Ventura, CA					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	26
County of San Diego, CA						1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	25
Orange County Sanitation District, CA							1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	24
County of Riverside, CA								1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			21
City of Irvine, CA											1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	20
City of Riverside, CA											1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	20
San Diego County Regional Airport Authority, CA															1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	16
County of Sacramento, CA							1		1		1	1	1	1		1	1	1	1	1	1	1	1	1	1	1	1	1	1		14
Orange County Fire Authority, CA												1	1			1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15
Orange County Transportation Authority, CA					1											1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15
Eastern Municipal Water District, CA								1				1			1		1		1	1	1	1	1	1	1	1	1	1	1	1	12
City of Santa Clarita, CA						1									1	1			1	1	1	1	1	1	1	1	1	1	1	1	12
City of San Jose, CA									1			1	1	1	1				1	1	1	1	1	1	1	1	1	1	1	1	12
County of Orange, CA												1							1	1	1	1	1	1	1	1	1	1	1	1	12
Defence Construction Canada																			1	1	1	1	1	1	1	1	1	1	1	1	12
San Diego County Water Authority, CA																			1	1	1	1	1	1	1	1	1	1	1	1	12
Harris County Department of Education																						1	1	1	1	1	1	1	1	1	9
City of Banning, CA																							1	1	1	1	1	1	1	1	8
City of Moreno Valley, CA																							1	1	1	1	1	1	1	1	8
County of Santa Clara, CA									1															1	1	1	1	1	1	1	7
McAllen ISD																		1	1	1	1	1	1		1	1	1	1	1	1	6
City of Mountain View, CA					1	1	1	1	1			1	1	1	1	1	1		1	1						1	1	1	1	1	5
City of Airdrie, AB Canada																			1	1	1	1	1	1	1		1	1	1	1	4
Mathematica Inc																											1	1	1		3
The Metropolitan Water District of Southern California								1		1		1	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	3
City of McAllen																							1	1	1	1		1		1	1
Alameda County Water District, CA									1	1	1	1	1	1	1	1	1					1	1	1		1		1	1	1	3
California State University, San Bernardino, CA																												1	1	1	3
Santa Clara Valley Transportation Authority, CA											1														1	1	1		1	1	2
Cal Poly University, San Luis Obispo										1	1	1	1	1	1		1		1	1	1	1	1	1		1	1				
City of Milpitas, CA											1	1	1	1	1	1											1				
City of Rancho Cucamonga, CA														1	1	1	1	1	1	1	1	1	1	1	1	1					
City of Burbank, CA																		1	1	1	1	1	1	1	1	1					
Province of Nova Scotia, Canada																			1	1	1	1	1	1	1	1					
Mohave Educational Services Cooperative, Inc., AZ								1		1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1				1	1
Omnitrans San Bernadino, CA																				1					1	1					
Inter-American Development Bank, Washington, DC												1	1	1	1	1	1	1	1	1	1	1	1	1	1						
Union Sanitary District, CA												1	1	1	1	1	1	1	1	1	1	1	1	1	1						
San Diego Unified Port District, CA														1	1	1	1	1	1	1	1	1	1	1	1						
City of Livermore, CA									1	1	1	1	1	1		1	1	1	1	1	1	1	1	1	1						
Central Contra Costa Sanitary District, CA									1		1					1	1	1	1	1	1	1	1	1	1						
City of Concord, CA																		1	1	1	1	1	1	1	1						
Irvine Ranch Water District, CA						1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1							
Kern County, CA								1								1	1	1	1	1	1	1	1	1							
County of Los Angeles, CA							1	1	1	1	1	1	1	1	1	1	1		1		1	1	1	1							
California State University, Fresno, CA																			1			1	1	1							
City of Santa Monica, CA																			1				1	1						1	1
City of San Diego, CA						1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1			1							

CALIFORNIA HISTORICAL AEP AWARDEES

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	CONS
California State Polytechnic University (Pomona), CA										1			1	1	1	1	1	1	1	1	1	1	1								
County of Alameda, CA												1	1				1	1	1	1	1	1	1								
California State University, Sacramento, CA										1		1								1			1								
City of Edmonton, Alberta, CANADA					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1									
San Diego Unified School District, CA															1	1	1	1	1	1	1	1									
County of Sonoma, CA																	1	1	1	1	1	1									
Inland Empire Utility Agency, CA							1	1	1	1	1	1	1	1		1	1	1	1	1		1							1	1	2
California State University, Office of the Chancellor, CA									1	1		1	1			1	1	1	1	1		1									
State of North Carolina, NC											1											1									
University of California – Merced, CA																1	1	1	1	1	1										
City of Lompoc, CA						1		1	1	1	1			1						1	1										
BC Housing, Canada																				1	1										
University of California – San Diego, CA																			1		1										
California State University, San Marcos, CA										1	1	1						1			1										
California State University, Fullerton, CA														1	1	1	1	1	1	1											
City of Richmond, CA															1	1	1	1	1	1											
City of Anaheim, CA								1	1				1						1	1										1	1
City of Lancaster, TX																			1												
University of California – Riverside, CA																			1												
City of Yuba City, CA								1	1	1	1	1	1	1	1	1	1	1													
Academy School District Twenty, CO																	1	1													
San Diego Association of Governments, CA														1	1			1													
Los Angeles World Airports, CA																	1														
San Jose State University, CA								1	1	1	1	1	1	1	1	1															
City of Santa Rosa, CA										1	1	1	1	1	1	1															
City of Orange, CA					1	1	1	1	1	1	1	1	1	1		1															
Cameron County, TX																1															
City of Costa Mesa, CA						1	1	1	1	1	1	1	1	1	1																
Los Angeles County Metropolitan Transportation Authority, CA									1	1	1	1	1	1	1																
University of California - San Francisco, CA			1											1	1																
Fresno Unified School District, CA															1														1	1	2
East Bay Municipal Utility District, CA					1	1	1	1	1	1	1	1	1	1																	
California State University, Long Beach, CA						1	1	1	1	1	1	1	1	1																	
Saddleback Valley School District, CA								1	1	1	1	1	1	1																	
City of Colton, CA											1	1	1	1																	
City of South Lake Tahoe, CA													1	1																	
Oakland Housing Authority, CA												1		1																	
UT Medical Branch at Galveston, TX														1																	
California State University, Northridge, CA										1	1	1	1																		
City of Fresno, CA											1	1	1																		
Capital Metropolitan Transportation Authority, TX													1																		
Contra Costa Water District, CA									1	1	1	1																			
City of El Cajon, CA										1	1	1																			
Cucamonga Valley Water District, CA											1	1																			
Escambia County, FL						1	1	1	1	1		1																			
City of Lancaster, CA									1	1		1																			
City of Ventura, CA									1			1																			
Chicago Housing Authority, IL												1																			
City and County of San Francisco, CA												1																			
Regional Municipality of York, Ontario, Canada												1																			

CALIFORNIA HISTORICAL AEP AWARDEES

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	CONS
Toronto District School Board, Toronto ON, Canada												1																			
City of Chula Vista, CA					1		1	1	1	1	1																				
City of Ocala, FL								1			1																				
Contra Costa Community College District, CA											1																				
South Carolina Department of Transportation, SC											1																				
State of California, CA											1																				
Township of Canton, MI											1																				
City of San Buenaventura, CA								1		1																					
Albuquerque Technical Vocational Institute, NM										1																					
City of Sacramento, CA										1																					
North Carolina State Ports Authority										1																					
Ontario & Lottery Gaming Cooperation, Canada										1																					
City of Los Angeles Department of Water & Power, CA									1																						
Orange County Water District, CA					1	1	1	1																							
Turlock Irrigation District, CA							1	1																							
North County Transit District, CA								1																							
San Luis Obispo County Office of Education, CA								1																							
Tulare County, CA								1																							
City of Culver City, CA							1																								
City of Visalia, CA							1																								
City of Palo Alto, CA					1																										
University of California - Irvine, CA			1																												
City of Carrollton																													1	1	2
County of Yolo, CA																													1	1	2

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Robert Fisher, Acting City Manager**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Acorns to Oaks Presentation**

RECOMMENDATION:
Requested by Mayor Flynn.

BACKGROUND:
Requested by Mayor Flynn.

JUSTIFICATION:
Requested by Mayor Flynn.

FISCAL IMPACT:
Requested by Mayor Flynn.

ALTERNATIVES:
Requested by Mayor Flynn.

BUDGETED?:
No

CONTRACT/AGREEMENT:
No

ATTACHMENTS:
1. Acorns to Oaks.pdf

Youth Education

Celebrating 10 Years of Acorns to Oaks!

RIVERS & LANDS CONSERVANCY

Total # of Youth Served 2024-2025	Total # of Youth Served 2014-2025	Total # Field Trips 2014-2025	Total # of Acorns Planted 2014-2025
540	2000	31	780



Partner Schools

- Banning High School
- Summerwind Trails Middle School
- Palm Middle School
- Nicolet Middle School
- San Manuel Schools

We finished our Acorns to Oaks 2024-2025 season with a service-learning volunteer event that welcomed students from Banning High School. There were several student who returned to checked the seedlings they installed in their freshman year. This year, we had a total of 769 volunteers who've collected THOUSANDS of acorns and planted hundreds of seedlings throughout Cienega Canyon Preserve!







CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Perry Gerdes, Water/Wastewater Superintendent** **Art Vela, Director of Public Works**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-03 UA, Authorizing the Purchase of a 2026 Ford F-550 Regular Cab Chassis with a Wach's Valve Skid for a Total Cost of $232,257.01**

RECOMMENDATION:

Adopt Resolution 2025-03 UA.

BACKGROUND:

The Department of Public Works – Water Division maintains a fleet that includes various work trucks, heavy equipment (e.g., backhoes, loaders), and miscellaneous tools (e.g., air compressors, welders). Among these is a 2005 Ford F550 Flatbed Valve Truck (Unit 834), which is used for critical tasks such as vacuum cleaning valve cans, exercising mainline and fire hydrant valves, and inspecting and maintaining fire hydrants throughout the City's water distribution system.

In addition, the Water Division currently operates a 1990 Ford F350 Flatbed (Unit 806), which has accumulated 99,942 miles and has reached the end of its useful life. Unit 806 is no longer compliant with South Coast Air Quality Management District (SCAQMD) Rule 1196, which regulates public fleets operating heavy-duty vehicles. As a result, the City is required to decommission and replace this vehicle.

To maintain reliable and efficient water operations, staff recommends decommissioning Unit 806 and repurposing Unit 834 as a flatbed truck, following the removal of its outdated valve-turning equipment and broken toolboxes.

Staff has identified a 2026 Ford F550 Custom Flatbed Valve Truck available for purchase through Sourcewell, a cooperative purchasing program the City is a member of. Utilizing Sourcewell enables the City to secure a competitively priced vehicle while avoiding the time and resource burden of developing and managing a formal Request for Proposals (RFP) process.

JUSTIFICATION:

Unit 806, a 1990 Ford F350 Flatbed truck, is in need of replacement due to being at the end of it's useful life and for not being in compliance with SCAQMD Rule 1196.

Unit 834, originally retrofitted as a valve truck, lacks adequate tool space and is no longer suitable for its current use. After repurposing, it will serve as a replacement flatbed truck for Unit 806.

The new valve truck is essential for ongoing maintenance of the City's water distribution infrastructure and provides for many operating efficiencies such as, but not limited to: combining multiple valve

maintenance functions (i.e. vacuum, water jetting, valve turning and data collection); eliminates the need for multiple vehicle trips; reduction in crew time; improves valve maintenance leading to a reduced risk of failure during emergency events; reduces water loss due to quick response time for leak or repair work; and provides for a safer work environment.

FISCAL IMPACT:

Funding in the amount of $232,257.01 for the new valve truck was included in the adopted FY 2024/2025 budget under Account No. 660-6300-471.90-51 (Capital Expenditures – Automotive Equipment). A budget transfer will be made within the Water Operations Fund (Fund 660) to cover any shortfall in the specified account.

ALTERNATIVES:

Do not adopt Resolution 2025-03 UA and provide alternative direction to staff. Without replacing the existing valve truck, the City will remain in non-compliance with SCAQMD Rule 1196. Additionally, Water Division operations may be jeopardized due to the unreliability of aging Unit 839.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. CC_RESOLUTION_2025-03 UA_Valve_Truck.docx
2. 12636R2_CITY OF BANNING_11' FLATBED WITH WACHS SKID_SW_PASS THRU (002).pdf
3. Wachs Valve Skid.pdf
4. WATER DISTRICT BODY#4 (002).pdf
5. Unit 834 Valve Truck.jpeg
6. Unit 806.jpeg

RESOLUTION 2025-03 UA

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE PURCHASE OF A 2026 FORD F-550 FLAT BED WITH A WACH'S VALVE SKID FOR A TOTAL COST OF $232,257.01

WHEREAS, the Department of Public Works – Water Division maintains a fleet that includes various work trucks, heavy equipment (e.g., backhoes, loaders), and miscellaneous tools (e.g., air compressors, welders); and

WHEREAS, as part of its fleet, the Water Division operates one 2005 Ford F550 Flatbed Valve Truck (Unit 834), which is used for critical tasks such as vacuum cleaning valve cans, exercising mainline and fire hydrant valves, and inspecting and maintaining fire hydrants throughout the City's water distribution system; and

WHEREAS, additionally the Water Division currently operates a 1990 Ford F350 Flatbed (Unit 806) and currently has 99,942 miles. Further, Unit 806 has reached the end of it's useful life and the South Coast Air Quality Management District (SCAQMD) has required that the City of Banning decommission it as it is not in compliance with SCAQMD; and

WHEREAS, staff has identified the availability of a 2026 Ford F550 Flatbed Valve Truck through Sourcewell, which the City is a member of, who provides for cooperative purchasing options resulting in discounted costs and reduces staff time that would be used for development of a standalone request for proposals, outreach and proposal evaluation; and

WHEREAS, the cost for the new 2026 Ford F-550 Flatbed with a Wach's Valve Skid is $232,257.01 and is currently budgeted for in the adopted FY 2024/2025 budget.

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

SECTION 1. The City Council approves the purchase with PB Loader Corporation for the purchase of a 2026 Ford F-550 Flatbed with a Wach's Valve Skid in an amount of $232,257.01.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Purchase and to execute the Purchase with PB Loader Corporation on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 9th day of June 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John O. Pinkney, City Attorney Slovak,
Baron, Empey, Murphy & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-03 UA, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of June 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

QUOTATION
NO. 12636R2

CITY OF BANNING - ATTN PERRY GERDES
BANNING, CA
SOURCEWELL MEMBER ACCOUNT: 86893

DATE: 4/30/2026
TERMS: NET 30
F.O.B: CUSTOMER

SUJECT: 11" FLAT BED TRUCK W/ WACHS SKID

QTY	PART NO.	DESCRIPTION	PRICE (EA.)	EXTENSION
		PB LOADER SOURCEWELL CONTRACT NO. 080521-PBL **SOURCEWELL CONTRACT - MARKET PRICE**		
1		**NON-LISTED FLATBED W/ WACHS SKID AT MARKET PRICE** CHASSIS: 2025 F-550 CHASSIS 4X2 SD REGULAR CAB 169" WB DRW XL (F5G) CHASSIS WITH: • CONVENTIONAL CAPACITY: 18,500 LBS. • GCWR: 30,000 LBS • 7.3L V-8 DEVCT VARIABLE VALVE CONTROL, ENGINE WITH 335HP • MONO-BEAM RIGID AXLE FRONT SUSPENSION • 7.3L V-8 DEVCT VARIABLE VALVE CONTROL, ENGINE WITH 335HP • LEAF SPRING REAR SUSPENSION BODY: FLATBED VALVE TRUCK COMPLETE WITH: • 11 FOOT CUSTOM FLAT BED • 24 X 24 TOOLBOXES MOUNTED UNDERNEATH THE BED • 102" EXPANDED METAL STORAGE BOX LIGHTS: • TRAFFIC ADVISOR LIGHT BAR12 ECCO PRO MOUNTED ON HEADBOARD • ECCO ED3777A STROBE LIGHTS MOUNTED ON HEADBOARD • ONE (1) 128" LONG X 16" TALL X 16" WIDE TOOLBOX WITH.TWO (2)-FOLD DOWN DOORS WITH REMOVABLE SHELVES • ONE (1) CUSTOM EXPANDED METAL BOX ON PASSENGER SIDE CUSTOM BOX MADE OUT OF EXPANDED METAL 6-FT RIGHT SIDE, 5-FT LEFT SIDE, REAR OPENING. ONE BOX SPLIT IN MIDDLE 5.5 HIGH 15.5 WIDE. 6-FT AND 5 FT LONG. SITTING ON TOP OF DRIVER'S SIDE TOOLBOX SEE DRAWING • FOUR (4) SHOVEL HOLDERS ON DRIVER'S SIDE HEADBOARD • ONE (1) FRONT BUMPER CONE HOLDER WACHS MAINTENANCE SKID: • STANDARD LX (GAS) – VMS (RH): SINGLE TURNER VALVE MAINTENANCE SKID • 750 FT-LB (1020 NM) EXTENDED REACH VALVE OPERATOR • TELESCOPING VALVE KEY • RUGGEDIZED TC-100 WITH GPS CONTROLLER/DATALOGGER • 27 HP (20 KW) GASOLINE POWERED KOHLER OVERHEAD CAM AIR COOLED ENGINE • RUGGEDIZED TC-100 WITH GPS CONTROLLER/DATALOGGER • 500 CFM (14.2 CMM)-11" (280MM) HG VACUUM • PRESSURE WASHER SYSTEM WITH 3 GALLON (11.4 L) ANTI-FREEZE TANK • 250 (950 L) GALLON TANK WITH POWER HYDRAULIC DUMP		$214,317.00
		SUBTOTAL:		$214,317.00
		ADD FOR 2026 MODEL YEAR:		$1,225.00
		TOTAL:		$215,542.00
		SALES TAX (7.75%):		$16,704.51
		CA TIRE RECYCLING FEE:		$10.50
		GRAND TOTAL FOR ONE (1) UNIT:		$232,257.01
		25% DEPOSIT DUE AT TIME OF ORDER:		$46,451.40
		BALANCE DUE NET 20 DAYS AFTER DELIVERY AND INVOICE:		$185,977.21
		NOTES: 1. PURCHASE ORDERS ARE TO BE MADE OUT TO PB LOADER CORPORTATION. 2. FREIGHT NOT INCLUDED. 3. SUBJECT TO TARIFFS AND SURCHARGES.		



Complete System

Built to Exercise and Rehabilitate Your Valves and Hydrants

STANDARD LX
VALVE MAINTENANCE SYSTEM
GAS MODEL (SHOWN) [77-000-55]
DIESEL MODEL [77-000-54]

The Wachs Valve Maintenance System has all the tools for water distribution preventative maintenance. Built for safe operation, a two-person crew can find valves, wash out valve boxes, and safely exercise and rehabilitate valves up to 13 feet away with the ERV-750 valve exerciser with the built-in automation. The included handheld computer with VITALS® Software records the valve info and status for transfer back to headquarters.

This versatile platform can be mounted to a medium-duty truck with a flatbed or a heavy duty truck with a custom service body. The *Grand* upgrade option of this system is the heavy duty Wachs TM-7 HD Plus valve exerciser (2,500 ft-lb torque) to be used in emergencies on stuck and stubborn street valves.

FEATURES

- Ready to bolt down and run
- Curbside control for improved operator safety
- ERV-750 valve exerciser
  - Ideal for preventative maintenance and rehabilitation
  - Reach curbside valves
  - Operate multiple valves and hydrants from a single location
- Vacuum System
  - Capture debris and spoils from valve boxes
- HTMA Class II hydraulic circuit
  - 10 gal reservoir
  - Fan-cooled heat exchanger
  - 45 ft hoses w/ reel
- Rugged TC-100 handheld computer
  - VITALS® Valve Software Preloaded
  - Bluetooth & Cable Connectivity
- LX LED Light Package
  - Control Panel
  - Programmable Arrow Board
  - Directional spot lights
- Pressure washer system
  - Short wash down gun
  - Long hydro excavation gun
  - 95 gal water tank/reservoir
  - 50ft retractable hose w/ reel
- Heavy Duty Frame with Storage
- Fits medium duty standard and wide-body flatbed trucks



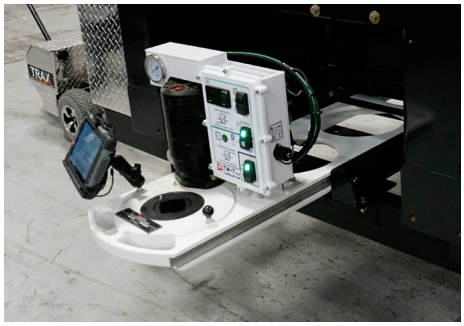
With the ERV-750 extended reach valve exerciser an operator can turn multiple nearby valves without moving the vehicle



A two-person crew can excavate and vacuum debris from valve boxes for easy access



The Standard LX skid can be mounted on trucks from a medium duty flatbed up to a heavy-duty custom service body



Optional TM-7 HD Plus valve operator provides 2500 ft-lb of torque for turning large valves

Standard LX SKID SYSTEM

SPECIFICATIONS

ERV-750
- Bluetooth Connectivity
- Remote and Wireless Operation
- Hydraulic
- Integrated automation circuitry
- Up to 750 ft-lb torque
- Mount point and center pivot feature locking disc brakes
- 270º lateral range of motion from base
- 300º lateral range from center pivot

VACUUM SYSTEM
- 500 CFM-11 inch Hg positive displacement blower
- 250 Gal spoils tank
- Push-button hydraulic slide, lift, and dump action
- Automatic latching doors
- Quick change connections
- 3 in x 20 ft flexible vacuum hose
- Handles on hose connection
- 2-1/2 inch suction wand
- 1-1/4 inch suction wands
- 7/8 inch suction wands
- Elbow Connector

LIGHT BAR
- Programmable Arrow Board
- Dual LED Spotlights
- Control Panel integration

HYDRAULIC HOSE REEL
- 45 ft X 1/2 inch diameter hydraulic hose set w/quick disconnects
- Spring retractable
- Top roller wheel

HTMA CLASS II HYDRAULIC CIRCUIT
- 10 gal reservoir
- Fan-cooled Heat Exchanger
- 8 gpm @ 2000 PSI

2.5 GPM @ 3000PSI PRESSURE WASHER
- 20 in short gun-style wash-down wand
- 53 in long gun-style high-pressure wand with adjustable spray
- 45 ft hose reel
- 95 gal water tank
- 3 gal antifreeze reservoir

TC-100 RUGGEDIZED HANDHELD COMPUTER
- IP68 Rated
- MIL-STD-810 Military Grade
- Windows 10 IoT Enterprise
- 7 inch display
- Built-in GPS
- VITALS preloaded
- 12v vehicle charging cable
- USB sync cable
- Machine control cable
- Screen protector

ENGINE OPTIONS

GAS POWER [77-000-55]
- 27 HP Kohler overhead cam, air-cooled engine
- 10 gallon, hydro formed and rolled DOT approved aluminum fuel tank

DIESEL POWER [77-000-54]
- Tier 4F compliant, Kubota 1.1L, I-3 4-stroke, liquid cooled, IDI diesel engine
- 10 gallon (38 L), hydro formed and rolled DOT approved aluminum fuel tank

VALVE KEY OPTIONS

COLD CLIMATE TELESCOPING VALVE KEY
- 24lb (10.9 kg)
- T-handle Adapter
- Rated for 800 ft-lb torque
- 1 inch interface 4 ft - 9 ft

WARM CLIMATE TELESCOPING VALVE KEY
- 24lb (10.9 kg)
- T-handle Adapter
- Rated for 800 ft-lb torque
- 2 inch interface 3 ft - 8 ft

UPGRADES

TM-7 HD PLUS (GRAND OPTION A)
[17-405-00]
- Bluetooth Connectivity
- Remote, Wireless, and Manual Operation
- Hydraulic
- Integrated automation circuitry
- Up to 2,500 ft-lb torque
- Digital Revolution Counter
- Torque Output Gauge
- 8 ft valve key

— OR —

DRIVER SIDE JOB BOX (OPTION B)
[77-409-00]
- Polished Aluminum
- Diamond Plate Pattern
- Lockable Storage

ACCESSORIES

45 LB HYDRAULIC BREAKER [08-000-10]
- 5 in x 11 in Asphalt Cutter [08-410-01]
- 14 in Moil Point [08-410-02]
- 3 in x 14 in Long Chisel [08-410-03]
- Locking Hydraulic Breaker Mount for trailer [08-405-00]

TRIMBLE R2 [79-412-02]
- GNSS receiver for centimeter level GPS

VALVE NUT RX [08-000-15]

VALVE BOX BUDDY [08-000-26]

WDP3500 DEWATERING PUMP [08-000-03]
- 3 in discharge hose

WTP4800 TRASH PUMP [08-000-04]
- 4 in discharge hose

WARRANTY

E.H. Wachs machine tools and their associated parts are warranted against defects in materials and workmanship for a period of twelve months from the date of purchase. E.H. Wachs expressly reserves the right to repair or replace only those parts which prove to have been defective at the time of purchase. This warranty becomes void if maximum flow and pressure ratings are exceeded.

CONTACT US TODAY FOR A DEMONSTRATION OR QUOTATION

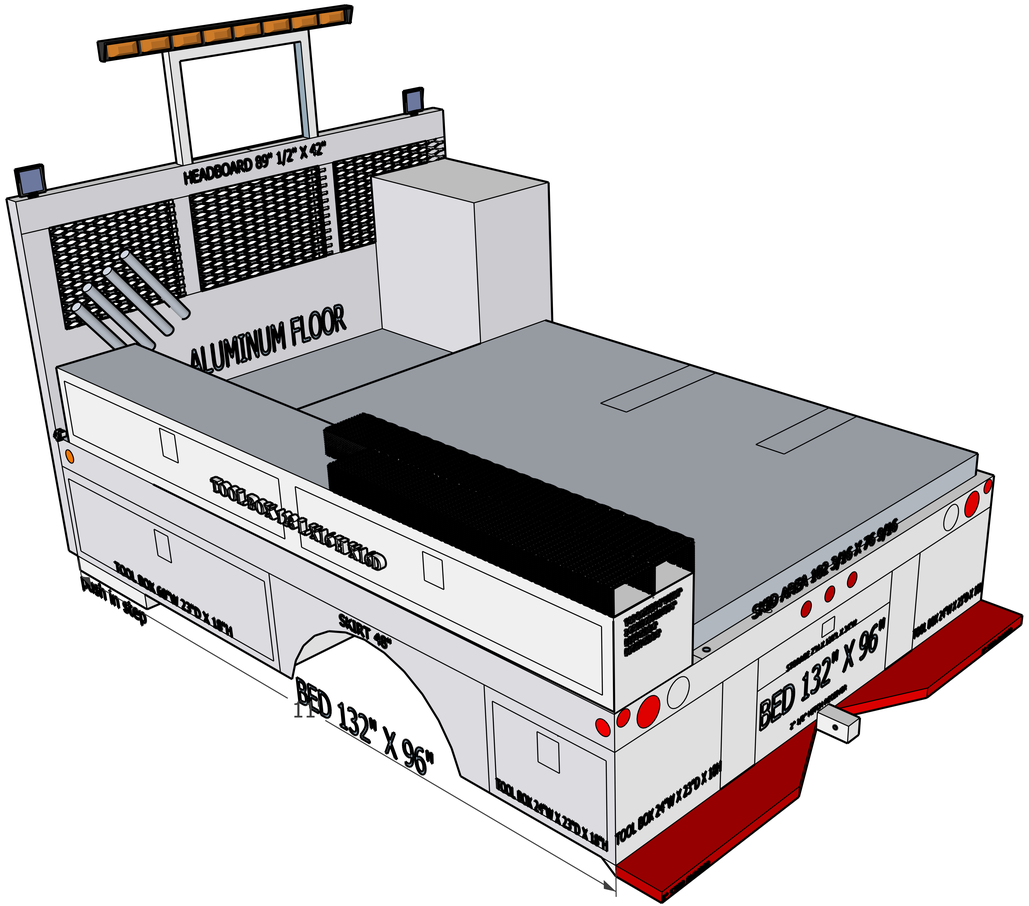
E-mail: sales@turnvalves.com
Telephone: (847) 537-8800
Fax: (847) 520-1147
Toll Free: (800) 323-8185
Visit our website: turnvalves.com



The ruggedized TC-100 handheld computer / wireless controller / datalogger provides intuitive remote exerciser control



Improve your water distribution system reliability today with a Wachs Valve Maintenance System


HEADBOARD 89" 1/2" X 42"
ALUMINUM FLOOR
TOOL BOX 48"W X 22"D X 18"H
SKIRT 46"
BED 132" X 96"
TOOL BOX 24"W X 22"D X 18"H
BED 132" X 96"


FLEET
MAINTENANCE
PARKING
ONLY
WATER DEPT



CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Caroline Patton,**
Todd Hopkins, CALFIRE Division Chief

MEETING DATE: **July 8, 2025**

SUBJECT: **Consideration of Resolution 2025-98, Approving the Cooperative Agreement with Riverside County for Fire Services**

RECOMMENDATION:

Adopt Resolution 2025-98.

BACKGROUND:

Since 1998, the City of Banning has entered into this agreement with the Riverside County Fire Department for medical, fire protection and other emergency response. Two type 1-engine companies of three firefighters (including one paramedic) per engine provide this protection. The second engine providing fire protection to the south-west City area is split funded three ways with Beaumont and Riverside County.

JUSTIFICATION:

The City of Banning, with approval of this agreement, will keep its current level of service to all citizens within the City of Banning, and cooperatively provide integrated, regional response to surrounding jurisdictions.

FISCAL IMPACT:

Cost to the Coty for 1.33 fire engine staffing:

Fiscal Year 2025-26	$5,171,223
Fiscal Year 2026-27	$5,384,334
Fiscal Year 2027-28	$5,608,101

ALTERNATIVES:

Do not adopt the resolution and provide fire protection for the community through some other means.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2025-98__Cooperative_Fire.docx
2. Cooperative Fire Agreement - Riverside County.pdf

RESOLUTION 2025-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE COOPERATIVE AGREEMENT WITH RIVERSIDE COUNTY FOR FIRE PROTECTION SERVICES FOR A PERIOD OF THREE YEARS

WHEREAS, on June 11, 2025 the City of Banning and the Riverside County Fire Department were presented with an agreement entitled "A Cooperative Agreement to Provide Fire Protection, Fire Prevention, Rescue, Fire Marshal, and Medical Services" dated June 11, 2025; and

WHEREAS, the City of Banning and Riverside County Fire desire to enter into this agreement for three fiscal years, by which the Riverside County Fire Department will provide an updated Exhibit "A" during budget planning process each year; and

WHEREAS, the purpose of the Exhibit "A" is to provide timely adjustment to the agreement if needed.

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

SECTION 1. The City Council approves the Cooperative Agreement with Riverside County, authorizes the City Manager to make necessary non-substantive changes, and to execute said agreement.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-98, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Cooperative Agreement for Fire Protection Services

A COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE, FIRE MARSHAL, HAZMAT, AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF BANNING

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of _____, 2025, by and between the County of Riverside, a political subdivision of the State of California, on behalf of the Fire Department (hereinafter referred to as "COUNTY"), and the City of Banning, a municipal corporation (hereinafter referred to as "CITY"), whereby it is agreed as follows:

SECTION I: PURPOSE

The purpose of this Agreement is to arrange for COUNTY, through its Cooperative Fire Programs Fire Protection Reimbursement Agreement ("CAL FIRE Agreement") with the California Department of Forestry and Fire Protection ("CAL FIRE") to provide CITY with fire protection, hazardous materials mitigation, technical rescue response, fire marshal, medical emergency services, and public service assists (hereinafter called "Fire Services"). This Agreement is entered into pursuant to the authority granted by Government Code section 55600 et seq. and will provide a unified, integrated, cooperative, regional fire protection system. COUNTY's ability to perform under this Agreement is subject to the terms and conditions of the CAL FIRE Agreement.

SECTION II: DESIGNATION OF FIRE CHIEF

A. The County Fire Chief appointed by the County Board of Supervisors, or his/her designee (hereinafter referred to as "Chief"), shall represent COUNTY and CITY during the period of this Agreement, and Chief shall, under the supervision and direction of the County Board of Supervisors, have charge of the organization described in Exhibit "A," attached hereto and made a part hereof, for the purpose of providing Fire Services as deemed necessary to satisfy the needs of both the COUNTY and CITY, except upon those lands wherein other agencies of government have responsibility for the same or similar Fire Services.

B. The COUNTY will assign an existing Chief Officer as the Fire Department Liaison ("Fire Liaison"). The Chief may delegate certain authority to the Fire Liaison, as the Chief's duly authorized designee, and the Fire Liaison shall be responsible for directing the Fire Services provided to CITY via the Cooperative Agreement between the COUNTY and CAL FIRE.

C. The Chief Deputy of County Fire shall be the COUNTY Contract Administrator and is the liaison for the administration of this agreement.

D. COUNTY will be allowed flexibility in the assignment of available personnel and equipment in order to provide the Fire Services as agreed upon herein. This flexibility shall include, but is not limited to, staffing challenges and equipment availability. The

CITY shall be notified of any changes in classifications provided that differ from the Exhibit "A."

SECTION III: PAYMENT FOR SERVICES

A. CITY shall annually appropriate a fiscal year budget to support the Fire Services designated at a level of service mutually agreed upon by both parties and as set forth in Exhibit "A" for the term of this Agreement. This Exhibit may be amended in writing by mutual agreement by both parties or when a CITY requested increase or reduction in services is approved by COUNTY.

B. COUNTY provides fire personnel and services through its CAL FIRE Agreement. In the event CITY desires an increase or decrease in CAL FIRE or COUNTY civil service employees or services assigned to CITY as provided for in Exhibit "A," CITY shall provide one hundred twenty (120) days' written notice of the proposed requested increase or decrease. Proper notification shall include the following: (1) the total amount of increase or decrease; (2) the effective date of the increase or decrease; (3) the number of employees, by classification, affected by the proposed increase or decrease; and (4) the date the notice is sent to COUNTY. If such notice is not provided, CITY shall reimburse COUNTY for relocation costs incurred by COUNTY because of the increase or decrease, in addition to any other remedies available resulting from the increase or decrease in services. COUNTY is under no obligation to approve any requested increase or decrease, and it is expressly understood by the parties that in no event will COUNTY authorize or approve CITY's request to reduce services below the COUNTY Board of Supervisors approved staffing level for any fire station, or to reduce services to the extent that the services provided under this Agreement are borne by other jurisdictions. COUNTY shall render a written decision on whether to allow or deny the increase or decrease within thirty (30) days of the notice provided pursuant to this section.

C. CITY shall pay COUNTY actual costs for Fire Services pursuant to this Agreement. COUNTY shall make a claim to CITY for the actual cost of contracted services, pursuant to Exhibit "A," on a quarterly basis. The COUNTY is mandated per Government Code section 51350 for full cost recovery. CITY shall pay each claim, in full, within thirty (30) days after receipt thereof.

D. Any changes to the salaries or expenses set forth in Exhibit "A" made necessary by action of the Riverside County Board of Supervisors, Legislature, CAL FIRE, or any other public agency with authority to direct changes in the level of salaries or expenses, shall be paid from the funds represented as set forth in Exhibit "A." The CITY is obligated to expend or appropriate any sum in excess of Exhibit "A" increased by action of the Legislature, CAL FIRE, or any other public agency with authority to direct changes. If within thirty (30) days after notice, in writing, from COUNTY to CITY that the actual cost of maintaining the services specified in Exhibit "A" as a result of action by the Riverside County Board of Supervisors, Legislature, CAL FIRE, or other public agency will exceed the total amount specified therein, and CITY has not agreed to make available the necessary additional funds, COUNTY shall have the right to unilaterally reduce the services furnished under this Agreement by an appropriate amount and shall promptly

notify CITY, in writing, specifying the services to be reduced. Any COUNTY or CAL FIRE personnel reduction resulting solely due to an increase in employee salaries or expenses occurring after signing this Agreement and set forth in Exhibit "A" that CITY does not agree to fund, as described above, shall not be subject to relocation expense reimbursement by CITY. If CITY desires to add funds to the total included herein to cover the cost of increased salaries or services necessitated by actions described in this paragraph, such increase shall be accomplished by an additional appropriation by the City Council of CITY, and the appropriate amendment(s) to Exhibits "A," "C," and "D" approved by the parties hereto.

E. Chief Deputy of County Fire, as the COUNTY Contract Administrator, is authorized to negotiate and execute any amendments to Exhibit "A", Exhibit "C", or Exhibit "D" of this Agreement on behalf of COUNTY as authorized by the Board of Supervisors. CITY shall designate a "Contract Administrator" who shall, under the supervision and direction of CITY, be authorized to execute amendments to Exhibit "A," "C," or "D" on behalf of CITY.

F. __N/A__ [ ] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "B" Payment for Services Additional Terms are incorporated herein and shall additionally apply to this agreement regarding payment of services.

G. _____ [X] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "C" are incorporated herein and shall additionally apply to this agreement regarding payment for the Fire Engine Use Agreement.

H. _____ [X] (Check only if applicable, and please initial to acknowledge) Additional terms as set forth in the attached Exhibit "D" are incorporated herein and shall additionally apply to this agreement regarding payment for Fire Marshal Services.

I. Notwithstanding Paragraph G, as it relates to the Fire Engine Use Agreement, if applicable, additional terms as set forth are incorporated herein and shall additionally apply to this Agreement regarding payment of services. In the event that a fire engine, owned and maintained by the CITY has a catastrophic failure or is requested by the CITY, the COUNTY Fire Chief or Chief Deputy of County Fire may allow use of a COUNTY fire engine, free of charge up to one hundred twenty (120) days. After the initial one hundred twenty (120) days, a rental fee will be applied to the CITY invoice for use of said COUNTY fire engine. The rental fee shall be based upon the County Board of Supervisors Approved Fire Department Cost Recovery rates.

J. Notwithstanding Paragraph H, as it relates to Fire Marshal services, if applicable, additional terms as set forth are incorporated herein and shall additionally apply to this Agreement regarding Fire Marshal services. In the event the CITY elects not to fund direct Fire Marshal personnel services outlined in Paragraph H (Exhibit "D"), the services must be provided by the COUNTY Office of the Fire Marshal pursuant to Health and Safety Code sections 13145 and 13146 and at a cost to the developer as outlined in COUNTY Ordinance No. 671 (Establishing Consolidated Fees for Land Use

and Related Functions). Any services not provided for under Ordinance No. 671 will be at a cost to the CITY based upon the COUNTY-approved productive hourly rate for cost recovery.

K. In the event that a COUNTY-owned squad, aerial apparatus, patrol (Type VI), or light vehicle is requested by the CITY for temporary operational use, the COUNTY Fire Chief or Chief Deputy of County Fire may allow use of a COUNTY squad, aerial apparatus, patrol (Type VI), or light vehicle, free of charge up to one hundred twenty (120) days. After the initial one hundred twenty (120) days, a rental fee will be applied to the CITY invoice for use of said COUNTY squad, patrol (Type VI) or light vehicle based upon the County Board of Supervisors Approved Fire Department Cost Recovery rates.

L. In the event that a CITY elects to fund additional COUNTY positions not associated with Fire Marshal services, the positions will be outlined in the Exhibit "A." Costs shall include, but are not limited to, IT, Communication, Uniforms, and general field supplies. All costs, including salaries and benefits, will be included in each quarterly invoice as outlined in Section III, Paragraph C.

SECTION IV: INITIAL TERM AND AMENDMENT

A. The term of this Agreement shall be from July 1, 2025, to June 30, 2028.

B. One (1) year prior to the date of expiration of this Agreement, CITY shall give COUNTY written notice of whether CITY intends to enter into a new Agreement with COUNTY for Fire Services and, if so, whether CITY intends to request a change in the level of Fire Services provided under this Agreement.

SECTION V: TERMINATION

During the term of this Agreement, this Agreement may only be terminated by the voters of either the COUNTY or the CITY pursuant to Government Code section 55603.5.

SECTION VI: COOPERATIVE OPERATIONS

All Fire Services contemplated under this Agreement shall be performed by both parties to this Agreement working as one unit; therefore, personnel and/or equipment belonging to either CITY or COUNTY may be temporarily dispatched elsewhere from time to time for mutual aid.

SECTION VII: MUTUAL AID

Pursuant to Health and Safety Code section 13050 et seq., when rendering mutual aid or assistance, COUNTY may, at the request of CITY, demand payment of charges and seek reimbursement of CITY costs for personnel, equipment use, and operating expenses as funded herein, under authority given by Health and Safety Code sections 13051 and 13054. COUNTY, in seeking said reimbursement pursuant to such request of CITY, shall represent the CITY by following the procedures set forth in Health and Safety

Code section 13052. This recovery does not include CITY resources outside of this Cooperative Agreement. Those resources would require the CITY to obtain cost recovery directly.

In all such instances, COUNTY shall give timely notice of the possible application of Health and Safety Code sections 13051 and 13054 to the officer designated by CITY.

SECTION VIII: SUPPRESSION COST RECOVERY

As provided in Health and Safety Code section 13009, County Ordinance No. 787.10, Section 5.D.2., and the California Fire Code, COUNTY may bring an action for collection of suppression costs of any fire caused by negligence, violation of law, or failure to correct noticed fire safety violations. Additionally, COUNTY may bring action for collection to any person who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code section 53150 et seq. as may be amended from time to time. When using CITY equipment and personnel under the terms of this Agreement, COUNTY may bring such actions for collection of costs incurred by CITY and the COUNTY. In such a case CITY appoints and designates COUNTY as its agent in said collection proceedings. In the event of recovery, COUNTY shall apportion the recovered amount via the annual Cost Allocation Plan. This recovery does not include CITY resources outside of this Cooperative Agreement. Those resources would require the CITY to obtain cost recovery directly.

In all such instances, COUNTY shall give timely notice of the possible application of Health and Safety Code section 13009 to the officer designated by CITY.

SECTION IX: PROPERTY ACCOUNTING

All personal property provided by CITY and by COUNTY for the purpose of providing Fire Services under the terms of this Agreement shall be marked and accounted for in such a manner as to conform to the standard operating procedure established by the COUNTY for the segregation, care, and use of the respective property of each.

SECTION X: FACILITY

CITY shall provide Fire Station(s), strategically located to provide standard response time within the City of Banning from which fire operations shall be conducted. If the Fire Station(s) are owned by the CITY, the CITY shall maintain the facilities at CITY's cost and expense. In the event CITY requests COUNTY to undertake repairs or maintenance costs or services, the costs and expenses of such repairs or maintenance shall be reimbursed to COUNTY through the Support Services Cost Allocation, or as a direct Invoice to the CITY.

SECTION XI: INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by applicable law, COUNTY shall and does agree to indemnify, protect, defend and hold harmless CITY, its agencies, districts, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives (collectively, **"Indemnitees"**) for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the Services performed hereunder by COUNTY, or any part thereof, (2) the Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of COUNTY, its officers, employees, subcontractors, agents, or representatives (collectively, **"Liabilities"**). Notwithstanding the foregoing, the only Liabilities with respect to which COUNTY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the Scope of Work in the Agreement.

To the fullest extent permitted by applicable law, CITY shall and does agree to indemnify, protect, defend and hold harmless COUNTY, its agencies, departments, directors, officers, agents, Board of Supervisors, elected and appointed officials and representatives (collectively, **"Indemnitees"**) for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgments and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (1) the services performed hereunder, by CITY, or any part thereof, (2) the Agreement, including any approved amendments or modifications, or (3) any negligent act or omission of CITY its officers, employees, subcontractors, agents, or representatives (collectively, **"Liabilities"**). Notwithstanding the foregoing, the only Liabilities with respect to which CITY's obligation to indemnify, including the cost to defend, the Indemnitees does not apply is with respect to Liabilities resulting from the negligence or willful misconduct of an Indemnitee, or to the extent such claims do not arise out of, pertain to or relate to the Scope of Work in the Agreement.

SECTION XII: AUDIT

A. COUNTY and CITY agree that their designated representative shall have the right to review and to copy any records and supporting documentation of the other party hereto, pertaining to the performance of this Agreement. COUNTY and CITY agree to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated or as required by law, and to allow the auditor(s) of the other party access to such records during normal business hours COUNTY and CITY agree to a similar right to audit records in any subcontract related to performance of this Agreement. (Gov. Code, § 8546.7.)

B. Each party shall bear their own costs in performing a requested audit.

SECTION XIII: DISPUTES

CITY shall select and appoint a "Contract Administrator" who shall, under the supervision and direction of CITY, be available for contract resolution or policy intervention with COUNTY, when, upon determination by the Chief or County Contract Administrator that a situation exists under this Agreement in which a decision to serve the interest of CITY has the potential to conflict with COUNTY interest or policy. Any dispute concerning a question of fact arising under the terms of this Agreement which is not disposed of within a reasonable period of time by the CITY and COUNTY employees normally responsible for the administration of this Agreement shall be brought to the attention of the Chief Executive Officer (or designated representative) of each organization for joint resolution. For purposes of this provision, a "reasonable period of time" shall be ten (10) calendar days or less. CITY and COUNTY agree to continue with the responsibilities under this Agreement during any dispute. Disputes that are not resolved informally by and between CITY and COUNTY representatives may be resolved, by mutual agreement of the parties, through mediation. Such mediator will be jointly selected by the parties. The costs associated with mediator shall be shared equally among the participating parties. If the mediation does not resolve the issue(s), or if the parties cannot agree to mediation, the parties reserve the right to seek remedies as provided by law or in equity. The parties agree, pursuant to *Battaglia Enterprises v. Superior Court* (2013) 215 Cal.App.4th 309, that each of the parties are sophisticated and negotiated this agreement and this venue at arm's length. Pursuant to this Agreement, the parties agree that venue for litigation shall be in the Superior Court of Riverside County. Should any party attempt to defeat this section and challenge venue in Superior Court, the party challenging venue stipulates to request the Court change venue to San Bernardino County and shall not ask for venue in any other County.

Any claims or causes of actions, whether they arise out of unresolved disputes as specified in this Section or claims by third parties that are made against the COUNTY, shall be submitted to the Office of the Clerk of the Board for the County of Riverside in a timely manner. For claims that involve CAL FIRE employees, the claims shall be submitted to State of California Office of Risk and Insurance Management Department of General Services directly for processing.

SECTION XIV: ATTORNEYS' FEES

If CITY fails to remit payments for services rendered pursuant to any provision of this Agreement, COUNTY may seek recovery of fees through litigation, in addition to all other remedies available.

In the event of litigation between COUNTY and CITY to enforce any of the provisions of this Agreement or any right of either party hereto, the unsuccessful party to such litigation agrees to pay the prevailing party's costs and expenses, including reasonable attorneys' fees, all of which shall be included in and as a part of the judgment rendered in such litigation.

SECTION XV: DELIVERY OF NOTICES

Any notices to be served pursuant to this Agreement shall be considered delivered when deposited in the United States mail and addressed to:

COUNTY OF RIVERSIDE	CITY OF BANNING
Riverside County Fire	City Manager
Chief Deputy of County Fire	City Banning
210 West San Jacinto Avenue	99 East Ramsey Street
Perris, CA 92570	Banning, CA 92220–0998

Provisions of this section do not preclude any notices being delivered in person to the addresses shown above. Delivery in person shall constitute service hereunder, effective when such service is made.

SECTION XVI: PUBLIC RECORDS ACT REQUESTS

The parties understand and acknowledge that, as a public agency, COUNTY is required to comply with the Public Records Act ("PRA," Gov. Code, § 7920 et seq.), which provides for the right of access to public records and other information in the event of the receipt of a qualifying request under the PRA. The parties understand and acknowledge that such compliance may require disclosure of all relevant, non-exempt documents that fall within the scope of a qualifying request under the PRA, including documents received from and/or concerning the other party to this Agreement.

SECTION XVII: ELECTRONIC SIGNATURE

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

SECTION XVIII: ENTIRE CONTRACT

This Agreement contains the whole contract between the parties for the provision of Fire Services. It may be amended or modified upon the mutual written consent of the parties hereto where in accordance with applicable state law. This Agreement does NOT supplement other specific agreements entered into by both parties for equipment or facilities, and excepting those equipment or facilities agreements, this Agreement cancels and supersedes any previous agreement for the same or similar services.

[Signature Provisions on following page]

IN WITNESS, WHEREOF, the duly authorized officials of the parties hereto have, in their respective capacities, set their hands as of the date first hereinabove written.

CITY OF BANNING

Dated: _____

By: _____
Robert Fisher, Acting City Manager

ATTEST:

By: _____
Vicky Sellers, City Clerk

APPROVED AS TO FORM:

By: _____
John Pinkney, City Attorney

COUNTY OF RIVERSIDE, a political subdivision of the State of California

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:
KIMBERLY A. RECTOR
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:
MINH C. TRAN,
County Counsel

By: _____
MELISSA R. CUSHMAN
Deputy County Counsel

EXHIBIT "A"

TO THE COOPERATIVE AGREEMENT TO PROVIDE
FIRE PREVENTION, RESCUE, FIRE MARSHAL, HAZMAT AND
MEDICAL EMERGENCY FOR THE CITY OF BANNING
DATED APRIL 1, 2025 FOR FY2025/2026 THRU FY2027/2028

CITY BUDGETED EXHIBIT "A" ESTIMATE

FISCAL YEAR 2025/2026	$5,171,223
FISCAL YEAR 2026/2027	$5,384,334
FISCAL YEAR 2027/2028	$5,608,101
TOTAL CITY BUDGET **ESTIMATE** FOR FY2025/2026 THRU FY2027/2028	$16,163,658

EXHIBIT "A"

TO THE COOPERATIVE AGREEMENT TO PROVIDE FIRE PREVENTION, RESCUE, FIRE MARSHAL, HAZMAT AND MEDICAL EMERGENCY FOR THE CITY OF BANNING DATED APRIL 1, 2025 FOR FY2025/2026

See notation below for estimate assumptions

	CAPTAIN		CAPTAIN MEDICS		ENGINEER		ENGINEER MEDICS		FF II		FFII MEDICS		TOTALS	
STA #20														
Medic Engine	*0	2			*0	1	*0	1	*0	3	*0	2	*0	9
STA #89														
Medic Engine	314,369	1			552,726	2			477,887	2	806,261	3	2,151,244	8
66–HR Workweek	314,369	1											314,369	1
SUBTOTALS	628,739				552,726				477,887		806,261		**2,465,613**	
SUBTOTAL STAFF	2				2				2		3			9
FIRE SAFETY SPECIALIST (PCN 00126230)							201,261	each					201,261	1
SUPERVISING FIRE MARSHAL (PCN 00145234)							235,306	each					235,306	1
FIRE PERMIT TECHNICIAN (PCN 00145234)							119,798	each					119,798	1
SUBTOTAL													**$556,365**	12
SUPPORT SERVICES (Fire Cost Allocation Plan)														
Administrative/Operational (Schedule A)					27,783	per assigned Staff **							255,323	9.19
Volunteer Program (Schedule B)					10,581	per Entity Allocation							10,581	1
Medic Program (Schedule C)					17,040	Medic FTE and			5,251	per Defib			61,623	3
Battalion Chief Support (Schedule D)					7,681	per Fire Station Staff							69,132	9
ECC Support (Schedule E)					42.54	per Call and			31,582	per Station			270,990	
Fleet Support (Schedule F)					97,527	per Fire Suppression Equip							195,054	2
Comm/IT Support (Schedule G)					43.02	per Call and			31,935	per Station			274,064	
Hazmat Support (Schedule I)					3,920.50	per Call and			11,663	per Station			39,283	
SUPPORT SERVICES SUBTOTAL													**1,176,051**	
DIRECT CHARGES													**64,189**	
FIRE ENGINE USE AGREEMENT							43,350	each engine					**86,700**	2
COOPERATIVE FIRE ENGINE 20 STAFFING SHARE AGREEMENT													**822,305**	
***Engine 20 Staffing on separate additional Exhibit "A"**														
TOTAL STAFF COUNT														12
TOTAL ***ESTIMATED*** CITY BUDGET													**$5,171,223**	

1.5	Fire Stations	9.0		Assigned Staff
5,257	Number of Calls	0.19		Battalion Chief Allocation
3	Assigned Medic FTE	** 9.19		Total Assigned Staff
2	Monitors/Defibs			
1.5	Hazmat Stations			
5	Number of Hazmat Calls			

SUPPORT SERVICES (Fire Cost Allocation Plan)

Administrative & Operational Services

Finance / Accounting	Public Affairs / Education
Training	Procurement
Data Processing	Fire Fighting Equip.
Personnel	Office Supplies/Equip.

SUPPORT SERVICES (Fire Cost Allocation Plan) cont.

Volunteer Program - Support staff, Workers Comp, and Personal Liability Insurance

Medic Program - Support staff, Training, Certification, Case Review & Reporting, Monitor/ Defibrillator replacement cycle.

Battalion Chief Support - Pooled BC coverage for Cities/Agencies that do not include BC staffing as part of their contracted services.

Fleet Support - Support staff, automotive costs, vehicle/engine maintenance, fuel costs

Emergency Command Center Support - Dispatch services costs

Communications / IT Support - Support staff, communications, radio maintenance, computer support functions

Facility Support - Facility maintenance staff with associated operating costs.

Hazmat Program - Support staff, operating costs, and vehicle replacement

FY 25/26 POSITION SALARIES TOP STEP

438,060	DEPUTY CHIEF
432,237	DIV CHIEF
369,557	BAT CHIEF
314,369	CAPT
318,132	CAPT MEDIC
276,363	ENG
309,825	ENG/MEDIC
238,944	FF II
268,754	FF II/MEDIC
150,349	ADMIN SVCS ANALYST II
126,332	ADMIN SVCS ASST
239,655	DEPUTY FIRE MARSHAL
178,120	EMERGENCY MEDICAL SERVICE SPEC
137,794	EXECUTIVE ASSISTANT II
119,798	FIRE PERMIT TECHNICIAN
140,079	FIRE PREVENTION TECHNICIAN
201,261	FIRE SAFETY SPECIALIST
183,598	FIRE SYSTEMS INSPECTOR
110,917	OFFICE ASSISTANT III
235,306	SUPERVISING FIRE MARSHAL

43,350	FIRE ENGINE
27,783	SRVDEL
10,581	VOL DEL
17,040	MEDIC FTE
5,251	MEDIC MONITORS/DEFIBS REPLACEMENT
7,681	BC SUPPORT
31,582	ECC STATION
42.54	ECC CALLS
97,527	FLEET SUPPORT
31,935	COMM/IT STATION
43.02	COMM/IT CALLS
1,806	FACILITY STATION
426.00	FACILITY FTE
11,663	HAZMAT STATION
3,920.50	HAZMAT CALLS
2,186	HAZMAT VEHICLE REPLACEMENT

Cost Assumptions:

- All Salaries based on Salary, Pay Differentials, and Operating Expenses Schedule FY 2025-2026 Dated February 6, 2025

- Benefits and Admin Fee based on Staff Benefit Rate Matrix FY 2025-26 dated January 2025 Preliminary

- Projected increase of 10% to Safety & Non-Safety Staff and Support Services from previous FY24/25.

FY 25/26 DIRECT BILL ACCOUNT CODE

520230	Cellular Phone	522310	Maint-Building and
520300	Pager Service	522360	Maint-Exterminatio
520320	Telephone Service	522860	Medical-Dental Sup
520800	Household Expense	522870	Other Medical Care
520805	Appliances	522890	Pharmaceuticals
520815	Cleaning and Custodial Supp	523220	Licenses And Perm
520830	Laundry Services	523680	Office Equip Non F
520840	Household Furnishings	526700	Rent-Lease Bldgs
520845	Trash	526940	Locks/Keys
521380	Maint-Copier Machines	527280	Awards/Recognitio
521440	Maint-Kitchen Equipment	529500	Electricity
521540	Maint-Office Equipment	529510	Heating Fuel
521600	Maint-Service Contracts	529550	Water
521660	Maint-Telephone	537240	Interfnd Exp-Utilitie
521680	Maint-Underground Tanks	542060	Improvements-Buil

EXHIBIT "A"

TO THE COOPERATIVE AGREEMENT TO PROVIDE FIRE PREVENTION, RESCUE, FIRE MARSHAL, HAZMAT AND MEDICAL EMERGENCY FOR THE CITY OF BANNING DATED APRIL 1, 2025 FOR FY2026/2027

See notation below for estimate assumptions

	CAPTAIN		CAPTAIN MEDICS		ENGINEER		ENGINEER MEDICS		FF II		FFII MEDICS		TOTALS	
STA #20														
Medic Engine	*0	2			*0	1	*0	1	*0	3	*0	2	*0	9
STA #89														
Medic Engine	330,088	1			580,362	2			501,782	2	846,574	3	2,258,806	8
66–HR Workweek	330,088	1											330,088	1
SUBTOTALS	660,176				580,362				501,782		846,574		**2,588,894**	
SUBTOTAL STAFF	2				2				2		3			9
FIRE SAFETY SPECIALIST (PCN 00126230)							211,324	each					211,324	1
SUPERVISING FIRE MARSHAL (PCN 00145234)							247,071	each					247,071	1
FIRE PERMIT TECHNICIAN (PCN 00145234)							125,788	each					125,788	1
SUBTOTAL													**$584,184**	12
SUPPORT SERVICES (Fire Cost Allocation Plan)														
Administrative/Operational (Schedule A)					29,172	per assigned Staff **							268,089	9.19
Volunteer Program (Schedule B)					11,110	per Entity Allocation							11,110	1
Medic Program (Schedule C)					17,892	Medic FTE and			5,514	per Defib			64,704	3
Battalion Chief Support (Schedule D)					8,065	per Fire Station Staff							72,588	9
ECC Support (Schedule E)					44.66	per Call and			33,161	per Station			284,540	
Fleet Support (Schedule F)					102,403	per Fire Suppression Equip							204,807	2
Comm/IT Support (Schedule G)					45.17	per Call and			33,532	per Station			287,767	
Hazmat Support (Schedule I)					4,116.52	per Call and			12,246	per Station			41,248	
SUPPORT SERVICES SUBTOTAL													**1,234,853**	
DIRECT CHARGES													**67,399**	
FIRE ENGINE USE AGREEMENT							43,350	each engine					**86,700**	2
COOPERATIVE FIRE ENGINE 20 STAFFING SHARE AGREEMENT													**822,305**	
***Engine 20 Staffing on separate additional Exhibit "A"**														
TOTAL STAFF COUNT														12
TOTAL ***ESTIMATED*** CITY BUDGET													**$5,384,334**	

1.5	Fire Stations	*9.0*	Assigned Staff
5,257	Number of Calls	*0.19*	Battalion Chief Allocation
3	Assigned Medic FTE	** *9.19*	Total Assigned Staff
2	Monitors/Defibs		
1.5	Hazmat Stations		
5	Number of Hazmat Calls		

SUPPORT SERVICES (Fire Cost Allocation Plan)

Administrative & Operational Services

Finance / Accounting	Public Affairs / Education
Training	Procurement
Data Processing	Fire Fighting Equip.
Personnel	Office Supplies/Equip.

SUPPORT SERVICES (Fire Cost Allocation Plan) cont.

Volunteer Program - Support staff, Workers Comp, and Personal Liability Insurance

Medic Program - Support staff, Training, Certification, Case Review & Reporting, Monitor/ Defibrillator replacement cycle.

Battalion Chief Support - Pooled BC coverage for Cities/Agencies that do not include BC staffing as part of their contracted services.

Fleet Support - Support staff, automotive costs, vehicle/engine maintenance, fuel costs

Emergency Command Center Support - Dispatch services costs

Communications / IT Support - Support staff, communications, radio maintenance, computer support functions

Facility Support - Facility maintenance staff with associated operating costs.

Hazmat Program - Support staff, operating costs, and vehicle replacement

FY 26/27 POSITION SALARIES TOP STEP

459,963	DEPUTY CHIEF
453,848	DIV CHIEF
388,035	BAT CHIEF
330,088	CAPT
334,039	CAPT MEDIC
290,181	ENG
325,317	ENG/MEDIC
250,891	FF II
282,191	FF II/MEDIC
157,866	ADMIN SVCS ANALYST II
132,649	ADMIN SVCS ASST
251,638	DEPUTY FIRE MARSHAL
187,026	EMERGENCY MEDICAL SERVICE SPEC
144,684	EXECUTIVE ASSISTANT II
125,788	FIRE PERMIT TECHNICIAN
147,083	FIRE PREVENTION TECHNICIAN
211,324	FIRE SAFETY SPECIALIST
192,778	FIRE SYSTEMS INSPECTOR
116,463	OFFICE ASSISTANT III
247,071	SUPERVISING FIRE MARSHAL
43,350	FIRE ENGINE
29,172	SRVDEL
11,110	VOL DEL
17,892	MEDIC FTE
5,514	MEDIC MONITORS/DEFIBS REPLACEMENT
8,065	BC SUPPORT
33,161	ECC STATION
44.66	ECC CALLS
102,403	FLEET SUPPORT
33,532	COMM/IT STATION
45.17	COMM/IT CALLS
1,897	FACILITY STATION
447.30	FACILITY FTE
12,246	HAZMAT STATION
4,116.52	HAZMAT CALLS
2,295	HAZMAT VEHICLE REPLACEMENT

Cost Assumptions:

- Projected 5% salaries increase based on Salary, Pay Differentials, and Operating Expenses Schedule FY 2025-2026 Dated February 6, 2025

- Projected 5% salaries increase based on Benefits and Admin Fee based on Staff Benefit Rate Matrix FY 2025-26 dated January 2025 Preliminary

- Projected 5% salaries increase based on Safety & Non-Safety Staff and Support Services from previous FY25/26.

FY 26/27 DIRECT BILL ACCOUNT CODE

520230	Cellular Phone	522310	Maint-Building and
520300	Pager Service	522360	Maint-Exterminatio
520320	Telephone Service	522860	Medical-Dental Sup
520800	Household Expense	522870	Other Medical Care
520805	Appliances	522890	Pharmaceuticals
520815	Cleaning and Custodial Supp	523220	Licenses And Perm
520830	Laundry Services	523680	Office Equip Non F
520840	Household Furnishings	526700	Rent-Lease Bldgs
520845	Trash	526940	Locks/Keys
521380	Maint-Copier Machines	527280	Awards/Recognitio
521440	Maint-Kitchen Equipment	529500	Electricity
521540	Maint-Office Equipment	529510	Heating Fuel
521600	Maint-Service Contracts	529550	Water
521660	Maint-Telephone	537240	Interfnd Exp-Utilitie
521680	Maint-Underground Tanks	542060	Improvements-Buil

EXHIBIT "A"

TO THE COOPERATIVE AGREEMENT TO PROVIDE FIRE PREVENTION, RESCUE, FIRE MARSHAL, HAZMAT AND MEDICAL EMERGENCY FOR THE CITY OF BANNING DATED APRIL 1, 2025 FOR FY2027/2028

See notation below for estimate assumptions

	CAPTAIN		CAPTAIN MEDICS		ENGINEER		ENGINEER MEDICS		FF II		FFII MEDICS		TOTALS	
STA #20														
Medic Engine	*0	2			*0	1	*0	1	*0	3	*0	2	*0	9
STA #89														
Medic Engine	346,592	1			609,380	2			526,871	2	888,903	3	2,371,746	8
66–HR Workweek	346,592	1											346,592	1
SUBTOTALS	693,184				609,380				526,871		888,903		**2,718,338**	
SUBTOTAL STAFF	2				2				2		3			9
FIRE SAFETY SPECIALIST (PCN 00126230)							221,891	each					221,891	1
SUPERVISING FIRE MARSHAL (PCN 00145234)							259,425	each					259,425	1
FIRE PERMIT TECHNICIAN (PCN 00145234)							132,078	each					132,078	1
SUBTOTAL													**$613,393**	12
SUPPORT SERVICES (Fire Cost Allocation Plan)														
Administrative/Operational (Schedule A)					30,630	per assigned Staff **							281,494	9.19
Volunteer Program (Schedule B)					11,665	per Entity Allocation							11,665	1
Medic Program (Schedule C)					18,787	Medic FTE and			5,790	per Defib			67,939	3
Battalion Chief Support (Schedule D)					8,469	per Fire Station Staff							76,218	9
ECC Support (Schedule E)					46.90	per Call and			34,819	per Station			298,767	
Fleet Support (Schedule F)					107,524	per Fire Suppression Equip							215,047	2
Comm/IT Support (Schedule G)					47.43	per Call and			35,209	per Station			302,156	
Hazmat Support (Schedule I)					4,322.35	per Call and			12,859	per Station			43,310	
SUPPORT SERVICES SUBTOTAL													**1,296,596**	
DIRECT CHARGES													**70,769**	
FIRE ENGINE USE AGREEMENT							43,350	each engine					**86,700**	2
COOPERATIVE FIRE ENGINE 20 STAFFING SHARE AGREEMENT													**822,305**	
***Engine 20 Staffing on separate additional Exhibit "A"**														
TOTAL STAFF COUNT														12
TOTAL ***ESTIMATED*** CITY BUDGET													**$5,608,101**	

1.5	Fire Stations	*9.0*		Assigned Staff
5,257	Number of Calls	*0.19*		Battalion Chief Allocation
3	Assigned Medic FTE	**	*9.19*	Total Assigned Staff
2	Monitors/Defibs			
1.5	Hazmat Stations			
5	Number of Hazmat Calls			

SUPPORT SERVICES (Fire Cost Allocation Plan)

Administrative & Operational Services

Finance / Accounting	Public Affairs / Education
Training	Procurement
Data Processing	Fire Fighting Equip.
Personnel	Office Supplies/Equip.

SUPPORT SERVICES (Fire Cost Allocation Plan) cont.

Volunteer Program - Support staff, Workers Comp, and Personal Liability Insurance

Medic Program - Support staff, Training, Certification, Case Review & Reporting, Monitor/ Defibrillator replacement cycle.

Battalion Chief Support - Pooled BC coverage for Cities/Agencies that do not include BC staffing as part of their contracted services.

Fleet Support - Support staff, automotive costs, vehicle/engine maintenance, fuel costs

Emergency Command Center Support - Dispatch services costs

Communications / IT Support - Support staff, communications, radio maintenance, computer support functions

Facility Support - Facility maintenance staff with associated operating costs.

Hazmat Program - Support staff, operating costs, and vehicle replacement

FY 27/28 POSITION SALARIES TOP STEP

482,961	DEPUTY CHIEF
476,541	DIV CHIEF
407,437	BAT CHIEF
346,592	CAPT
350,741	CAPT MEDIC
304,690	ENG
341,582	ENG/MEDIC
263,435	FF II
296,301	FF II/MEDIC
165,760	ADMIN SVCS ANALYST II
139,281	ADMIN SVCS ASST
264,219	DEPUTY FIRE MARSHAL
196,377	EMERGENCY MEDICAL SERVICE SPEC
151,918	EXECUTIVE ASSISTANT II
132,078	FIRE PERMIT TECHNICIAN
154,438	FIRE PREVENTION TECHNICIAN
221,891	FIRE SAFETY SPECIALIST
202,417	FIRE SYSTEMS INSPECTOR
122,286	OFFICE ASSISTANT III
259,425	SUPERVISING FIRE MARSHAL

43,350	FIRE ENGINE
30,630	SRVDEL
11,665	VOL DEL
18,787	MEDIC FTE
5,790	MEDIC MONITORS/DEFIBS REPLACEMENT
8,469	BC SUPPORT
34,819	ECC STATION
46.90	ECC CALLS
107,524	FLEET SUPPORT
35,209	COMM/IT STATION
47.43	COMM/IT CALLS
1,991	FACILITY STATION
469.66	FACILITY FTE
12,859	HAZMAT STATION
4,322.35	HAZMAT CALLS
2,410	HAZMAT VEHICLE REPLACEMENT

Cost Assumptions:

- Projected 5% salaries increase based on FY26/27 Safety Salaries Cost Estimate

- Projected 5% salaries increase based on FY26/27 Benefits and Admin Fee Cost Estimate

- Projected 5% salaries increase based on Non-Safety Staff and Support Services from FY25/26.

FY 27/28 DIRECT BILL ACCOUNT CODE

520230	Cellular Phone	522310	Maint-Building and
520300	Pager Service	522360	Maint-Exterminatio
520320	Telephone Service	522860	Medical-Dental Sup
520800	Household Expense	522870	Other Medical Care
520805	Appliances	522890	Pharmaceuticals
520815	Cleaning and Custodial Supp	523220	Licenses And Perm
520830	Laundry Services	523680	Office Equip Non F
520840	Household Furnishings	526700	Rent-Lease Bldgs
520845	Trash	526940	Locks/Keys
521380	Maint-Copier Machines	527280	Awards/Recognitio
521440	Maint-Kitchen Equipment	529500	Electricity
521540	Maint-Office Equipment	529510	Heating Fuel
521600	Maint-Service Contracts	529550	Water
521660	Maint-Telephone	537240	Interfnd Exp-Utilitie
521680	Maint-Underground Tanks	542060	Improvements-Buil

EXHIBIT "C"

TO THE COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE, FIRE MARSHAL AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF BANNING
DATED JULY 1, 2025

PAYMENT FOR SERVICES
ADDITIONAL SERVICES
FIRE ENGINE USE AGREEMENT

Station 20	
Engine E20, RCO No. 16-847 (VIN: 4S7CT2D93HC081447)	$ 43,350.00
Station 89	
Engine E89, RCO No. 22-8400 (VIN: 4S9AEETB1NS559882)	$ 43,350.00
	$ 86,700.00

The Fire Engine Use Agreement is utilized in the event that a fire engine(s) was initially purchased by the CITY, and then the CITY elects to have the COUNTY take ownership of said fire engine(s). The Fire Engine Use Agreement guarantees the CITY the use of this fire engine(s).

This fire engine(s) shall be used as an integrated unit for Fire Services as set forth in this Cooperative Agreement between the COUNTY and CITY, and shall be stationed primarily in the CITY. The change in ownership of the fire engine does not waive or supersede any responsibilities of the CITY pursuant to this Agreement. This exhibit is strictly to further detail for the CITY, the responsibilities and costs associated within the Cooperative Agreement between the COUNTY and CITY; therefore, the Fire Engine Use Agreement is inseparable.

The CITY must transfer title of said fire engine(s) to the COUNTY. When the CITY transfers title of said fire engine(s) to the COUNTY, the COUNTY will take ownership of the said fire engine(s), and the COUNTY will maintain insurance on said fire engine(s).

The COUNTY will ensure a working fire engine(s) is available for the CITY at all times under this Agreement. All capital improvements and/or betterments (per ACO standard practice manual) to the fire engine(s) listed above will be the responsibility and paid for by the owner of said fire engine(s).

When the Riverside County Fire Department Fleet personnel determine the fire engine(s) listed above is due for replacement, the COUNTY will purchase a new fire engine(s).

The annual cost for this service is calculated at 1/20 of the replacement cost. The current replacement cost is $867,000. The cost is based on the actual costs for Type I Fire Engines. If this Agreement is entered into mid-year, the annual cost will be prorated accordingly. Replacement cost is subject to change based on current Type I Fire Engine cost. See each respective fiscal year's Exhibit "A" for current Fire Engine Use Agreement costs.

The CITY may opt out of this Agreement at any time in writing and the costs will be prorated accordingly by fiscal year. No refunds will be provided for any prior payments. If the fire engine(s) have been titled to the COUNTY and the fire engine(s) are still within their useful life cycle, the ownership will not revert back to the CITY unless the entire Cooperative Agreement is terminated.

EXHIBIT "D"

TO THE COOPERATIVE AGREEMENT
TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, FIRE MARSHAL, HAZAMAT RESCUE AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF BANNING
DATED JULY 1, 2025

PAYMENT FOR ADDITIONAL SERVICES
OFFICE OF THE FIRE MARSHAL AGREEMENT

The Fire Marshal Agreement is utilized in the event a CITY elects to fund COUNTY Fire Marshal personnel to perform the duties of the Office of the Fire Marshal. The COUNTY Chief Deputy will assign a COUNTY Manager as the Office of the Fire Marshal Liaison ("OFM Liaison"). The Chief Deputy may delegate certain authority to the OFM Liaison, as the Fire Marshal's duly authorized designee and the OFM Liaison shall be responsible for directing the Fire Marshal Services provided to CITY as set forth in this Exhibit "D."

The Fire Marshal duties include:

For conformance with applicable laws, codes and regulations concerning fire protection and life safety -

- Review Planning and Development Cases for the CITY
- Review and inspection of construction development for the CITY
- State mandated Fire/Life Safety Inspections in accordance with Health and Safety Code 13146.1, 13146.2, 13146.3, 13217 and 13235
- Review, Permitting and Inspection of Special Events
- Investigation of fire safety complaints
- Meeting with development applicants and customers
- Business inspections

Administrative activities:

- Creation and maintenance of forms for review and inspection of construction development and fire/life safety inspections.
- Provide information to customers on CITY Ordinances and Standards for construction
- Provide recommendations on updating CITY Ordinances and Standards in regards to fire/life safety

In the event CITY desires an increase in the Office of the Fire Marshal services provided, CITY shall provide (120) days written notice of the proposed increase in services. COUNTY is under no obligation to approve any requested increase. COUNTY shall render a written decision on whether to allow or deny the increase within (60) days of the notice provided pursuant to this section.

It is the CITY responsibility to provide funding for all operating equipment and supplies for each position in accordance with COUNTY requirements and/or standards. The equipment and supplies include, but are not limited to the following:

The CITY or COUNTY shall provide, unless otherwise agreed upon:

- Office space
- Furniture
- General & field supplies
- Training

The COUNTY shall provide, unless otherwise agreed upon, at the expense of the CITY:

- Vehicle and regular maintenance
- All IT and Communication tools (such as cell phone, computer, software licensing, etc.)
- Uniforms

The equipment and supplies provided by COUNTY shall be based upon the County Board of Supervisors Approved Fire Department Cost Recovery rates or actual costs when absent of a specific rate. All costs, including salaries and benefits, will be included in each quarterly invoice as outlined in the Cooperative Agreement.

The CITY may opt out of this Exhibit and eliminate funding for locally direct COUNTY Fire Marshal personnel at the CITY in writing with a minimum notice of one hundred and twenty (120) days. The costs will be prorated accordingly by services provided and fiscal year.

It is the responsibility of the CITY to obtain cost recovery for the Fire Marshal services provided by these personnel for the CITY.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**David Newell, Community Development Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-99, Approving a Professional Services Agreement (C01134) with Rincon Consultants, Inc. for Preparation of Annual Progress Reports on Housing to Fulfill Statutory Mandates Under Government Code Section 65400 and 65700**

RECOMMENDATION:

Adopt Resolution 2025-99.

BACKGROUND:

California Government Code ("GC") Section 65300 requires each city and county to adopt a General Plan, including seven mandatory elements. The mandated elements include Land Use, Open Space, Conservation, Circulation, Noise, Safety, and Housing. The Housing Element is a policy document that describes goals, policies and programs that are designed to facilitate the development, improvement, and preservation of housing for all income groups in a city or county. Banning adopted an updated Housing Element on July 9, 2024 for the 2021-2029 planning period.

Each City and County in California must prepare an Annual Progress Report (APR) on the jurisdiction's status and progress in implementing its Housing Element using forms and definitions adopted by the California Department of Housing and Community Development (HCD) (GC § 65400). Each jurisdiction's APR must be submitted to HCD and the Governor's Office of Planning and Research (OPR) by April 1 of each year (covering the previous calendar year).

AB 2011 (2022), SB 6 (2022), AB 1743 (2022), and AB 649 (2022) added new data requirements for APRs, making the preparation of each year's report especially tedious and time-consuming. Given the limited staffing resources, the Planning Division has struggled to complete the reports by the April 1st HCD deadline and the City has yet to submit APRs for the 2021-2029 planning period.

On March 12, 2024, the City Council adopted Resolution 2024-49 authorizing the City to enter into an agreement with Rincon Consultants for the preparation of the City's Annual Progress Reports. However, this contract expired and the need remains as the City is currently out of compliance with the Government Code in completing and submitting its APRs.

Rincon Consultants has provided the attached proposal to assist with preparing its APRs for 2021-2025.

JUSTIFICATION:

Government Code requires that all local jurisdictions in California report on their progress in meeting their assigned Regional Housing Needs Assessment Allocation (RHNA) through the preparation of its APR each year. The statutory deadline to submit the prior calendar year's APR is April 1st of the

following year. The City has not complied with this requirement for several years, and thus there is a need to complete these APRs with the assistance of a consultant that is able to complete these reports timely and ensure information provided complies with the HCD requirements. Further, because recent APRs haven't been prepared or submitted as required by the California Government Code, the City remains at risk of being penalized for non-compliance and losing out on grant opportunities.

FISCAL IMPACT:

The expired agreement with Rincon Consultants authorized up to $40,000. Of this amount, the City has paid $10,787.50 which leaves $29,212.50 remaining and encumbered from FY 2024/2025 that may be carried forward to FY2025/2026 in the Department's contractual services account (001-2800-441.33-11). This account has an unencumbered balance of $21,223. A total of $50,000 is requested to cover the proposal estimate of $48,702.50 and a contingency amount of $1,297.50. Therefore, funding is available to cover the anticipated fiscal impact for the new contract.

ALTERNATIVES:

Provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. CC_Resolution_2025-99_Authorizing_Rincon_Agreement.docx
2. Rincon Consultants Proposal for APR Services
3. C01134 - Consulting Services (Rincon Consultants, Inc)

RESOLUTION 2025-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SOLE SOURCE PROFESSIONAL SERVICES AGREEMENT (PSA C01134) WITH RINCON CONSULTANTS, INC FOR PREPARATION OF ANNUAL PROGRESS REPORTS ON HOUSING TO FULFILL STATUTORY MANDATES UNDER GOVERNMENT CODE SECTION 65400 AND 65700

WHEREAS, in 2024, the City solicited a proposal from Rincon Consultants, Inc. (Rincon) for services preparing the City's Annual Progress Reports (APRs) as required by the Housing and Community Development Department (HCD) for calendar years 2021, 2022 and 2023; and on March 24, 2024, the City Council adopted Resolution 2024-49 authorizing the contract with Rincon for said services for an amount not to exceed $40,000 through August 31, 2024; however, the services weren't completed prior to the contract expiration; and

WHEREAS, the City desires to complete its APRs for calendar years 2021-2025 and comply with Government Code 65400; and

WHEREAS, on March 19, 2025, Rincon provided a proposal to provide the previously proposed services for preparing the City's APRs for calendar years 2021-2023, as well as calendar years 2024-2025, for a total cost of $48,702.50; and

WHEREAS, the City has funding in account 001-2800-441.33-11 to cover this cost; and

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

SECTION 1. The City Council approves a professional services agreement with Rincon attached as Exhibit "A" in an amount not to exceed $50,000 for professional services of preparing the City's Annual Progress Reports through April 30, 2026.

SECTION 2. The City Manager or his designee is authorized to make necessary budget adjustments, appropriations and transfers related to this services agreement.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-99, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement (C01134) with Rincon Consultant, Inc.

Rincon Consultants, Inc.
250 East 1st Street, Suite 1400
Los Angeles, CA 90012
831-333-0310

March 19, 2025
Rincon Project No. 24-15636

Emery J. Papp, Planning Manager
Community Development Department
City of Banning
Planning Department
99 E. Ramsey Street
Banning California 92220
Via email: epapp@banningca.gov

Subject: Proposal for City of Banning Annual Progress Report Services
Banning, CA

Dear Mr. Papp:

Rincon Consultants is pleased to submit this revised proposal to provide support services related to preparation of the City's 2021-2023 Annual Progress Reports (APRs). We have assembled a team of highly skilled planning and professionals with experience with APRs and have assisted other jurisdictions with similar services.

This proposal includes an estimated budget for these services, but in our experience, there is often a good amount of research and coordination that is involved with obtaining the appropriate data. For this reason, we request a contract with compensation based on a "Not-To-Exceed" amount. This will prevent the need to issue additional cost amendments in the future.

Please note that we do not know the status of the 2024 and 2025 APRs. We are available to also complete these reports at this time for additional budget in line with cost estimates previously provided.

Scope of Work

Rincon has prepared this scope of work based on our understanding of the City's needs. The tasks are the same for each report.

Task 1 Project Management

Rincon will provide project management support, including meetings, timeline and status updates, quality control, and internal team coordination.

Task 2 APR Completion

Rincon will coordinate with the City to prepare the City's 2021-2023 APRs. Rincon assumes the following:

- City will provide data for all residential building permits in Excel or comma-separated values (csv) format, and information on City programs in Excel or Word format.

- City will provide all information required to complete APR forms no later than 10 business days after City authorization of services.
- City will be responsible for submitting the APRs to HCD.

Cost

We anticipate that the preparation of each APR (2021-2023 years) will cost $9,745 ($29,234 total for the project). However, we often find that delays in data gathering lead to additional time and budget. Rincon will perform the services on an hourly basis in accordance with the Fee Schedule in Attachment 1, for a not to exceed fee equal to $40,000. Services rendered will be billed on a monthly basis as accrued.

Since this proposal was originally prepared, $10,787.50 in budget has been invoiced, with $1,541 outstanding (Invoice #63190). As of the date of this proposal, and including the outstanding invoice, $29,212.50 remains in the original budget.

If the City would also like assistance with the 2024 and 2025 APRs, an additional $19,490 in budget is requested at this time. If this option is chosen, the new budget for this project would be $48,702.50.

We appreciate the opportunity to assist with this project. This scope of work is fully negotiable to ensure the proposal meets the City's needs for this work effort and is valid for a period of 30 days. Please let us know if you have any questions. We look forward to continuing to assist the City of Banning.

Sincerely,
Rincon Consultants, Inc.



Brenna Weatherby | Principal

bweatherby@rinconconsultants.com

Authorized to contractually obligate and negotiate on behalf of Rincon Consultants, Inc.

Attachments

Attachment 1 Fee Schedule

Attachment 1 – Fee Schedule

RINCON CONSULTANTS, INC. SINCE 1994

Standard Fee Schedule for Environmental Sciences and Planning Services

Professional, Technical and Support Personnel*	January 1, 2024 – December 31, 2024
Senior Principal	$319
Principal	$307
Director	$307
Senior Supervisor II	$292
Supervisor I	$272
Senior Professional II	$255
Senior Professional I	$238
Professional IV	$211
Professional III	$196
Professional II	$174
Professional I	$155
Associate III	$130
Associate II	$117
Associate I	$109
Field Technician	$94
Data Solutions Architect	$196
Senior GIS Specialist	$187
GIS/CADD Specialist II	$167
GIS/CADD Specialist I	$150
Technical Editor	$147
Project Accountant	$125
Billing Specialist	$107
Publishing Specialist	$120
Clerical	$107

* Professional classifications include environmental scientists, urban planners, biologists, geologists, marine scientists, GHG verifiers, sustainability experts, cultural resources experts, and other professionals. Expert witness services consisting of depositions or in-court testimony are charged at the hourly rate of $400.

Reimbursable Expenses

Direct Cost	Rates
Photocopies – B/W	$0.25 (single-sided), $0.45 (double-sided)
Photocopies – Color	$1.55 (single-sided), $3.10 (double-sided)
Photocopies – 11” by 17”	$0.55 (B/W), $3.40 (color)
Oversized Maps	$8.50/square foot
Digital Production	$15/CD, $20/flash drive
Light-Duty and Passenger Vehicles*	$90/day
4WD and Off-Road Vehicles*	$150/day

* Current IRS mileage rate for mileage over 50 and for all miles incurred in employee-owned vehicles.

Direct Costs. Other direct costs associated with the execution of a project, that are not included in the hourly rates above, are billed at cost plus 16%. These may include, but are not limited to, laboratory and drilling services, subcontractor services, authorized travel expenses, permit charges and filing fees, mailings and postage, performance bonds, sample handling and shipment, rental equipment, and vehicles other than covered by the above charges.

Annual Escalation. Standard rates subject to 3.5% annual escalation, on January 1.

Payment Terms. All fees will be billed to Client monthly and shall be due and payable upon receipt or as indicated in the contract provisions for the assignment. Invoices are delinquent if not paid within 10 days from receipt or per the contractually required payment terms.

Equipment	Rate
Environmental Site Assessment	
Soil Vapor Extraction Monitoring Equipment	$160
Four Gas Monitor	$137
Flame Ionization Detector	$110
Photo Ionization Detector	$82
Hand Auger Sampler	$62
Water Level Indicator, DC Purge Pump	$46
CAPDash	$7,500
Natural Resources Field Equipment	
UAS Drone	$300
Spotting or Fiberoptic Scope	$170
Pettersson Bat Ultrasound Detector/Recording Equipment	$170
Sound Level Metering Field Package (Anemometer, Tripod and Digital Camera)	$113
GPS (Submeter Accuracy)	$67
Infrared Sensor Digital Camera or Computer Field Equipment	$57
Scent Station	$23
Laser Rangefinder/Altitude	$11
Pitfall Traps, Spotlights, Anemometer, GPS Units, Sterilized Sample Jar	$9
Mammal Trap, Large/Small	$1.55/$0.55
Water and Marine Resources Equipment	
Boat (20-foot Boston Whaler or Similar)	$800
Multiparameter Sonde (Temperature, Conductivity, Turbidity, DO, pH) with GPS	$170
Water Quality Equipment (DO, pH, Turbidity, Refractometer, Temperature)	$62
Refractometer (Salinity) or Turbidity Meter	$38
Large Block Nets	$114
Minnow Trap	$98
Net, Hand/Large Seine	$57
Field Equipment Packages	
Standard Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet, Safety Equipment, and Botanic Collecting Equipment)	$114
Remote Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet and Mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	$144
Amphibian/Vernal Pool Field Package (Digital Camera, GPS, Thermometer, Decon Chlorine, Waders, Float Tube, Hand Net, Field Microscope)	$170
Fisheries Equipment Package (Waders, Wetsuits, Dip Nets, Seine Nets, Bubblers, Buckets)	$57
Underwater and Marine Sampling Gear (Photo/Video Camera, Scuba Equipment [Tanks, BCD, Regulators, Wetsuits, etc.])	$57/diver
Marine Field Package (Personal Flotation Devices, 100-foot Reel Tapes with Stainless Carabiners, Pelican Floats, Underwater Slates, Thermometer, Refractometer, Anemometer, Various Field Guides)	$100
Insurance, Hazard, and Fees	
Historic Research Fees	$55
L&H Dive Insurance	$57/diver
Level C Health and Safety	$70/person

AGREEMENT FOR PROFESSIONAL SERVICES (C01134) FOR HOUSING ELEMENT ANNUAL PROGRESS REPORTS (APR) CONSULTING SERVICES BY AND BETWEEN CITY OF BANNING AND RINCON CONSULTANTS, INC.

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: _____, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Rincon Consultants, Inc., a California Corporation, ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by a request for a proposal for the performance of the services for the Housing Element Annual Progress Report (APR) Consulting Services and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional

standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers,

documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Brenna Weatherby	Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement.

Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

1.15 Debarment or Suspension.

Consultant represents and warrants that, as of the Effective Date of this Agreement, Consultant is not debarred or suspended pursuant to any applicable Federal or State law providing for the debarment of contractors. Consultant shall not perform the Services with any subcontractor that has been debarred or suspended pursuant to any applicable Federal or State law providing for the debarment. Consultant and its subcontractors shall not be debarred or suspended throughout the Term of this Agreement pursuant to any applicable Federal or State law providing for the debarment of contractors. If Consultant or any subcontractor becomes debarred or suspended during the Term of this Agreement, Consultant shall immediately notify City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than Fifty Thousand Dollars ($50,000.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to

unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through April 30, 2026, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising

from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2.

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All

sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the

provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other

relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City	Attn: David Newell Community Development Director City of Banning 99 East Ramsey Street Banning, California 92220 Email: dnewell@banningca.gov
With a courtesy copy to:	John Pinkney, City Attorney Slovak, Baron, Empey, Murphy, & Pinkney LLP 303 N Indian Canyon Dr Palm Springs, California 92262 Email: pinkney@sbemp.com

If to Consultant: Attn: Brenna Weatherby
Principal
Rincon Consultants, Inc.
180 N. Ashwood Ave.
Ventura, CA, 93003
Email: bweatherby@rinconconsultants.com

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher, Date
Acting City Manager

ATTEST:

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Slovak Baron Empey Murphy & Pinkney

John Pinkney Date
Acting City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval: _____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Housing Element Annual Progress Report (APR) Consulting Services prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

Rincon Consultants, Inc.
250 East 1st Street, Suite 1400
Los Angeles, CA 90012
831-333-0310

RINCON CONSULTANTS, INC. SINCE 1994

January 18, 2024
Rincon Project No. 24-15636

Adam Rush, Community Development Director
City of Banning
Planning Department
99 East Ramsey Street
Banning, California 92220
Via email: arush@banningca.gov

Subject: Proposal for City of Banning Annual Progress Report Services Banning, CA

Dear Mr. Rush:

Rincon Consultants is pleased to submit this proposal to provide support services related to the preparation of the City's Annual Progress Reports (APRs). We have assembled a team of highly skilled planning and professionals with experience with APRs and have assisted other jurisdictions with similar services. This proposal includes an estimated budget for these services, but in our experience, there is often a good amount of research and coordination that is involved with obtaining the appropriate data. For this reason, we request a contract with compensation based on a "Not-To-Exceed" amount. This will prevent the need to issue additional cost amendments in the future.

Scope of Work

Rincon has prepared this scope of work based on our understanding of the City's needs.

Task 1 Project Management

Rincon will provide project management support, including meetings, timeline and status updates, quality control, and internal team coordination.

Task 2 APR Completion

Rincon will coordinate with the City to prepare the City's 2021-2023 APRs. Rincon assumes the following:

- City will provide data for all residential building permits in Excel or comma-separated values (csv) format, and information on City programs in Excel or Word format.
- City will provide all information required to complete APR forms no later than 10 business days after City authorization of services.
- City will be responsible for submitting the APRs to HCD.

Cost

We anticipate that the preparation of each APR will cost $9,745 ($29,234 total for the project). Rincon will perform the services on an hourly basis in accordance with the Fee Schedule in Attachment 1, for a not to exceed fee equal to $40,000. Services rendered will be billed on a monthly basis as accrued.

We appreciate the opportunity to assist with this project. This scope of work is fully negotiable to ensure the proposal meets the City's needs for this work effort and is valid for a period of 30 days. Please let us know if you have any questions. We look forward to continuing to assist the City of Banning.

Sincerely,
Rincon Consultants, Inc.

Emily Green

Emily Green | Project Manager
egreen@rinconconsultants.com
Contact for Clarification

Brenna Weatherby

Brenna Weatherby | Principal
bweatherby@rinconconsultants.com
Authorized to contractually obligate and negotiate on behalf of Rincon Consultants, Inc.

Attachments

Attachment 1 Fee Schedule

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City. If the City determines that any work product is unacceptable, for any reason, it must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

None

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks ("Tasks") at the following Consultant's billing rates for all personnel are attached as Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE



Rincon Consultants, Inc.

Equipment	Rate
Environmental Site Assessment	
Soil Vapor Extraction Monitoring Equipment	$160
Four Gas Monitor	$137
Flame Ionization Detector	$110
Photo Ionization Detector	$82
Hand Auger Sampler	$62
Water Level Indicator, DC Purge Pump	$46
CAPDash	$7,500
Natural Resources Field Equipment	
UAS Drone	$300
Spotting or Fiberoptic Scope	$170
Pettersson Bat Ultrasound Detector/Recording Equipment	$170
Sound Level Metering Field Package (Anemometer, Tripod and Digital Camera)	$113
GPS (Submeter Accuracy)	$67
Infrared Sensor Digital Camera or Computer Field Equipment	$57
Scent Station	$23
Laser Rangefinder/Altitude	$11
Pitfall Traps, Spotlights, Anemometer, GPS Units, Sterilized Sample Jar	$9
Mammal Trap, Large/Small	$1.55/$0.55
Water and Marine Resources Equipment	
Boat (20-foot Boston Whaler or Similar)	$800
Multiparameter Sonde (Temperature, Conductivity, Turbidity, DO, pH) with GPS	$170
Water Quality Equipment (DO, pH, Turbidity, Refractometer, Temperature)	$62
Refractometer (Salinity) or Turbidity Meter	$38
Large Block Nets	$114
Minnow Trap	$98
Net, Hand/Large Seine	$57
Field Equipment Packages	
Standard Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet, Safety Equipment, and Botanic Collecting Equipment)	$114
Remote Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet and Mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	$144
Amphibian/Vernal Pool Field Package (Digital Camera, GPS, Thermometer, Decon Chlorine, Waders, Float Tube, Hand Net, Field Microscope)	$170
Fisheries Equipment Package (Waders, Wetsuits, Dip Nets, Seine Nets, Bubblers, Buckets)	$57
Underwater and Marine Sampling Gear (Photo/Video Camera, Scuba Equipment [Tanks, BCD, Regulators, Wetsuits, etc.])	$57/diver
Marine Field Package (Personal Flotation Devices, 100-foot Reel Tapes with Stainless Carabiners, Pelican Floats, Underwater Slates, Thermometer, Refractometer, Anemometer, Various Field Guides)	$100
Insurance, Hazard, and Fees	
Historic Research Fees	$55
L&H Dive Insurance	$57/diver
Level C Health and Safety	$70/person

Effective January 1, 2024

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. **The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.**

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nicole Jews, Human Resources Manager** **Robert Fisher, Interim City Manager**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-100, Amending Administrative Policy (AP) No. B-35 – Grant Management/Administration**

RECOMMENDATION:

Adopt Resolution 2025-100.

BACKGROUND:

The Administrative Policies provide a guide for the administrative operation of the City. These policies are regulatory in nature and adopted by the City Council. From time to time, it is necessary to amend the City's Administrative Policies to maintain a current plan that reflects new and amended regulations/laws, organizational structure, and department needs.

JUSTIFICATION:

Approve requested amendment to the Grant Management/Administration policy.

FISCAL IMPACT:

None

ALTERNATIVES:

Do not adopt the resolution and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. B-25 Grant Management_rev 06.11.2025 #3 Revised.docx
2. B-25 Grant Management_Administration.pdf
3. CC_RESOLUTION_2025-100_Revision_to_Grant_Management_Admin_Policy.docx

CITY OF BANNING ADMINISTRATIVE POLICY		
Subject: Grant Management/Administration		Policy No. **B-25**
Reference:	**Effective: 3/2015** **Review Date: 7/2018**	Page No. 1 of 4

Attached is Grant Management/Administration Policy

City of Banning

Grant Management/Administration

Effective Date: 3/2015
Review Date: 7/2018
Prepared by: Administrative Services

Approved:

Department

City Manager

PURPOSE:

The City of Banning recognizes that grant funding provides significant resources to enhance the City's ability to provide services and activities not otherwise available. The City will seek grant funding for activities that are determined to further City functions or that provide activities which are in the best interest of City residents. The City will examine the benefits of grant funding prior to application and decline funding determined not to meet the above criteria. The purpose of this policy is to:

- Provide procedures related to the requirements for application and contracts for Federal/State grants; and
- Ensure that City departments are accountable for proper grant documentation, administration and activities.

POLICY:

Grant Contract/Requirements for Approval

Prior to acceptance of any funding or expenditure of funds on any grant activity, a written contract is required. A resolution and approval by the City Council is required before a grant award can be accepted by the City.

Grant Application

Timely grant application/submission to agencies is the responsibility of the department/division. If a grant requires matching City funds, in any amount, or if the grant application requires the approval of the City Council, the grant application must be submitted to the City Council for consideration and approval prior to submittal to the funding agency. ~~Otherwise, the grant application may be signed by the City Manager/Deputy City Manager.~~

Compliance with Grant Requirements

The City department/division is responsible for compliance with all aspects of grant requirements (terms), including monitoring to ensure that:

- grant activities/projects are properly accomplished;
- grant accounting/recording is accurate;
- performance reports are complete and submitted per terms of the grant; and
- request for reimbursement (drawdown) are accurate and submitted on schedule (or as soon as possible after completion of related grant activities).
- Sub-recipients are in compliance with OMB circular A-133 regulations and provisions of the grant program requirements per city policies and procedures.

Maintenance and Monitoring of Grant Files

The official grant file including a copy of the signed contract and all documents associated with the grant, including but not limited to the contract and amendments, application, activity reports, request for reimbursement, fiscal reports, and other correspondence will be professionally maintained by the initiating department/division.

Grant monitoring is a critical management tool to determine whether departments/grantees have implemented the funded program, achieved the outlined objectives, and properly expended funds. Active grant files are subject to review by the Administrative Services Division, without prior notification to the appropriate department/division.

Grant Revenues/Expenditures

The City Council must authorize acceptance of grant funds, approve matching funds, and authorize the City Manager (or designee) to execute all necessary documents. The Finance Department upon direction from the City Council is responsible for increasing revenues and increasing an appropriation of the same amount to the proper accounts.

All grant revenues will be deposited to revenue accounts specific to the grant and grant year. The Finance Department will create and maintain grant identification specific to each grant and provide tracking of activity (revenue, expenses, and accruals).

For reimbursement-based, multi-year grants, both revenues and expenditures are budgeted in the year during which the grant activity will be performed. Reimbursements for grant activities performed in one fiscal year and not actually received until the next fiscal year will be accrued.

The department/division and the Finance Department are responsible for ensuring that grant revenues are deposited into the proper revenue accounts immediately upon receipt. The department/division is responsible for monitoring and ensuring that grant expenses are recorded in the proper expenditure accounts.

Matching Funds

Funds provided for match may come from existing program funds, however, overall budget/fund allocations, for the stated program purpose, cannot be reduced below the original allocation amount as a result of receiving the grant funding. Matching funds must be obligated by the end of the grant period.

Procurement

When goods or services must be procured in order to accomplish the goals of the grant program, City procurement policies and procedures will be followed.

Grant Reimbursement Procedures

Grant and contract billings will be prepared monthly or as needed. Project managers will review project expense detail, noting all eligible project costs based on grant requirements. Identified costs will be forwarded by the Project Manager to the Principal Analyst for verification and preparation of the appropriate documents (i.e., invoices and related backup, contracts) along with a summary listing of all identified eligible expenses.

The Principal Analyst will deliver the entire billing package to the Sr. Accountant in the Finance Department. The Sr. Accountant will verify the mathematical accuracy of the summary listing and that all listed items are supported with backup documentation. The Sr. Accountant will prepare the actual grant reimbursement billing and forward the entire reimbursement request package to the Deputy Finance Director for final review and signoff. The Deputy Finance Director will verify that all appropriate signatures are present on the

summary listing, perform a review of the underlying documentation, and sign off on the reimbursement request package. The package will be returned to the Sr. Accountant for mailing or electronic submittal to the appropriate federal or state granting agency.

Close Out

Official close out of a grant should occur when the awarding agency determines that the City (grantee) has completed all applicable administrative actions and work required under the grant. Grants should be closed out when the grant has expired (reached the end date) and all open administrative, compliance, legal and audit issues have been resolved. A federal awarding agency may choose to close a grant administratively if the grantee fails to provide the required documents, is no longer a valid operating entity, is non-responsive or fails to cooperate. Within 90 days after the end date of the award or any approved extension (revised end date), the department grant administrator must submit the required close-out documents (final progress/financial report) to the grantor (funding agency). Prior to submission of these documents, the department grant administrator should request final payment for reimbursement of expenditures made within the approved period in conjunction with the final financial status report.

The grant recipient (department/division) must promptly refund any balances of unobligated cash that the grantor has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. If award funds must be returned to the grantor at award close-out, the department grant administrator should remit a check (via the Finance Department) with a cover letter indicating the grant award number and the unobligated balance.

Retention and Maintenance of Records

In accordance with the requirements set forth in the Federal Office of Management & Budget (OMB) administrative requirements circulars, all financial records, supporting documents, statistical records and all records pertinent to the award shall be retained by the department/division for at least three (3) years from the date of submission of the final expenditure report. Retention is required for purposes of State/Federal examination and audit.

PROCEDURE:

Responsibility	Action
Dept/Division	❑ Identify and seek grant funding to further City services/activities. ❑ Prepare grant application. ❑ If grant application includes matching funds, request approval from City Council prior to submission to funding agency. ❑ Acquire grant signature authorization(s). ❑ Submit grant application to funding agency. ❑ Acquire written contract from funding agency. ❑ Upon award of grant, request approval from City Council. ❑ Monitor and comply fully with grant requirements (terms). ❑ Maintain comprehensive files for each awarded grant. ❑ Follow City procurement policies to accomplish goals of grant program/project. ❑ Monitor revenue/expenditures monthly to ensure accuracy of financial transactions. ❑ Prepare grant status report(s) for City management upon request. ❑ Ensure timely close out of grant (within 90-days after end date of award). ❑ Return unobligated funds (if applicable) to funding agency. ❑ Retain files/records per retention policy.
City Manager (or designee)	❑ Complete grant signature authorization form.
City Council	❑ Approve/deny requesting grant matching funds. ❑ Approve acceptance of grant funds. ❑ Authorize the City Manager (or designee) to execute all necessary documents. ❑ Direct Finance/Accounting Division to increase revenues and increase appropriation of expenses to proper general ledger accounts.
Finance/Accounting	❑ Upon approval by City Council, increase revenues and increase appropriation of expenses to proper financial system accounts. ❑ Create unique grant identification for tracking grant activity (revenues, expenditures, accruals). ❑ Assist department grant administrator in preparation/submission of draw downs, financial performance reports, close out, etc. ❑ Prepare annual Single Audit report for external auditors.

RESOLUTION 2025-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, TO APPROVE THE REVISION TO ADMINISTRATIVE POLICY, B-25 GRANT MANAGEMENT/ ADMINISTRATION

WHEREAS, the Administrative Policies provide a guide to the administrative operation of the city and at times need revision, deletions and/or additions; and

WHEREAS, the Administrative Policy, B-25 Grant Management/Administration, needed a revision to language in the policy; and

WHEREAS, the City Council desires to authorize the City Manager, or designee, to execute the proposed plan documents on behalf of the City, along with any future amendments that contain only non-substantive and/or administrative changes to the plan documents; and

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

SECTION 1. The City Council adopts the Administrative Policy, B-25 - Grant Management/Administration.

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 8th day of July 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John O. Pinkey, City Attorney
Slovak Baron Empey Murphy & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-100, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Patrick Safari, Capital Improvement Projects Manager** **Art Vela, Director of Public Works**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-101, Approving Amendment No.1 to the Professional Services Agreement with Rick Engineering, Inc. in the Amount of $20,930 for the Design of Ramsey Street Water Main Replacement.**

RECOMMENDATION:

Adopt Resolution 2025-101.

BACKGROUND:

The City of Banning owns, operates, and maintains water distribution and transmission pipelines that distribute water to residents and businesses. To provide its customers with a reliable supply of water, it is important for the city to continue replacing aging and undersized water distribution infrastructure.

On April 12, 2022, City Council approved Resolution 2022-35 authorizing the use of American Rescue Plan Act (ARPA) funds on certain eligible projects including making the necessary investments in water infrastructure. The approved ARPA project list included the replacement of waterlines along Ramsey Street.

On November 14, 2023, City Council approved Resolution 2023-182 approving a Professional Services Agreement for the Design of Ramsey Street Water Main Replacement to Rick Engineering, Inc., in the amount of $386,895.

On February 25, 2025, City Council approved Resolution 2025-28 for a sole source contract with Rick Engineering, Inc. in the amount of $156,224.03 for the continuation of the Design of Ramsey Street Water Main Replacement due to the expiration of the original contract. The amount of the contract was not in addition to the original amount, but rather the amount left over when the agreement expired.

JUSTIFICATION:

Due to construction funding challenges for this project, the original Agreement with Rick Engineering, Inc. for the design of Ramsey Street Water Main Replacement called for a three (3) phase design process. The available ARPA funds were only sufficient to cover the construction of the first phase and therefore, it was necessary to prioritize the completion of the design of the first phase.

The design work took longer than anticipated due to unforeseen site conditions and design challenges. As a result, the scope of work was revised to include additional tasks such project management, project meetings and construction staking.

Amendment No.1 in the amount of $20,930 is needed so that the remaining phases can be designed in a timely manner..

FISCAL IMPACT:

ARPA funding has been allocated to this project and will be utilized to fund Amendment No.1 through Account No. 660-6300-471.95-10

ALTERNATIVES:

Do not approve Resolution 2025-101 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2025-101_AV_6.30.25.docx
2. Resolution 2022-35.pdf
3. Resolution 2023-182.pdf
4. Resolution 2025-028.pdf
5. Contract Agreement_Rick Engineering.pdf
6. Change Order #1.pdf
7. Amend No.1 Ricks.docx

RESOLUTION 2025-101

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AMENDMENT NO.1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH RICK ENGINEERING, INC. IN THE AMOUNT OF $20,930 FOR THE CONTINUATION OF THE DESIGN OF RAMSEY STREET WATER MAIN REPLACEMENT

WHEREAS, the City of Banning owns, operates, and maintains water distribution and transmission pipelines that distribute water to residents and businesses. To provide its customers with a reliable supply of water, it is important for the city to continue replacing aging and undersized water distribution infrastructure; and

WHEREAS, on April 12, 2022, City Council approved Resolution 2022-35 authorizing the use of American Rescue Plan Act (ARPA) funds on certain eligible projects including making the necessary investments in water infrastructure. The approved ARPA project list included the replacement of waterlines along Ramsey Street; and

WHEREAS, on November 14, 2023, City Council approved Resolution 2023-182 approving a Professional Services Agreement for the Design of Ramsey Street Water Main Replacement to Rick Engineering, Inc., in the amount of $386,895; and

WHEREAS, on February 25, 2025, City Council approved Resolution 2025-28 for a sole source contract with Rick Engineering, Inc. in the amount of $156,224.03 for the continuation of the Design of Ramsey Street Water Main Replacement due to the expiration of the original contract; and

WHEREAS, due to construction funding challenges for this project, the original Agreement with Rick Engineering, Inc. for the design of Ramsey Street Water Main Replacement called for a three (3) phase design process; and

WHEREAS, the design work took longer than anticipated due to unforeseen site conditions and design challenges. As a result, the scope of work was revised to include additional tasks such project management, project meetings, invoicing and construction staking; and

WHEREAS, Amendment No.1 in the amount of $20,930 is needed so that the remaining phases can be designed in a timely manner to avoid potential delays in construction; and

WHEREAS, ARPA funding has been allocated to this project and will be utilized to fund Amendment No.1 through Account No. 660-6300-471.95-10.

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

SECTION 1. The City Council approves Amendment No.1 to the Professional Services Agreement with Rick Engineering, Inc. in the amount of $20,930 for the continuation of the Design of Ramsey Street Water Main Replacement Project.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to Amendment No.1 to the Professional Services Agreement with Rick Engineering, Inc.

SECTION 3. The City Council authorizes the City Manager to make necessary non-substantive changes and to execute Amendment No.1 the Professional Services Agreement with Rick Engineering, Inc.

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 8th day of July 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-101, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A

Amendment No.1 to the Professional Services Agreement with Rick Engineering, Inc.

RESOLUTION 2022-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE USE OF FUNDS OF THE TREASURY'S CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS (CSLFRF) FUNDED BY THE AMERICAN RESCUE PLAN ACT (ARPA) AS OUTLINED IN EXHIBIT A

WHEREAS, on March 11, 2021 the American Rescue Plan Act (ARPA) was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add Section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and Section 603, which establishes the Coronavirus Local Fiscal Recover Fund; and

WHEREAS, the Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 in their communities, residents, and businesses; and

WHEREAS, through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impact through four categories of eligible uses which are:

i. To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.
ii. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.
iii. For the provision of government services to the extent of the reduction of revenue due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.
iv. To make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, the city has designated use of these funds as outlined in Exhibit "A".

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

SECTION 1. The City Council hereby authorizes the use of funds of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFF) funded by the American Rescue Plan Act (ARPA) as specified in Exhibit "A."

SECTION 2. The City Council hereby authorizes the City Manager or his designee to make all necessary appropriations, transfers, and budget adjustments related to Resolution 2022-35.

PASSED, APPROVED AND ADOPTED this 12th day of April 2022.

Kyle Pingree, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2022-35, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of April 2022 by the following vote, to wit:

AYES: Hamlin, Happe, Pingree, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

Project Name	Project Description	Project Amount
Public Health and Economic Impacts		
Public Safety	To help keep the community safe, an additional five (5) Officers were approved for hire, increase salaries to retain and recruit officers and pay for additional overtime (Council approved May 11, 2021)	1,317,350.00
ZenCity/Civil Space	On-line community engagement platform to help reach more of the community through information sharing and dialogue. Includes collaboration with the Civil Space platform which provides the ability to engage in ongoing dialogue (Council Approved November 9, 2021)	24,000.00
Business grants / Façade improvements	Provide Grants of $5,000 (20) for active small businesses approx $100,000 and/or allocate funds to help with façade improvements $250,000	350,000.00
	Total Public Health and Economic Impacts	**1,691,350.00**
Premium Pay		
Premium Pay Essential Workers (Including taxes)	Provide premium pay for essential workers for the continuity of operations during the COVID-19 public health emergency. (Council approved January 25, 2022, Resolution 2022-07)	1,300,000.00
	Total Premium Pay	**1,300,000.00**
Water, Sewer and Broadband Infrastructure		
Broadband Infrastructure Projects		
PD Interview Room Solution	In car video with blackbox recording. Interview room microphone, w/ cloud plan - Installation services for Interview rooms, 3 rooms.	26,100.00
PD Upgrades (Western Audio Visual 1/25/2022)	Upgrade technology in the Briefing room, conference room and Community Room/EOC	117,000.00
Banning PD 30 ICV - 30 BWC - 3	In Car Cameras and Body Worn Cameras (can be broken down over 5 years) Qty - 30	380,100.00
Cameras at Police Station 5 year Option (AkinsIT) Quote AAAQ9954)	Security cameras for the station (can be broken down over 5 years)	138,500.00
Citywide (except PD) Network Upgrade (Cybertek QuoteC022011) PD Network Upgrade (Cybertek Quote C2022010)	Network and server upgrades citywide; Blade Center, Rack Servers, Nimble & Vmware, WAPS, Switches, UPS, PD Network and server upgrade, Blade Center, Nimble & Wmware, WAPS, Switches, UPS	568,500.00
Computer workstations - Investment in new/replacement mobile workstations for staff	To ensure continutity of city services by ensuring equipment is on hand and staff has the proper equipment to work remotely.	30,000.00
New ERP System - Citywide	Current city ERP system is antiquated and in need of upgrade.	850,000.00
One or two EMBs would allow for an additional outlet for getting information out to the community.	Electronic messaging boards to help communicate city services and messages to the community.	117,176.00
	Total Broadband Infrastructure Projects	**2,227,376.00**
Water and Sewer Infrastructure Projects		
Ramsey Street Water Line	A water line currently does not exist along Ramsey Street from Sunset Avenue to Highland Home Road, which will prevent the commercial zoned properties fronting Ramsey Street from being developed without a condition of approval to construct the waterline. Said condition can be economically infeasible for some developments. This issue is at the forefront with the proposed Wynham Hotel - Phase 1 (This will get water line across Wynham Hotel site)	1,000,000.00
Replace 4" Waterline on Barbour	An existing 4" waterline on Barbour Street from Hargrave to Juarez must be replaced in order to provided needed fire flow for the development of industrial zoned properties on the south side of town, west of Hargrave Street	550,000.00
Sewer line under I-10 at Hathaway	The existing 8" line, which stretches from Ramsey Street to the Lincoln Street is at or near maximum capacity. The sewer line is needing replacement in order to accommodate the future development of projects north of the I-10 and east of Hathaway and also to reduce the likelihood of sewer system overflows (SSOs).	700,000.00
	Total Water and Sewer Infrastructure Projects	**2,250,000.00**
	Total Water, Sewer and Broadband Infrastructure	**4,477,376.00**
Total Project Amount		**7,468,726.00**
American Rescue Plan Act (ARPA) allocation to City of Banning	(2 payments of 3,734,363)	**7,468,726.00**
	Balance available for additional projects	-

RESOLUTION 2023-182

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR THE DESIGN OF THE RAMSEY STREET WATER MAIN REPLACEMENT TO RICK ENGINEERING, INC. IN THE AMOUNT OF $386,895 AND APPROVING A 10% CONTINGENCY FOR A TOTAL PROJECT BUDGET OF "NOT-TO-EXCEED" $425,584.50

WHEREAS, the City of Banning owns, operates, and maintains water distribution and transmission pipelines that distribute water to residents and businesses; and

WHEREAS, to provide its customers with a reliable supply of water, it is important for the City to continue replacing aging and undersized water distribution infrastructure; and

WHEREAS, the 2018 City of Banning Integrated Master Plan (IMP) identified the existing 4-inch water main on the south side of Ramsey Street as deficient due to its age and conveyance capacity to support commercial development on the south side of Ramsey Street from Sunset Ave to Highland Home Road. The IMP also identified the existing 14-inch water main that runs along the north property lines of properties fronting Ramsey Street to be deficient and difficult to maintain outside of public road right of way; and

WHEREAS, on April 12, 2022 City Council approved Resolution 2022-35 authorizing the use of American Rescue Plan Act (ARPA) funds on certain eligible projects including making the necessary investments in water infrastructure including the installation of a new water main along Ramsey Street; and

WHEREAS, on October 26, 2022 staff released a Request for Proposals (RFP) for the Design of the Rasmey Street Water Main Replacement to five (5) consultants on the on-call Professional Engineering Services list approved by City Council on July 12, 2022 under Resolution 2022-99 and received three (3) proposals; and

WHEREAS, the scope of work will include the design of +/- 7,200 linear feet of a new Ductile Iron Pipe (DIP) water main including reconnection of water services, new fire hydrant connections and abandonment of the existing 4-inch water main in Ramsey Street between Sunset Avenue and Highland Home Road and 14-inch steel water mains north of the existing parcels north of Ramsey Street, and other related tasks. The design will be developed for three construction phases to be constructed as funding becomes available; and

WHEREAS, staff recommends the award of a Professional Services Agreement to Rick Engineering, Inc.

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

SECTION 1. City Council approves the Professional Services Agreement between Rick Engineering, Inc. for the Design of the Ramsey Street Water Main Replacement, to Rick Engineering, Inc. in the amount of $386,895 and approves a 10% contingency for a total project budget of "not-to-exceed" $425,584.50.

SECTION 2. City Council authorizes the City Manager or his designee to make necessary budget adjustments, appropriations, transfers, and to approve change orders within the approved contingency.

SECTION 3. City Council authorizes the City Manager or his designee is authorized to make non-substantive changes to and to execute the Professional Services Agreement with Rick Engineering, Inc..

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 14th day of November 2023.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2023-182, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14th day of November 2023 by the following vote, to wit:

AYES: Flynn, Minjares, Sanchez, and Wallace.

NOES:

ABSENT: Gonzales.

ABSTAIN:

Caroline Patton, Deputy City Clerk
City of Banning, California

Exhibit A
Draft Professional Services Agreement with Rick Engineering, Inc.

AGREEMENT FOR PROFESSIONAL SERVICES (C00931) FOR DESIGN OF RAMSEY STREET WATER MAIN BY AND BETWEEN CITY OF BANNING AND GLENN A. RICK ENGINEERING & DEVELOPMENT CO. DBA RICK ENGINEERING COMPANY

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: _____, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Glenn A. Rick Engineering & Development Co., a California Corporation, dba Rick Engineering Company. ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposals (RFP No. 23-036) from the bench of prequalified Engineers (RFQ-22-007), the performance of the services for the Design of Ramsey Street Water Main and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in

performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Richard O'Neill	Associate Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than Three Hundred Eighty-Six Thousand Eight Hundred Ninety-Five ($386,895.00) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2024, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Nathan Smith
Deputy Director of Engineering
City of Banning
99 East Ramsey Street
Banning, California 92220
Email: nsmith@banningca.gov

With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Rick O'Neill Rick Engineering Company 1770 Iowa Avenue, Suite 100 Riverside, CA 92507

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Douglas Schulze, Date
City Manager

ATTEST:

Caroline Patton Date
Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

Serita R. Young Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval:_____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Engineer Design Services prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

SCOPE OF WORK

Rick Engineering Company (RICK) will perform the following services in connection with providing the design of a new ductile iron pipe (size TBD by city) water main in Ramsey Street between Sunset Avenue and Highland Home Road based on the following scope of work.

Task 1. Project Management

1.1 Kick-off Meeting and Project Management

After execution of the contract, Rick Engineering Company (RICK) will schedule and attend a kick-off meeting with the City of Banning (City) to discuss the project scope, goals, preliminary findings and alignment selected by the City, finalize the project schedule, and identify available as-built plans and studies. RICK will prepare the meeting agenda and provide the team with meeting minutes following the meeting.

RICK will provide project management of the project that includes preparation and maintenance of a project specific Work Plan. The Work Plan will include details of methodology of design, sequence of tasks lists of deliverables, milestone submittal schedule, summary of organizational responsibilities, and a communication plan with contacts of all team members. Additionally, RICK will provide utility coordination with the utility providers that have utilities along the alignment, and perform quality assurance and quality control prior to each milestone submittal, and in conformance with federal, state, and city standards.

Deliverables – Meeting agenda and minutes, Work Plan

1.2 Progress Meetings

RICK will schedule monthly progress meetings with the City and project team, that will be face to face or virtual, and facilitate additional meetings with the City departments/stakeholders as needed for the project during the project duration. Scope assumes 8 monthly meetings, that includes milestone design review / comment resolution meetings and an additional 3 project meetings.
RICK will prepare agendas and minutes for the meetings, distribute the minutes, and will also provide a monthly progress report to be included with the monthly invoice.

Deliverables – Meeting agendas and minutes

1.3 Invoicing

RICK will develop and provide a monthly invoice to the City. The invoice will include RICK labor costs, subconsultant invoices and direct expenses. Direct expenses will be supported by a copy of the receipt if applicable. Invoices shall include details of billed and remaining budget for each task, and will include the monthly progress report of the tasks completed, identify any outstanding issues to be resolved, and upcoming work to be performed.

Deliverable – Monthly invoices and progress reports

Task 2. Project Development

2.1 Utility Research, Base Mapping, and Site Reconnaissance

RICK will conduct research with the City of Banning, County of Riverside, and other governing agencies and utility companies for existing plans and maps of the adjacent area to be used for the design of the project.

RICK will conduct a field visit to collect visible information of project site. Research will consist of the private water systems that will be reconnected to the new/proposed waterline in Ramsey Street and the affected private properties. RICK will verify existing site data in terms of surrounding street system, geometry, parking, signing and striping, and private improvements and private water system appurtenances on the properties.

RICK will prepare a CAD file based on the boundary survey described below showing the existing utilities discovered in the research.

Deliverables - Photo log for any photos taken, letters to utility companies, utility as-built maps, and an AutoCAD drawing of the existing utilities.

2.1.1 Property Research

RICK will research City of Banning and County of Riverside survey records and record mapping for property and right of way information. RICK will also conduct a field survey to establish street centerline and rights of way of Ramsey Street within the project limits (between Sunset Avenue and Highland Home Road), Omar Street (between Ramsey and W. Jacinto View Road), W. Jacinto View Road (between Omar Street and Winchester Drive), and the property lines of the adjacent private properties and private properties that are affected by the relocation of water services. Survey basis of bearings and coordinates will be California State Plane Coordinates. Survey data and records analysis will be prepared within a CAD file establishing project mapping for centerline and right of

way, including intersecting streets. Base mapping will include existing easements. Easements will be researched to identify their applicability/inapplicability with new waterline alignments.

Deliverables - Field Review notes, photo log for any photos taken, and an AutoCAD drawing of the rights of ways and centerline.

2.1.2 Site Topography and Surveying

RICK will provide a supplemental field topography along the existing water line points of connection and where needed and the effected private properties (where water systems will be reconnected in Ramsey Street). Consultant will locate and dip existing sewer and storm drain manholes. Topography will be vertically controlled by local published benchmarks.

Deliverables – Field Review notes, photo log for any photos taken, and CAD file with survey points.

2.1.3 Aerial Topography

RICK will provide an aerial topography of the project site consisting of surface utility appurtenances and improvements such as curb, edge of pavement, drainage inlets, valve cans, fences, driveways, mailboxes, utility vaults, power poles, signs, lights, traffic signals, sidewalks, pedestrian ramps, and notable grade features.

Deliverables – 40-scale at 1-foot contours

2.2 Potholing

RICK's subconsultant, C Below, will perform potholing for the project. C Below will perform forty (40) potholes as indicated in the RFP. A standard pothole is 12 in. x 12 in, performed to the top of pipe or encasement with sand backfill and a permanent surface patch. Potholes are assumed to be 5' in depth. Potholes include water line tie-in points and underground utility crossings. Potholes will also be used to locate the old Highway 99 concrete by setting alignment of potholes perpendicular to Ramsey Street, spaced 10' on center curb to curb. Alignments will be performed at mid-point of each project phase (3 alignments). C Below will provide a detailed potholing report at the conclusion of the investigation. Service includes Dig Alert Coordination and Delineation, Encroachment permit, vacuum excavation to top of utility, encasement, or stop depth, standard traffic control, 12-inches of hot patching (restored within 30-days of excavation activity), sand backfill, removal of debris, and pothole report. Services not included are slurry backfill, extensive traffic control, flagging for traffic control, sidewalk concrete

panel replacement, and removal of Dig Alert marks.

Standard traffic control includes one lane closure with minimal signage not spanning an intersection.

Prior to potholing, a potholing plan will be developed showing location of potholes for connection points, intermediate points, and location of other underground utilities.

Deliverables – Potholing plan and potholing report

2.3 Geotechnical Study

Geocon is proposing to drill six (6) geotechnical borings up to 15 feet in depth, along portions of the proposed water main alignment, where the subsurface explorations of our 2018 geotechnical investigation cannot supplement. The geotechnical borings will be performed to the observe subsurface soil conditions and collect samples for laboratory testing. We expect that traffic control signage/equipment will be sufficient and flag persons will not be required. Furthermore, we expect that the Banning encroachment permit will be a no fee permit for this project, and that patching of the borings with asphalt concrete cold-patch is acceptable.

RICK's subconsultant, Geocon West, Inc, will consist of:

- Mark the planned boring locations and notify Underground Surface Alert of Southern California to mark any subsurface utility locations near the exploration locations. Additionally, the client should provide plans depicting the locations of all utilities in the project area.
- Prepare no-fee encroachment permits with the City of Banning for our work. We have assumed a traffic control plan utilizing MUTCD or Watchbook details will be sufficient, and an engineered traffic control plan will not be required.
- Provide traffic control setup and breakdown at each boring location. We plan to source traffic control signage/equipment for our work and did not include flag persons in this budget.
- Drill six (6) geotechnical borings along the portion of the proposed water main alignment that our 2018 subsurface explorations cannot supplement. We will collect bulk and ring samples of the subgrade soil for laboratory testing. Borings will be backfilled with soil cuttings and clean sand, and capped with asphalt concrete cold-patch upon completion. We expect borings of up to 15 feet will be sufficient for design of the proposed water main. Borings will be located so that there is an approximate 500-foot interval maintained between the new borings and 2018 borings, along the proposed water main alignment, to ensure an appropriate standard of care. We have budgeted one day of drilling.
- Perform laboratory testing which is expected to include in-situ moisture content and dry density determinations, maximum dry density and optimum moisture

content, grain size analysis, corrosion screening, sand equivalent, and direct shear testing. The laboratory testing program will be based on the conditions encountered during the field investigation with respect to the proposed improvements. Our 2018 laboratory test results will be provided as supplemental information for the portion of the proposed water main alignment able to be covered by our 2018 geotechnical investigation.

- Prepare a geotechnical report presenting our findings in the field, boring logs, a map depicting the boring locations, a discussion of the geotechnical conditions at the site, and geotechnical parameters for storm drain design.

Assumptions:

- The borings can be safely performed in the vicinity of the proposed water main alignment, considering existing utilities are present and to facilitate traffic flow around our drilling operations. Where performing the borings poses a conflict with existing utilities, resulting in an unsafe working environment for property, personnel, and/or motorists/pedestrians, the planned borings will be relocated, as feasible.
- This proposal does not include any costs to re-grade, install hot-mix asphalt concrete patching, re-vegetate, landscape or otherwise repair disturbed areas.

Deliverables – Geotechnical report

Task 3. Preliminary Engineering Design

3.1 Preliminary Design Plans (30% design)

RICK will prepare waterline plans for approximately (7,200 LF) for a proposed Ductile Iron pipe in Ramsey Street between Sunset Avenue and Highland Home Road. Plans will be at 40-scale and include plan and profile. Plans will be setup for 3 construction phases:
Phase 1: The waterline between Sunset Avenue to near the property at 3929 W. Ramsey Street.
Phase 2: The continuation of Phase 1 to Omar Street, then continuing north on Omar to W. Jacinto View Road, and then east to the Winchester Drive intersection.
Phase 3: From Omar Street westerly on Ramsey Avenue to approximately Highland Home Road.

Additionally, RICK will:

a. Collect the data from the utility and property research from scope items above to use as part of the base file for the water plans. Existing utilities will be shown on the plans in locations verified by the potholing above and/or provided by the utility companies. As part of the plan preparation, RICK will contact affected

utility companies to obtain permits if needed (utility fees to be paid by the City of Banning).

b. RICK will arrange and participate in informal meetings as necessary with City staff to review the progress of the project and exchange ideas and information.
c. Meetings with the City of Banning will discuss the key design issues and develop general project criteria for construction, including schedule and possible ways of minimizing problems. RICK will prepare and submit meeting agendas prior to the meetings.
d. RICK will provide data received and assumptions utilized to the city for approval prior to integrating the data into the project's final design.
e. RICK will prepare preliminary water plans (30-percent design) using AutoCAD for approximately 7,200 LF of water line (8-inch to 14-inch) to establish an agreement with the City of Banning on project scope, alignment, easements, parameters, hydraulic requirements, maintenance concerns, constructability and construction phasing, traffic impacts, and general disruption to the area. The preliminary design is to be submitted to the City of Banning for review and approval. The preliminary design shall address the following:
    a. Pipeline alignment/facility locations
    b. Construction schedule and phasing recommendations
    c. Construction Cost Estimate of recommended improvements
    d. Conflicts with other utilities and adjacent facilities in the area
    e. Traffic and pedestrian control
    f. Erosion Control
    g. Preferred materials for construction
    h. Areas where construction work is limited or controlled.
    i. Impacts to City water system.
    j. Impacts to surrounding business and residential areas.
    k. Easements (existing and proposed)
    l. Corrosion protection (if necessary)
f. The preliminary design will be submitted in PDF format through the City's SmartGov platform for the City of Banning's review and concurrence. The design will be at a 30% level of effort. Changes in layout and location of facilities suggested by the city will be investigated. A final layout and location of facilities will then be established.
g. As part of the meetings with the city, discussions and submittals of material will be presented to the city through the preliminary design process to reduce comment time and effort by the city.

It is assumed that the City of Banning will provide the size of the proposed new waterline. A hydraulic analysis is not included with this scope. However, we have provided it as an additional/if needed service.

It is assumed that the majority of the existing waterline will be abandoned in place.

As part of the 30% design, RICK will prepare a traffic control conceptual staging plan for Phase 1 only identifying the assumed stages for each of the phases as noted in the Request for Proposal. The project Phase 1 proposes to construct approximately 2,600' of a water main along Ramsey Street from Sunset Avenue to 3929 W. Ramsey Street. It is anticipated that the traffic control conceptual staging plan will be prepared at 40 scale and will identify the proposed linear footage per stage and a description of the work that will be completed.

Deliverables – (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.2 Preliminary Design Plans (60% design)

Rick will prepare plans based on the 30% design and subsequent review comments by the City. Plans include a one (1) cover sheet, two (2) detail sheet, ten (10) plan and profile sheets, two (2) connection detail sheets for private landowners, and one (1) valve shut down sheet if needed, and will show the existing water services and fire hydrants to the new waterline. Due to the existing waterline being at the back of the effected parcels, water meters, backflow devised and related system components shall be moved to front Ramsey off the new proposed waterline. Detail sheets will detail the on-site design connecting to the new line to provide a water system at minimum equal to the existing condition.

RICK's subconsultant, Dexter Wilson Engineering, will assist in preparation of technical specifications, pipeline material design, pipeline deflection calculations, design of thrust restraining systems, details for phased connections, details for connection to the existing pipeline, peer review of replacement plans, and other pipeline design aspects.

Consultant will incorporate any comments received from the City of Banning on the traffic control conceptual staging plan into the 60% design plans. Consultant will prepare 40-scale traffic control plans for the work associated with the Ramsey Street Water Main for Phase 1 only. The traffic control plans will provide work zones that are staged for construction of the water main, appurtenances, laterals, and any required detours. The one stage of traffic control is assumed as follows:

Phase 1: Sunset Avenue to 3929 W. Ramsey Street. There are assumed 5 stages of traffic control; Stage 1A is to 600' west of Sunset Avenue; Stages 1B, 1C, 1D, and 1E will be up to 500' along Ramsey to 3929 W. Ramsey Street.

The traffic control plans will be prepared following the requirements of the California Manual on Uniform Traffic Control Devices (MUTCD) and the City of Banning. Three (3) submittals are assumed – 60%, 90%, and final. Five (5) sheets

of traffic control plans are assumed for Phase 1.

A progress meeting will be coordinated with the City of Banning to discuss the 60% design plans. The meeting will discuss the comments and markups and establish a timeline for the project moving forward.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.3 Detailed Design Plans (90% Design)

Rick will prepare the 90% detailed design waterline plans and traffic control plans based on the 60% review comments received from the City of Banning and other entities. Plans shall follow the City of Banning standards and policies.

RICK will prepare project specifications following the Standard Specifications for Public Works Construction, SSPWC, "Greenbook", latest edition.

RICK will prepare an opinion of probable cost and bid schedule that has construction items of work, unit of measurement, unit cost, and cost based on the detailed design waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 4. Final Design Plans

4.1 Final Water Plans

Upon authorization from the City, RICK will finalize the waterline plans and traffic control plans based on the final comments from the City and other entities. Plans will follow the City of Banning standards and policies. Plans will be signed by a licensed Civil Engineer and provided to the City of Banning on Mylar.

RICK will provide the City of Banning a Final set of Project specifications based on final comments from the City of Banning following the SPPWC. RICK will also provide a final opinion of probable cost and bid schedule based on the signed waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 5. Easement Documents

5.1 Easement Documents

RICK will prepare a legal description and plat for each easement for three (3) permanent easements to be granted to the City of Banning and ten (10) temporary construction easements that are required for reconnection of existing private water systems to the new water main. RICK will obtain and review title reports for the thirteen (13) affected properties.

RICK assumes three (3) permanent easements to be granted to the City of Banning and ten (10) Temporary Construction Easements for reconnection of existing private water systems to the new water main.

Assumptions:

- Assumes up to 13 tax parcels owned by 13 unique entities are impacted by temporary construction easements (TCE's) and/or permanent easements.
- Scope does not include any discussions with property owners.
- No appraisal work or negotiations included.
- Consultant is providing legal description and plat for the 13 easements only.

Deliverables - (all via the city's SmartGov platform): Easement documents (legal description and plat) and up to 13 preliminary title reports.

Task 6. Stormwater Pollution Prevention Plan

6.1 Stormwater Pollution Prevention Plan

The Risk Type 1 LUP SWPPP will be prepared in accordance with the requirements of the Appendix E of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ NPDES No. CAS000002 (adopted September 8, 2022, effective September 1, 2023).

RICK will prepare a Risk Type 1 LUP SWPPP based on the project's assumed Risk Type.

This task will also include the preparation of a Notice of Intent (NOI) on the Storm Water Multi Application Report Tracking System (SMARTS) database. The Discharger must designate RICK as a Data Entry Person to prepare the NOI. The Discharger/LRP must electronically certify and submit the NOI on SMARTS.

RICK will act as the initial Qualified SWPPP Developer (QSD) for the preparation of the SWPPP, however the Discharger must hire a QSD and a Qualified SWPPP Practitioner (QSP) for implementation of the SWPPP throughout the life of the project.

Based on the provided bid package this project is assumed to be a Risk Type 1 LUP based on the following assumptions:

1. More than 70% of the soil disturbance will occur on paved surfaces; and
2. Areas that are disturbed will be returned to pre-project conditions at the end of each day.

Deliverables - (all via the city's SmartGov platform): SWPPP (erosion control plan submitted via drawing submittals)

Task 7. Construction Surveying and Staking

7.1 Phase One Water Stakes

RICK will maintain horizontal and vertical control for the duration of the surveying work on this project. RICK will also provide required calculations to field crew for each survey request received.

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,600 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.2 Phase Two Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,700 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.3 Phase Three Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 1,900 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (2) trips.

Deliverables – Construction Staking Cut Sheets

Task 8. Bidding/Construction Support – Phase 1 Only

8.1 Bidding

RICK will be available during the advertising and bidding of the project to assist the City of Banning in answering questions/RFI's and the preparation of plan addenda, if needed. RICK will attend one (1) pre-bid meeting for the bidding process.

Deliverables – Meeting attendance, responses to Bidder's RFI's

8.2 Construction Administration

RICK will be available during the construction of the project to answer RFI's and prepare plan addenda, if needed. RICK will attend one (1) pre-construction meeting and eight (8) site visits during construction of the project as requested by the city. RICK will review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or resubmittal.

Deliverables – Meeting attendance, response to Contractor's RFI's, design addenda, submittal reviews

8.3 As-Built Plans

RICK will prepare As-Built Plans and process with the City of Banning, as necessary. Scope assumes RICK will receive as-built letters from the contractors and the contractor's as-built plan markup's. Scope assumes no major changes have occurred and does not include any as-built survey time. As-built plans will be submitted to the City within one month of receiving as-built letters and markup's from the contractor.
Deliverables – As-built Plans

Additional Services (If Needed Services)

Corrosivity Assessment

Rick's subconsultant, RF Yeager will prepare a corrosivity assessment for the proposed waterline, that will include a field resistivity testing, a review of the Geotech/soil chemical analysis data, a review for the potential of stray current interference, and a Corrosivity Assessment Letter Report. This information will be used for the determination of the type of corrosion protection and if any cathodic protection for the pipeline would be required and the corrosion control approach that the City may want to implement.

Deliverable – Corrosivity Assessment Letter Report

Corrosion Control Design

As part of the 90% design plans, RICK's subconsultant, RF Yeager, will provide Corrosion Control Design as part of the plans if Client requires joint bonds, test stations, insulators, and other standard corrosion control facilities. It is recommended the Client to use joint bonds, test stations, and insulators (steel or DIP) such that the pipeline is made electrically continuous and test stations are installed at the side of the road. This allows for monitoring and for adding cathodic protection in the future (should soil conditions/pipeline environment change) and will be much less costly because the pipe is electrically continuous and test stations are already installed. Corrosion control detail sheets, specifications, and cost estimate is included.

Cathodic Protection Design Pipeline

If it is found that Cathodic Protection is required, RICK's subconsultant, RF Yeager, will review the waterline plans, provide comments, and corrosion control design analysis/calculations. Details and specifications will be included. A cathodic protection system cost estimate will be included. RF Yeager will then address the 90% plan comments and provide final 100% design documents. Once approved for final signature, RF Yeager will sign and stamp the final drawings. Cathodic protection detail sheets, specifications, and cost estimates are included.
Deliverables – Corrosion control design analysis/calculations, specifications, and cost estimate.

Hydraulic Analysis

RICK's subconsultant, Dexter Wilson Engineering, will perform hydraulic modeling for the waterline sizing for the project site, if City does not provide the waterline

sizing. It is assumed City will provide the necessary information to run the modeling.

Caltrans Encroachment Permit

RICK will prepare one (1) Caltrans encroachment permit application for the traffic control devices (i.e. advance signage) that are within the Caltrans right-of-way (ROW) along Sunset Avenue in the vicinity of I-10. For the Caltrans encroachment permit application, the traffic control plans are assumed to be submitted to Caltrans in City of Banning format and will include a Caltrans signature block on the plans.

Plan Processing and Coordination (Caltrans)

RICK will submit and process the traffic control plans with Caltrans District 8. It is assumed that up to two (2) sets of plan check review comments will be received, coordinated, and addressed.

Monument Preservation

Pursuant to Section 8771 of the Business and Professions Code, preconstruction corner records will be prepared and filed identifying recovered survey monuments within the proposed construction limits. Post construction corner records will also be filed reflecting replacement monuments.

Deliverables – Pre and Post construction corner records

Monument Replacement

RICK will replace destroyed survey monuments at the completion of the construction with the project limits.

Record of Survey

Pursuant to 8762 of the Business and Professions Code the filing of a Record of Survey shall be filed if the survey discloses "the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from the inspection of the subdivision map official map or record of survey.

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Date_____ **Signature**_____

12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following Scope of Services at the rates stated in Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

RICK
ENGINEERING COMPANY

Principal Consultant (Special Projects)	$300.00
Principal	260.00
Associate Principal	240.00
Associate/Manager	225.00
Expert Witness	450.00
Court Appearance per half day or part	1,800.00
Senior Project Manager	$225.00
Principal Project Engineer/Manager	210.00
Associate Project Engineer/Manager	190.00
Assistant Project Engineer/Manager	175.00
Principal Engineering Designer	155.00
Associate Engineering Designer	140.00
Assistant Engineering Designer	130.00
Principal Engineering Drafter	125.00
Associate Engineering Drafter	115.00
Assistant Engineering Drafter	105.00
Senior Transportation/Traffic Engineer	$215.00
Principal Transportation/Traffic Engineer	210.00
Associate Transportation/Traffic Engineer	190.00
Assistant Transportation/Traffic Engineer	175.00
Principal Transportation/Traffic Designer	155.00
Associate Transportation/Traffic Designer	140.00
Assistant Transportation/Traffic Designer	130.00
Principal Community Planner	$215.00
Principal Project Planner/Manager	200.00
Associate Project Planner/Manager	185.00
Senior Planner	175.00
Associate Planner	140.00
Assistant Planner	120.00
Planning Technician	95.00
Principal Project Landscape Architect/Manager	$190.00
Associate Project Landscape Architect/Manager	170.00
Assistant Project Landscape Architect/Manager	150.00
Principal Landscape/Urban Designer	125.00
Associate Landscape/Urban Designer	120.00
Assistant Landscape/Urban Designer	115.00
Principal Environmental Project Manager	$200.00
Associate Environmental Project Manager	170.00
Assistant Environmental Project Manager	150.00
Principal Environmental Specialist	140.00
Associate Environmental Specialist	130.00
Assistant Environmental Specialist	120.00
Environmental Technician	100.00
Senior Water Quality Manager	$240.00
Principal Water Resources Designer	155.00
Associate Water Resources Designer	140.00
Assistant Water Resources Designer	130.00
GIS Manager	$190.00
Principal GIS Project Manager	180.00
Associate GIS Project Manager	165.00
Assistant GIS Project Manager	150.00
Principal GIS Analyst	145.00
Associate GIS Analyst	130.00
Assistant GIS Analyst	120.00
Principal Graphics Designer	130.00
Associate Graphics Designer	125.00
Assistant Graphics Designer	115.00
CAD Manager	180.00
Field Supervisor	$195.00
One-person Survey Party (Prevailing Wage)	270.00
One-person Survey Party w/ Robotics (Prevailing Wage)	270.00
Two-person Survey Party (Prevailing Wage)	350.00
Three-person Survey Party (Prevailing Wage)	390.00
3D Laser Scanning Crew (One-Person)	$235.00
3D Laser Scanning Crew (Two Person)	280.00
Principal 3D Laser Scanning Project Manager	$190.00
Associate 3D Laser Scanning Project Manager	175.00
Assistant 3D Laser Scanning Project Manager	160.00
Principal 3D Laser Scanning Specialist	140.00
Associate 3D Laser Scanning Specialist	130.00
Assistant 3D Laser Scanning Specialist	120.00
Principal 3D Laser Scanning Technician	115.00
Associate 3D Laser Scanning Technician	100.00
Assistant 3D Laser Scanning Technician	90.00
Photogrammetry Supervisor	$185.00
Principal Photogrammetrist	155.00
Associate Photogrammetrist	120.00
Assistant Photogrammetrist	110.00
Principal Survey Analyst	$185.00
Associate Survey Analyst	150.00
Assistant Survey Analyst	125.00
Associate Project Administrator	$80.00
Assistant Project Administrator	70.00
Administrative Assistant/Manager	75.00

Rates subject to change for prevailing wage contracts.
When authorized, overtime shall be charged at the listed rates times 1.5.
Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.
A fifteen (15) percent fee for administration, coordination and handling will be added to all subcontracted services.

Structural Engineer
$185.00 Per Hour

SKS Engineering, Inc.

Position	Hourly Rates
Principal	$205-275
Senior Associate	$150-220
Associate	$110-170
Senior Analyst	$105-135
Analyst	$70-105
Assistant Analyst	$60-115
Administrative Support	$65-105

URBAN CROSSROADS

General

(1) Reimbursable direct costs, such as reproduction, supplies, and messenger service will be billed at cost.

(2) Hourly rates apply to work time, travel time, and time spent at public hearings and meetings. For overtime work, the above rates may be increased 50 percent.

(3) Monthly billing statements are due within thirty (30) days of receipt.

TURNING MOVEMENT COUNTS (TMC)
$226.00 – 2-hour Peak Period Counts – Pedestrian & Bicycles Included
$226.00 – 4-hour Peak Period Counts – Pedestrian & Bicycles Included
$339.00 – 6-hour Peak Period Counts – Pedestrian & Bicycles Included

VeracityTrafficGroup

BI-DIRECTIONAL VOLUME (ADT) – TUBE COUNTS
$100.00 – 24 hours (1-day)
$200.00 – 48 hours (2-day)
$300.00 – 72 hours (3-day)
$400.00 – 96 hours (4-day)
$500.00 – 120 hours (5-day)
$600.00 – 144 hours (6-day)
$700.00 – 168 hours (7-day)

BI-DIRECTIONAL SPEED OR CLASSIFICATION – TUBE COUNTS
$198.00 – 24 hours (1-day)
$396.00 – 48 hours (2-day)
$594.00 – 72 hours (3-day)
$792.00 – 96 hours (4-day)
$990.00 – 120 hours (5-day)
$1,188.00 – 144 hours (6-day)
$1,386.00 – 168 hours (7-day)

OTHER STUDIES – QUOTES BASED ON SCOPE
Pedestrian Gap Studies
Parking Duration Studies
Video Turning Movement Counts
Radar Studies – Non Intrusive
Travel Time Studies – GPS
Many more customized studies available

Exhibit "C-1"-2

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

EXHIBIT B
RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
TASK 1 - PROJECT MANAGEMENT														
1.1 Kick-off Meeting and Project Management		2		24							$ 5,800.00			$ 5,800.00
1.2 Progress Meetings		2		33							$ 7,780.00			$ 7,780.00
1.3 Invoicing				8							$ 1,760.00			$ 1,760.00
SUBTOTAL TASK 1:	**0**	**4**	**0**	**65**	**0**	**0**	**0**	**0**	**0**	**0**	**$ 15,340.00**	**$ -**	**$ -**	**$ 15,340.00**
Task 2 - Project Development														
2.1 Utility Research, Base Mapping & Site Reconnaissance				20		32	40				$ 15,080.00			$ 15,080.00
2.1.1 Property Research			8				8		24	40	$ 19,440.00			$ 19,440.00
2.1.2 Supplemental Field Topography									40	2	$ 14,790.00			$ 14,790.00
2.1.3 Aerial Topography									24	6	$ 9,810.00		$ 15,000.00	$ 24,810.00
2.2 Potholing - C Below											$ -	$ 92,195.00		$ 92,195.00
2.3 Geotechnical Study - Geocon											$ -	$ 12,875.00		$ 12,875.00
SUBTOTAL TASK 2:	**0**	**0**	**8**	**20**	**0**	**32**	**48**	**0**	**88**	**48**	**$ 59,120.00**	**$ 105,070.00**	**$ 15,000.00**	**$ 179,190.00**
Task 3 - Preliminary Engineering Design														
3.1 Preliminary Design Plans (30% design) - Civil	2	4		12		50	80				$ 23,280.00	$ 2,990.00		$ 26,270.00
Conceptual Staging Plan - Traffic					4		16				$ 2,960.00			$ 2,960.00
3.2 Preliminary Design Plans (60% design) - Civil, Dexter Wilson	2	4		20		80	100				$ 32,690.00	$ 2,150.00		$ 34,840.00
Preliminary Design Plans (60% design) - Traffic		1			3		36				$ 5,720.00			$ 5,720.00
3.3 Detailed Design Plans (90% design) - Civil, Dexter Wilson	2	4		16		60	88				$ 26,890.00	$ 1,075.00		$ 27,965.00
Detailed Design Plans (90% design) - Traffic		1			2		23				$ 3,765.00			$ 3,765.00
SUBTOTAL TASK 3:	**6**	**14**	**0**	**48**	**9**	**190**	**343**	**0**	**0**	**0**	**$ 95,305.00**	**$ 6,215.00**	**$ -**	**$ 101,520.00**
Task 4 - Final Design Plans, Specifications and Estimate (100% Design)														
4.1 Final Water Plans - Civil, Dexter Wilson	1	4		12		24	40				$ 13,315.00	$ 645.00		$ 13,960.00
Final Water Plans - Traffic		1			3		12				$ 2,480.00			$ 2,480.00
SUBTOTAL TASK 4:	**1**	**5**	**0**	**12**	**3**	**24**	**52**	**0**	**0**	**0**	**$ 15,795.00**	**$ 645.00**	**$ -**	**$ 16,440.00**

EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/A ssistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Task 5 - Easement Documents														
5.1 Easement Documents			26							130	$ 31,590.00		$ 9,750.00	$ 41,340.00
SUBTOTAL TASK 6:	0	0	26	0	0	0	0	0	0	130	$ 31,590.00	$ -	$ 9,750.00	$ 41,340.00
Task 6 - Stormwater Pollution Prevention Plan														
6.1 Stormwater Pollution Prevention Plan				6		32					$ 6,600.00			$ 6,600.00
SUBTOTAL TASK 6:	0	0	0	6	0	32	0	0	0	0	$ 6,600.00	$ -	$ -	$ 6,600.00
Task 7 - Construction Surveying and Staking														
7.1 Phase One Water Stakes							10	2	24		$ 10,430.00			$ 10,430.00
7.2 Phase Two Water Stakes - 3 staking days											$ -			$ -
7.3 Phase Three Water Stakes - 2 staking days											$ -			$ -
SUBTOTAL TASK 5:	0	0	0	0	0	0	10	2	24	0	$ 10,430.00	$ -	$ -	$ 10,430.00
Task 8 - Bidding/Construction Support - Phase 1 only														
8.1 Bidding				1		4					$ 880.00			$ 880.00
8.2 Construction Administration		2		32		12					$ 9,540.00	$ 1,160.00		$ 10,700.00
8.3 As-Built Plans		1		1		1	6				$ 1,455.00			$ 1,455.00
SUBTOTAL TASK 7:	0	3	0	34	0	17	6	0	0	0	$ 11,875.00	$ 1,160.00	$ -	$ 13,035.00
Reimbursables													$ 3,000.00	$ 3,000.00
	0	0	0	0	0	0	0	0	0	0	$ -	$ -	$ 3,000.00	$ 3,000.00
SUBTOTAL TASKS 1-7:	7	26	34	185	12	295	459	2	112	178	$ 246,055.00	$ 113,090.00	$ 27,750.00	$ 386,895.00

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Additional Services (if needed)														
Additional Potholing (daily rate) - C Below											$ -	$ 12,725.00		$ 12,725.00
Corrositivity Asssessment - YF Yeager											$ -	$ 4,980.00		$ 4,980.00
Corrosion Control Design - YF Yeager											$ -	$ 12,180.00		$ 12,180.00
Cathodic Protection Design Pipeline - YF Yeager											$ -	$ 18,400.00		$ 18,400.00
Hydraulic Analysis - Dexter Wilson											$ -	$ 3,480.00		$ 3,480.00
Caltrans Encroachment Permit Application											$ 1,480.00			$ 1,480.00
Caltrans Processing and Coordination											$ 2,020.00			$ 2,020.00
Phase 1 Monument Preservation											$ 3,120.00			$ 3,120.00
Phase 1 Monument Replacement											$ 5,980.00			$ 5,980.00
Record of Survey											$ 15,000.00			

RESOLUTION 2025-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A SOLE SOURCE CONTRACT WITH RICK ENGINEERING, INC. FOR THE CONTINUATION OF THE DESIGN OF RAMSEY STREET WATER MAIN REPLACEMENT IN THE AMOUNT OF $156,224.03

WHEREAS, the City of Banning owns, operates, and maintains water distribution and transmission pipelines that distribute water to residents and businesses. To provide its customers with a reliable supply of water, it is important for the city to continue replacing aging and undersized water distribution infrastructure; and

WHEREAS, on April 12, 2022, City Council approved Resolution 2022-35 authorizing the use of American Rescue Plan Act (ARPA) funds on certain eligible projects including making the necessary investments in water infrastructure. The approved ARPA project list included the replacement of waterlines along Ramsey Street; and

WHEREAS, on November 14, 2023, City Council approved Resolution 2023-182 approving a Professional Services Agreement for the Design of Ramsey Street Water Main Replacement to Rick Engineering, Inc., in the amount of $399,540 with an expiration date of June 30, 2024, and maximum term and subsequent amendments not to exceed five (5) years; and

WHEREAS, the previous Agreement approved under Resolution 2023-182 expired on June 30, 2024 and the City and Rick Engineering, Inc. desire to complete the scope of work as outlined in the original Agreement; and

WHEREAS, the amount of funds remaining in the expired contract is $156,224.03 which will be used to fund the remainder of the unfinished tasks in the previously approved scope of work; and

WHEREAS, due to construction funding challenges for this project, the original Agreement with Rick Engineering, Inc. for the design of Ramsey Street Water Main Replacement called for a three (3) phase design process; and

WHEREAS, the available ARPA funds were only sufficient to cover the construction of the first phase and therefore, it was necessary to prioritize the completion of the design of the first phase. The design work took longer than anticipated due to unforeseen site conditions and design challenges; and

WHEREAS, staff recommend awarding a new Professional Services Agreement to Rick Engineering, Inc. in the amount of $156,224.03 to complete the outstanding design phases in a manner that meets all project specifications and regulatory requirements; and

WHEREAS, no fiscal impact is expected since the requested amount of $156,224.03 had previously been allocated to this project through the expired contract.

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

SECTION 1. The City Council approves a Sole Source Professional Services Agreement with Rick Engineering, Inc. in the amount of $156,224.03 for the continued Design of Ramsey Street Water Main Replacement Project.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Professional Services Agreement and to execute the Professional Services Agreement with Rick Engineering, Inc. on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 February, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-28, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of February, 2025 by the following vote, to wit:

AYES: Barrington, Flynn, Miller, Royce, Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Professional Services Agreement with Rick Engineering, Inc.

AGREEMENT FOR PROFESSIONAL SERVICES (C01126) FOR DESIGN OF RAMSEY STREET WATER MAIN BY AND BETWEEN CITY OF BANNING AND GLENN A. RICK ENGINEERING & DEVELOPMENT CO., DBA RICK ENGINEERING COMPANY

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: _____, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Glenn A. Rick Engineering & Development Co., a California Corporation, dba Rick Engineering Company. ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposals (RFP No. 23-036) from the bench of prequalified Engineers (RFQ-22-007), the performance of the services for the Design of Ramsey Street Water Main and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in

performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Richard O'Neill	Associate Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than One Hundred Fifty-Six Thousand Two Hundred Twenty-Four Dollars and Three Cents ($156,224.03) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Nathan Smith
Deputy Director of Engineering
City of Banning
99 East Ramsey Street
Banning, California 92220
Email: nsmith@banningca.gov

With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Rick O'Neill Rick Engineering Company 1770 Iowa Avenue, Suite 100 Riverside, CA 92507

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher, Date
Acting City Manager

ATTEST:

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Slovak, Baron, Empey, Murphy & Pinkney LLP

John O. Pinkney Date
City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval:_____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. **Consultant will perform the following Services in connection with providing Engineer Design Services prepared in connection therewith:**

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

SCOPE OF WORK

Rick Engineering Company (RICK) will perform the following services in connection with providing the design of a new ductile iron pipe (size TBD by city) water main in Ramsey Street between Sunset Avenue and Highland Home Road based on the following scope of work.

Task 1. Project Management

1.1 Kick-off Meeting and Project Management

After execution of the contract, Rick Engineering Company (RICK) will schedule and attend a kick-off meeting with the City of Banning (City) to discuss the project scope, goals, preliminary findings and alignment selected by the City, finalize the project schedule, and identify available as-built plans and studies. RICK will prepare the meeting agenda and provide the team with meeting minutes following the meeting.

RICK will provide project management of the project that includes preparation and maintenance of a project specific Work Plan. The Work Plan will include details of methodology of design, sequence of tasks lists of deliverables, milestone submittal schedule, summary of organizational responsibilities, and a communication plan with contacts of all team members. Additionally, RICK will provide utility coordination with the utility providers that have utilities along the alignment, and perform quality assurance and quality control prior to each milestone submittal, and in conformance with federal, state, and city standards.

Deliverables – Meeting agenda and minutes, Work Plan

1.2 Progress Meetings

RICK will schedule monthly progress meetings with the City and project team, that will be face to face or virtual, and facilitate additional meetings with the City departments/stakeholders as needed for the project during the project duration. Scope assumes 8 monthly meetings, that includes milestone design review / comment resolution meetings and an additional 3 project meetings.
RICK will prepare agendas and minutes for the meetings, distribute the minutes, and will also provide a monthly progress report to be included with the monthly invoice.

Deliverables – Meeting agendas and minutes

1.3 Invoicing

RICK will develop and provide a monthly invoice to the City. The invoice will include RICK labor costs, subconsultant invoices and direct expenses. Direct expenses will be supported by a copy of the receipt if applicable. Invoices shall include details of billed and remaining budget for each task, and will include the monthly progress report of the tasks completed, identify any outstanding issues to be resolved, and upcoming work to be performed.

Deliverable – Monthly invoices and progress reports

Task 2. Project Development

2.1 Utility Research, Base Mapping, and Site Reconnaissance

RICK will conduct research with the City of Banning, County of Riverside, and other governing agencies and utility companies for existing plans and maps of the adjacent area to be used for the design of the project.

RICK will conduct a field visit to collect visible information of project site. Research will consist of the private water systems that will be reconnected to the new/proposed waterline in Ramsey Street and the affected private properties. RICK will verify existing site data in terms of surrounding street system, geometry, parking, signing and striping, and private improvements and private water system appurtenances on the properties.

RICK will prepare a CAD file based on the boundary survey described below showing the existing utilities discovered in the research.

Deliverables - Photo log for any photos taken, letters to utility companies, utility as-built maps, and an AutoCAD drawing of the existing utilities.

2.1.1 Property Research

RICK will research City of Banning and County of Riverside survey records and record mapping for property and right of way information. RICK will also conduct a field survey to establish street centerline and rights of way of Ramsey Street within the project limits (between Sunset Avenue and Highland Home Road), Omar Street (between Ramsey and W. Jacinto View Road), W. Jacinto View Road (between Omar Street and Winchester Drive), and the property lines of the adjacent private properties and private properties that are affected by the relocation of water services. Survey basis of bearings and coordinates will be California State Plane Coordinates. Survey data and records analysis will be prepared within a CAD file establishing project mapping for centerline and right of

way, including intersecting streets. Base mapping will include existing easements. Easements will be researched to identify their applicability/inapplicability with new waterline alignments.

Deliverables - Field Review notes, photo log for any photos taken, and an AutoCAD drawing of the rights of ways and centerline.

2.1.2 Site Topography and Surveying

RICK will provide a supplemental field topography along the existing water line points of connection and where needed and the effected private properties (where water systems will be reconnected in Ramsey Street). Consultant will locate and dip existing sewer and storm drain manholes. Topography will be vertically controlled by local published benchmarks.

Deliverables – Field Review notes, photo log for any photos taken, and CAD file with survey points.

2.1.3 Aerial Topography

RICK will provide an aerial topography of the project site consisting of surface utility appurtenances and improvements such as curb, edge of pavement, drainage inlets, valve cans, fences, driveways, mailboxes, utility vaults, power poles, signs, lights, traffic signals, sidewalks, pedestrian ramps, and notable grade features.

Deliverables – 40-scale at 1-foot contours

2.2 Potholing

RICK's subconsultant, C Below, will perform potholing for the project. C Below will perform forty (40) potholes as indicated in the RFP. A standard pothole is 12 in. x 12 in, performed to the top of pipe or encasement with sand backfill and a permanent surface patch. Potholes are assumed to be 5' in depth. Potholes include water line tie-in points and underground utility crossings. Potholes will also be used to locate the old Highway 99 concrete by setting alignment of potholes perpendicular to Ramsey Street, spaced 10' on center curb to curb. Alignments will be performed at mid-point of each project phase (3 alignments). C Below will provide a detailed potholing report at the conclusion of the investigation. Service includes Dig Alert Coordination and Delineation, Encroachment permit, vacuum excavation to top of utility, encasement, or stop depth, standard traffic control, 12-inches of hot patching (restored within 30-days of excavation activity), sand backfill, removal of debris, and pothole report. Services not included are slurry backfill, extensive traffic control, flagging for traffic control, sidewalk concrete

panel replacement, and removal of Dig Alert marks.

Standard traffic control includes one lane closure with minimal signage not spanning an intersection.

Prior to potholing, a potholing plan will be developed showing location of potholes for connection points, intermediate points, and location of other underground utilities.

Deliverables – Potholing plan and potholing report

2.3 Geotechnical Study

Geocon is proposing to drill six (6) geotechnical borings up to 15 feet in depth, along portions of the proposed water main alignment, where the subsurface explorations of our 2018 geotechnical investigation cannot supplement. The geotechnical borings will be performed to the observe subsurface soil conditions and collect samples for laboratory testing. We expect that traffic control signage/equipment will be sufficient and flag persons will not be required. Furthermore, we expect that the Banning encroachment permit will be a no fee permit for this project, and that patching of the borings with asphalt concrete cold-patch is acceptable.

RICK's subconsultant, Geocon West, Inc, will consist of:

- Mark the planned boring locations and notify Underground Surface Alert of Southern California to mark any subsurface utility locations near the exploration locations. Additionally, the client should provide plans depicting the locations of all utilities in the project area.
- Prepare no-fee encroachment permits with the City of Banning for our work. We have assumed a traffic control plan utilizing MUTCD or Watchbook details will be sufficient, and an engineered traffic control plan will not be required.
- Provide traffic control setup and breakdown at each boring location. We plan to source traffic control signage/equipment for our work and did not include flag persons in this budget.
- Drill six (6) geotechnical borings along the portion of the proposed water main alignment that our 2018 subsurface explorations cannot supplement. We will collect bulk and ring samples of the subgrade soil for laboratory testing. Borings will be backfilled with soil cuttings and clean sand, and capped with asphalt concrete cold-patch upon completion. We expect borings of up to 15 feet will be sufficient for design of the proposed water main. Borings will be located so that there is an approximate 500-foot interval maintained between the new borings and 2018 borings, along the proposed water main alignment, to ensure an appropriate standard of care. We have budgeted one day of drilling.
- Perform laboratory testing which is expected to include in-situ moisture content and dry density determinations, maximum dry density and optimum moisture

content, grain size analysis, corrosion screening, sand equivalent, and direct shear testing. The laboratory testing program will be based on the conditions encountered during the field investigation with respect to the proposed improvements. Our 2018 laboratory test results will be provided as supplemental information for the portion of the proposed water main alignment able to be covered by our 2018 geotechnical investigation.

- Prepare a geotechnical report presenting our findings in the field, boring logs, a map depicting the boring locations, a discussion of the geotechnical conditions at the site, and geotechnical parameters for storm drain design.

Assumptions:

- The borings can be safely performed in the vicinity of the proposed water main alignment, considering existing utilities are present and to facilitate traffic flow around our drilling operations. Where performing the borings poses a conflict with existing utilities, resulting in an unsafe working environment for property, personnel, and/or motorists/pedestrians, the planned borings will be relocated, as feasible.
- This proposal does not include any costs to re-grade, install hot-mix asphalt concrete patching, re-vegetate, landscape or otherwise repair disturbed areas.

Deliverables – Geotechnical report

Task 3. Preliminary Engineering Design

3.1 Preliminary Design Plans (30% design)

RICK will prepare waterline plans for approximately (7,200 LF) for a proposed Ductile Iron pipe in Ramsey Street between Sunset Avenue and Highland Home Road. Plans will be at 40-scale and include plan and profile. Plans will be setup for 3 construction phases:
Phase 1: The waterline between Sunset Avenue to near the property at 3929 W. Ramsey Street.
Phase 2: The continuation of Phase 1 to Omar Street, then continuing north on Omar to W. Jacinto View Road, and then east to the Winchester Drive intersection.
Phase 3: From Omar Street westerly on Ramsey Avenue to approximately Highland Home Road.

Additionally, RICK will:

a. Collect the data from the utility and property research from scope items above to use as part of the base file for the water plans. Existing utilities will be shown on the plans in locations verified by the potholing above and/or provided by the utility companies. As part of the plan preparation, RICK will contact affected

utility companies to obtain permits if needed (utility fees to be paid by the City of Banning).

b. RICK will arrange and participate in informal meetings as necessary with City staff to review the progress of the project and exchange ideas and information.
c. Meetings with the City of Banning will discuss the key design issues and develop general project criteria for construction, including schedule and possible ways of minimizing problems. RICK will prepare and submit meeting agendas prior to the meetings.
d. RICK will provide data received and assumptions utilized to the city for approval prior to integrating the data into the project's final design.
e. RICK will prepare preliminary water plans (30-percent design) using AutoCAD for approximately 7,200 LF of water line (8-inch to 14-inch) to establish an agreement with the City of Banning on project scope, alignment, easements, parameters, hydraulic requirements, maintenance concerns, constructability and construction phasing, traffic impacts, and general disruption to the area. The preliminary design is to be submitted to the City of Banning for review and approval. The preliminary design shall address the following:
    a. Pipeline alignment/facility locations
    b. Construction schedule and phasing recommendations
    c. Construction Cost Estimate of recommended improvements
    d. Conflicts with other utilities and adjacent facilities in the area
    e. Traffic and pedestrian control
    f. Erosion Control
    g. Preferred materials for construction
    h. Areas where construction work is limited or controlled.
    i. Impacts to City water system.
    j. Impacts to surrounding business and residential areas.
    k. Easements (existing and proposed)
    l. Corrosion protection (if necessary)
f. The preliminary design will be submitted in PDF format through the City's SmartGov platform for the City of Banning's review and concurrence. The design will be at a 30% level of effort. Changes in layout and location of facilities suggested by the city will be investigated. A final layout and location of facilities will then be established.
g. As part of the meetings with the city, discussions and submittals of material will be presented to the city through the preliminary design process to reduce comment time and effort by the city.

It is assumed that the City of Banning will provide the size of the proposed new waterline. A hydraulic analysis is not included with this scope. However, we have provided it as an additional/if needed service.

It is assumed that the majority of the existing waterline will be abandoned in place.

As part of the 30% design, RICK will prepare a traffic control conceptual staging plan for Phase 1 only identifying the assumed stages for each of the phases as noted in the Request for Proposal. The project Phase 1 proposes to construct approximately 2,600' of a water main along Ramsey Street from Sunset Avenue to 3929 W. Ramsey Street. It is anticipated that the traffic control conceptual staging plan will be prepared at 40 scale and will identify the proposed linear footage per stage and a description of the work that will be completed.

Deliverables – (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.2 Preliminary Design Plans (60% design)

Rick will prepare plans based on the 30% design and subsequent review comments by the City. Plans include a one (1) cover sheet, two (2) detail sheet, ten (10) plan and profile sheets, two (2) connection detail sheets for private landowners, and one (1) valve shut down sheet if needed, and will show the existing water services and fire hydrants to the new waterline. Due to the existing waterline being at the back of the effected parcels, water meters, backflow devised and related system components shall be moved to front Ramsey off the new proposed waterline. Detail sheets will detail the on-site design connecting to the new line to provide a water system at minimum equal to the existing condition.

RICK's subconsultant, Dexter Wilson Engineering, will assist in preparation of technical specifications, pipeline material design, pipeline deflection calculations, design of thrust restraining systems, details for phased connections, details for connection to the existing pipeline, peer review of replacement plans, and other pipeline design aspects.

Consultant will incorporate any comments received from the City of Banning on the traffic control conceptual staging plan into the 60% design plans. Consultant will prepare 40-scale traffic control plans for the work associated with the Ramsey Street Water Main for Phase 1 only. The traffic control plans will provide work zones that are staged for construction of the water main, appurtenances, laterals, and any required detours. The one stage of traffic control is assumed as follows:

Phase 1: Sunset Avenue to 3929 W. Ramsey Street. There are assumed 5 stages of traffic control; Stage 1A is to 600' west of Sunset Avenue; Stages 1B, 1C, 1D, and 1E will be up to 500' along Ramsey to 3929 W. Ramsey Street.

The traffic control plans will be prepared following the requirements of the California Manual on Uniform Traffic Control Devices (MUTCD) and the City of Banning. Three (3) submittals are assumed – 60%, 90%, and final. Five (5) sheets

of traffic control plans are assumed for Phase 1.

A progress meeting will be coordinated with the City of Banning to discuss the 60% design plans. The meeting will discuss the comments and markups and establish a timeline for the project moving forward.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.3 Detailed Design Plans (90% Design)

Rick will prepare the 90% detailed design waterline plans and traffic control plans based on the 60% review comments received from the City of Banning and other entities. Plans shall follow the City of Banning standards and policies.

RICK will prepare project specifications following the Standard Specifications for Public Works Construction, SSPWC, "Greenbook", latest edition.

RICK will prepare an opinion of probable cost and bid schedule that has construction items of work, unit of measurement, unit cost, and cost based on the detailed design waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 4. Final Design Plans

4.1 Final Water Plans

Upon authorization from the City, RICK will finalize the waterline plans and traffic control plans based on the final comments from the City and other entities. Plans will follow the City of Banning standards and policies. Plans will be signed by a licensed Civil Engineer and provided to the City of Banning on Mylar.

RICK will provide the City of Banning a Final set of Project specifications based on final comments from the City of Banning following the SPPWC. RICK will also provide a final opinion of probable cost and bid schedule based on the signed waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 5. Easement Documents

5.1 Easement Documents

RICK will prepare a legal description and plat for each easement for three (3) permanent easements to be granted to the City of Banning and ten (10) temporary construction easements that are required for reconnection of existing private water systems to the new water main. RICK will obtain and review title reports for the thirteen (13) affected properties.

RICK assumes three (3) permanent easements to be granted to the City of Banning and ten (10) Temporary Construction Easements for reconnection of existing private water systems to the new water main.

Assumptions:

- Assumes up to 13 tax parcels owned by 13 unique entities are impacted by temporary construction easements (TCE's) and/or permanent easements.
- Scope does not include any discussions with property owners.
- No appraisal work or negotiations included.
- Consultant is providing legal description and plat for the 13 easements only.

Deliverables - (all via the city's SmartGov platform): Easement documents (legal description and plat) and up to 13 preliminary title reports.

Task 6. Stormwater Pollution Prevention Plan

6.1 Stormwater Pollution Prevention Plan

The Risk Type 1 LUP SWPPP will be prepared in accordance with the requirements of the Appendix E of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ NPDES No. CAS000002 (adopted September 8, 2022, effective September 1, 2023).

RICK will prepare a Risk Type 1 LUP SWPPP based on the project's assumed Risk Type.

This task will also include the preparation of a Notice of Intent (NOI) on the Storm Water Multi Application Report Tracking System (SMARTS) database. The Discharger must designate RICK as a Data Entry Person to prepare the NOI. The Discharger/LRP must electronically certify and submit the NOI on SMARTS.

RICK will act as the initial Qualified SWPPP Developer (QSD) for the preparation of the SWPPP, however the Discharger must hire a QSD and a Qualified SWPPP Practitioner (QSP) for implementation of the SWPPP throughout the life of the project.

Based on the provided bid package this project is assumed to be a Risk Type 1 LUP based on the following assumptions:

1. More than 70% of the soil disturbance will occur on paved surfaces; and
2. Areas that are disturbed will be returned to pre-project conditions at the end of each day.

Deliverables - (all via the city's SmartGov platform): SWPPP (erosion control plan submitted via drawing submittals)

Task 7. Construction Surveying and Staking

7.1 Phase One Water Stakes

RICK will maintain horizontal and vertical control for the duration of the surveying work on this project. RICK will also provide required calculations to field crew for each survey request received.

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,600 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.2 Phase Two Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,700 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.3 Phase Three Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 1,900 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (2) trips.

Deliverables – Construction Staking Cut Sheets

Task 8. Bidding/Construction Support – Phase 1 Only

8.1 Bidding

RICK will be available during the advertising and bidding of the project to assist the City of Banning in answering questions/RFI's and the preparation of plan addenda, if needed. RICK will attend one (1) pre-bid meeting for the bidding process.

Deliverables – Meeting attendance, responses to Bidder's RFI's

8.2 Construction Administration

RICK will be available during the construction of the project to answer RFI's and prepare plan addenda, if needed. RICK will attend one (1) pre-construction meeting and eight (8) site visits during construction of the project as requested by the city. RICK will review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or resubmittal.

Deliverables – Meeting attendance, response to Contractor's RFI's, design addenda, submittal reviews

8.3 As-Built Plans

RICK will prepare As-Built Plans and process with the City of Banning, as necessary. Scope assumes RICK will receive as-built letters from the contractors and the contractor's as-built plan markup's. Scope assumes no major changes have occurred and does not include any as-built survey time. As-built plans will be submitted to the City within one month of receiving as-built letters and markup's from the contractor.
Deliverables – As-built Plans

Additional Services (If Needed Services)

Corrosivity Assessment

Rick's subconsultant, RF Yeager will prepare a corrosivity assessment for the proposed waterline, that will include a field resistivity testing, a review of the Geotech/soil chemical analysis data, a review for the potential of stray current interference, and a Corrosivity Assessment Letter Report. This information will be used for the determination of the type of corrosion protection and if any cathodic protection for the pipeline would be required and the corrosion control approach that the City may want to implement.

Deliverable – Corrosivity Assessment Letter Report

Corrosion Control Design

As part of the 90% design plans, RICK's subconsultant, RF Yeager, will provide Corrosion Control Design as part of the plans if Client requires joint bonds, test stations, insulators, and other standard corrosion control facilities. It is recommended the Client to use joint bonds, test stations, and insulators (steel or DIP) such that the pipeline is made electrically continuous and test stations are installed at the side of the road. This allows for monitoring and for adding cathodic protection in the future (should soil conditions/pipeline environment change) and will be much less costly because the pipe is electrically continuous and test stations are already installed. Corrosion control detail sheets, specifications, and cost estimate is included.

Cathodic Protection Design Pipeline

If it is found that Cathodic Protection is required, RICK's subconsultant, RF Yeager, will review the waterline plans, provide comments, and corrosion control design analysis/calculations. Details and specifications will be included. A cathodic protection system cost estimate will be included. RF Yeager will then address the 90% plan comments and provide final 100% design documents. Once approved for final signature, RF Yeager will sign and stamp the final drawings. Cathodic protection detail sheets, specifications, and cost estimates are included.
Deliverables – Corrosion control design analysis/calculations, specifications, and cost estimate.

Hydraulic Analysis

RICK's subconsultant, Dexter Wilson Engineering, will perform hydraulic modeling for the waterline sizing for the project site, if City does not provide the waterline

sizing. It is assumed City will provide the necessary information to run the modeling.

Caltrans Encroachment Permit

RICK will prepare one (1) Caltrans encroachment permit application for the traffic control devices (i.e. advance signage) that are within the Caltrans right-of-way (ROW) along Sunset Avenue in the vicinity of I-10. For the Caltrans encroachment permit application, the traffic control plans are assumed to be submitted to Caltrans in City of Banning format and will include a Caltrans signature block on the plans.

Plan Processing and Coordination (Caltrans)

RICK will submit and process the traffic control plans with Caltrans District 8. It is assumed that up to two (2) sets of plan check review comments will be received, coordinated, and addressed.

Monument Preservation

Pursuant to Section 8771 of the Business and Professions Code, preconstruction corner records will be prepared and filed identifying recovered survey monuments within the proposed construction limits. Post construction corner records will also be filed reflecting replacement monuments.

Deliverables – Pre and Post construction corner records

Monument Replacement

RICK will replace destroyed survey monuments at the completion of the construction with the project limits.

Record of Survey

Pursuant to 8762 of the Business and Professions Code the filing of a Record of Survey shall be filed if the survey discloses "the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from the inspection of the subdivision map official map or record of survey.

III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date**_____ **Signature**_____

12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following Scope of Services at the rates stated in Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

RICK
ENGINEERING COMPANY

Principal Consultant (Special Projects)	$300.00
Principal	260.00
Associate Principal	240.00
Associate/Manager	225.00
Expert Witness	450.00
Court Appearance per half day or part	1,800.00
Senior Project Manager	$225.00
Principal Project Engineer/Manager	210.00
Associate Project Engineer/Manager	190.00
Assistant Project Engineer/Manager	175.00
Principal Engineering Designer	155.00
Associate Engineering Designer	140.00
Assistant Engineering Designer	130.00
Principal Engineering Drafter	125.00
Associate Engineering Drafter	115.00
Assistant Engineering Drafter	105.00
Senior Transportation/Traffic Engineer	$215.00
Principal Transportation/Traffic Engineer	210.00
Associate Transportation/Traffic Engineer	190.00
Assistant Transportation/Traffic Engineer	175.00
Principal Transportation/Traffic Designer	155.00
Associate Transportation/Traffic Designer	140.00
Assistant Transportation/Traffic Designer	130.00
Principal Community Planner	$215.00
Principal Project Planner/Manager	200.00
Associate Project Planner/Manager	185.00
Senior Planner	175.00
Associate Planner	140.00
Assistant Planner	120.00
Planning Technician	95.00
Principal Project Landscape Architect/Manager	$190.00
Associate Project Landscape Architect/Manager	170.00
Assistant Project Landscape Architect/Manager	150.00
Principal Landscape/Urban Designer	125.00
Associate Landscape/Urban Designer	120.00
Assistant Landscape/Urban Designer	115.00
Principal Environmental Project Manager	$200.00
Associate Environmental Project Manager	170.00
Assistant Environmental Project Manager	150.00
Principal Environmental Specialist	140.00
Associate Environmental Specialist	130.00
Assistant Environmental Specialist	120.00
Environmental Technician	100.00
Senior Water Quality Manager	$240.00
Principal Water Resources Designer	155.00
Associate Water Resources Designer	140.00
Assistant Water Resources Designer	130.00
GIS Manager	$190.00
Principal GIS Project Manager	180.00
Associate GIS Project Manager	165.00
Assistant GIS Project Manager	150.00
Principal GIS Analyst	145.00
Associate GIS Analyst	130.00
Assistant GIS Analyst	120.00
Principal Graphics Designer	130.00
Associate Graphics Designer	125.00
Assistant Graphics Designer	115.00
CAD Manager	180.00
Field Supervisor	$195.00
One-person Survey Party (Prevailing Wage)	270.00
One-person Survey Party w/ Robotics (Prevailing Wage)	270.00
Two-person Survey Party (Prevailing Wage)	350.00
Three-person Survey Party (Prevailing Wage)	390.00
3D Laser Scanning Crew (One-Person)	$235.00
3D Laser Scanning Crew (Two Person)	280.00
Principal 3D Laser Scanning Project Manager	$190.00
Associate 3D Laser Scanning Project Manager	175.00
Assistant 3D Laser Scanning Project Manager	160.00
Principal 3D Laser Scanning Specialist	140.00
Associate 3D Laser Scanning Specialist	130.00
Assistant 3D Laser Scanning Specialist	120.00
Principal 3D Laser Scanning Technician	115.00
Associate 3D Laser Scanning Technician	100.00
Assistant 3D Laser Scanning Technician	90.00
Photogrammetry Supervisor	$185.00
Principal Photogrammetrist	155.00
Associate Photogrammetrist	120.00
Assistant Photogrammetrist	110.00
Principal Survey Analyst	$185.00
Associate Survey Analyst	150.00
Assistant Survey Analyst	125.00
Associate Project Administrator	$80.00
Assistant Project Administrator	70.00
Administrative Assistant/Manager	75.00

Rates subject to change for prevailing wage contracts.
When authorized, overtime shall be charged at the listed rates times 1.5.
Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.
A fifteen (15) percent fee for administration, coordination and handling will be added to all subcontracted services.

Structural Engineer
$185.00 Per Hour

SKS Engineering, Inc.

Position	Hourly Rates
Principal	$205-275
Senior Associate	$150-220
Associate	$110-170
Senior Analyst	$105-135
Analyst	$70-105
Assistant Analyst	$60-115
Administrative Support	$65-105

URBAN CROSSROADS

General

(1) Reimbursable direct costs, such as reproduction, supplies, and messenger service will be billed at cost.
(2) Hourly rates apply to work time, travel time, and time spent at public hearings and meetings. For overtime work, the above rates may be increased 50 percent.
(3) Monthly billing statements are due within thirty (30) days of receipt.

TURNING MOVEMENT COUNTS (TMC)
$226.00 – 2-hour Peak Period Counts – Pedestrian & Bicycles Included
$226.00 – 4-hour Peak Period Counts – Pedestrian & Bicycles Included
$339.00 – 6-hour Peak Period Counts – Pedestrian & Bicycles Included

VeracityTrafficGroup

BI-DIRECTIONAL VOLUME (ADT) – TUBE COUNTS
$100.00 – 24 hours (1-day)
$200.00 – 48 hours (2-day)
$300.00 – 72 hours (3-day)
$400.00 – 96 hours (4-day)
$500.00 – 120 hours (5-day)
$600.00 – 144 hours (6-day)
$700.00 – 168 hours (7-day)

BI-DIRECTIONAL SPEED OR CLASSIFICATION – TUBE COUNTS
$198.00 – 24 hours (1-day)
$396.00 – 48 hours (2-day)
$594.00 – 72 hours (3-day)
$792.00 – 96 hours (4-day)
$990.00 – 120 hours (5-day)
$1,188.00 – 144 hours (6-day)
$1,386.00 – 168 hours (7-day)

OTHER STUDIES – QUOTES BASED ON SCOPE
Pedestrian Gap Studies
Parking Duration Studies
Video Turning Movement Counts
Radar Studies – Non Intrusive
Travel Time Studies – GPS
Many more customized studies available

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

EXHIBIT B
RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/ Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
TASK 1 - PROJECT MANAGEMENT														
1.1 Kick-off Meeting and Project Management		2		24							$ 5,800.00			$ 5,800.00
1.2 Progress Meetings		2		33							$ 7,780.00			$ 7,780.00
1.3 Invoicing				8							$ 1,760.00			$ 1,760.00
SUBTOTAL TASK 1:	**0**	**4**	**0**	**65**	**0**	**0**	**0**	**0**	**0**	**0**	**$ 15,340.00**	**$ -**	**$ -**	**$ 15,340.00**
Task 2 - Project Development														
2.1 Utility Research, Base Mapping & Site Reconnaissance				20		32	40				$ 15,080.00			$ 15,080.00
2.1.1 Property Research			8				8		24	40	$ 19,440.00			$ 19,440.00
2.1.2 Supplemental Field Topography									40	2	$ 14,790.00			$ 14,790.00
2.1.3 Aerial Topography									24	6	$ 9,810.00		$ 15,000.00	$ 24,810.00
2.2 Potholing - C Below											$ -	$ 92,195.00		$ 92,195.00
2.3 Geotechnical Study - Geocon											$ -	$ 12,875.00		$ 12,875.00
SUBTOTAL TASK 2:	**0**	**0**	**8**	**20**	**0**	**32**	**48**	**0**	**88**	**48**	**$ 59,120.00**	**$ 105,070.00**	**$ 15,000.00**	**$ 179,190.00**
Task 3 - Preliminary Engineering Design														
3.1 Preliminary Design Plans (30% design) - Civil	2	4		12		50	80				$ 23,280.00	$ 2,990.00		$ 26,270.00
Conceptual Staging Plan - Traffic					4		16				$ 2,960.00			$ 2,960.00
3.2 Preliminary Design Plans (60% design) - Civil, Dexter Wilson	2	4		20		80	100				$ 32,690.00	$ 2,150.00		$ 34,840.00
Preliminary Design Plans (60% design) - Traffic		1			3		36				$ 5,720.00			$ 5,720.00
3.3 Detailed Design Plans (90% design) - Civil, Dexter Wilson	2	4		16		60	88				$ 26,890.00	$ 1,075.00		$ 27,965.00
Detailed Design Plans (90% design) - Traffic		1			2		23				$ 3,765.00			$ 3,765.00
SUBTOTAL TASK 3:	**6**	**14**	**0**	**48**	**9**	**190**	**343**	**0**	**0**	**0**	**$ 95,305.00**	**$ 6,215.00**	**$ -**	**$ 101,520.00**
Task 4 - Final Design Plans, Specifications and Estimate (100% Design)														
4.1 Final Water Plans - Civil, Dexter Wilson	1	4		12		24	40				$ 13,315.00	$ 645.00		$ 13,960.00
Final Water Plans - Traffic		1			3		12				$ 2,480.00			$ 2,480.00
SUBTOTAL TASK 4:	**1**	**5**	**0**	**12**	**3**	**24**	**52**	**0**	**0**	**0**	**$ 15,795.00**	**$ 645.00**	**$ -**	**$ 16,440.00**

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Task 5 - Easement Documents														
5.1 Easement Documents			26							130	$ 31,590.00		$ 9,750.00	$ 41,340.00
SUBTOTAL TASK 6:	**0**	**0**	**26**	**0**	**0**	**0**	**0**	**0**	**0**	**130**	**$ 31,590.00**	**$ -**	**$ 9,750.00**	**$ 41,340.00**
Task 6 - Stormwater Pollution Prevention Plan														
6.1 Stormwater Pollution Prevention Plan				6		32					$ 6,600.00			$ 6,600.00
SUBTOTAL TASK 6:	**0**	**0**	**0**	**6**	**0**	**32**	**0**	**0**	**0**	**0**	**$ 6,600.00**	**$ -**	**$ -**	**$ 6,600.00**
Task 7 - Construction Surveying and Staking														
7.1 Phase One Water Stakes							10	2	24		$ 10,430.00			$ 10,430.00
7.2 Phase Two Water Stakes - 3 staking days											$ -			$ -
7.3 Phase Three Water Stakes - 2 staking days											$ -			$ -
SUBTOTAL TASK 5:	**0**	**0**	**0**	**0**	**0**	**0**	**10**	**2**	**24**	**0**	**$ 10,430.00**	**$ -**	**$ -**	**$ 10,430.00**
Task 8 - Bidding/Construction Support - Phase 1 only														
8.1 Bidding				1		4					$ 880.00			$ 880.00
8.2 Construction Administration		2		32		12					$ 9,540.00	$ 1,160.00		$ 10,700.00
8.3 As-Built Plans		1		1		1	6				$ 1,455.00			$ 1,455.00
SUBTOTAL TASK 7:	**0**	**3**	**0**	**34**	**0**	**17**	**6**	**0**	**0**	**0**	**$ 11,875.00**	**$ 1,160.00**	**$ -**	**$ 13,035.00**
Reimbursables													$ 3,000.00	$ 3,000.00
	0	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**$ -**	**$ -**	**$ 3,000.00**	**$ 3,000.00**
SUBTOTAL TASKS 1-7:	**7**	**26**	**34**	**185**	**12**	**295**	**459**	**2**	**112**	**178**	**$ 246,055.00**	**$ 113,090.00**	**$ 27,750.00**	**$ 386,895.00**

Less $230,670.97 revised total $156,224.03

Exhibit "D-1" - 2

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/A ssistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Additional Services (if needed)														
Additional Potholing (daily rate) - C Below											$ -	$ 12,725.00		$ 12,725.00
Corrositivity Asssessment - YF Yeager											$ -	$ 4,980.00		$ 4,980.00
Corrosion Control Design - YF Yeager											$ -	$ 12,180.00		$ 12,180.00
Cathodic Protection Design Pipeline - YF Yeager											$ -	$ 18,400.00		$ 18,400.00
Hydraulic Analysis - Dexter Wilson											$ -	$ 3,480.00		$ 3,480.00
Caltrans Encroachment Permit Application											$ 1,480.00			$ 1,480.00
Caltrans Processing and Coordination											$ 2,020.00			$ 2,020.00
Phase 1 Monument Preservation											$ 3,120.00			$ 3,120.00
Phase 1 Monument Replacement											$ 5,980.00			$ 5,980.00
Record of Survey											$ 15,000.00			

Docusign Envelope ID: 027C3AAE-98F6-48F5-864C-E3E0A1719E60

AGREEMENT FOR PROFESSIONAL SERVICES (C01126) FOR DESIGN OF RAMSEY STREET WATER MAIN BY AND BETWEEN CITY OF BANNING AND GLENN A. RICK ENGINEERING & DEVELOPMENT CO., DBA RICK ENGINEERING COMPANY

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 2/27/2025, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Glenn A. Rick Engineering & Development Co., a California Corporation, dba Rick Engineering Company. ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposals (RFP No. 23-036) from the bench of prequalified Engineers (RFQ-22-007), the performance of the services for the Design of Ramsey Street Water Main and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in

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performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

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1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

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1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Richard O'Neill	Associate Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

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2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than One Hundred Fifty-Six Thousand Two Hundred Twenty-Four Dollars and Three Cents ($156,224.03) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

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Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

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be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

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damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

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D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

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risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

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court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

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Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

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6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

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require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Nathan Smith
Deputy Director of Engineering
City of Banning
99 East Ramsey Street
Banning, California 92220
Email: nsmith@banningca.gov

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With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Rick O'Neill Rick Engineering Company 1770 Iowa Avenue, Suite 100 Riverside, CA 92507

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

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A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

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8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 2/27/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

2/27/2025

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Slovak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney 2/21/2025

John O. Pinkney Date
City Attorney

CONSULTANT

Richard O'Neill 2/27/2025

NAME: Richard O'Neill Date
TITLE: Associate Principal

NAME: Date
TITLE:

95-1859899
Tax ID No.

Address:
Rick Engineering Company
1770 Iowa Ave, Suite 100
Riverside, CA 92507

City Council Approval: 2025-028

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Engineer Design Services prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

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SCOPE OF WORK

Rick Engineering Company (RICK) will perform the following services in connection with providing the design of a new ductile iron pipe (size TBD by city) water main in Ramsey Street between Sunset Avenue and Highland Home Road based on the following scope of work.

Task 1. Project Management

1.1 Kick-off Meeting and Project Management

After execution of the contract, Rick Engineering Company (RICK) will schedule and attend a kick-off meeting with the City of Banning (City) to discuss the project scope, goals, preliminary findings and alignment selected by the City, finalize the project schedule, and identify available as-built plans and studies. RICK will prepare the meeting agenda and provide the team with meeting minutes following the meeting.

RICK will provide project management of the project that includes preparation and maintenance of a project specific Work Plan. The Work Plan will include details of methodology of design, sequence of tasks lists of deliverables, milestone submittal schedule, summary of organizational responsibilities, and a communication plan with contacts of all team members. Additionally, RICK will provide utility coordination with the utility providers that have utilities along the alignment, and perform quality assurance and quality control prior to each milestone submittal, and in conformance with federal, state, and city standards.

Deliverables – Meeting agenda and minutes, Work Plan

1.2 Progress Meetings

RICK will schedule monthly progress meetings with the City and project team, that will be face to face or virtual, and facilitate additional meetings with the City departments/stakeholders as needed for the project during the project duration. Scope assumes 8 monthly meetings, that includes milestone design review / comment resolution meetings and an additional 3 project meetings.
RICK will prepare agendas and minutes for the meetings, distribute the minutes, and will also provide a monthly progress report to be included with the monthly invoice.

Deliverables – Meeting agendas and minutes

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1.3 Invoicing

RICK will develop and provide a monthly invoice to the City. The invoice will include RICK labor costs, subconsultant invoices and direct expenses. Direct expenses will be supported by a copy of the receipt if applicable. Invoices shall include details of billed and remaining budget for each task, and will include the monthly progress report of the tasks completed, identify any outstanding issues to be resolved, and upcoming work to be performed.

Deliverable – Monthly invoices and progress reports

Task 2. Project Development

2.1 Utility Research, Base Mapping, and Site Reconnaissance

RICK will conduct research with the City of Banning, County of Riverside, and other governing agencies and utility companies for existing plans and maps of the adjacent area to be used for the design of the project.

RICK will conduct a field visit to collect visible information of project site. Research will consist of the private water systems that will be reconnected to the new/proposed waterline in Ramsey Street and the affected private properties. RICK will verify existing site data in terms of surrounding street system, geometry, parking, signing and striping, and private improvements and private water system appurtenances on the properties.

RICK will prepare a CAD file based on the boundary survey described below showing the existing utilities discovered in the research.

Deliverables - Photo log for any photos taken, letters to utility companies, utility as-built maps, and an AutoCAD drawing of the existing utilities.

2.1.1 Property Research

RICK will research City of Banning and County of Riverside survey records and record mapping for property and right of way information. RICK will also conduct a field survey to establish street centerline and rights of way of Ramsey Street within the project limits (between Sunset Avenue and Highland Home Road), Omar Street (between Ramsey and W. Jacinto View Road), W. Jacinto View Road (between Omar Street and Winchester Drive), and the property lines of the adjacent private properties and private properties that are affected by the relocation of water services. Survey basis of bearings and coordinates will be California State Plane Coordinates. Survey data and records analysis will be prepared within a CAD file establishing project mapping for centerline and right of

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way, including intersecting streets. Base mapping will include existing easements. Easements will be researched to identify their applicability/inapplicability with new waterline alignments.

Deliverables - Field Review notes, photo log for any photos taken, and an AutoCAD drawing of the rights of ways and centerline.

2.1.2 Site Topography and Surveying

RICK will provide a supplemental field topography along the existing water line points of connection and where needed and the effected private properties (where water systems will be reconnected in Ramsey Street). Consultant will locate and dip existing sewer and storm drain manholes. Topography will be vertically controlled by local published benchmarks.

Deliverables – Field Review notes, photo log for any photos taken, and CAD file with survey points.

2.1.3 Aerial Topography

RICK will provide an aerial topography of the project site consisting of surface utility appurtenances and improvements such as curb, edge of pavement, drainage inlets, valve cans, fences, driveways, mailboxes, utility vaults, power poles, signs, lights, traffic signals, sidewalks, pedestrian ramps, and notable grade features.

Deliverables – 40-scale at 1-foot contours

2.2 Potholing

RICK's subconsultant, C Below, will perform potholing for the project. C Below will perform forty (40) potholes as indicated in the RFP. A standard pothole is 12 in. x 12 in, performed to the top of pipe or encasement with sand backfill and a permanent surface patch. Potholes are assumed to be 5' in depth. Potholes include water line tie-in points and underground utility crossings. Potholes will also be used to locate the old Highway 99 concrete by setting alignment of potholes perpendicular to Ramsey Street, spaced 10' on center curb to curb. Alignments will be performed at mid-point of each project phase (3 alignments). C Below will provide a detailed potholing report at the conclusion of the investigation. Service includes Dig Alert Coordination and Delineation, Encroachment permit, vacuum excavation to top of utility, encasement, or stop depth, standard traffic control, 12-inches of hot patching (restored within 30-days of excavation activity), sand backfill, removal of debris, and pothole report. Services not included are slurry backfill, extensive traffic control, flagging for traffic control, sidewalk concrete

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panel replacement, and removal of Dig Alert marks.

Standard traffic control includes one lane closure with minimal signage not spanning an intersection.

Prior to potholing, a potholing plan will be developed showing location of potholes for connection points, intermediate points, and location of other underground utilities.

Deliverables – Potholing plan and potholing report

2.3 Geotechnical Study

Geocon is proposing to drill six (6) geotechnical borings up to 15 feet in depth, along portions of the proposed water main alignment, where the subsurface explorations of our 2018 geotechnical investigation cannot supplement. The geotechnical borings will be performed to the observe subsurface soil conditions and collect samples for laboratory testing. We expect that traffic control signage/equipment will be sufficient and flag persons will not be required. Furthermore, we expect that the Banning encroachment permit will be a no fee permit for this project, and that patching of the borings with asphalt concrete cold-patch is acceptable.

RICK's subconsultant, Geocon West, Inc, will consist of:

- Mark the planned boring locations and notify Underground Surface Alert of Southern California to mark any subsurface utility locations near the exploration locations. Additionally, the client should provide plans depicting the locations of all utilities in the project area.
- Prepare no-fee encroachment permits with the City of Banning for our work. We have assumed a traffic control plan utilizing MUTCD or Watchbook details will be sufficient, and an engineered traffic control plan will not be required.
- Provide traffic control setup and breakdown at each boring location. We plan to source traffic control signage/equipment for our work and did not include flag persons in this budget.
- Drill six (6) geotechnical borings along the portion of the proposed water main alignment that our 2018 subsurface explorations cannot supplement. We will collect bulk and ring samples of the subgrade soil for laboratory testing. Borings will be backfilled with soil cuttings and clean sand, and capped with asphalt concrete cold-patch upon completion. We expect borings of up to 15 feet will be sufficient for design of the proposed water main. Borings will be located so that there is an approximate 500-foot interval maintained between the new borings and 2018 borings, along the proposed water main alignment, to ensure an appropriate standard of care. We have budgeted one day of drilling.
- Perform laboratory testing which is expected to include in-situ moisture content and dry density determinations, maximum dry density and optimum moisture

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content, grain size analysis, corrosion screening, sand equivalent, and direct shear testing. The laboratory testing program will be based on the conditions encountered during the field investigation with respect to the proposed improvements. Our 2018 laboratory test results will be provided as supplemental information for the portion of the proposed water main alignment able to be covered by our 2018 geotechnical investigation.

- Prepare a geotechnical report presenting our findings in the field, boring logs, a map depicting the boring locations, a discussion of the geotechnical conditions at the site, and geotechnical parameters for storm drain design.

Assumptions:

- The borings can be safely performed in the vicinity of the proposed water main alignment, considering existing utilities are present and to facilitate traffic flow around our drilling operations. Where performing the borings poses a conflict with existing utilities, resulting in an unsafe working environment for property, personnel, and/or motorists/pedestrians, the planned borings will be relocated, as feasible.
- This proposal does not include any costs to re-grade, install hot-mix asphalt concrete patching, re-vegetate, landscape or otherwise repair disturbed areas.

Deliverables – Geotechnical report

Task 3. Preliminary Engineering Design

3.1 Preliminary Design Plans (30% design)

RICK will prepare waterline plans for approximately (7,200 LF) for a proposed Ductile Iron pipe in Ramsey Street between Sunset Avenue and Highland Home Road. Plans will be at 40-scale and include plan and profile. Plans will be setup for 3 construction phases:
Phase 1: The waterline between Sunset Avenue to near the property at 3929 W. Ramsey Street.
Phase 2: The continuation of Phase 1 to Omar Street, then continuing north on Omar to W. Jacinto View Road, and then east to the Winchester Drive intersection.
Phase 3: From Omar Street westerly on Ramsey Avenue to approximately Highland Home Road.

Additionally, RICK will:

a. Collect the data from the utility and property research from scope items above to use as part of the base file for the water plans. Existing utilities will be shown on the plans in locations verified by the potholing above and/or provided by the utility companies. As part of the plan preparation, RICK will contact affected

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utility companies to obtain permits if needed (utility fees to be paid by the City of Banning).

b. RICK will arrange and participate in informal meetings as necessary with City staff to review the progress of the project and exchange ideas and information.
c. Meetings with the City of Banning will discuss the key design issues and develop general project criteria for construction, including schedule and possible ways of minimizing problems. RICK will prepare and submit meeting agendas prior to the meetings.
d. RICK will provide data received and assumptions utilized to the city for approval prior to integrating the data into the project's final design.
e. RICK will prepare preliminary water plans (30-percent design) using AutoCAD for approximately 7,200 LF of water line (8-inch to 14-inch) to establish an agreement with the City of Banning on project scope, alignment, easements, parameters, hydraulic requirements, maintenance concerns, constructability and construction phasing, traffic impacts, and general disruption to the area. The preliminary design is to be submitted to the City of Banning for review and approval. The preliminary design shall address the following:
    a. Pipeline alignment/facility locations
    b. Construction schedule and phasing recommendations
    c. Construction Cost Estimate of recommended improvements
    d. Conflicts with other utilities and adjacent facilities in the area
    e. Traffic and pedestrian control
    f. Erosion Control
    g. Preferred materials for construction
    h. Areas where construction work is limited or controlled.
    i. Impacts to City water system.
    j. Impacts to surrounding business and residential areas.
    k. Easements (existing and proposed)
    l. Corrosion protection (if necessary)
f. The preliminary design will be submitted in PDF format through the City's SmartGov platform for the City of Banning's review and concurrence. The design will be at a 30% level of effort. Changes in layout and location of facilities suggested by the city will be investigated. A final layout and location of facilities will then be established.
g. As part of the meetings with the city, discussions and submittals of material will be presented to the city through the preliminary design process to reduce comment time and effort by the city.

It is assumed that the City of Banning will provide the size of the proposed new waterline. A hydraulic analysis is not included with this scope. However, we have provided it as an additional/if needed service.

It is assumed that the majority of the existing waterline will be abandoned in place.

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As part of the 30% design, RICK will prepare a traffic control conceptual staging plan for Phase 1 only identifying the assumed stages for each of the phases as noted in the Request for Proposal. The project Phase 1 proposes to construct approximately 2,600' of a water main along Ramsey Street from Sunset Avenue to 3929 W. Ramsey Street. It is anticipated that the traffic control conceptual staging plan will be prepared at 40 scale and will identify the proposed linear footage per stage and a description of the work that will be completed.

Deliverables – (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.2 Preliminary Design Plans (60% design)

Rick will prepare plans based on the 30% design and subsequent review comments by the City. Plans include a one (1) cover sheet, two (2) detail sheet, ten (10) plan and profile sheets, two (2) connection detail sheets for private landowners, and one (1) valve shut down sheet if needed, and will show the existing water services and fire hydrants to the new waterline. Due to the existing waterline being at the back of the effected parcels, water meters, backflow devised and related system components shall be moved to front Ramsey off the new proposed waterline. Detail sheets will detail the on-site design connecting to the new line to provide a water system at minimum equal to the existing condition.

RICK's subconsultant, Dexter Wilson Engineering, will assist in preparation of technical specifications, pipeline material design, pipeline deflection calculations, design of thrust restraining systems, details for phased connections, details for connection to the existing pipeline, peer review of replacement plans, and other pipeline design aspects.

Consultant will incorporate any comments received from the City of Banning on the traffic control conceptual staging plan into the 60% design plans. Consultant will prepare 40-scale traffic control plans for the work associated with the Ramsey Street Water Main for Phase 1 only. The traffic control plans will provide work zones that are staged for construction of the water main, appurtenances, laterals, and any required detours. The one stage of traffic control is assumed as follows:

Phase 1: Sunset Avenue to 3929 W. Ramsey Street. There are assumed 5 stages of traffic control; Stage 1A is to 600' west of Sunset Avenue; Stages 1B, 1C, 1D, and 1E will be up to 500' along Ramsey to 3929 W. Ramsey Street.

The traffic control plans will be prepared following the requirements of the California Manual on Uniform Traffic Control Devices (MUTCD) and the City of Banning. Three (3) submittals are assumed – 60%, 90%, and final. Five (5) sheets

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of traffic control plans are assumed for Phase 1.

A progress meeting will be coordinated with the City of Banning to discuss the 60% design plans. The meeting will discuss the comments and markups and establish a timeline for the project moving forward.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.3 Detailed Design Plans (90% Design)

Rick will prepare the 90% detailed design waterline plans and traffic control plans based on the 60% review comments received from the City of Banning and other entities. Plans shall follow the City of Banning standards and policies.

RICK will prepare project specifications following the Standard Specifications for Public Works Construction, SSPWC, "Greenbook", latest edition.

RICK will prepare an opinion of probable cost and bid schedule that has construction items of work, unit of measurement, unit cost, and cost based on the detailed design waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 4. Final Design Plans

4.1 Final Water Plans

Upon authorization from the City, RICK will finalize the waterline plans and traffic control plans based on the final comments from the City and other entities. Plans will follow the City of Banning standards and policies. Plans will be signed by a licensed Civil Engineer and provided to the City of Banning on Mylar.

RICK will provide the City of Banning a Final set of Project specifications based on final comments from the City of Banning following the SPPWC. RICK will also provide a final opinion of probable cost and bid schedule based on the signed waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

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Task 5. Easement Documents

5.1 Easement Documents

RICK will prepare a legal description and plat for each easement for three (3) permanent easements to be granted to the City of Banning and ten (10) temporary construction easements that are required for reconnection of existing private water systems to the new water main. RICK will obtain and review title reports for the thirteen (13) affected properties.

RICK assumes three (3) permanent easements to be granted to the City of Banning and ten (10) Temporary Construction Easements for reconnection of existing private water systems to the new water main.

Assumptions:

- Assumes up to 13 tax parcels owned by 13 unique entities are impacted by temporary construction easements (TCE's) and/or permanent easements.
- Scope does not include any discussions with property owners.
- No appraisal work or negotiations included.
- Consultant is providing legal description and plat for the 13 easements only.

Deliverables - (all via the city's SmartGov platform): Easement documents (legal description and plat) and up to 13 preliminary title reports.

Task 6. Stormwater Pollution Prevention Plan

6.1 Stormwater Pollution Prevention Plan

The Risk Type 1 LUP SWPPP will be prepared in accordance with the requirements of the Appendix E of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ NPDES No. CAS000002 (adopted September 8, 2022, effective September 1, 2023).

RICK will prepare a Risk Type 1 LUP SWPPP based on the project's assumed Risk Type.

This task will also include the preparation of a Notice of Intent (NOI) on the Storm Water Multi Application Report Tracking System (SMARTS) database. The Discharger must designate RICK as a Data Entry Person to prepare the NOI. The Discharger/LRP must electronically certify and submit the NOI on SMARTS.

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RICK will act as the initial Qualified SWPPP Developer (QSD) for the preparation of the SWPPP, however the Discharger must hire a QSD and a Qualified SWPPP Practitioner (QSP) for implementation of the SWPPP throughout the life of the project.

Based on the provided bid package this project is assumed to be a Risk Type 1 LUP based on the following assumptions:

1. More than 70% of the soil disturbance will occur on paved surfaces; and
2. Areas that are disturbed will be returned to pre-project conditions at the end of each day.

Deliverables - (all via the city's SmartGov platform): SWPPP (erosion control plan submitted via drawing submittals)

Task 7. Construction Surveying and Staking

7.1 Phase One Water Stakes

RICK will maintain horizontal and vertical control for the duration of the surveying work on this project. RICK will also provide required calculations to field crew for each survey request received.

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,600 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.2 Phase Two Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,700 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

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7.3 Phase Three Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 1,900 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (2) trips.

Deliverables – Construction Staking Cut Sheets

Task 8. Bidding/Construction Support – Phase 1 Only

8.1 Bidding

RICK will be available during the advertising and bidding of the project to assist the City of Banning in answering questions/RFI's and the preparation of plan addenda, if needed. RICK will attend one (1) pre-bid meeting for the bidding process.

Deliverables – Meeting attendance, responses to Bidder's RFI's

8.2 Construction Administration

RICK will be available during the construction of the project to answer RFI's and prepare plan addenda, if needed. RICK will attend one (1) pre-construction meeting and eight (8) site visits during construction of the project as requested by the city. RICK will review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or resubmittal.

Deliverables – Meeting attendance, response to Contractor's RFI's, design addenda, submittal reviews

8.3 As-Built Plans

RICK will prepare As-Built Plans and process with the City of Banning, as necessary. Scope assumes RICK will receive as-built letters from the contractors and the contractor's as-built plan markup's. Scope assumes no major changes have occurred and does not include any as-built survey time. As-built plans will be submitted to the City within one month of receiving as-built letters and markup's from the contractor.
Deliverables – As-built Plans

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Additional Services (If Needed Services)

Corrosivity Assessment

Rick's subconsultant, RF Yeager will prepare a corrosivity assessment for the proposed waterline, that will include a field resistivity testing, a review of the Geotech/soil chemical analysis data, a review for the potential of stray current interference, and a Corrosivity Assessment Letter Report. This information will be used for the determination of the type of corrosion protection and if any cathodic protection for the pipeline would be required and the corrosion control approach that the City may want to implement.

Deliverable – Corrosivity Assessment Letter Report

Corrosion Control Design

As part of the 90% design plans, RICK's subconsultant, RF Yeager, will provide Corrosion Control Design as part of the plans if Client requires joint bonds, test stations, insulators, and other standard corrosion control facilities. It is recommended the Client to use joint bonds, test stations, and insulators (steel or DIP) such that the pipeline is made electrically continuous and test stations are installed at the side of the road. This allows for monitoring and for adding cathodic protection in the future (should soil conditions/pipeline environment change) and will be much less costly because the pipe is electrically continuous and test stations are already installed. Corrosion control detail sheets, specifications, and cost estimate is included.

Cathodic Protection Design Pipeline

If it is found that Cathodic Protection is required, RICK's subconsultant, RF Yeager, will review the waterline plans, provide comments, and corrosion control design analysis/calculations. Details and specifications will be included. A cathodic protection system cost estimate will be included. RF Yeager will then address the 90% plan comments and provide final 100% design documents. Once approved for final signature, RF Yeager will sign and stamp the final drawings. Cathodic protection detail sheets, specifications, and cost estimates are included.
Deliverables – Corrosion control design analysis/calculations, specifications, and cost estimate.

Hydraulic Analysis

RICK's subconsultant, Dexter Wilson Engineering, will perform hydraulic modeling for the waterline sizing for the project site, if City does not provide the waterline

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sizing. It is assumed City will provide the necessary information to run the modeling.

Caltrans Encroachment Permit

RICK will prepare one (1) Caltrans encroachment permit application for the traffic control devices (i.e. advance signage) that are within the Caltrans right-of-way (ROW) along Sunset Avenue in the vicinity of I-10. For the Caltrans encroachment permit application, the traffic control plans are assumed to be submitted to Caltrans in City of Banning format and will include a Caltrans signature block on the plans.

Plan Processing and Coordination (Caltrans)

RICK will submit and process the traffic control plans with Caltrans District 8. It is assumed that up to two (2) sets of plan check review comments will be received, coordinated, and addressed.

Monument Preservation

Pursuant to Section 8771 of the Business and Professions Code, preconstruction corner records will be prepared and filed identifying recovered survey monuments within the proposed construction limits. Post construction corner records will also be filed reflecting replacement monuments.

Deliverables – Pre and Post construction corner records

Monument Replacement

RICK will replace destroyed survey monuments at the completion of the construction with the project limits.

Record of Survey

Pursuant to 8762 of the Business and Professions Code the filing of a Record of Survey shall be filed if the survey discloses “the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from the inspection of the subdivision map official map or record of survey.

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III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date**_____ **Signature**_____

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following Scope of Services at the rates stated in Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

RICK ENGINEERING COMPANY

Principal Consultant (Special Projects)	$300.00
Principal	260.00
Associate Principal	240.00
Associate/Manager	225.00
Expert Witness	450.00
Court Appearance per half day or part	1,800.00
Senior Project Manager	$225.00
Principal Project Engineer/Manager	210.00
Associate Project Engineer/Manager	190.00
Assistant Project Engineer/Manager	175.00
Principal Engineering Designer	155.00
Associate Engineering Designer	140.00
Assistant Engineering Designer	130.00
Principal Engineering Drafter	125.00
Associate Engineering Drafter	115.00
Assistant Engineering Drafter	105.00
Senior Transportation/Traffic Engineer	$215.00
Principal Transportation/Traffic Engineer	210.00
Associate Transportation/Traffic Engineer	190.00
Assistant Transportation/Traffic Engineer	175.00
Principal Transportation/Traffic Designer	155.00
Associate Transportation/Traffic Designer	140.00
Assistant Transportation/Traffic Designer	130.00
Principal Community Planner	$215.00
Principal Project Planner/Manager	200.00
Associate Project Planner/Manager	185.00
Senior Planner	175.00
Associate Planner	140.00
Assistant Planner	120.00
Planning Technician	95.00
Principal Project Landscape Architect/Manager	$190.00
Associate Project Landscape Architect/Manager	170.00
Assistant Project Landscape Architect/Manager	150.00
Principal Landscape/Urban Designer	125.00
Associate Landscape/Urban Designer	120.00
Assistant Landscape/Urban Designer	115.00
Principal Environmental Project Manager	$200.00
Associate Environmental Project Manager	170.00
Assistant Environmental Project Manager	150.00
Principal Environmental Specialist	140.00
Associate Environmental Specialist	130.00
Assistant Environmental Specialist	120.00
Environmental Technician	100.00
Senior Water Quality Manager	$240.00
Principal Water Resources Designer	155.00
Associate Water Resources Designer	140.00
Assistant Water Resources Designer	130.00
GIS Manager	$190.00
Principal GIS Project Manager	180.00
Associate GIS Project Manager	165.00
Assistant GIS Project Manager	150.00
Principal GIS Analyst	145.00
Associate GIS Analyst	130.00
Assistant GIS Analyst	120.00
Principal Graphics Designer	130.00
Associate Graphics Designer	125.00
Assistant Graphics Designer	115.00
CAD Manager	180.00
Field Supervisor	$195.00
One-person Survey Party (Prevailing Wage)	270.00
One-person Survey Party w/ Robotics (Prevailing Wage)	270.00
Two-person Survey Party (Prevailing Wage)	350.00
Three-person Survey Party (Prevailing Wage)	390.00
3D Laser Scanning Crew (One-Person)	$235.00
3D Laser Scanning Crew (Two Person)	280.00
Principal 3D Laser Scanning Project Manager	$190.00
Associate 3D Laser Scanning Project Manager	175.00
Assistant 3D Laser Scanning Project Manager	160.00
Principal 3D Laser Scanning Specialist	140.00
Associate 3D Laser Scanning Specialist	130.00
Assistant 3D Laser Scanning Specialist	120.00
Principal 3D Laser Scanning Technician	115.00
Associate 3D Laser Scanning Technician	100.00
Assistant 3D Laser Scanning Technician	90.00
Photogrammetry Supervisor	$185.00
Principal Photogrammetrist	155.00
Associate Photogrammetrist	120.00
Assistant Photogrammetrist	110.00
Principal Survey Analyst	$185.00
Associate Survey Analyst	150.00
Assistant Survey Analyst	125.00
Associate Project Administrator	$80.00
Assistant Project Administrator	70.00
Administrative Assistant/Manager	75.00

Rates subject to change for prevailing wage contracts.
When authorized, overtime shall be charged at the listed rates times 1.5.
Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.
A fifteen (15) percent fee for administration, coordination and handling will be added to all subcontracted services.

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Structural Engineer
$185.00 Per Hour

SKS Engineering, Inc.

Position	Hourly Rates
Principal	$205-275
Senior Associate	$150-220
Associate	$110-170
Senior Analyst	$105-135
Analyst	$70-105
Assistant Analyst	$60-115
Administrative Support	$65-105

URBAN CROSSROADS

General

(1) Reimbursable direct costs, such as reproduction, supplies, and messenger service will be billed at cost.
(2) Hourly rates apply to work time, travel time, and time spent at public hearings and meetings. For overtime work, the above rates may be increased 50 percent.
(3) Monthly billing statements are due within thirty (30) days of receipt.

TURNING MOVEMENT COUNTS (TMC)
$226.00 – 2-hour Peak Period Counts – Pedestrian & Bicycles Included
$226.00 – 4-hour Peak Period Counts – Pedestrian & Bicycles Included
$339.00 – 6-hour Peak Period Counts – Pedestrian & Bicycles Included

BI-DIRECTIONAL VOLUME (ADT) – TUBE COUNTS
$100.00 – 24 hours (1-day)
$200.00 – 48 hours (2-day)
$300.00 – 72 hours (3-day)
$400.00 – 96 hours (4-day)
$500.00 – 120 hours (5-day)
$600.00 – 144 hours (6-day)
$700.00 – 168 hours (7-day)

BI-DIRECTIONAL SPEED OR CLASSIFICATION – TUBE COUNTS
$198.00 – 24 hours (1-day)
$396.00 – 48 hours (2-day)
$594.00 – 72 hours (3-day)
$792.00 – 96 hours (4-day)
$990.00 – 120 hours (5-day)
$1,188.00 – 144 hours (6-day)
$1,386.00 – 168 hours (7-day)

OTHER STUDIES – QUOTES BASED ON SCOPE
Pedestrian Gap Studies
Parking Duration Studies
Video Turning Movement Counts
Radar Studies – Non Intrusive
Travel Time Studies – GPS
Many more customized studies available

Veracity Traffic Group

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant/Associate Designer/Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
TASK 1 - PROJECT MANAGEMENT														
1.1 Kick-off Meeting and Project Management		2		24							$ 5,800.00			$ 5,800.00
1.2 Progress Meetings		2		33							$ 7,780.00			$ 7,780.00
1.3 Invoicing				8							$ 1,760.00			$ 1,760.00
SUBTOTAL TASK 1:	**0**	**4**	**0**	**65**	**0**	**0**	**0**	**0**	**0**	**0**	**$ 15,340.00**	**$ -**	**$ -**	**$ 15,340.00**
Task 2 - Project Development														
2.1 Utility Research, Base Mapping & Site Reconnaissance				20		32	40				$ 15,080.00			$ 15,080.00
2.1.1 Property Research			8				8		24	40	$ 19,440.00			$ 19,440.00
2.1.2 Supplemental Field Topography									40	2	$ 14,790.00			$ 14,790.00
2.1.3 Aerial Topography									24	6	$ 9,810.00		$ 15,000.00	$ 24,810.00
2.2 Potholing - C Below											$ -	$ 92,195.00		$ 92,195.00
2.3 Geotechnical Study - Geocon											$ -	$ 12,875.00		$ 12,875.00
SUBTOTAL TASK 2:	**0**	**0**	**8**	**20**	**0**	**32**	**48**	**0**	**88**	**48**	**$ 59,120.00**	**$ 105,070.00**	**$ 15,000.00**	**$ 179,190.00**
Task 3 - Preliminary Engineering Design														
3.1 Preliminary Design Plans (30% design) - Civil	2	4		12		50	80				$ 23,280.00	$ 2,990.00		$ 26,270.00
Conceptual Staging Plan - Traffic					4		16				$ 2,960.00			$ 2,960.00
3.2 Preliminary Design Plans (60% design) - Civil, Dexter Wilson	2	4		20		80	100				$ 32,690.00	$ 2,150.00		$ 34,840.00
Preliminary Design Plans (60% design) - Traffic		1			3		36				$ 5,720.00			$ 5,720.00
3.3 Detailed Design Plans (90% design) - Civil, Dexter Wilson	2	4		16		60	88				$ 26,890.00	$ 1,075.00		$ 27,965.00
Detailed Design Plans (90% design) - Traffic		1			2		23				$ 3,765.00			$ 3,765.00
SUBTOTAL TASK 3:	**6**	**14**	**0**	**48**	**9**	**190**	**343**	**0**	**0**	**0**	**$ 95,305.00**	**$ 6,215.00**	**$ -**	**$ 101,520.00**
Task 4 - Final Design Plans, Specifications and Estimate (100% Design)														
4.1 Final Water Plans - Civil, Dexter Wilson	1	4		12		24	40				$ 13,315.00	$ 645.00		$ 13,960.00
Final Water Plans - Traffic		1			3		12				$ 2,480.00			$ 2,480.00
SUBTOTAL TASK 4:	**1**	**5**	**0**	**12**	**3**	**24**	**52**	**0**	**0**	**0**	**$ 15,795.00**	**$ 645.00**	**$ -**	**$ 16,440.00**

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EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Task 5 - Easement Documents														
5.1 Easement Documents			26							130	$ 31,590.00		$ 9,750.00	$ 41,340.00
SUBTOTAL TASK 6:	**0**	**0**	**26**	**0**	**0**	**0**	**0**	**0**	**0**	**130**	**$ 31,590.00**	**$ -**	**$ 9,750.00**	**$ 41,340.00**
Task 6 - Stormwater Pollution Prevention Plan														
6.1 Stormwater Pollution Prevention Plan				6		32					$ 6,600.00			$ 6,600.00
SUBTOTAL TASK 6:	**0**	**0**	**0**	**6**	**0**	**32**	**0**	**0**	**0**	**0**	**$ 6,600.00**	**$ -**	**$ -**	**$ 6,600.00**
Task 7 - Construction Surveying and Staking														
7.1 Phase One Water Stakes							10	2	24		$ 10,430.00			$ 10,430.00
7.2 Phase Two Water Stakes - 3 staking days											$ -			$ -
7.3 Phase Three Water Stakes - 2 staking days											$ -			$ -
SUBTOTAL TASK 5:	**0**	**0**	**0**	**0**	**0**	**0**	**10**	**2**	**24**	**0**	**$ 10,430.00**	**$ -**	**$ -**	**$ 10,430.00**
Task 8 - Bidding/Construction Support - Phase 1 only														
8.1 Bidding				1		4					$ 880.00			$ 880.00
8.2 Construction Administration		2		32		12					$ 9,540.00	$ 1,160.00		$ 10,700.00
8.3 As-Built Plans		1		1		1	6				$ 1,455.00			$ 1,455.00
SUBTOTAL TASK 7:	**0**	**3**	**0**	**34**	**0**	**17**	**6**	**0**	**0**	**0**	**$ 11,875.00**	**$ 1,160.00**	**$ -**	**$ 13,035.00**
Reimbursables													$ 3,000.00	$ 3,000.00
	0	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**$ -**	**$ -**	**$ 3,000.00**	**$ 3,000.00**
SUBTOTAL TASKS 1-7:	**7**	**26**	**34**	**185**	**12**	**295**	**459**	**2**	**112**	**178**	**$ 246,055.00**	**$ 113,090.00**	**$ 27,750.00**	**$ 386,895.00**

Less $230,670.97 revised total $156,224.03

Exhibit "D-1" - 2

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EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/A ssistant Project Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RWCK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Additional Services (if needed)														
Additional Potholing (daily rate) - C Below											$ -	$ 12,725.00		$ 12,725.00
Corrositivity Assessment - YF Yeager											$ -	$ 4,980.00		$ 4,980.00
Corrosion Control Design - YF Yeager											$ -	$ 12,180.00		$ 12,180.00
Cathodic Protection Design Pipeline - YF Yeager											$ -	$ 18,400.00		$ 18,400.00
Hydraulic Analysis - Dexter Wilson											$ -	$ 3,480.00		$ 3,480.00
Caltrans Encroachment Permit Application											$ 1,480.00			$ 1,480.00
Caltrans Processing and Coordination											$ 2,020.00			$ 2,020.00
Phase 1 Monument Preservation											$ 3,120.00			$ 3,120.00
Phase 1 Monument Replacement											$ 5,980.00			$ 5,980.00
Record of Survey											$ 15,000.00			

RICK

951-782-0707
rickengineering.com

1770 Iowa Avenue #100
Riverside, CA 92507

SAN DIEGO ORANGE RIVERSIDE SACRAMENTO SAN LUIS OBISPO SANTA CLARITA PHOENIX TUCSON LAS VEGAS DENVER

Contract Addendum

Addendum No. 1
Job No. 19973
April 15, 2025

Mr. Nathan Smith, PE
City of Banning
99 East Ramsey Street
Banning, CA 92220
Sent via email: nsmith@banningca.gov

At the request of the city the order and schedule for the design of plans was revised and extended. Phase 1 plans were prioritized after 30% submittal. Original contract scope assumed that all three phases would be designed concurrently and therefore meetings and invoices would be done all at the same time. Phase 3 plans are dependent on input from Riverside County Flood Control and their schedule for their Pershing Channel project. This has created uncertainty in the alignment of the Phase 3 waterline, and we recommend that 90% submittal and Final Water Plans for Phase 3 be removed from the scope and postponed until further notice.

By signing below as indicated, Rick Engineering Company ("Consultant") is authorized to expend an additional **$20,930**, bringing the total amount authorized as of this date to $407,825 to perform work in conjunction with our contract, dated November 14, 2023. The additional scope and fees are described below.

Additional Scope of Work:

1. **Additional Project Management –** $7,640

   Consultant will provide project management of the project for Phase 2 (through Final Water Plans) and Phase 3 (through 60% Submittal) that includes preparation and maintenance of a project specific Work Plan. The Work Plan will include details of methodology of design, sequence of tasks lists of deliverables, milestone submittal schedule, summary of organizational responsibilities, and a communication plan with contacts of all team members. Additionally, RICK will provide utility coordination with the utility providers that have utilities along the alignment, and perform quality assurance and quality control prior to

each milestone submittal, and in conformance with federal, state, and city standards.

2. **Additional Progress Meetings –** $7,780

   Consultant will schedule monthly progress meetings with the City and project team, that will be face to face or virtual, and facilitate additional meetings with the City departments/stakeholders as needed for the project during the project duration for Phase 2 (through Final Water Plans) and Phase 3 (through 60% Submittal).

   Scope assumes 8 monthly meetings, that includes milestone design review / comment resolution meetings and an additional 3 project meetings.

   RICK will prepare agendas and minutes for the meetings, distribute the minutes, and will also provide a monthly progress report to be included with the monthly invoice.

3. **Additional Invoicing –** $2,200

   Consultant will develop and provide a monthly invoice to the City. The invoice will include RICK labor costs, subconsultant invoices and direct expenses. Direct expenses will be supported by a copy of the receipt if applicable. Invoices shall include details of billed and remaining budget for each task, and will include the monthly progress report of the tasks completed, identify any outstanding issues to be resolved, and upcoming work to be performed.

4. **Additional Staking (Gus Jr. Dwy) –** $3,310

   Consultant will layout staking of curb and gutter at driveway location. Includes office calculations, point preparation, and coordination with field crew for driveway staking.

5. **Per Contract Exhibit "C" Schedule of Compensation item II,** we are requesting to shift funds between sub-tasks as outlined below, without increasing the Contract Sum. $0

   1. Task 2.2 – Pothole (C Below) - $18,000 to Task 3.2 Preliminary Design Plans (60% design) and $12,000 to Task 3.3 Detailed Design Plans (90% design)

2. Task 6.1 SWPPP - $6,600 to Task 4.1 Final Water Plans

All other provisions of the original contract are to remain unchanged.

Authorized by:

RICK ENGINEERING COMPANY Date: April 15, 2025

Signature:  Title: Associate Principal

Richard O'Neill, R.C.E. No. 63285, LEED AP, QSD

Authorized by:

City of Banning

Signature: _____ Date: _____

Print Name: _____ Title: _____

Please return a signed copy to RICK ENGINEERING COMPANY.

AMENDMENT NO. 1 TO PROFESSIONAL SERVICES (C01126) FOR DESIGN OF RAMSEY STREET WATER MAIN BY AND BETWEEN CITY OF BANNING AND GLENN A. RICK ENGINEERING & DEVELOPMENT CO., DBA RICK ENGINEERING COMPANY

THIS AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT FOR SERVICES ("Amendment No. 1") by and between the **CITY OF BANNING** ("City") and Glenn A. Rick Engineering & Development Co., a California Corporation, dba Rick Engineering Company. ("Consultant") is effective as of this day: _____.

RECITALS

A. City and Consultant entered into that certain Contract dated February 27, 2025 for the purpose of providing Engineering Design Services ("Agreement") following Design of Ramsey Street Water Main, as approved by City Council Resolution No.2025-028.

B. City and Consultant now desire to amend the Agreement to modify the Scope of Services, extend the Term of the Agreement to December 31, 2026, and increase the Contract Sum to $189,261.39.

The Parties therefore agree follows:

1. Amended Terms. The Agreement is hereby amended as follows:

1.1 The Scope of Services as set forth in Section 1.1 of and Exhibit A to the Agreement is hereby amended to include the Services set forth in Attachment 1, attached hereto and incorporated herein.

1.2 The maximum compensation for the Services performed pursuant to this Amendment No. 1 shall not exceed Twenty Thousand Nine Hundred Thirty Dollars ($20,930.00) thereby increasing the Contract Sum, as set forth in Section 2.1 of the Agreement, to One Hundred Eighty-Nine Thousand Two Hundred Sixty-One Dollars and Thirty-Nine Cents ($189,261.39).

1.3 The Term of the Agreement, as set forth in Section 3.4 of the Agreement, is hereby extended through December 31, 2026, unless sooner terminated or extended as provided in the Agreement.

2. Miscellaneous Provisions

2.1 Continued Effect of Agreement. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by Amendment No. 1. In the event of a conflict between the provisions

of this Amendment No. 1 and the provisions of the Agreement or Amendments, the provisions of this Amendment No. 1 shall control.

2.2 Consideration for Amendment. The parties hereby agree that they have each received adequate and independent consideration for the modifications to the Agreement set forth in this Amendment No. 1.

2.3 Authority. The persons executing this Amendment No.1 on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Amendment No. 1, such party is formally bound to the provisions of this Amendment No. 1, and (iv) entering into this Amendment No. 1 does not violate any provision of any other agreement to which said party is bound.

2.4 Counterparts. This Amendment No. 1 may be signed in any number of counterparts, each of which will be original, but all of which together will constitute one instrument.

2.5 Electronic Signatures. Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[*SIGNATURE PAGE FOLLOWS*]

The Parties are signing this Amendment No. 1 on the date stated in the introductory clause.

CITY OF BANNING	CONSULTANT
Robert Fisher, Acting City Manager	NAME: TITLE:
City Council Approval: _____	NAME: TITLE:
ATTEST:	
Caroline Patton Administrative City Clerk	
APPROVED AS TO FORM: Slovak, Baron, Empey, Murphy & Pinkney LLP	
John O. Pinkney Acting City Attorney	

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT NO. 1

RICK

951-782-0707
rickengineering.com

1770 Iowa Avenue #100
Riverside, CA 92507

SAN DIEGO ORANGE RIVERSIDE SACRAMENTO SAN LUIS OBISPO SANTA CLARITA PHOENIX TUCSON LAS VEGAS DENVER

Contract Addendum

Addendum No. 1
Job No. 19973
April 15, 2025

Mr. Nathan Smith, PE
City of Banning
99 East Ramsey Street
Banning, CA 92220
Sent via email: nsmith@banningca.gov

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All other provisions of the original contract are to remain unchanged.

Authorized by:

RICK ENGINEERING COMPANY Date: April 15, 2025

Signature: _____ Title: Associate Principal

Richard O'Neill, R.C.E. No. 63285, LEED AP, QSD

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Nate Smith, Deputy Director of Public Works/City Engineer**
Art Vela, Director of Public Works

MEETING DATE: **July 8, 2025**

SUBJECT: **Consideration of Resolution 2025-102, Approving Final Parcel Map 38659 and Release the Map for Recordation; Authorize Staff to Sign the Project Improvement Agreement and Final Parcel Map; Accept Faithful Performance and Labor and Material Bonds for Public Improvements**

RECOMMENDATION:

Adopt Resolution 2025-102.

BACKGROUND:

Tentative Parcel Map 38659 was adopted by City Council with Resolution 2024-112 on June 24th, 2024. The Final Map combines 3 lots into 1 larger parcel, as well as makes public dedications for street and utility purposes on Lincoln Street to accommodate the ultimate roadway section per the Circulation Element within the General Plan.

JUSTIFICATION:

The Final Parcel Map was checked by the City's consulting surveyor and was found to be technically correct and conform to the requirements of the Subdivision Map Act. All Conditions of Approval required to be met prior to the recording have been met. They City Engineer has verified that the final maps are in conformance with the approved Tentative Parcel Map 38659.

FISCAL IMPACT:

There is no direct fiscal impact based on the approval of final maps. However, the recordation of the maps allows for the development of the project which will increase the assessed value of the properties resulting in an increase in property tax revenue. Additionally, the project will generate development impact fee revenues. The City’s cost for processing the project will be offset by processing fees.

ALTERNATIVES:

Do not adopt Resolution 2025-102 and provide staff with additional direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2025-102 FPM 38659.pdf

2. Resolution 2028-102 FPM 38659 Exhibit A.pdf
3. Resolution 2028-102 FPM 38659 Exhibit B.pdf
4. Att. 1 CC Resolution No. 2024-112.pdf
5. Att. 2 Bonds.pdf
6. Resolution 2025-102 FPM 38659.docx

RESOLUTION 2025-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 38659; AUTHORIZING STAFF TO SIGN THE FINAL PARCEL MAP AND PROJECT IMPROVEMENT AGREEMENT; RELEASING THE FINAL MAP FOR RECORDATION; AND ACCEPTING THE PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PUBLIC IMPROVEMENTS

WHEREAS, Tentative Parcel Map (TPM) No. 38659 was approved by City Council on June 24th, 2024 with Resolution 2024-112; and

WHEREAS, Final Parcel Map (PM) No. 38659 will combine 3 existing parcels into a single 14.27 acre parcel and dedication for Lincoln Street to the ultimate width per the Circulation Element within the General Plan; and

WHEREAS, the property owner has signed a Project Improvement Agreement and has submitted bonds to assure that the required public improvements are constructed; and

WHEREAS, the PM 38659 have been deemed technically correct and that they conform to the requirements of the Subdivision Map Act and the City Engineer has verified that PM 38659 are in substantial conformance with the approved TPM 38659.

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

SECTION 1. The City Council approves PM 38659, a copy of which is hereby attached as Exhibit "A" and made part of this Resolution.

SECTION 2. The City Council approves the execution of the Project Improvement Agreement to be signed by the Mayor which is hereby attached as Exhibit "B" and made part of this resolution.

SECTION 3. The City Council accepts the performance and labor and material bonds and authorize staff to sign the final maps

SECTION 4. The City Council directs the Administrative City Clerk to transmit PM 38659 to the County Recorder of the County of Riverside for recordation.

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, APPROVED AND ADOPTED this 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Vicky Sellers, City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney

CERTIFICATION:

I, Vicky Sellers, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-102, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Vicky Sellers, City Clerk
City of Banning, California

EXHIBIT A
Final Parcel Map 38659

EXHIBIT B
Project Improvement Agreement for Final Parcel Map 38659

TOTAL NUMBER OF PARCELS: 1

NET AREA OF MAP: 621,431 SQFT
14.27 ACRES

GROSS AREA OF MAP: 651,546 SQFT
14.96 ACRES

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE , STATE OF CALIFORNIA

PARCEL MAP No. 38659

BEING A SUBDIVISION OF THE WESTERLY 198.00 FEET OF BLOCK 273 AND BLOCK 274 OF LANDS OF THE AMENDED MAP OF THE BANNING LAND COMPANY, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, SAN BERNARDINO COUNTY RECORDS, EXCEPT THAT PORTION IN THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, ACQUIRED BY UNITED STATES CONGRESSIONAL GRANT. TOGETHER WITH THE EASTERLY 1/2 OF BLOCK 285 IN BANNING, AS SHOWN BY A CERTAIN MAP ENTITLED "AMENDED MAP OF BANNING LAND CO." AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, RECORDS OF SAN BERNARDINO, CALIFORNIA. EXCEPTING THEREFROM THAT PORTION IN THE RIGHT OF WAY ACQUIRED BY THE UNITED STATES CONGRESSIONAL GRANT.

JOSEPH E. BONADIMAN & ASSOCIATES, INC. JULY 2024

RECORDER'S STATEMENT:

FILED THIS _____ DAY OF _____, 20____,
AT ____ .M. IN BOOK _____OF PARCEL MAPS AT
PAGE(S) _____, AT THE REQUEST OF
THE CITY CLERK OF THE BOARD,
NO. _____,
FEE$_____.

PETER ALDANA, ASSESSOR – COUNTY CLERK – RECORDER

BY:_____ DEPUTY

SUBDIVISION GUARANTEE: FIDELITY NATIONAL TITLE INSURANCE COMPANY

OWNER'S STATEMENT:

WE HEREBY STATE THAT WE ARE THE OWNERS OF THE LANDS INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID LAND; THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINES.
WE HEREBY DEDICATE TO THE CITY OF BANNING FOR THE PUBLIC USE, LOT "A" FOR STREET AND UTILITY PURPOSES, AS SHOWN ON SAID MAP.

BROWN STRAUSS INC., A DELAWARE CORPORATION

BY:

BY: _____ 12-30-24 BY: _____
NAME DATE NAME DATE

President
TITLE TITLE

BMO HARRIS BANK N.A., A NATIONAL BANKING ASSOCIATION

AS BENEFICIARY UNDER DEED OF TRUST
RECORDED FEBRUARY 8, 2023 AS INSTRUMENT
NO. 2023-0036822 OF OFFICIAL RECORDS

_____ Director 12/9/24
NAME TITLE DATE

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.

NOTARY ACKNOWLEDGMENT:

STATE OF CALIFORNIA Illinois
COUNTY OF Cook

ON December 9 2024 BEFORE ME, Tasha Underwood ,A NOTARY PUBLIC, PERSONALLY APPEARED SL QIN ,
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.

OFFICIAL SEAL
TASHA UNDERWOOD
Notary Public - State of Illinois
My Commission Expires Mar. 9, 2027

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE _____ NAME PRINTED Tasha Underwood
MY COMMISSION NUMBER: 888961 MY COMMISSION EXPIRES: March 9 2027
MY PRINCIPAL PLACE OF BUSINESS IS IN Cook COUNTY.

SIGNATURE OMISSIONS:

PURSUANT TO THE PROVISIONS OF SECTION 66436 (a)(3)(A)(i–viii) OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED AS THEIR INTERESTS CANNOT RIPEN INTO FEE:

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS BUT OMITTING ANY COVENANTS OR RESTRICTIONS, AS SET FORTH IN THE DOCUMENT RECORDED IN BOOK 37, PAGE 234 DEED. THE EXACT LOCATION AND EXTENT OF SAID EASEMENT IS NOT DISCLOSED OF RECORD AND IS NOT PLOTTED HEREON.

EASEMENT(S) FOR THE PURPOSE(S) SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS RESERVED IN A DOCUMENT; RESERVED BY: BANNING LAND COMPANY, A CORPORATION AND BANNING WATER COMPANY
PURPOSE: INGRESS, EGRESS, CONSTRUCTION AND MAINTENANCE OF IRRIGATION DITCHED PIPES OR FLUMES
RECORDING DATE: MARCH 18, 1895 RECORDING NO: IN BOOK 31, PAGE 50 DEEDS THE EXACT LOCATION AND EXTENT OF SAID EASEMENT IS NOT DISCLOSED OF RECORD AND IS NOT PLOTTED.

AN EASEMENT FOR DITCHED, PIPES OR FLUMES PURPOSES TO BANNING LAND COMPANY AND BANNING WATER COMPANY, RECORDED FEBRUARY 19, 1899 IN BOOK 92, PAGE 175, DEEDS. THE EXACT LOCATION AND EXTENT OF SAID EASEMENT IS NOT DISCLOSED OF RECORD AND IS NOT PLOTTED HEREON.

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.

NOTARY ACKNOWLEDGMENT:

STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ON JANUARY 8, 2025 BEFORE ME, STEVEN BRUNNER ,A NOTARY PUBLIC, PERSONALLY APPEARED KRISTOFER FARRIS ,
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 _____ NAME PRINTED STEVEN BRUNNER
MY COMMISSION NUMBER: 2343394 MY COMMISSION EXPIRES: JAN. 25, 2025
MY PRINCIPAL PLACE OF BUSINESS IS IN SAN BERNARDINO COUNTY.

TAX BOND CERTIFICATE:

I HEREBY CERTIFY THAT A BOND IN THE SUM OF $_____ HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES STATE, COUNTY, MUNICIPAL, OR LOCAL, AND ALL SPECIAL ASSESSMENTS, COLLECTED AS TAXES, WHICH AT THE TIME OF THE FILING OF THIS MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY, BUT NOT YET PAYABLE; AND SAID BOND HAS BEEN DULY APPROVED BY SAID BOARD OF SUPERVISORS.

DATED: _____, 20___

CASH OR SURETY BOND
MATTHEW JENNINGS
COUNTY TAX COLLECTOR

BY: _____ DEPUTY

TAX COLLECTORS CERTIFICATE:

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE REAL PROPERTY SHOWN UPON THIS MAP FOR UNPAID STATE, COUNTY, MUNICIPAL, OR LOCAL TAXES, SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS NOT YET PAYABLE, ESTIMATED TO BE $_____.

DATED: _____, 20___
MATTHEW JENNINGS; COUNTY TAX COLLECTOR

BY: _____ DEPUTY

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF GREG DARLING IN JANUARY 2024. I HEREBY STATE ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE READILY RETRACED, AND THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP IF ANY. THIS SURVEY IS TRUE AND COMPLETE AS SHOWN.

DATED: 11-19 , 2024

_____
EDWARD J. BONADIMAN, L.S. 7529

LICENSED LAND SURVEYOR
EDWARD J. BONADIMAN
L.S. 7529
STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THE WITHIN MAP, THAT THE SUBDIVISION SHOWN THEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP OF PARCEL MAP NO. 38695 WHICH WAS APPROVED BY THE CITY OF BANNING CITY COUNCIL ON JUNE 25, 2024, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT (DIVISION 2 OF TITLE 7 OF CALIFORNIA GOVERNMENT CODE) AND CHAPTER 22 OF THE BANNING MUNICIPAL CODE APPLICABLE AT THE TIME OF THE APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

_____ _____
NATHAN C. SMITH DATE
RCE NO. 74754 EXP.
CITY ENGINEER CITY OF BANNING

CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP AND THAT SAID MAP IS TECHNICALLY CORRECT.

_____ _____
ROBERT C. OLLERTON P.L.S.7731 DATE
ENGINEERING RESOURCES OF
SOUTHERN CALIFORNIA

COMMUNITY DEVELOPMENT DIRECTOR'S STATEMENT:

THE TENTATIVE MAP WAS APPROVED BY THE CITY COUNCIL ON JUNE 25, 2024

_____ _____
ADAM B. RUSH DATE
COMMUNITY DEVELOPMENT DIRECTOR
CITY OF BANNING

CITY ACCEPTANCE CERTIFICATE:

I, _____ CITY CLERK AND EX-OFFICIO ASSESSOR OF THE CITY COUNCIL OF THE CITY OF BANNING, STATE OF CALIFORNIA, HEREBY STATE THAT THE SAID CITY COUNCIL AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 20____, DULY APPROVED THE WITHIN MAP OF PARCEL MAP NO. 38659, AND ACCEPTED ON BEHALF OF THE CITY OF BANNING, A RIGHT OF WAY LOT "A", FOR PUBLIC STREET AND UTILITY PURPOSES, AS SHOWN ON SAID MAP.

THE TENTATIVE MAP FOR SAID PARCEL MAP WAS APPROVED BY THE CITY COUNCIL AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 20____

_____ _____
CITY CLERK AND EX-OFFICIO ASSESSOR DATE
OF THE CITY COUNCIL OF THE CITY OF BANNING

TOTAL NUMBER OF PARCELS: 1

NET AREA OF MAP: 621,431 SQFT
14.27 ACRES

GROSS AREA OF MAP: 651,546 SQFT
14.96 ACRES

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE , STATE OF CALIFORNIA

PARCEL MAP No. 38659

BEING A SUBDIVISION OF THE WESTERLY 198.00 FEET OF BLOCK 273 AND BLOCK 274 OF LANDS OF THE AMENDED MAP OF THE BANNING LAND COMPANY, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, SAN BERNARDINO COUNTY RECORDS, EXCEPT THAT PORTION IN THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, ACQUIRED BY UNITED STATES CONGRESSIONAL GRANT. TOGETHER WITH THE EASTERLY 1/2 OF BLOCK 285 IN BANNING, AS SHOWN BY A CERTAIN MAP ENTITLED "AMENDED MAP OF BANNING LAND CO." AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, RECORDS OF SAN BERNARDINO, CALIFORNIA. EXCEPTING THEREFROM THAT PORTION IN THE RIGHT OF WAY ACQUIRED BY THE UNITED STATES CONGRESSIONAL GRANT.

JOSEPH E. BONADIMAN & ASSOCIATES, INC. JULY 2024

N

80 0 80

SCALE: 1"=80'

℄ S.P.R.R PER MB 9/44 S.B. CO

SOUTH LINE SOUTHERN PACIFIC RAILROAD
N89°20'26"E 1205.76'

347.26' (50') SNF 660.50' SNF 198.00' (50')

FD 1" IP W/PP RCE 30171 DN 0.8'
ACCEPTED AS NW CORNER OF BLOCK 273
PER RS 122/60

FD 1" IP W/TAG ILLEGIBLE DN 0.4'
ACCEPTED AS NE CORNER OF PARCEL MAP
NO. 77-17 MB 45/51 PER RS 148/23

PARCEL 1

621,431 SQFT

14.27 ACRES

PARCEL MAP 77-17
P.M.B. 45/51

W'LY 1/2
BLOCK 285

E'LY 1/2 OF BLOCK 285
MB 9/44 SAN BERNARDINO
COUNTY RECORDS AMENDED MAP
OF THE BANNING LAND CO.

BLOCK 274
OF THE BANNING LAND CO.
MB 9/44 SAN BERNARDINO
COUNTY RECORDS

W'LY 198.00' OF BLOCK 273
OF THE BANNING LAND CO.
MB 9/44 SAN BERNARDINO
COUNTY RECORDS

BLOCK 273

N0°50'28"W 545.13' [N0°47'27"W R2]
535.13 [535.12' R2]
520.13'

N0°47'55"W 542.54'

N0°42'59"W 537.61'

N0°42'59"W 526.13' R&M (R1)

℄ 16TH STREET

℄ 12TH STREET

SEE DETAIL

N88°54'45"E 1204.65'

LOT A

N88°54'45"E 1204.60'

346.84' (40') SNF 346.86' (10') 25' 55' (30') (20') SNF 659.73' 198.00' SNF 25' (10') 55' (30') (20') 198.00' R&M (R1) SNF (40') SNF 461.69' R&M (R1)

1006.52' ℄ W LINCOLN STREET
N88°54'45"E 2013.05' R&M (R1)

FD 1"IP WITH NAIL NO ID DOWN 0.5'
ACCEPTED AS THE SW CORNER OD BLOCK 285 AND
CENTERLINE INT. OF LINCOLN AND 16TH STREET
PER RS 122/60

FD SPIKE AND WASHER STAMPED RCE 30171 FLUSH
ACCEPTED AS THE SE CORNER OF BLOCK 274 &
THE CENTERLINE INT. OF LINCOLN AND 12TH STREET
PER RS 122/60

FD 1"IP NO ID DN 0.2'
ACCEPTED AS THE SE CORNER
OF BLOCK 273 PER RS 122/60

FD 1" IP LS 5133 FLUSH
ACCEPTED AS WITNESS CORNER
PER RS 148/23

545.13' 535.13' 520.13'
5.00'
10.00'
10.00'

FD N&T LS 5133 IN CONCRETE
FOOTING DN 0.8' ACCEPTED AS THE
SE CORNER OF PARCEL MAP NO.
77-17 MB 45/51 PER RS 148/23

SNF

DETAIL
SCALE 1:20

EASEMENT NOTES

1. AN EASEMENT FOR UTILITIES PURPOSES TO CITY OF BANNING, RECORDED MAY 12, 1958 AS INSTRUMENT NO. 34017, OFFICIAL RECORDS. EASEMENTS LIES WITHIN SURVEYED PROPERTY AND IS PLOTTED HEREON.
2. AN EASEMENT FOR TELEPHONE LINES, CONSISTING OF POLES, NECESSARY GUYS AND ANCHORS PURPOSES TO CITY OF BANNING, RECORDED MAY 12, 1958 AS INSTRUMENT NO. 34023, OFFICIAL RECORDS. EASEMENT LIES WITHIN SURVEYED PROPERTY AND IS PLOTTED HEREON.
3. AN EASEMENT FOR PIPE LINES AND CONDUITS PURPOSES TO THE CITY OF BANNING, RECORDED JULY 7, 1958 AS INSTRUMENT NO. 48052, OFFICIAL RECORDS. EASEMENTS AFFECTS SUBJECT PROPERTY AND IS PLOTTED HEREON.

SURVEYOR'S NOTES:

BASIS OF BEARINGS: THE CENTERLINE OF WEST LINCOLN STREET BEARING NORTH 88°54'45" EAST AS SHOWN ON RECORD OF SURVEY BOOK 120 PAGE 60 RECORDS OF RIVERSIDE COUNTY.

- ● INDICATES FOUND MONUMENT AS NOTED
- ○ A 1"X18" GALV IP WITH PLASTIC PLUG, STAMPED LS 7529, TO BE SET AT ALL LOT CORNERS. WHERE A 1" IP CANNOT BE SET, A NAIL AND BRASS TAG STAMPED LS 7529 WILL BE SET IN THE CONCRETE IN LIEU THEREOF. A NAIL AND TAG STAMPED LS 7529 WILL BE SET IN THE CONCRETE CURB ON THE PROLONGATION OF THE PROPERTY LINES IN LIEU OF LOT CORNERS.

SNF SEARCH, NOTHING FOUND

R&M RECORD AND MEASURED

(R1) DENOTES RECORD DATA PER RECORD OF SURVEY RS 122/60

[R2] DENOTES RECORD DATA PER RECORD OF SURVEY RS 148/23

ENVIRONMENTAL CONSTRAINTS SHEET

TOTAL NUMBER OF PARCELS: 1

NET AREA OF MAP: 621,431 SQFT
14.27 ACRES

GROSS AREA OF MAP: 651,546 SQFT
14.96 ACRES

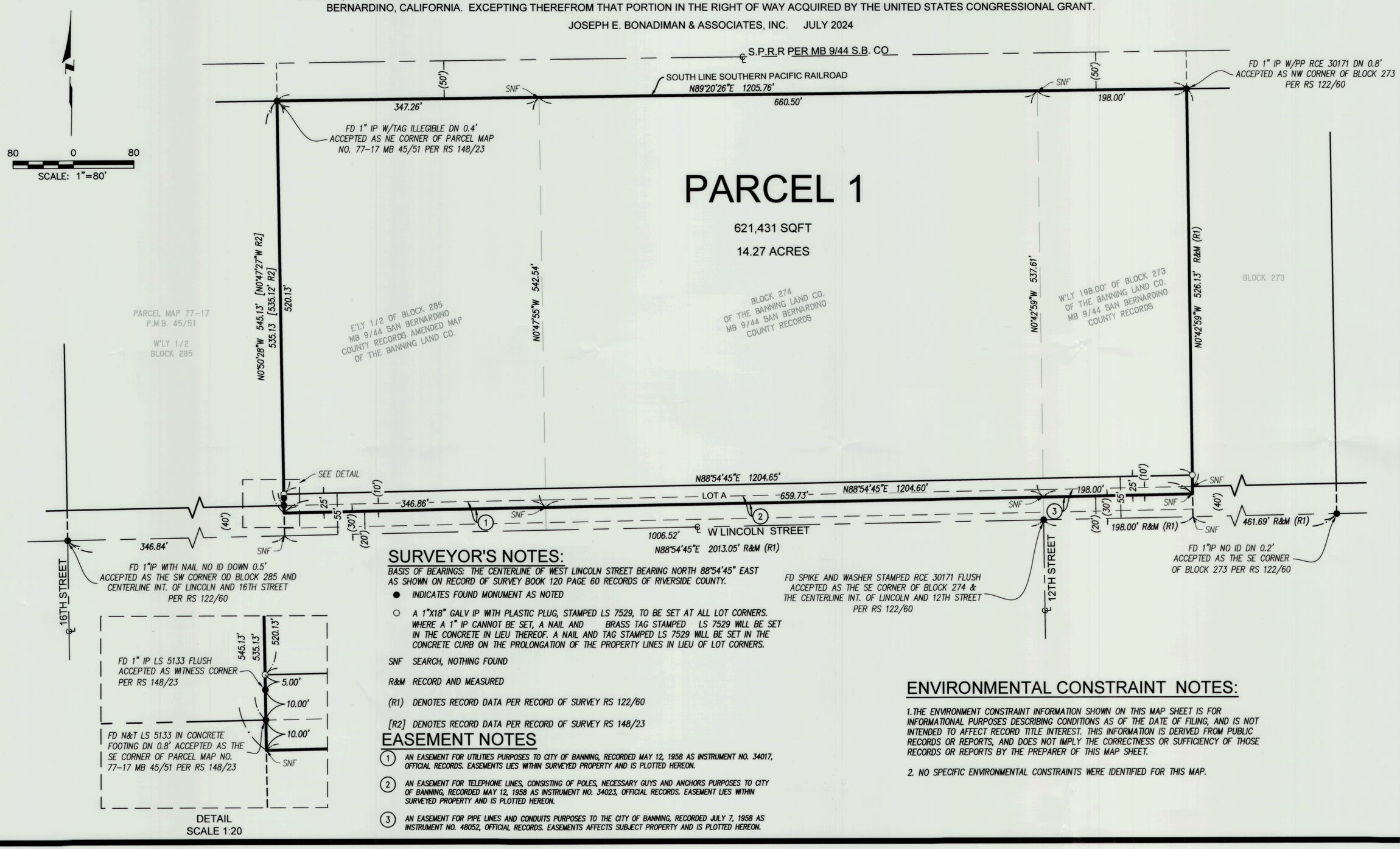
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE , STATE OF CALIFORNIA

SHEET 1 OF 1 SHEETS

PARCEL MAP No. 38659

BEING A SUBDIVISION OF THE WESTERLY 198.00 FEET OF BLOCK 273 AND BLOCK 274 OF LANDS OF THE AMENDED MAP OF THE BANNING LAND COMPANY, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, SAN BERNARDINO COUNTY RECORDS, EXCEPT THAT PORTION IN THE RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY, ACQUIRED BY UNITED STATES CONGRESSIONAL GRANT. TOGETHER WITH THE EASTERLY 1/2 OF BLOCK 285 IN BANNING, AS SHOWN BY A CERTAIN MAP ENTITLED "AMENDED MAP OF BANNING LAND CO." AS PER MAP RECORDED IN BOOK 9, PAGE 44 OF MAPS, RECORDS OF SAN BERNARDINO, CALIFORNIA. EXCEPTING THEREFROM THAT PORTION IN THE RIGHT OF WAY ACQUIRED BY THE UNITED STATES CONGRESSIONAL GRANT.

JOSEPH E. BONADIMAN & ASSOCIATES, INC. JULY 2024



SURVEYOR'S NOTES:

BASIS OF BEARINGS: THE CENTERLINE OF WEST LINCOLN STREET BEARING NORTH 88°54'45" EAST AS SHOWN ON RECORD OF SURVEY BOOK 120 PAGE 60 RECORDS OF RIVERSIDE COUNTY.

- ● INDICATES FOUND MONUMENT AS NOTED
- ○ A 1"X18" GALV IP WITH PLASTIC PLUG, STAMPED LS 7529, TO BE SET AT ALL LOT CORNERS. WHERE A 1" IP CANNOT BE SET, A NAIL AND BRASS TAG STAMPED LS 7529 WILL BE SET IN THE CONCRETE IN LIEU THEREOF. A NAIL AND TAG STAMPED LS 7529 WILL BE SET IN THE CONCRETE CURB ON THE PROLONGATION OF THE PROPERTY LINES IN LIEU OF LOT CORNERS.
- SNF SEARCH, NOTHING FOUND
- R&M RECORD AND MEASURED
- (R1) DENOTES RECORD DATA PER RECORD OF SURVEY RS 122/60
- [R2] DENOTES RECORD DATA PER RECORD OF SURVEY RS 148/23

EASEMENT NOTES

1. AN EASEMENT FOR UTILITIES PURPOSES TO CITY OF BANNING, RECORDED MAY 12, 1958 AS INSTRUMENT NO. 34017, OFFICIAL RECORDS. EASEMENTS LIES WITHIN SURVEYED PROPERTY AND IS PLOTTED HEREON.
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3. AN EASEMENT FOR PIPE LINES AND CONDUITS PURPOSES TO THE CITY OF BANNING, RECORDED JULY 7, 1958 AS INSTRUMENT NO. 48052, OFFICIAL RECORDS. EASEMENTS AFFECTS SUBJECT PROPERTY AND IS PLOTTED HEREON.

ENVIRONMENTAL CONSTRAINT NOTES:

1. THE ENVIRONMENT CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST. THIS INFORMATION IS DERIVED FROM PUBLIC RECORDS OR REPORTS, AND DOES NOT IMPLY THE CORRECTNESS OR SUFFICIENCY OF THOSE RECORDS OR REPORTS BY THE PREPARER OF THIS MAP SHEET.
2. NO SPECIFIC ENVIRONMENTAL CONSTRAINTS WERE IDENTIFIED FOR THIS MAP.

CITY OF BANNING

PROJECT IMPROVEMENT AGREEMENT

* * * * * * REFERENCE DATA * * * * * *

PROJECT NO. DR23-7008

NAME OF PROJECT (hereinafter "Project"): Brown Strauss Industrial Project

NAME AND ADDRESS
OF THE DEVELOPER(S): Brown Strauss Inc.
2495 Uravan Street
Aurora, CO 80011

Bremco Construction, Inc.
3470 Spring Street
Long Beach, CA 90806

PLANNING COMMISSION OR CITY COUNCIL RESOLUTION
OF APPROVAL NO. 2024-112 (hereinafter "Resolution of Approval")

IMPROVEMENT PLANS NO. LD24-0022 (hereinafter "Improvement Plans," which include all Project specifications)

IMPROVEMENTS: See Schedule A

ESTIMATED TOTAL COSTS OF IMPROVEMENTS: $ 806,055.45
(hereinafter "Estimated Total Costs")

FORM OF IMPROVEMENT SECURITY: [X] Surety bonds

[ ] Deposit of money

[ ] Other: _____

NAME AND ADDRESS OF
SURETY (if applicable): Hartford Fire Insurance Company
(Name of Entity)

One Hartford Plaza
(Street Address)

Hartford, CT 06155
(City) (State) (Zip)

SURETY BOND NUMBERS (if applicable): Performance Bond: 72BCSJF0306____

Payment Bond: 72BCSJF0306_____

Warranty Bond: 72BCSJF0306_____

EFFECTIVE DATE OF AGREEMENT: _____
(to be inserted by City)

COMPLETION PERIOD: All improvements of the Project shall be completed within 2 year(s) from the Effective Date of this Agreement.

* *

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THIS PROJECT IMPROVEMENT AGREEMENT ("Agreement") is made and entered into by and between the City of Banning, a municipal corporation ("City"), and the Developer whose name and address is set forth above in the Reference Data.

RECITALS

A. The Developer has presented to the City for approval a proposed Project, identified above in the Reference Data, pursuant to the City's ordinances and regulations. The City has conditionally approved that Project by adopting the Resolution of Approval, which is incorporated into this Agreement by this reference.

B. As a condition precedent to the approval of the Project, the Developer must comply with the Resolution of Approval and must enter into a secured agreement with the City to complete the improvements within a period of time specified by the City.

C. In consideration of approval of the Project by the City, the Developer desires to enter into this Agreement whereby the Developer promises to install and complete, at its sole expense, all public improvements required by the City for the Project. The Developer has secured this Agreement by improvement security required under this Agreement.

D. Improvement Plans, numbered as designated above in the Reference Data, for the construction, installation and completion of the improvements identified in Schedule A hereto have been prepared by the Developer, approved by the City Engineer, and are on file in the office of the City Engineer.

AGREEMENT

NOW, THEREFORE, in consideration of the approval by the City Council of the Resolution of Approval, the Developer and the City agree as follows:

1. THE DEVELOPER'S OBLIGATION TO CONSTRUCT IMPROVEMENTS

A. The Developer shall, at its sole expense, and in compliance with the Improvement Plans and all applicable City standards and fees, and in a good and workmanlike fashion, furnish, construct, install and guarantee and warranty (as set forth in Section 3) the Improvements generally described in Schedule A and more specifically described in the City Council's Resolution of Approval relating thereto (collectively, the "Improvements").

B. To the extent necessary to construct the Improvements, as determined by the City Engineer, the Developer shall acquire and dedicate, or pay the cost of acquisition by the City of, all rights-of-way, easements and other interests in real property for the construction or installation of the Improvements, free and clear of all liens and encumbrances. The Developer's obligations with regard to the acquisition by the City of off-site rights-of-way, easements and other interests in real property, if any, shall be subject to a separate agreement between the Developer and the City.

C. Subject to any time extensions granted in accordance with Section 4, the Developer shall complete all Improvements within the Completion Period specified in the

Reference Data; provided, however, that if the City Engineer reasonably determines in good faith that accelerated construction of the Improvements is essential in order to protect the public health, welfare, and safety, the City Engineer shall give the Developer not less than fifteen (15) business days' prior written notice to commence or accelerate installation and construction of such Improvements, or any portion thereof. The notice shall describe the work to be done by the Developer, the time within which the work will commence, the period within which the work will be completed, and the reasons that such early commencement is essential in order to protect the public health, welfare, and safety. All or any portions of said Improvements may be required to be commenced and/or completed at a specified time, providing the foregoing criteria is met. If the Developer objects to the acceleration of the schedule as specified by the City Engineer, the Developer may appeal the decision of the City Engineer to the City Council. Any such appeal shall be filed with the City Clerk within ten (10) days after the effective date of the written notice from the City Engineer.

D. The Developer shall, at its sole expense, replace or repair all public improvements, public property, public utility facilities, and surveying or subdivision monuments which are destroyed or damaged as a result of any work under this Agreement. Any such replacement or repair shall be subject to the approval of the City Engineer.

E. Until any category of Improvements is accepted by the City, the Developer shall be responsible for the care and maintenance of such Improvements and shall bear all risks of loss or damage to said Improvements. Neither the City, nor its officers, agents nor employees shall have any liability for any accident, loss or damage to the Improvements prior to their completion and acceptance by the City.

F. The Developer shall, at its sole expense, obtain all necessary permits and licenses for the construction and installation of the Improvements, give all necessary notices, and pay all fees required by the City's ordinance or resolution and all taxes required by law.

G. Not less than fifteen (15) days prior to commencement of work on the Improvements, the Developer shall give written notice to the City Engineer of the date fixed for such commencement of work so that the City Engineer shall have adequate time to schedule all necessary inspections.

H. The Developer shall pay all City fees and costs stipulated in the latest fee resolution as adopted by the City Council from time to time as required for the development of the Project, which may include, but is not limited to, building permit fees, grading permit fees, plan check fees, encroachment permit fees, and inspection fees.

2. INSPECTION OF WORK AND FINAL ACCEPTANCE

A. The Developer shall at all times maintain proper facilities and safe access for inspection of the Improvements by the City Engineer and other City personnel and inspection consultants.

B. Upon completion of the work on all or any category of the Improvements specified in Schedule A, the Developer may request a final inspection by the City Engineer. Within ten (10) business days of any inspection of the Improvements, the City Engineer shall provide

written notice to the Developer of the list of items which have been found to be incomplete and the list of items which have been found to be complete. If the City Engineer determines that all or any specified category of the Improvements have been completed in accordance with this Agreement and in compliance with the Improvement Plans and all applicable City standards, then the City Engineer shall certify to the City Council the completion of such Improvements. The Developer shall bear all costs of inspection and certification for completeness in accordance with the City's formally adopted fees and rates.

C. Acceptance of all or any specified category of the Improvements by the City Council shall be made upon recommendation and certification of the City Engineer following inspection of said Improvements pursuant to Subsection B above. The City Council shall act upon the City Engineer's recommendation within thirty (30) days following certification by the City Engineer that such Improvements have been completed. Acceptance by the City Council shall not constitute a waiver by the City of any defects in the Improvements.

3. GUARANTEE AND WARRANTY OF THE IMPROVEMENTS

A. Within the period commencing on the date the first category of Improvements is accepted by the City until one (1) year following acceptance by the City of the last of the Improvements, if any Improvements or part of any Improvements furnished, installed, or constructed by the Developer, any of the materials comprising the Improvements, or any of the work performed under this Agreement, fails to comply with any requirements of this Agreement or the Improvement Plans, the Developer shall, without delay and without cost to the City, repair, replace, or reconstruct any defective or otherwise unsatisfactory part or parts of the Improvements. This guarantee and warranty on behalf of the Developer shall be separate from and in addition to the improvement security described in Section 5(A)(3) of this Agreement.

B. Should the Developer fail or refuse to act promptly or in accordance with Subsection A above, or should the exigencies of the situation require repair, replacement, or reconstruction to be undertaken before the Developer can be notified and can perform the necessary work, then the City may, in its discretion, make the necessary repairs or replacements or perform the necessary reconstruction. The City shall provide a bill to the Developer of the total costs of such repair, replacement, or reconstruction, and the Developer shall immediately reimburse the City for those total costs. If the Developer does not immediately pay the total costs incurred, the City may opt to tender on the Developer's improvement security.

4. TIME EXTENSIONS

A. Upon a showing by the Developer of good cause, the duration of the Completion Period for any or all of the Improvements may be extended by the City Engineer. As used in this Agreement, "good cause" may include, without limitation: delay resulting from an act of the City; acts of God or force majeure, strikes, boycotts, or similar job actions by employees or labor organizations which prevent the conduct of the work; acts or failure to act by the California Coastal Commission, including any order thereof; findings made by a governmental entity that the site of a particular Improvement is of archeological significance; actions or failure to act by native American monitor(s); and the order of any court or the City.

B. A time extension may be granted without notice to any surety or sureties of the Developer and shall not affect the validity of this Agreement nor release the surety or sureties on any bond given as an improvement security pursuant to this Agreement.

C. As a condition of any time extension provided for under this Agreement, the City Engineer may require the Developer to furnish new or modified improvement security guaranteeing performance of this Agreement, as extended, in an increased amount as necessary to compensate for any projected increase in the Estimated Total Costs, as determined by the City Engineer.

5. IMPROVEMENT SECURITY

A. Prior to the City's execution of this Agreement, the Developer shall provide all three of the following as security to the City:

1. For Performance: Security in an amount equal to one hundred percent (100%) of the Estimated Total Costs, as set forth in the Reference Data. With this security, the Developer assures faithful performance under this Agreement, as demonstrated by the City's acceptance, in accordance with the Resolution of Approval and Improvement Plans.

2. For Payment: Security in an amount equal to one hundred percent (100%) of the Estimated Total Costs, as set forth in the Reference Data. With this security, the Developer guarantees payment to all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of this Agreement and referred to in Part 6 (commencing with Section 8000) of Division 4 of the Civil Code.

3. For Warranty: Security in an amount equal to one hundred percent (100%) of the Estimated Total Costs, as set forth in the Reference Data, must be provided before final completion and the acceptance of any category of Improvements by the City. With this security, the Developer guarantees the Improvements for one (1) year after the completion and acceptance of the last of such Improvements, against any defective workmanship or materials or any unsatisfactory performance, pursuant to Section 3 of this Agreement.

B. All improvement securities shall be from a California admitted surety insurer or insurers and shall be on forms that are approved by the City Attorney.

C. If the improvement security is a surety bond and, in the opinion of the City, any surety or sureties thereon become insolvent or liquidated, or any surety bond cannot be tendered upon for the full penal sum for any reason, the Developer shall renew or replace any such surety bond with a valid surety bond from a solvent surety or sureties in the amount of the full penal sum within ten (10) days after receiving from the City written demand therefor.

D. Improvement security shall be kept on file with the City Engineer. If a surety bond is replaced by another approved bond, the Developer shall submit the replacement bond to the City Engineer and, upon acceptance by the City Attorney, the improvement security shall be deemed to have been made a part of and incorporated into this Agreement. Upon approval by the City Attorney of a replacement bond, the former improvement security shall be released.

E. Modifications of the Improvement Plans and the Improvements not exceeding ten percent (10%) of the original Estimated Total Costs shall not relieve or release any improvement security furnished by the Developer pursuant to this Agreement. If any such modifications exceed ten percent (10%) of the Estimated Total Costs, the Developer shall furnish additional improvement security for performance and payment, as required by Subsection A above, for one hundred percent (100%) of the revised Estimated Total Costs. Alternatively, the Developer may provide official notice from the surety company that it acknowledges receipt of the modified Improvement Plans and that the existing bonds have been amended to reflect the new penal sum, which shall be in the amount of the revised Estimated Total Costs, and that the existing bonds shall therefore apply to warrant the Project as revised.

F. All Improvements shall be completed within the Completion Period listed in the Reference Data. Subject to any time extensions granted in accordance with Section 4 of this Agreement, if the Developer has not completed the Improvements within this specified time, the Developer shall be in default. Alternatively, in the event of a default by the Developer pursuant to Section 10, and after written notice to the Developer and reasonable opportunity to cure, the City, at its sole option, shall have the right, without limiting any other rights and remedies available to the City at law or in equity, to draw upon or utilize the improvement security furnished herewith to construct and install the Improvements itself.

6. REDUCTION OR RELEASE OF IMPROVEMENT SECURITY

A. Partial releases or reductions in the Developer's performance improvement security may be authorized prior to the City's acceptance of all Improvements required under this Agreement, as provided in this Section 6.

B. Upon written request of the Developer, the City may reduce the improvement security for performance by up to fifty percent (50%) of the penal sum if: 1) the Developer has completed a category of Improvements, and the City has accepted those Improvements; 2) the remaining improvement security for performance is in an amount that covers the remaining Improvements to be installed; and 3) the Developer has submitted, and the City has approved, the full improvement security for warranty. The improvement security for payment and warranty shall not be reduced.

C. If the Developer's obligations relating to any Improvements are subject to the approval of another governmental agency, the City shall not release the improvement security therefor until the obligations are performed to the satisfaction of such other governmental agency. Such agency shall have two (2) months after the Developer's performance of the obligation to register its satisfaction or dissatisfaction. If at the end of that period it has not registered its satisfaction or dissatisfaction, it shall be conclusively deemed that the Developer's performance of the obligation was done to its satisfaction, and such improvement security shall be promptly released.

7. INDEMNIFICATION OF THE CITY BY THE DEVELOPER

A. Neither the City, nor its officers, officials, employees, agents, representatives, and volunteers (collectively, "City Personnel") shall be liable or responsible for

any accident, injury, loss, or damage to either property or person attributable to or arising out of the construction, installation, or maintenance of the Improvements by the Developer, its officers, employees, and agents. The Developer shall indemnify, hold harmless, and defend the City and City Personnel from and against any and all losses, claims, costs, expenses, liabilities, damages, actions, causes of action, and judgments, including attorneys' fees, arising directly or indirectly out of or attributable to the Developer's acts or failure to act.

B. The Developer's obligations under this Section 7 are not conditioned or dependent upon whether the City or City Personnel prepared, supplied, or reviewed any Improvement Plans in connection with the Project or the Improvements, or has insurance or other indemnification covering any of these matters.

C. The Developer's obligation to indemnify, hold harmless, and defend the City shall extend to injuries to persons and damages to or alleged taking of property resulting from the design or construction of the Project, and the Improvements required under this Agreement, and shall likewise extend to claims asserted by adjacent property owners based upon the diversion of waters caused by the Developer's design or construction of Improvements. Except for a City Directive as defined below, the City's acceptance of the Improvements shall not constitute an assumption by the City of any responsibility or liability for any damage or alleged taking of property referenced under this Agreement. The City shall not be responsible or liable for the design or construction of the Project or the Improvements constructed or installed pursuant to the approved Improvement Plans, regardless of any act or omission by the City in approving the Improvement Plans, unless the particular Improvement design was required by the City over the written objection of the Developer, which objection stated that the Improvement design was potentially dangerous or defective and set forth an alternative design (a "City Directive"). After the City's acceptance of the Improvements, the Developer shall remain obligated to correct or eliminate all dangerous conditions created by defects in design or construction (other than those required by a City Directive); provided, however, that the Developer shall not be responsible for routine maintenance. The Developer's indemnity obligations under this Section 7 shall remain in effect for two (2) years following acceptance of the last of the Improvement(s) by the City Council. The Developer acknowledges and agrees that the Developer shall be responsible and liable for the design and construction of the Improvements and other work done pursuant to this Agreement, unless the same is due to a City Directive. The City shall not be liable for any acts or omissions in approving, reviewing, checking, correcting, or modifying any Improvement Plans, or in inspecting, reviewing, or approving any work or construction of Improvements, unless the same is due to a City Directive. The Developer's improvement security shall not be required to secure the Developer's obligations under this Subsection C beyond the warranty period listed in Section 5(A)(3).

D. The Developer shall pay and satisfy any judgment, award or decree that may be rendered against the City and City Personnel to the extent of the indemnity provided above in any such suit, action, or other legal proceeding, provided the City gives the Developer prompt written notice of such claim.

E. The Developer's obligation to indemnify shall not be restricted to Insurance proceeds, if any, received by the City and City Personnel.

F. The Developer, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the City and City Personnel to the extent of the indemnity above provided.

8. INSURANCE

A. *General Liability*. The Developer shall at all times during the term of this Agreement (as listed in Section 14) carry, maintain, and keep in full force and effect a policy or policies of comprehensive general liability insurance with limits of Two Million Dollars ($2,000,000) for each occurrence and in the aggregate, combined single limit, against bodily injury (including death), or loss or damage to property to the extent resulting from the wrongful or negligent acts or omissions of the Developer, its officers, employees, and agents, and shall require such coverage of its independent contractors. If such insurance contains a general aggregate limit, either the general aggregate shall apply separately to this Project, or the general aggregate limit shall be three (3) times the occurrence limit. The Developer shall have the right to provide such insurance under its existing insurance program, provided such existing insurance meets all of the requirements of this Subsection A.

B. *Automobile Liability (including owned, non-owned, and hired autos)*. The Developer shall at all times during the term of this Agreement (as listed in Section 14) also carry, maintain, and keep in full force and effect a policy or policies of commercial automobile liability insurance with a combined single limit of One Million Dollars ($1,000,000), single limit, per occurrence for bodily injury and property damage, which will cover the drivers and automobiles used to perform services pursuant to this Agreement. Such insurance shall include coverage for owned, non-owned, and hired automobiles. The Developer shall have the right to provide such insurance under its existing insurance program, provided such existing insurance meets all of the requirements of this Subsection B.

C. *Workers' Compensation*. The Developer shall at all times during the term of this Agreement (as listed in Section 14) provide Workers' Compensation Insurance, including employer's liability coverage, for the protection of the Developer's employees, with a minimum limit of One Million Dollars ($1,000,000) or the amount required by law, whichever is greater. The Developer shall require each contractor and subcontractor to provide Workers' Compensation Insurance in the aforementioned amount and file certificates of insurance with the City evidencing such coverage for their respective employees.

D. The Developer agrees that if it does not keep the aforesaid insurance in full force and effect the City may either, after written notice to the Developer and failure by the Developer to cure same within ten (10) days, immediately terminate this Agreement for default by the Developer, or, if insurance is available at reasonable cost, the City may take out the necessary insurance and pay, at the Developer's expense, the premium amount.

E. The general liability policy and automobile liability policy shall each be endorsed to state that the City and City Personnel, as that term is defined above, shall be covered as additional insureds to the extent of the indemnity in Section 7.

F. The insurance provided by the Developer shall be primary to any coverage

available to the City or City Personnel and shall provide that any insurance or self-insurance maintained by the City or City Personnel shall be in excess of the Developer's insurance and shall not contribute with it.

G. The insurance provided by the Developer shall be endorsed to state that the insurer shall waive all rights of subrogation against the City and City Personnel, to the extent of the Indemnity in Section 7.

H. The policy or policies required under this Agreement shall be issued by an insurer admitted in the State of California with a rating of at least B+:VII in the latest edition of A.M. Best's insurance guide.

I. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer or a broker to bind coverage on its behalf. The certificates shall also specifically state that the coverage contained in those policies affords insurance in compliance with the terms and conditions as set forth in this Agreement.

J. *Deductibles*. The Developer's deductible shall not exceed Ten Million Dollars ($10,000,000). Any deductibles or self-insured retentions of any contractors or subcontractors must be declared to and approved by the City prior to the execution of this Agreement by the City. At the option of the City, either the contractor's or subcontractor's insurer(s) shall reduce or eliminate the deductibles or self-insured retentions regarding the City, or the contractor or subcontractor shall procure a bond guaranteeing payment of losses and expenses.

K. *Notice of Policy Changes*. Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, non-renewed, or materially changed for any reason, without thirty (30) days' prior written notice thereof given by the Developer to the City.

L. *Evidence of Coverage*. Prior to commencement of work, the Developer shall submit a certificate or certificates of insurance in a form acceptable to the City Attorney, showing compliance with the foregoing requirements. The Developer shall ensure those certificates are valid at all times during the term of this Agreement (as listed in Section 14) or shall replace them immediately. The Developer shall ensure that all of its contractors and subcontractors required in this Agreement to obtain any insurance shall also submit certificates of insurance in form acceptable to the City Attorney showing compliance with the foregoing requirements prior to commencement of work and shall ensure those certificates are valid at all times during the term of this Agreement.

M. Nothing contained in this Section 8 shall be construed as limiting in any way the Developer's obligations of indemnification under Section 7 or any other extent to which the Developer may be held responsible for payment of damages to persons or property resulting from its operations, including operations and work performed or materials supplied by or on behalf of the Developer, any contractors or subcontractors, or by anyone directly or indirectly employed by any of them.

N. The following coverages will be provided by the Developer and maintained on behalf of the City and in accordance with the requirements set forth in this Agreement. If the Developer performs construction activities through a general contractor or subcontractors, some

or all of these insurance requirements for the period of construction may be satisfied by the general contractor's or subcontractors' insurance coverages; provided, however, that the Developer shall first provide a written plan for the approval of the City which sets forth the respective obligations and deadlines of the Developer and its contractor and subcontractors.

9. OWNERSHIP OF THE IMPROVEMENTS

A. Ownership of all or any category of the Improvements constructed and installed by the Developer pursuant to this Agreement to be dedicated shall vest, as applicable, in the City (or other specified governmental agency) upon acceptance of said Improvements by the City Council and recordation of a Notice of Completion.

B. The Developer shall at all times prior to the acceptance of the Improvements by the City, give good and adequate warning to the public of each and every dangerous and defective condition caused by the construction of the Improvements and shall take all steps necessary to protect the public from such dangerous or defective conditions. The Developer agrees and understands that until acceptance of the Improvements by the City, each Improvement and Improvement area that is offered for dedication shall be under the charge of the Developer, and the Developer may close all or a portion of any street or area whenever necessary to protect the public during the construction of the Improvements.

10. DEFAULT AND BREACH BY THE DEVELOPER AND REMEDIES OF THE CITY

A. Upon the occurrence of any of the following events, the Developer shall be deemed to be in default under this Agreement:

1. Subject to any time extensions granted in accordance with Section 4, failure to complete construction and installation of the Improvements or any of them by the Completion Date set forth in the Reference Data;

2. Failure to promptly correct or cure any defect in the Improvements or any of them (other than a City Directive) during the guarantee and warranty period required by Section 3(A) or failure to commence correction or cure of any such defect or failure to diligently prosecute same to completion, in each instance following written notice that such defect exists;

3. Subject to any time extensions granted in accordance with Section 4, failure to perform substantial work on the Improvements or on any of them, after commencement of work on same, for a period of thirty (30) days after written notice thereof from the City;

4. Insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, whether voluntary or involuntary, and such is not cured or discharged within a period of thirty (30) days;

5. Commencement of a foreclosure action against the Project or any portion thereof, or any conveyance by the Developer in lieu or in avoidance of foreclosure, within thirty (30) days of written notice thereof from the City; or

6. Failure to perform any other obligations in accordance with the terms and provisions of this Agreement within the time period specified in this Agreement for the performance of that obligation, or if no time is specified, within thirty (30) days of written notice thereof from the City.

B. The City reserves to itself all remedies available to it at law and in equity for any breach of the Developer's obligations under this Agreement. The City shall have the right, without limitation of other rights or remedies, after written notice to the Developer and a reasonable opportunity for the Developer to cure any such alleged default, to draw upon or utilize any improvement security furnished hereunder to complete the Improvements or otherwise mitigate the City's damages in the event of the Developer's default.

C. Following the written notice of alleged default and failure by the Developer to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may tender to the surety on the surety bond furnished as improvement security for performance, and request appropriate funds or that said surety take over and complete the Improvements specified under this Agreement.

D. The Developer acknowledges that the Estimated Total Costs and improvement security amounts set forth under this Agreement may not reflect the actual cost of construction or installation of the Improvements, and consequently, the City's damages for the Developer's default shall be measured by the actual cost of completing the required Improvements.

E. Following the written notice of alleged default and failure by the Developer to promptly commence the cure of any alleged default and to diligently prosecute such cure to completion, the City may, without liability for so doing, take possession of, and utilize in completing the Improvements, such materials, appliances, plant and other property belonging to the Developer as may be on the site of the work and necessary for the performance of the work. The Developer hereby consents to such entry by the City and its representatives, including employees, agents, and contractors, upon any real property in the Project owned by the Developer, in the event the City elects to maintain or complete the work on the Improvements following the Developer's default.

F. The City's failure to take an enforcement action with respect to a default, or to declare a default or breach, shall not be construed as a waiver of that default or breach or any subsequent default or breach of the Developer.

G. If any legal action or other proceeding, including action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, experts' fees, and other costs, in addition to any other relief to which the party may be entitled.

11. RELATIONSHIP OF THE PARTIES

Neither the Developer, nor any of the Developer's contractors, subcontractors, employees or agents, are or shall be deemed to be, agents of the City in connection with the performance of the Developer's obligations under this Agreement. The Developer shall not, at any time or in any

manner, represent or allow representation by its contractors, subcontractors, employees, or agents that any of them are contractors, subcontractors, employees, or agents of the City.

12. ASSIGNMENT

A. The Developer shall not assign this Agreement or any portion thereof without the prior written consent of the City. Any attempted or purported assignment in violation of this Subsection A shall be null and void and shall have no force or effect.

B. The sale or other disposition of the Project shall not relieve the Developer of its obligations under this Agreement. If the Developer intends to sell the Project or any portion thereof to any other person or entity, the Developer may request a novation of this Agreement and a substitution of improvement security. Upon the City's approval of the novation and substitution of improvement security, the Developer may request a release or reduction of the improvement security furnished pursuant to this Agreement.

13. NOTICES

All notices required or provided for in this Agreement shall be in writing and delivered in person or by mail, postage prepaid, and addressed as follows:

If to the City:	Art Vela, P.E. Public Works Director/City Engineer City of Banning 99 E. Ramsey Street Banning, California 92220
If to the Developer:	To the address set forth above in the Reference Data, or to such other address as may subsequently be designated in written notice to the City.

Notice shall be effective on the date that it is delivered in person, or if mailed, three (3) days after the date of deposit in the United States Mail.

14. TERM

The term of this Agreement shall commence on the Effective Date of Agreement as listed in the Reference Date and shall continue until the end of the guarantee and warranty period in Section 3(A) and warranty period in Section 5(A)(3), unless any claims filed during that time have not been settled, in which case the term of this Agreement shall extend until those claims have been settled.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties with respect to its subject matter. All modifications, amendments, or waivers of any terms of this Agreement shall be in writing and signed by the duly authorized representatives of the parties. In the case of the City,

the duly authorized representative, unless otherwise specified under this Agreement, shall be the City Engineer.

16. SEVERABILITY

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

17. INCORPORATION OF REFERENCE DATA AND RECITALS

The Reference Data, the Recitals and Schedule A are attached hereto and incorporated into this Agreement.

18. GOVERNING LAW; VENUE

This Agreement shall be governed by the laws of the State of California, excluding California's choice of law rules. Venue for any action relating to this Agreement shall be in the Riverside County Superior Court.

19. CONSTRUCTION

In the event of any asserted ambiguity in, or dispute regarding the interpretation of any matter under this Agreement, the interpretation of this Agreement shall not be resolved by any rules of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the party who drafted this Agreement or who drafted that portion of this Agreement.

20. EFFECTIVE DATE OF THIS AGREEMENT

This Agreement shall be and become effective as of the date that it is executed by a duly authorized officer or employee of the City, it being the intention of the parties that the Developer shall first execute this Agreement and thereafter submit it to the City. The City shall insert the effective date in the Reference Data in all counterparts of this Agreement and shall transmit a fully executed counterpart to the Developer.

– SIGNATURES BEGIN ON NEXT PAGE –

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the dates set forth below their respective signatures.

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a corporation, the signatures of two corporate officers are required, unless a resolution of the corporation's board of directors is provided indicating that the signature of the one signatory is sufficient to bind the corporation.]

"DEVELOPER" – BROWN STRAUSS, INC.

BROWN Strauss, Inc
(Type or print exact name of person or entity)

By: _____
(Signature of authorized officer)

KRIS FARRIS
(Type or print name of authorized officer)

CEO & President
□ Chairperson ☒ President □ Vice President

JESSICA ARACELI GUARDADO
NOTARY PUBLIC - STATE OF COLORADO
Notary ID #20184016845
My Commission Expires 4/18/2026

By: _____
(Signature of authorized officer)

_____
(Type or print name of authorized officer)

_____
□ Secretary □ Asst. Secretary
□ Chief Finance Officer □ Asst. Treasurer

Date: _____

– SIGNATURES CONTINUE ON NEXT PAGE –

[Note: All signatures must be acknowledged by a notary public and the acknowledgement must be attached. If signed by a corporation, the signatures of two corporate officers are required, unless a resolution of the corporation's board of directors is provided indicating that the signature of the one signatory is sufficient to bind the corporation.]

"DEVELOPER" – BREMCO CONSTRUCTION, INC.

Bremco Construction, Inc.
(Type or print exact name of person or entity)

By: _____
(Signature of authorized officer)

Greg Darling
(Type or print name of authorized officer)

President
□ Chairperson ☒ President □ Vice President

By: _____
(Signature of authorized officer)

Matt Bennett
(Type or print name of authorized officer)

Vice President
□ Secretary □ Asst. Secretary
□ Chief Finance Officer □ Asst. Treasurer

Date: June 24, 2025

– SIGNATURES CONTINUE ON NEXT PAGE –

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles }

On June 24, 2025 before me, Marla Herrera, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Greg Darling and Matt Bennett
Name(s) of Signer(s)

,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

MARLA HERRERA
Notary Public - California
Los Angeles County
Commission # 2371179
My Comm. Expires Aug 17, 2025

Place Notary Seal and/or Stamp Above

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 Marla Herrera
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2019 National Notary Association

"CITY"

CITY OF BANNING

_____
Daniela Andrade, Mayor

ATTEST:

_____ (SEAL)
Sonja De La Fuente, Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

_____
Kevin G. Ennis, Esq., City Attorney

[This page for acknowledgments.]

[ ] PROJECT NO. _DR23-7008_____
[ ] PROJECT NAME Brown Strauss Industrial Project

SCHEDULE A

INSERT APPROVED CONSTRUCTION SECURITY WORKSHEET DATED 5/15/2025

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

CUP/DR/PM/TM Number: LD24-0022 **Date:** 5/15/2025

IMPROVEMENTS	FAITHFUL PERFORMANCE SECURITY [100% of Estimated Costs]	LABOR AND MATERIAL PAYMENT SECURITY [100% of Estimated Costs]
Street ST____ -_____	$ 730,500.00	$ 730,500.00
Storm Drain (City Maintained) SD____-_____	$ -	$ -
Flood Control (RCFCD Maintained) SD____-_____	$ -	$ -
Traffic (Signing & Striping / Signal) SS____-_____ / TS____-_____	$ 8,000.00	$ 8,000.00
Potable Water WAT____-_____	$ 22,000.00	$ 22,000.00
Non-Potable Water NP____-_____	$ 8,500.00	$ 8,500.00
Sewer SEW____-_____	$ 8,500.00	$ 8,500.00
Erosion and Sediment Control ESC____-_____	$ 28,555.45	$ 28,555.45
Landscape (Parkway and Median) LS____-_____	$ -	$ -
TOTAL (For Bonding Purposes)	$ 806,055.45	$ 806,055.45
PLAN CHECK FEES	See current Public Works Fee Schedule	
INSPECTION FEES (4% of Construction Cost)	$ 32,242.22	

DESIGN ENGINEERS OPINION OF CONSTRUCTION SECURITY

The construction items and their quantities as shown on the attached worksheet are accurate for the construction of the improvements required or implied to fulfill the Conditions of Approval for this project. The mathematical extensions, using the City's unit costs, are accurate for determining bond amounts and fees.

Engineer's Signature — *Date*: 5/15/2025

James T. Stanton — **70944** — **6/30/27**

Engineer's Name (Typed or printed) — *RCE #* — *Expiration Date*





Civil Engineer's Stamp

---PLEASE READ INSTRUCTIONS BELOW---

1. Quantities are to be taken from improvement plans.
2. For construction items not covered by the items provided on this document or no unit cost provided on any items, the Design Engineer is to provide their opinion of construction cost. If the City's construction costs are determined to be too low in the opinion of the Design Engineer, then the higher cost provided by the Design Engineer shall be used.
3. Show bond amounts to the nearest $500.00 (Rounded Up).
5. CPI adjustment applied from July 2022 to July 2023 per Bureau of Labor. Adjustment is 6.16%
4. RCFCD Storm Drain is for bonding purposes only. Separate review and plan check fees are payable to RCFCD.

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project LD24-0022 **DATE** 5/15/2025

PW Plan Number ST____ -_____

STREET IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
ASPHALT				
2,871	CY	Roadway Excavation	$ 21.00	$ 60,291.00
1,545	CY	Crushed Aggregate Base Material (_6_") [ROADWAY TYPE 1]	$ 60.00	$ 92,700.00
1,333	TON	AC Pavement (_5_") [ROADWAY TYPE 1]	$ 90.00	$ 119,970.00
1,655	CY	Crushed Aggregate Base Material (____") [ROADWAY TYPE 2]	$ 60.00	$ 99,300.00
	TON	AC Pavement (____") [ROADWAY TYPE 2]	$ 90.00	$ -
	CY	Crushed Aggregate Base Material (____") [ROADWAY TYPE 2]	$ 60.00	$ -
	TON	AC Pavement (____") [ROADWAY TYPE 2]	$ 90.00	$ -
8,520	SF	Grind and Remove AC Pavement (1 1/2" to 2")	$ 0.50	$ 4,260.00
	TON	AC Cap/Overlay	$ 90.00	$ -
	LF	AC Berm - 6" **(C-204)**	$ 10.00	$ -
	LF	AC Berm - 8" **(C-204)**	$ 12.00	$ -
	LF	Remove AC Berm	$ 10.00	$ -
1,423	LF	Sawcut	$ 5.00	$ 7,115.00
	LF	Utility Trench (in existing roadway)	$ 17.00	$ -
	SF	Utility Repave (in existing roadway) **(W-30)**	$ 14.00	$ -
	SF	Remove AC Pavement (3" - 5" full depth)	$ 5.00	$ -
	TON	Remove and Replace AC Pavement (Trench Repair)	$ 150.00	$ -
				$ -
				$ -
				$ -
CONCRETE				
	LF	6" Curb and Gutter **(C-200)**	$ 23.00	$ -
1,219	LF	8" Curb and Gutter **(C-201)**	$ 25.00	$ 30,475.00
	LF	Type "C" Curb **(C-202)**	$ 20.00	$ -
	LF	6" Curb Only **(C-203)**	$ 12.00	$ -
	LF	8" Curb Only **(C-203)**	$ 12.00	$ -
	SF	Cross Gutter and Spandrel **(C-211)**	$ 22.00	$ -
	SF	Cross Gutter and Spandrel >4% **(C-212)**	$ 22.00	$ -
5,383	SF	Sidewalk **(C-213)**	$ 8.00	$ 43,064.00
	SF	Residential Driveway Approach **(C-207)**	$ 10.00	$ -
	SF	Residential Driveway Approach **(C-208)**	$ 10.00	$ -
1,972	SF	Commercial Driveway Approach **(C-209)**	$ 10.00	$ 19,720.00
	SF	Commercial Driveway Approach **(C-210)**	$ 10.00	$ -
	EA	HC Access Ramp Type 1 **(C-214)**	$ 3,500.00	$ -
	EA	HC Access Ramp Type 2 **(C-215)**	$ 3,500.00	$ -
	SF	Alley Intersection **(ST-106.1)**	$ 16.00	$ -
	SF	Bus Turnout **(C-216)**	$ 25.00	$ -
	SF	PCC Paving (6" Section)	$ 8.00	$ -
	SF	PCC Paving (8" Section)	$ 10.00	$ -
	LF	Remove Existing Curb and Gutter	$ 10.00	$ -
	SF	Remove Existing Cross Gutter and Spandrel	$ 12.00	$ -
	SF	Remove Existing Driveway	$ 6.00	$ -
	SF	Remove Existing Sidewalk	$ 4.00	$ -
				$ -

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project LD24-0022 **DATE** 5/15/2025

PW Plan Number ST____ -_____

STREET IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
				$ -
				$ -
				$ -
				$ -
MEDIAN				
	LF	Sawcut Existing Pavement	$ 5.00	$ -
	CY	Remove/Dispose Existing Base and Pavement	$ 25.00	$ -
	LF	8" Curb Only **(C-203)**	$ 12.00	$ -
	CY	Remove Existing Concrete	$ 25.00	$ -
	SF	Median Stamped Concrete (4" - 6" thick)	$ 10.00	$ -
				$ -
				$ -
				$ -
				$ -
				$ -
MISCELLANEOUS				
	EA	Residential Curb Drain (C-217)	$ 500.00	$ -
1	EA	Under Sidewalk Drain (C-218)	$ 2,500.00	$ 2,500.00
	LF	Barricade	$ 10.00	$ -
	EA	Street Lights	$ 6,000.00	$ -
7	EA	Relocate Power Pole	$ 15,000.00	$ 105,000.00
	EA	Relocate Street Light	$ 2,500.00	$ -
	LF	6' Chain Link Fence	$ 35.00	$ -
	LF	6' Tubular Steet Fence		$ -
1,864	LF	Remove Existing Fencing	$ 7.00	$ 13,048.00
114	LF	Redwood Header	$ 5.00	$ 570.00
	LF	6' Max Masonry Wall		$ -
	LF	6' Max Masonry Retaining Wall		$ -
	LF	6' Max PCC Concrete Retaining Wall		$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -

Street Subtotal:	**$598,013.00**
Street Subtotal with CPI Adjustment (6.16%)	**$634,850.60**
15% Contingency:	**$95,227.59**
TOTAL:	**$730,078.19**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number SD____-_____

CITY STORM DRAIN IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	12" R.C.P.	$ 122.00	$ -
	L.F.	15" R.C.P.	$ 140.00	$ -
	L.F.	18" R.C.P.	$ 155.00	$ -
	L.F.	24" R.C.P.	$ 190.00	$ -
	L.F.	30" R.C.P.	$ 241.00	$ -
	L.F.	36" R.C.P.	$ 318.00	$ -
	L.F.	42" R.C.P.	$ 330.00	$ -
	L.F.	48" R.C.P.	$ 368.00	$ -
	L.F.	54" R.C.P.	$ 406.00	$ -
	L.F.	60" R.C.P.	$ 495.00	$ -
	L.F.	66" R.C.P.	$ 572.00	$ -
	L.F.	72" R.C.P.	$ 648.00	$ -
	L.F.	Catch Basins	$ 700.00	$ -
	EA	Inlet Type IX & X	$ 5,000.00	$ -
	EA	Manhole at Junction	$ 7,000.00	$ -
	EA	Manhole No. 1	$ 6,500.00	$ -
	EA	Manhole No. 2	$ 7,000.00	$ -
	EA	Manhole No. 3	$ 6,500.00	$ -
	EA	Manhole No. 4	$ 7,000.00	$ -
	EA	Transition Structure No. 1	$ 15,213.00	$ -
	EA	Transition Structure No. 3	$ 4,867.00	$ -
	EA	Junction Structure No. 1	$ 3,657.00	$ -
	EA	Junction Structure No. 2	$ 4,872.00	$ -
	EA	Junction Structure No. 6	$ 6,087.00	$ -
	C.Y.	Rip Rap	$ 100.00	$ -
	C.Y.	Rip Rap (Grouted)	$ 150.00	$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -

City Storm Drain Subtotal:	**$0.00**
City Storm Drain Subtotal with CPI Adjustment (6.16%):	**$0.00**
15% Contingency:	**$0.00**
TOTAL:	**$0.00**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS

(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number SD____-_____

RIVERSIDE COUNTY FLOOD CONTROL DISTRICT STORM DRAIN

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	12" R.C.P.	$ 122.00	$ -
	L.F.	15" R.C.P.	$ 140.00	$ -
	L.F.	18" R.C.P.	$ 155.00	$ -
	L.F.	24" R.C.P.	$ 190.00	$ -
	L.F.	30" R.C.P.	$ 241.00	$ -
	L.F.	36" R.C.P.	$ 318.00	$ -
	L.F.	42" R.C.P.	$ 330.00	$ -
	L.F.	48" R.C.P.	$ 368.00	$ -
	L.F.	54" R.C.P.	$ 406.00	$ -
	L.F.	60" R.C.P.	$ 495.00	$ -
	L.F.	66" R.C.P.	$ 572.00	$ -
	L.F.	72" R.C.P.	$ 648.00	$ -
	L.F.	Catch Basins	$ 700.00	$ -
	EA	Inlet Type IX & X	$ 5,000.00	$ -
	EA	Manhole at Junction	$ 7,000.00	$ -
	EA	Manhole No. 1	$ 6,500.00	$ -
	EA	Manhole No. 2	$ 7,000.00	$ -
	EA	Manhole No. 3	$ 6,500.00	$ -
	EA	Manhole No. 4	$ 7,000.00	$ -
	EA	Transition Structure No. 1	$ 14,770.00	$ -
	EA	Transition Structure No. 3	$ 4,725.00	$ -
	EA	Junction Structure No. 1	$ 3,550.00	$ -
	EA	Junction Structure No. 2	$ 4,730.00	$ -
	EA	Junction Structure No. 6	$ 5,910.00	$ -
	C.Y.	Rip Rap	$ 100.00	$ -
	C.Y.	Rip Rap (Grouted)	$ 150.00	$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -

Riverside County Flood Control District Storm Drain Subtotal:	**$0.00**
RCFCD Storm Drain Subtotal with CPI Adjustment (6.16%):	**$0.00**
15% Contingency:	**$0.00**
TOTAL:	**$0.00**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number SS____-_____ / TS____-_____

T R A F F I C I M P R O V E M E N T S

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	EA	Furnish/Install Sign Panel on One Post	$ 350.00	$ -
	EA	Furnish/Install Sign Panel on Two Posts	$ 500.00	$ -
	EA	Furnish/Install Sign Panel	$ 300.00	$ -
	EA	Furnish/Install Sign Panel on Mast Arm	$ 500.00	$ -
	EA	Remove Sign	$ 200.00	$ -
	EA	Relocate Sign	$ 250.00	$ -
	L.F.	Install Detail 1	$ 2.25	$ -
	L.F.	Install Detail 2	$ 2.25	$ -
	L.F.	Install Detail 8	$ 2.25	$ -
	L.F.	Install Detail 9	$ 2.25	$ -
	L.F.	Install Detail 15	$ 2.75	$ -
	L.F.	Install Detail 16	$ 2.75	$ -
	L.F.	Install Detail 21	$ 3.25	$ -
	L.F.	Install Detail 22	$ 3.25	$ -
	L.F.	Install Detail 24	$ 2.75	$ -
	L.F.	Install Detail 25	$ 2.75	$ -
2,250	L.F.	Install Detail 27B	$ 2.75	$ 6,187.50
	L.F.	Install Detail 28	$ 3.75	$ -
	L.F.	Install Detail 29	$ 3.75	$ -
	L.F.	Install Detail 31	$ 3.25	$ -
	L.F.	Install Detail 32	$ 3.25	$ -
	L.F.	Install Detail 38	$ 3.25	$ -
	L.F.	Install Detail 38A	$ 3.25	$ -
	L.F.	Install Detail 39	$ 3.25	$ -
	L.F.	Install Detail 39A	$ 3.25	$ -
	L.F.	Install Detail 40	$ 2.25	$ -
	EA	Install "STOP" Pavement Marking (22 SF)	$ 72.00	$ -
	EA	Install "SIGNAL" Pavement Marking (32 SF)	$ 105.00	$ -
	EA	Install "XX MPH" Pavement Marking (17 SF)	$ 60.00	$ -
	EA	Install "SCHOOL" Pavement Marking (35 SF)	$ 115.00	$ -
	EA	Install "AHEAD" Pavement Marking (31 SF)	$ 100.00	$ -
	EA	Install "YIELD" Pavement Marking (24 SF)	$ 80.00	$ -
	EA	Install Bike Lane Arrow and Symbol with Person(11 SF)	$ 82.00	$ -
	EA	Install "TYPE IV ARROW" Pavement Marking (15 SF)	$ 50.00	$ -
	EA	Install "TYPE VI ARROW" Pavement Marking (42 SF)	$ 140.00	$ -
	EA	Install "TYPE VII ARROW" Pavement Marking (27 SF)	$ 90.00	$ -
	L.F.	Install 12" Limit Line (Thermoplastic)	$ 5.07	$ -
	L.F.	Install Curb Marking (2-Coat Paint)	$ 3.75	$ -
	L.F.	Install 6" Thermoplastic White Stripe	$ 3.05	$ -
	L.F.	Install 6" White Stripe (2-Coat Paint)	$ 2.25	$ -
	L.F.	Install 12" Thermoplastic Crosswalk	$ 6.07	$ -
	L.F.	Remove Detail 1	$ 3.50	$ -
	L.F.	Remove Detail 2	$ 3.50	$ -
	L.F.	Remove Detail 8	$ 3.50	$ -

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

PW Plan Number SS____-_____ / TS____-_____

T R A F F I C I M P R O V E M E N T S (cont.)

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	Remove Detail 9	$ 3.50	$ -
	L.F.	Remove Detail 15	$ 4.00	$ -
	L.F.	Remove Detail 16	$ 4.00	$ -
	L.F.	Remove Detail 21	$ 4.00	$ -
	L.F.	Remove Detail 22	$ 4.00	$ -
	L.F.	Remove Detail 24	$ 3.50	$ -
	L.F.	Remove Detail 25	$ 3.50	$ -
	L.F.	Remove Detail 27B	$ 3.50	$ -
	L.F.	Remove Detail 28	$ 4.50	$ -
	L.F.	Remove Detail 29	$ 4.50	$ -
	L.F.	Remove Detail 31	$ 4.50	$ -
	L.F.	Remove Detail 32	$ 4.50	$ -
	L.F.	Remove Detail 38	$ 4.00	$ -
	L.F.	Remove Detail 38A	$ 4.00	$ -
	L.F.	Remove Detail 39	$ 3.75	$ -
	L.F.	Remove Detail 39A	$ 3.75	$ -
	L.F.	Remove Detail 40	$ 3.50	$ -
	EA	Remove "STOP" Pavement Marking (22 SF)	$ 100.00	$ -
	EA	Remove "SIGNAL" Pavement Marking (32 SF)	$ 145.00	$ -
	EA	Remove "XX MPH" Pavement Marking (17 SF)	$ 83.00	$ -
	EA	Remove "SCHOOL" Pavement Marking (35 SF)	$ 159.00	$ -
	EA	Remove "AHEAD" Pavement Marking (31 SF)	$ 138.00	$ -
	EA	Remove "YIELD" Pavement Marking (24 SF)	$ 110.00	$ -
	EA	Remove Bike Lane Arrow and Symbol with Person (11 SF)	$ 113.00	$ -
	EA	Remove "TYPE IV ARROW" Pavement Marking (15 SF)	$ 69.00	$ -
	EA	Remove "TYPE VI ARROW" Pavement Marking (42 SF)	$ 193.00	$ -
	L.F.	Remove 12" Limit Line (Thermoplastic)	$ 6.99	$ -
	L.F.	Remove Curb Marking (2-Coat Paint)	$ 5.18	$ -
	L.F.	Remove 6" Striping	$ 4.83	$ -
	L.F.	Remove 12" Crosswalk Striping	$ 6.99	$ -
	LS	Traffic Signal & Lighting - New Installation	$ 350,000.00	$ -
	LS	Traffic Signal & Lighting - Modification	$ 200,000.00	$ -
	EA	Type E - 6' Round Signal Loops	$ 600.00	$ -
	EA	Type D - 6' Square Loops with bike detection zone	$ 800.00	$ -
	EA	Install Pull Box (#5)	$ 500.00	$ -
	EA	Install Pull Box (#6)	$ 700.00	$ -
				$ -
	L.F.	2" Conduit	$ 25.00	$ -
	L.F.	3" Conduit	$ 46.00	$ -
	L.F.	4" Conduit	$ 66.00	$ -
	L.F.	6 Strand Single Mode Fiber Optic Cable	$ 4.00	$ -
	L.F.	24 Strand Single Mode Fiber Optic Cable	$ 4.00	$ -
	L.F.	12 Pair Interconnect Cable	$ 5.00	$ -
	EA	Vcalm LED Speed Display Sign w/ Assembly	$ 10,000.00	$ -

Traffic Subtotal:	**$6,187.50**
Traffic Subtotal with CPI Adjustment (6.16%):	**$6,568.65**
15% Contingency:	**$985.30**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

TOTAL:	**$7,553.95**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number WAT____-_____

POTABLE WATER IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	4" Waterline (D.I.P.)	$ 38.00	$ -
	L.F.	6" Waterline	$ 43.00	$ -
	L.F.	8" Waterline	$ 53.00	$ -
	L.F.	10" Waterline	$ 69.00	$ -
	L.F.	12" Waterline	$ 84.00	$ -
	L.F.	16" Waterline	$ 127.00	$ -
	L.F.	4" Gatevalve	$ 800.00	$ -
	L.F.	6" Gatevalve	$ 1,000.00	$ -
1	L.F.	8" Gatevalve	$ 1,200.00	$ 1,200.00
	L.F.	10" Gatevalve	$ 1,500.00	$ -
	L.F.	12" Gatevalve	$ 1,800.00	$ -
	EA	16" Butterfly Valve	$ 2,500.00	$ -
	EA	24" Butterfly Valve	$ 3,500.00	$ -
	EA	Fire Hydrants (4")	$ 5,200.00	$ -
1	EA	Fire Hydrants (6")	$ 6,400.00	$ 6,400.00
	EA	4" Misc. Fittings	$ 180.00	$ -
	EA	6" Misc. Fittings	$ 220.00	$ -
	EA	8" Misc. Fittings	$ 270.00	$ -
	EA	10" Misc. Fittings	$ 320.00	$ -
	EA	12" Misc. Fittings	$ 380.00	$ -
	EA	Blowoffs	$ 3,000.00	$ -
	EA	Relocation of Blowoff	$ 2,000.00	$ -
2	EA	Service Connections	$ 800.00	$ 1,600.00
	EA	1" Air Vacuum / Release Assembly	$ 4,500.00	$ -
	EA	Install End Cap	$ 900.00	$ -
	EA	Remove End Cap	$ 400.00	$ -
	EA	Adjust Water Valve to Grade	$ 250.00	$ -
1	EA	8" Fire Service Connections w/ DDC	$ 8,500.00	$ 8,500.00
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -
			$ -	$ -

Potable Water Subtotal:	**$17,700.00**
Potable Water Subtotal with CPI Adjustment (6.16%):	**$18,790.32**
15% Contingency:	**$2,818.55**
TOTAL:	**$21,608.87**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number NP____-_____

NON-POTABLE WATER IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	4" Waterline (D.I.P.)	$ 38.00	$ -
	L.F.	6" Waterline	$ 43.00	$ -
	L.F.	8" Waterline	$ 53.00	$ -
	L.F.	10" Waterline	$ 69.00	$ -
	L.F.	12" Waterline	$ 84.00	$ -
	L.F.	16" Waterline	$ 127.00	$ -
	L.F.	4" Gatevalve	$ 800.00	$ -
	L.F.	6" Gatevalve	$ 1,000.00	$ -
	L.F.	8" Gatevalve	$ 1,200.00	$ -
	L.F.	10" Gatevalve	$ 1,500.00	$ -
	L.F.	12" Gatevalve	$ 1,800.00	$ -
	EA	16" Butterfly Valve	$ 2,500.00	$ -
	EA	24" Butterfly Valve	$ 3,500.00	$ -
	EA	Fire Hydrants (4")	$ 5,200.00	$ -
1	EA	Fire Hydrants (6")	$ 6,400.00	$ 6,400.00
	EA	4" Misc. Fittings	$ 180.00	$ -
	EA	6" Misc. Fittings	$ 220.00	$ -
	EA	8" Misc. Fittings	$ 270.00	$ -
	EA	10" Misc. Fittings	$ 320.00	$ -
	EA	12" Misc. Fittings	$ 380.00	$ -
	EA	Blowoffs	$ 3,000.00	$ -
	EA	Relocation of Blowoff	$ 2,000.00	$ -
	EA	Service Connections	$ 800.00	$ -
	EA	1" Air Vacuum / Release Assembly	$ 4,500.00	$ -
	EA	Install End Cap	$ 900.00	$ -
	EA	Remove End Cap	$ 400.00	$ -
1	EA	Adjust Water Valve to Grade	$ 250.00	$ 250.00
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -

Non-Potable Water Subtotal:	**$6,650.00**
Non-Potable Water Subtotal with CPI Adjustment (6.16%):	**$7,059.64**
15% Contingency:	**$1,058.95**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

TOTAL:	**$8,118.59**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project LD24-0022 **DATE** 5/15/2025

PW Plan Number SEW____-_____

SEWER IMPROVEMENTS

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	L.F.	4" V.C.P.	$ 35.00	$ -
	L.F.	6" V.C.P.	$ 50.00	$ -
	L.F.	8" V.C.P.	$ 65.00	$ -
	L.F.	10" V.C.P.	$ 80.00	$ -
	L.F.	12" V.C.P.	$ 95.00	$ -
	L.F.	15" V.C.P.	$ 115.00	$ -
	EA	Standard Manholes	$ 4,000.00	$ -
	EA	Drop Manholes	$ 5,000.00	$ -
1	EA	Cleanouts	$ 1,000.00	$ 1,000.00
	EA	Sewer "Y"'s	$ 1,500.00	$ -
	EA	Chimneys	$ 3,500.00	$ -
3	EA	Adjust manhole to grade	$ 800.00	$ 2,400.00
	L.F.	Concrete Encasement	$ 130.00	$ -
	EA	Remove Temporary End Plug	$ 162.00	$ -
	EA	End Plug	$ 250.00	$ -
1	EA	6" V.C.P. Sewer Lateral	$ 3,500.00	$ 3,500.00
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
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				$ -
			Sewer Subtotal:	**$6,900.00**
			Sewer Subtotal with CPI Adjustment (6.16%):	**$7,325.04**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

15% Contingency:	**$1,098.76**
TOTAL:	**$8,423.80**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number **ESC____-_____**

EROSION AND SEDIMENT CONTROL

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
1	EA	Concrete Washout (with disposal)	$ 3,000.00	$ 3,000.00
	CF	Desilting Basin	$ 1.30	$ -
	LF	Fiber Roll	$ 12.00	$ -
500	EA	Gravel Bags	$ 6.00	$ 3,000.00
	LF	Hay Bale	$ 7.60	$ -
	SF	Hydroseeding / Hydro Mulch (with Bonded Fiber matrix)	$ 0.15	$ -
	SF	Hydroseeding / Hydro Mulch (without Bonded Fiber matrix)	$ 0.10	$ -
	SF	Plastic Liner (visqueen)	$ 0.30	$ -
	LF	Silt Fence (non-reinforced)	$ 7.50	$ -
1,400	LF	Silt Fence (reinforced)	$ 10.00	$ 14,000.00
1	EA	Stabilized Construction Entrance (with plates)	$ 3,390.00	$ 3,390.00
	EA	Stabilized Construction Entrance (without plates)	$ 2,400.00	$ -
	SF	Straw / Coconut Fiber Mat	$ 0.28	$ -
	SF	Pyromat	$ 1.00	$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
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				$ -
				$ -

Erosion and Sediment Control Subtotal:	**$23,390.00**
ESC Subtotal with CPI Adjustment (6.16%):	**$24,830.82**
15% Contingency:	**$3,724.62**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

TOTAL:	**$28,555.45**

PUBLIC WORKS DEPARTMENT - CONSTRUCTION SECURITY WORKSHEET
RIGHT OF WAY IMPROVEMENTS
(Updated As Of July 1, 2022)

Project _____ **DATE** 5/15/2025

PW Plan Number LS____-_____

M E D I A N / P A R K W A Y S O F T S C A P E

QUANTITY	UNIT	ITEM	UNIT COST	AMOUNT
	SF	Soil preparation and fine grading	$ 0.30	$ -
	SF	Soil testing	$ 0.50	$ -
	SF	3" min depth of mulch	$ 0.30	$ -
	EA	5 gallon shrub	$ 55.00	$ -
	EA	1 gallon shrub	$ 20.00	$ -
	EA	24" boxed tree	$ 350.00	$ -
	EA	Root barrier at all trees(plastic panels / 24" depth / 10' length x2)	$ 75.00	$ -
	EA	Reclaimed water sign	$ 20.00	$ -
	EA	Controller (Calsense with communication)	$ 8,000.00	$ -
	EA	Water meter (1" meter, RP device, enclosure)	$ 7,500.00	$ -
	SF	Automatic irrigation system (drip system, tree bubblers, etc.)	$ 3.00	$ -
	SF	30- Day plant establishment period	$ 0.35	$ -
	SF	90- Day landscape maintenance period	$ 1.05	$ -
	EA	Parkway Street Trees	$ 500.00	$ -
	L.S.	Parkway Landscaping and Irrigation		$ -
				$ -
				$ -

RESOLUTION 2024-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING GENERAL PLAN AMENDMENT (GPA 23-2502) TO CHANGE THE EXISTING LAND USE DESIGNATION OF PARCEL NUMBER 540-180-022 FROM GENERAL COMMERCIAL (GC) TO INDUSTRIAL (I); ZONE CHANGE (ZC 23-3502) TO CHANGE THE ZONING DISTRICT CLASSIFICATION OF PARCEL NUMBER 540-180-022 FROM GENERAL COMMERCIAL (GC) TO INDUSTRIAL (I); TENTATIVE PARCEL MAP (TPM 38659) TO CONSOLIDATE THREE PARCELS INTO ONE; AND DESIGN REVIEW (DR 23-7008) FOR THE NEW CONSTRUCTION AND OPERATION OF A STEEL DISTRIBUTION FACILITY WITH A 42,510 SQUARE-FOOT WAREHOUSE BUILDING, OF WHICH 3,434 SQUARE FEET IS DESIGNATED FOR OFFICE SPACE, ON 14.92 GROSS ACRES OF LAND LOCATED ON THE NORTH SIDE OF WEST LINCOLN STREET BETWEEN SOUTH 8TH STREET AND SOUTH 16TH STREET (APN NOS. 540-180-020, 540-180-022 AND 540-180-026); AND ADOPTING MITIGATED NEGATIVE DECLARATION (EA 23-1506) FOR THE PROJECT

WHEREAS, an application for General Plan Amendment (GPA) 23-2502, Zone Change (ZC) 23-3502, Tentative Parcel Map (TPM) 23-4002 (a.k.a. TPM 38659), and Design Review (DR) 23-7008 (collectively, the "Project"), a proposal to amend the existing land use designation on one parcel of land from General Commercial (GC) to Industrial (I), amending the Zoning District classification from General Commercial (GC) to Industrial (I), for a 4.3-acre parcel of land located on the north side of Lincoln Street between 8th Street and 16th Street (APN: 540-180-022) to allow for the construction and operation of a steel distribution facility with a 42,510 square-foot warehouse building of which 3,434 square feet is designated for office space on 14.92 gross acres of land; and,

WHEREAS, the Planning Commission is authorized under Chapter 17.44 of the Banning Municipal Code ("BMC") to approve proposed Design Review 23-7008, unless pursuant to Section 17.44.020 multiple applications have been filed that require approval by the City Council, in which case the Planning Commission shall make a recommendation to the City Council to allow for the construction and operation of a steel distribution facility with a 42,510 square-foot warehouse building of which 3,434 square feet is designated for office space on 14.92 gross acres of land within the Industrial Zoning and General Commercial (GC) zoning districts (the "Project"); and

WHEREAS, pursuant to Section 17.04.060.C. of the BMC, the Planning Commission has the authority to review and make recommendations to the City Council concerning GPA 23-2502, ZC 23-3502, and EA 23-1506; and

WHEREAS, the Planning Commission is authorized under Chapter 16.14 of the Banning Municipal Code ("BMC") to make a recommendation to the City Council regarding proposed Tentative Parcel Map 38659 (TPM 23-4002) to allow for the merging of three parcels totaling approximately 14.92 acres within the Industrial Zoning and General Commercial zoning districts (the "Project"); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines Sections 15064(f)(2) and 15070, the proposal constitutes a project as defined by CEQA and Community Development Department staff has determined, on the basis of the Initial Study, that the Project will not have a significant effect on the environment with implementation of recommended mitigation measures; and

WHEREAS, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the Project and was made available on the City of Banning website for public review and comment for a 30-day public review and comment period prior to the public hearing beginning Friday, April 26, 2024, and concluding Tuesday, May 28, 2024; and

WHEREAS, in accordance with the disclosure requirements of CEQA Guidelines Section 15072(g)(5), the Project site is not listed as a hazardous property as designated under Section 65962.5 of the Government Code; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on April 26, 2024 the City provided a 30-day public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) for the Project. The public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on May 29, 2024 the Planning Commission held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the Planning Commission considered the entirety of the Project and has adopted Planning Commission Resolution 2024-13, recommending that the City Council approve the Project; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on Month Day, 2024 the City gave public notice by advertisement in the Record Gazette newspaper, of a public hearing concerning the Project. The public hearing notice was also mailed to the owners of the subject properties within 300-feet of the Project; and

WHEREAS, on June 25, 2024, the City Council conducted a duly noticed public hearing on the Project.

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

SECTION 1. The City Council hereby finds that all facts stated in the preceding recitals are true and correct.

SECTION 2. The City Council hereby finds and determines as follows with respect to the California Environmental Quality Act and the Multiple Species Habitat Conservation Plan.

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.), City Staff prepared an Initial Study of the potential environmental effects of the Project as described in the Initial Study. Based upon the findings contained in that the Initial Study, City Staff determined that, with the incorporation of mitigation measures, there is no substantial evidence that the Project will have a potentially 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 MND and the MMRP are on file with the Planning Department and incorporated herein by this reference. The public comment period began on April 26, 2024, and expired on May 28, 2024. Copies of the documents are available

for public review and inspection at City Hall, 99 E. Ramsey Street, Banning, California 92220, the Banning Public Library, located at 21 West Nicolet Street, Banning, California 92220, and the City of Banning website. The City did not receive comments during the public review period.

C. In light of the whole record regarding the Project, the City Council determines and finds, in its independent judgment 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. According, the City Council hereby adopts the MND and MMRP for the Project.

D. The Project is located outside of any MSHCP criteria cell areas and plan compliance is provided through payment of the MSHCP Mitigation Fee at the time of building permit issuance.

SECTION 3. The City Council hereby finds and determines as follows with respect to General Plan Amendment 23-2502:

Finding No. 1: That the proposed amendment is internally consistent with the General Plan.

Findings of Fact: California Government Code Section 65302 requires that a General Plan consist of seven (7) State-mandated elements, including Land Use, Circulation, Housing, Conservation, Open Space, Noise, and Safety. The Land Use Element is one of the seven State-mandated elements of the General Plan and includes the Land Use Map for the City of Banning. The Land Use map and the Zoning map are 100% consistent with one another and, therefore, the same map doubles to serve both purposes. The proposed Project will not create an incompatible land use as two of the three parcels in question are already designated for Industrial uses, the third parcel in question is contiguous with the other two parcels and will be used for the same purpose, and the immediate surrounding area is designated for nonresidential uses.

Finding No. 2: 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 General Plan Land Use Map Amendment and Zone Change will allow for the orderly development of the proposed Project to construct a steel distribution facility in an industrial area, further strengthening economic development and job opportunities, while not damaging the public interest, health, safety, convenience, or welfare of the City by ensuring such uses are placed away from existing residential uses and other sensitive uses.

Finding No. 3: That the proposed amendment would maintain the appropriate balance of land uses within the City.

Findings of Fact: Table III-3, of the Community Development Chapter of the City's General Plan details that 252.1 acres of vacant land is designated as General Commercial, and 274.1 acres of vacant land is designated as Industrial. The Project will decrease the amount of vacant General Commercial land by 4.3 acres, which is less than 1% (0.00943%) and represents a statistically insignificant change in the balance of vacant non-residential land uses within the City. As such, the balance of land use designations will not be negatively impacted by the Project.

Finding No. 4: The amendment is physically suitable for the surrounding environment; including, but not limited to site access, the provision of utilities, and compatibility with adjoining land uses, including the absence of any physical constraints, for the requested land use designation(s) and the anticipated land use development(s).

Findings of Fact: The land use amendment will not adjust or change the physical characteristics of the parcels, other than from their current vacant state to a fully developed site in the near future. The existing backbone infrastructure is in place to service the Project location, and the Project will dedicate additional right-of-way along the frontage of Lincoln Street to accommodate widening to the General Plan Circulation Element ultimate configuration for this segment of Lincoln Street.

Findings of Fact: The Project will implement Policy 8 of the Community Development Chapter of the General Plan, which requires that the City assure the provision of adequate utilities, infrastructure, and other capital facilities" (General Plan, Page III-44).

Findings of Fact: The Project will implement Program 4.B, which "requires the City make regular assessments of infrastructure capacity and evaluate the necessary expansion and improvements needed to carry out responsible growth management" (General Plan, Page VI-19).

SECTION 4. The City Council hereby finds and determines as follows with respect to Zone Change 23-3502:

Finding No. 1: The General Plan requires that the need for public facilities be planned and identified to serve the needs of City residents, businesses, and visitors.

Findings of Fact: The proposed Project has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on-site improvements, streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards which is consistent with the City's General Plan.

Finding No. 2: The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact: The proposed Project is an approximately 47,000 square-foot light industrial warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Industrial zone and the Project has adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding No. 3: That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: That the Planning Commission recommends to the City Council that an independent review has been conducted and the Planning Commission has considered an Initial Study and a Mitigated Negative Declaration that has been prepared for the Project.

SECTION 5. The City Council hereby finds and determines as follows with respect to Tentative Parcel Map 23-4002:

Finding No. 1: The proposed map is consistent with the General Plan.

Findings of Fact: The General Plan land use designation for the site is classified as General Commercial (proposed Industrial) and Industrial which allows for manufacturing, warehousing, and distribution. The proposed Tentative Parcel Map 38659 will combine three parcels into one totaling 14.92 acres. 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 Parcel Map serves to achieve this objective in that the subdivision design is consistent with existing neighborhood industrial character. Considering all of these aspects, the proposed Tentative Parcel Map furthers the objectives and policies of the General Plan and is compatible with the land use districts within the general vicinity of the Project.

Finding No. 2: The design or improvement of the proposed subdivision 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 which is consistent with the City's General Plan.

Finding No. 3: The site is physically suitable for this type of development.

Findings of Fact: The existing on-site project area is generally flat, sloping to the southeast and is covered with native grass and weeds. The site sheet flows to the southeast, discharging along W. Lincoln Street, where flow continues to the east. To the north of the Project site is the Union Pacific railroad, consisting of a limited drainage tributary with elevated tracks on earthen berms, running east/west. Flows originating to the south of the Union Pacific (UP) railroad berms are carried to the east via existing earthen swales within the UP right-of-way. Therefore, there are no significant offsite flows impacting the site. Additionally, the Project is adjacent to existing commercial and industrial development and has all services available, including streets, water, sewer and electricity. The site is physically suitable for this type of development.

Finding No. 4: The site is physically suitable for the density of development.

Findings of Fact: The site is located within the Industrial Zoning District, which allows for the development of warehouses with a maximum building coverage of 60 percent. The Project proposes a maximum building coverage of 7.48 percent, which is considerably less than the maximum allowed. Proposed hardscape for the site will cover approximately 67.34 percent of the site. The Tentative Parcel Map, to consolidate three lots into one lot as proposed, is suitable with the adjacent development.

Finding No. 5: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Findings of Fact: The site is currently vacant and does not contain any significant vegetation or suitable habitat for wildlife. Per the Multiple 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. 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.

Finding No. 6: The design of the subdivision or type of improvements is not likely to cause serious public 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 a steel distribution and warehouse facility 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 Tentative Parcel Map 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 public health, safety and welfare.

Finding No. 7: The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

Findings of Fact: Other than easements in favor of the City of Banning, Southern California Gas, and the UP, no easements of record or easements established by judgement 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 other such easements.

SECTION 6. The City Council hereby finds and determines as follows with respect to Design Review 23-7008:

Finding No. 1: The Project is consistent with the applicable general plan designation and all applicable general plan policies as well with applicable zoning designation and regulations.

Finding of Fact: Proposed Design Review 23-7008 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 subject property is designated General Commercial and Industrial on the General Plan land use map. The proposed use is consistent with the I land-use designation. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 23-7008 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 proposed Design Review 23-7008 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding No. 2: The proposed Project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: The proposed Project is an approximately 47,000 square-foot light industrial warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Industrial zone and the Project has adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding No. 3: 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.

Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, access to the street will be provided by driveways from Lincoln Street and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto W. Lincoln Street to improve the roadway to its ultimate configuration.

Finding No. 4: The design of the proposed Project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The Project is a new construction development with a proposed 47,000 square-foot light industrial/warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, east, and west. The Project is considered an Industrial use. Landscaping is required to maintain the character of the surrounding neighborhood.

SECTION 7. Based on the foregoing findings and the entirety of the administrative record in this matter, the City Council hereby approves General Plan Amendment 23-2502, Zone Change 23-3502, Tentative Parcel Map 23-4002, and Design Review 23-7008, subject to the recommended Conditions of Approval, attached hereto as Exhibit "A".

SECTION 8. The City Manager or their designee is authorized to file a Notice of Determination for Mitigated Negative Declaration EA 23-1506 in accordance with CEQA.

PASSED, APPROVED AND ADOPTED this 25th day of June 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-112, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of June 2024 by the following vote, to wit:

AYES: Happe, Minjares, Sanchez, and Wallace.

NOES: Flynn.

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City Council
City of Banning, California

Exhibit A
Conditions of Approval for Design Review 23-7008
and Tentative Parcel Map 23-4002 (TPM 38659)

PROJECT: EA 23-1506, GPA 23-2502, ZC 23-3502, TPM 23-4002, DR 23-7008
SUBJECT: Conditions of Approval (City Council Resolution 2024-112)
APPLICANT: Sagecrest Planning+Environmental
LOCATION: TM 38659 (APNs 540-180-020, 022, 026): See Attached

EXHIBIT A
To City Council Resolution 2024-112

***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 operation of a steel distribution and warehousing facility ("Project") shall always comply with all federal, state, County and City laws, codes, regulations, and standards, including those that relate to hazardous materials.

2. 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 (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Sections 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.

3. Approval of this entitlement shall not waive compliance with any sections of the CA Government Code, Banning Municipal Code (BMC), or other applicable City ordinances, in effect at the time of building permit issuance.

4. The Project permitted under Design Review 23-7008 shall commence operation within two (2) years from the date of this approval, or the Design Review shall become null and void. Additionally, if after commencement of tenant improvements, activities are discontinued for a period of one (1) year, the Design Review approval 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 one-time extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review complies with all current provisions of BMC Title 17.

5. A copy of the signed Resolution of approval and these conditions of approval imposed on DR 23-7008 TPM 38659 shall be reproduced in legible form on the improvement plans submitted for review and approval as required by the reviewing department.

6. Prior to issuance of a certificate of occupancy/use of the building, or business activity being commenced therein, the applicant shall complete these conditions of approval to the satisfaction of the Community Development Director. Prior to occupancy, the applicant may use areas identified on the Site Plan for outdoor storage of non-combustible material (e.g. steel) subject to completion of all screening walls and subject to issuance of a Temporary Use Permit.

7. Prior to the issuance of grading permits (MM BIO-1): In order to avoid violation of the MBTA and the California Fish and Game Code, site preparation activities (ground disturbance, construction activities, staging equipment, and/or removal of trees and vegetation) for the Project shall be avoided, to the greatest extent possible, during the nesting season of potentially occurring native and migratory bird species. If site-preparation activities are proposed during the nesting/breeding season, the Project proponent shall retain a qualified biologist to conduct a pre-activity field survey prior to the issuance of grading permits for the Project to determine if active nests of species protected by the MBTA or the California Fish and Game Code are present in the construction zone. If active nests are not located within the Project Site and an appropriate buffer of 500 feet of an active listed species or raptor nest, 300 feet of other sensitive or protected bird nests (non-listed), or 100 feet of sensitive or protected songbird nests, construction may be conducted during the nesting/breeding season. However, if active nests are located during the pre-activity field survey, the Biologist shall immediately establish a conservative avoidance buffer surrounding the nest based on their best professional judgement and experience. The Biologist shall monitor the nest at the

onset of project activities, and at the onset of any changes in such project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If the Biologist determines that such project activities may be causing an adverse reaction, the Biologist shall adjust the buffer accordingly or implement alternative avoidance and minimization measures, such as redirecting or rescheduling construction or erecting sound barriers. All work within these buffers will be halted until the nesting effort is finished (i.e., the juveniles are surviving independent from the nest). The on-site qualified biologist will review and verify compliance with these nesting avoidance buffers and will verify the nesting effort has finished. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a report shall be prepared and submitted to the City of Banning for mitigation monitoring compliance record keeping.

8. Prior to commencement of ground disturbing activity or and/construction (MM BIO-2): Project-specific habitat assessments and focused surveys for burrowing owls will be conducted for implementing development or infrastructure projects within burrowing owl survey areas. A pre-construction survey for resident burrowing owls will also be conducted by a qualified biologist within 30 days prior to commencement of grading and construction activities within those portions of implementing project sites containing suitable burrowing owl habitat and for those properties within an implementing project site where the biologist could not gain access. If ground disturbing activities in these areas are delayed or suspended for more than 30 days after the pre-construction survey, the area shall be resurveyed for owls. The pre-construction survey and any relocation activity will be conducted in accordance with the current Burrowing Owl Instruction for the Western Riverside MSHCP.

   If active nests are identified on an implementing project site during the pre-construction survey, the nests shall be avoided, or the owls actively or passively relocated. To adequately avoid active nests, no grading or heavy equipment activity shall take place within at least 250 feet of an active nest during the breeding season (February 1 through August 31), and 160 feet during the non-breeding season.

   If burrowing owls occupy any implementing project site and cannot be avoided, active or passive relocation shall be used to exclude owls from their burrows, as agreed to by the City of Perris Planning Division and the CDFG. Relocation shall be conducted outside the breeding season or once the young are able to leave the nest and fly. Passive relocation is the exclusion of owls from their burrows (outside the breeding season or once the young are able to leave the nest and fly) by installing 1-way doors in burrow entrances. These 1-way doors allow the owl to exit the burrow, but not enter it. These doors shall be left in place 48 hours to

ensure owls have left the burrow. Artificial burrows shall be provided nearby. The implementing project area shall be monitored daily for 1 week to confirm owl use of burrows before excavating burrows in the impact area. Burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible pipe shall be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow. The CDFG shall be consulted prior to any active relocation to determine acceptable receiving sites available where this species has a greater chance of successful long-term relocation. If avoidance is infeasible, then a DBESP will be required, including associated relocation of burrowing owls. If conservation is not required, then owl relocation will still be required following accepted protocols. Take of active nests will be avoided, so it is strongly recommended that any relocation occur outside of the nesting season.

9. Prior to issuance of grading permits (MM CR-1): In the event of an unanticipated discovery, all work must be suspended within 50 feet of the find until a qualified archaeologist evaluates it.

   If archaeological resources are encountered during ground-disturbing activities, all work shall cease in the area of the find or diverted away from discovery to a distance of 50 feet. The City shall be immediately informed of the discovery and a qualified archaeologist shall be retained by the applicant to determine if the find is classified as a significant historical resource pursuant to CEQA Guidelines Section 15064.5(a) and/or unique archaeological resources (Public Resources Code Section 21083.2[g]). A qualified archaeologist is an archaeologist who meets or exceeds the Secretary of Interior's Professional Qualification Standards for archaeology. Personnel of the proposed project shall not collect or move any archaeological materials or associated materials. The qualified archaeologist shall be empowered to halt or divert ground disturbing activities.

   If the resource is classified as a significant cultural resource, the qualified archaeologist shall make recommendations on the treatment and disposition of the find. The final recommendations on the treatment and disposition of the find shall be developed in accordance with all applicable provisions of Public Resources Code Section 21083.2 and CEQA Guidelines Sections 15064.5 and 15126.4. The City shall review and approve the recommendations prior to implementation. The City shall be provided with a final report on the treatment and disposition of the finding prior to issuance of a Certificate of Occupancy.

10. Ongoing during earth disturbing activity and/or construction (MM CR-2): In the event that human remains (or remains that may be human) are discovered at the Project Site or within the off-site Project improvement areas during ground-disturbing activities, the construction contractors, Project archaeologist, and/or designated Luiseño tribal representative shall immediately stop all activities within

100 feet of the find. The Project proponent shall then inform the Riverside County Coroner and the City of Banning Planning Division immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).

If the coroner determines that the remains are of Native American origin, the coroner will notify the Native American Heritage Commission (NAHC), which will identify the "Most Likely Descendent" (MLD). Despite the affiliation with any Luiseño tribal representative(s) at the Project Site, the NAHC's identification of the MLD will stand. The MLD shall be granted access to inspect the Project Site of the discovery of Native American human remains and may recommend to the Project proponent means for treatment or disposition, with appropriate dignity of the human remains and any associated grave goods. The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the Project Site. The disposition of the remains will be determined in consultation between the Project proponent and the MLD. In the event that there is disagreement regarding the disposition of the remains, State law will apply and median with the NAHC will make the applicable determination (see Public Resources Code Section 5097.98(e) and 5097.94(k)).

The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. The locations will be documented by the consulting archaeologist in conjunction with the various stakeholders and a report of findings will be filed with the Eastern Information Center (EIC).

11. Prior to the issuance of a grading permit (MM GEO-1): The Project proponent/developer shall submit to and receive approval from the City, a Paleontological Resource Impact Mitigation Monitoring Program (PRIMMP). The PRIMMP shall include the provision for a qualified professional paleontologist (or his or her trained paleontological representative) to be on-site for any Project-related excavations that exceed three (3) feet below the pre-grade surface. Selection of the paleontologist shall be subject to approval of the City of Banning Planning Manager and no grading activities shall occur at the Project Site or within the off-site Project improvement areas until the paleontologist has been approved by the City.

    In the event of an unanticipated discovery, all work must be suspended within 50 feet of the find until a qualified paleontologist can evaluate the find and make recommendations. The approved paleontologist shall be prepared to quickly salvage fossils as they are unearthed to avoid construction delays. The paleontologist shall also remove samples of sediments which are likely to contain the remains of small fossil invertebrates and vertebrates. The paleontologist shall

have the power to temporarily halt or divert grading equipment to allow for removal of abundant or large specimens.

Collected samples of sediments shall be washed to recover small invertebrate and vertebrate fossils. Recovered specimens shall be prepared so that they can be identified and permanently preserved. Specimens shall be identified and curated and placed into an accredited repository (such as the Western Science Center or the Riverside Metropolitan Museum) with permanent curation and retrievable storage.

A report of findings, including an itemized inventory of recovered specimens, shall be prepared upon completion of the steps outlined above. The report shall include a discussion of the significance of all recovered specimens. The report and inventory, when submitted to the City of Banning Planning Division, will signify completion of the program to mitigate impacts to paleontological resources.

12. Prior to building permit issuance (MM GEO-2): Prior to the start of construction, a paleontological resources Worker Environmental Awareness Program (WEAP) training program shall be presented to all earthmoving personnel to inform them of the possibility for buried resources and the procedures to follow in the event of fossil discoveries.

13. Prior to the issuance of a grading permit (MM TCR-1): at least 30 days prior to the issuance, the applicant shall contact the consulting Native American Tribe(s) that have requested monitoring through consultation with the City during the AB 52 and/or the SB 18 process ("Monitoring Tribes"). The applicant shall coordinate with the Tribe(s) to develop individual Tribal Monitoring Agreement(s). A copy of the signed agreement(s) shall be provided to the City of Banning Community Development Department, Planning Division prior to the issuance of a grading permit. The Agreement shall address the treatment of any known tribal cultural resources (TCRs) including the project's approved mitigation measures and conditions of approval; the designation, responsibilities, and participation of professional Tribal Monitors during grading, excavation and ground disturbing activities; project grading and development scheduling; terms of compensation for the monitors; and treatment and final disposition of any cultural resources, sacred sites, and human remains/burial goods discovered on the site per the Tribe(s) customs and traditions and the City's mitigation measures/conditions of approval. The Tribal Monitor will have the authority to stop and redirect grading in the immediate area of a find in order to evaluate the find and determine the appropriate next steps, in consultation with the Project archaeologist.

14. Ongoing during earth disturbing activity and/or construction, MM TCR-2: It is understood by all parties that unless otherwise required by law, the site of any

reburial of Native American human remains or associated grave goods shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, pursuant to the specific exemption set forth in California Government Code 6254 (r), parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code 6254 (r).

15. The subject property shall be operated and maintained in accordance with the site plans stamped approved by the City and on file in the Planning Division, the conditions contained herein, and the applicable regulations within the BMC.

16. The Applicant shall complete any/all improvements to the site contained in the Subdivision Improvement Agreement for TM 38659.

17. The Applicant shall be responsible for completion of all Performance and Labor and Material Bonds under the approval for TM 38659.

18. Prior to release of performance bonds, the developer shall complete all public improvements including street widening, sidewalks, connections to sidewalks and trails within the development, providing ease of access to common open spaces and amenities.

19. The Applicant shall submit a Landscape Plan for review and approval by the City's consulting landscape architect. The appropriate number and sizes of specimen trees planted along the project frontage shall be determined by the landscape architect and shall substantially conform to the conceptual landscape plan approved by the City and on file with the Planning Division.

20. The Applicant shall submit a Fence and Wall Plan for approval by the Community Development Director. The fence and wall plan shall incorporate design elements that offset wall planes and/or provide "movement" a minimum of every fifty (50) lineal feet, and shall substantially conform to the conceptual fence and wall plan approved by the City and on file with the Planning Division.

Building Department

21. Once submitted for official plan review full architectural and structural drawing plans shall be provided. Structural plans and calculations shall be provided by a California licensed engineer or licensed architect.

22. Please provide the following number of construction plans and documents listed below for the first review of the proposed project. The initial plan review time will take two weeks on most projects. The applicant will receive an application number at the time plans are submitted for Building & Safety's plan review. This number is needed to obtain information regarding your project:

    (7) Precise Grading Plans
    (7) Plot/Site Plans
    (7) Site Disabled Access Plan
    (7) Architectural Plans
    (7) Structural Plans
    (7) Electrical Plans
    (7) Electrical Load Calculations
    (7) Plumbing Plans/Isometrics
    (7) Mechanical Plans
    (2) Structural Calculations
    (2) Roof and Floor Truss Calculations
    (2) Title 24 Energy Calculations
    (2) Geology Report
    (2) Soils Report
    (2) Condition of Approval Packages
    (3) Temporary Fence Plan

23. Electronic plan submittal can be provided by building and safety. Please email CommunityDev@banningca.gov for additional information.

24. All structures shall be designed in accordance with the current version of the California Building Codes, including the California Green Building Standards Code. Design all structures to comply with Seismic Design Category D, basic wind speed should be site specific and determined from ATC at www.atcouncil.org/windspeed with exposure type "C", and Energy Calculations shall be designed per Climate Zone 10.

25. Where applicable, prior to issuance of building permits, provide a receipt from the appropriate Unified School District stating that all school fees have been paid. (Banning Unified School District)

26. Banning Electric does not release electric meters until final approvals are obtained from all agencies and departments.

27. Construction projects, requiring temporary electrical power, shall obtain an electrical permit from Banning Electric.

28. Construction projects requiring fire permits must apply and submit fire plans prior to the issuance of the building permit, including fire sprinkler submittals.

29. The Developer/Owner is responsible for the coordination of releasing any Deferral of Development Impact Fees or Bonds after such fees have been paid. The Developer/Owner should be aware, once the deferral notice is sent to the Riverside County Recorder's Office; the release process takes two to three weeks. This process will delay final Certificates of Occupancy.

30. The Developer/Owner is responsible for the coordination of the final occupancy. The Developer/Owner shall request clearances from each department and/or agency at least two weeks prior to requesting a final building inspection from Building and Safety. Each agency may sign the Building and Safety Job Card, or provide agency approved signed documentation, and provide a copy of the signatures to Building and Safety at the time the final inspection is requested.

31. A security fence with screening shall protect all construction sites. The fencing and screening shall be maintained at all times to protect pedestrians. All development projects shall submit a construction fencing plan with the construction design plans. Construction projects that have phased occupancy shall be completely separated by a construction fence that is screened and show the adjusted fence locations at each phase.

32. The permittee shall utilize an anti-graffiti coating on trash enclosures and decorative block walls.

33. On site toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction toilet facilities of the non-sewer type shall conform to ANSI ZA.3 and on site per NPDS stormwater requirements.

34. All construction materials, which are not used, shall be recycled pursuant to the requirements per the California Green Building Standards Code. Receipts from the recycle company responsible for picking up the materials shall be kept in the construction office. After the construction is complete and before final occupancy, all trash receipts shall be forwarded to the City.

35. Prior to the issuance of Building Permits, on site water service shall be installed and approved by the responsible agency. On site fire hydrants shall be approved by the Riverside County Fire Department. No flammable materials will be allowed on the site until the fire hydrants are established and approved. No flammable construction materials shall be placed on the site without approvals by the Fire Department. All street and access roadways around the project shall be paved for emergency response vehicles before flammable materials are placed on the project.

36. Prior to issuance of building permits, site-grading certifications, compaction reports, and survey report shall be submitted to Building and Safety or to Public Works, as applicable.

37. All construction projects shall comply with the NPDES Stormwater Best Management Program. Prior to building permit issuance submit copy of the Water Quality Management Program Report. (WQMP)

38. All deferred plan items are to be identified on the cover sheet of the drawing plans.

39. 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. The accessible route(s) of travel shall be the most practical direct route.

40. Demolition of any onsite structures requires the following information or action.

    a. Submit copies of the property title at permit submittal.
    b. Provide copy of the hazardous materials survey (asbestos and lead) for each structure.
    c. Contact the City of Banning Building & Safety Department for current abatement and documentation requirements prior to performing demolition.

41. For the removal of fuel storage tanks, or other excavations involving backfill, a compaction shall be filed with the Building & Safety Department. Fuel storage tank removal will require notification of Riverside County Fire, Hazardous Materials and Riverside County Environmental Health Department.

42. All dead and removed trees and foliage is to be properly removed from the site.

43. The City enforces the State of California provisions of the California Building Code disabled access requirements. The Federal Americans with Disabilities Act (ADA) standards may differ in some cases from the California State requirements; therefore, it is the building owner's responsibility to be aware of those differences and comply accordingly.

44. Building and Safety inspection requests must be made by 4:00 pm. on the previous City working day to receive a next day inspection. Please contact (951) 922-4820

45. Plan review application approval is valid for a period of 180 days after application date (plan check submittal date)- if the permit is not obtained within that time period the approval expires and becomes null and void. The Building Official may extend the time for action by the applicant for a period of 90 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration the applicant shall resubmit plans and pay a new plan review fee.

Electric Utility

46. A New Service Questionnaire will be required to determine the electrical demand of the project and to ensure the City of Banning Electric Utility ("BEU") can provide safe and reliable service to the project.

47. The City of Banning Electric Utility will require adequate easements needed to service the project. An easement area will be required along Lincoln St for vaults, conduits, streetlights and pad mounted transformers and switches. Adequate easements will be required to serve all parcels of this project. These easements shall be offered for dedication to the City of Banning for public utility purposes. A non-exclusive easement shall be provided to the City of Banning to include the installation of electric distribution facilities within all common areas.

48. All structures and equipment will not be permitted to be built, installed, or stored under any overhead power lines and must maintain a minimum of 10-ft clearance from all overhead power lines.

49. Electrical point of connection will be provided from the area of Lincoln St and 12th St depending on the developer's layout of the site (ex: electric room).

50. Streetlight infrastructure is to be installed by the developer, including necessary metering equipment, and are assumed to be publicly owned and maintained by BEU along West Lincoln St. Streetlighting requirements along HWY 243 shall adhere to the requirements of City of Banning Public Works and/or Cal Trans.

51. Prior to constructing BEU's electric distribution system, the developer shall submit a detailed engineering plan showing design, location, and schematics for the utility system to be approved by BEU. The developer will also be required to follow the

Electric Utility Maps & Records requirement. This will allow the utility to assist with the completion of a distribution plan and provide a cost estimate to serve the project.

52. *Note: Detailed design conditions and requirements to serve the project with electricity shall be discussed and reviewed following future approvals as the project progresses. Including the possibility of relocating existing steel poles along the frontage of the property.

53. The Developer may be required to execute one or more line extension agreements with BEU providing for the installation, construction, improvement, and dedication of the utility system.

54. All electric utility equipment will require to have adequate working clearances per local and state requirements, because of this some trees and bushes shown on the landscape plan might be eliminated. This equipment includes substructures, transformers, pad mounted switch gear and meter locations.

55. Please complete and return the following: New Service Questionnaire, Maps & Records Requirements, Electric Utility General Development Service Requirements.

Fire Department

With respect to the conditions of approval for the referenced project, the Fire Department requires the following fire protection measures be provided in accordance with Riverside County Ordinances and/or recognized fire protection standards:

56. Fire Protection Water Supplies/Fire Flow - Minimum fire flow for the construction of all buildings is required per CFC Appendix B or other approved method. Prior to building permit issuance for new construction, the applicant shall provide documentation to show there exists a water system capable of delivering the required fire flow. Specific design features may increase or decrease the required fire flow. Reference CFC 507.3.

57. Fire Protection Water Supplies/Hydrants - The minimum number of fire hydrants required, as well as the location and spacing of fire hydrants, shall comply with CFC Appendix C and NFPA 24. Fire hydrants shall be located no more than 400 feet from all portions of the exterior of the building along an approved route on a fire apparatus access road, unless otherwise approved by the Fire Department. Fire hydrants shall be at least 40 feet from the building it is serving. A fire hydrant shall be located within 20 to 100 feet of the fire department connection for buildings protected with a fire sprinkler system. The size and number of outlets required for

the approved fire hydrants are 4" x 2 ½" x 2 ½" (super hydrant). Reference CFC 507.5, CFC Appendix C and NFPA 24 7.2.3.

58. Fire Department Access - The minimum required turning radius of a fire apparatus access road is 38 feet outside radius and 14 feet inside radius. The construction of the fire apparatus access roads shall be all weather and capable of sustaining 75,000 lbs. Reference CFC 503.1.1, 503.2.1 as amended by the County of Riverside and Riverside County Office of the Fire Marshal Technical Policy #TP22-002.

59. Fire Department Building Construction Permit Review - Submittal of construction plans to the Fire Department will be required. Final fire and life safety conditions will be addressed when the Fire Department reviews these plans. These conditions will be based on California Fire Code, California Building Code (CBC), and related codes/standards adopted at the time of construction plan submittal. Reference CFC 105.1.

60. Fire Sprinkler System - All new commercial buildings and structures 3,600 square feet or larger will be required to install a fire sprinkler system. Reference CFC 903.2 as amended by the County of Riverside.

61. Fire Alarm and Detection System - A water flow monitoring system and/or fire alarm system may be required as determined at time of building construction plan review. Reference CFC 903.4 and CFC 907.2.

62. Traffic Calming Devices - Requests for installation of traffic calming designs/devices on fire apparatus access roads shall be submitted and approved by the Office of the Fire Marshal. Reference CFC 503.4.1.

63. Dock loading shall not impede fire department access lanes.

64. Knox Box and Gate Access: Buildings shall be provided with a Knox Box. The Knox Box shall be installed in an accessible location approved by the Office of the Fire Marshal. All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. Ref. CFC 506.1.

65. Addressing: All commercial buildings shall display street numbers in a prominent location on the address side and additional locations as required. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard #07-01.

66. Fire Addressing: All residential dwellings shall display street numbers in a prominent location on the street side of the residence. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard #07-01.

Public Works Department

General
-*+

67. The subject property shall substantially conform to the approved TENTATIVE PARCEL MAP 38659 and DESIGN REVIEW 23-7008. The City Engineer may approve minor design modifications to the project plans during the plan check process, if such modifications conform to the provisions of the Banning Municipal Code. Substantial changes shall not be permitted except upon application for, and approval of modification of this entitlement in compliance with all applicable procedures and requirements.

68. Revisions to the approved TENTATIVE PARCEL MAP 38659 during plan check process; including, but not limited to, lot line alignments, easements, improvement plan revisions, and similar minor changes that are in substantial compliance with the Tentative Map, or associated Conditions of Approval, shall be administratively approved through the plan check process with the mutual consent and approval of the Developer, the Community Development Director, and the City Engineer. Changes that are not administratively approved, through the process referenced above and herein shall be amended in accordance with the Subdivision Map Act, as amended and codified within the Banning Municipal Code (BMC).

69. All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.

70. All applicable mitigation measures specified in the approved Technical Studies (Traffic Impact Analysis (TIA), Water Quality Management Plan (WQMP)), shall be incorporated as conditions of approval for this project and shall be addressed to the satisfaction of the Public Works Director and City Engineer.

71. The applicant shall comply with the Approved site plan, the preliminary grading plan, the preliminary WQMP & Hydrology report, and other relevant documents approved during project entitlement. Any significant omission to the representation of the site conditions may require the plans to be resubmitted for further review and revision.

72. An Encroachment 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.

73. The applicant is responsible for resolving any conflicts with existing or proposed easements. All easement(s) of record and proposed easements shall be shown on the final map, grading plan, and improvement plans where applicable.

74. Where survey monuments exist, such monuments shall be protected or shall be referenced and reset, pursuant to the Business and Professions Code, Sections 8700 to 8805 (Land Surveyors Act).

75. All future 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. All future 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.

76. 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.

77. All weather vehicular access shall be maintained at all times to all parts of the proposed subdivision, where construction work is in progress, for emergency vehicles.

78. All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff to all surface structures (curbs, gutters, sidewalks, paving, etc.). The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Applicant.

79. Prior to the release of surety and upon completion of construction, the Applicant 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.

Improvement Plans, Maps, Reports, Agreements and Certifications

80. The following is a non-inclusive list of items that may be required by the Public Works Department. Unless otherwise authorized in writing by the City Engineer, plans shall utilize the minimum scale specified and shall be drawn on 24"x36" sized paper. Plans should be drawn at a larger scale if additional detail and/or clarity is desired (Note: The applicant may be required to prepare other improvement plans not listed here pursuant to improvement required by other agencies and utility purveyors). 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.

81. All required plans and studies shall be prepared by a Registered Professional Engineer, Registered Professional Geologist. Registered Professional Landscape Architect or Registered Professional Surveyor in the State of California and submitted to the Public Works Department for review and approval.

82. The design of public infrastructure elements shall conform to the requirements of these Conditions of Approval, City General Plan, City/Regional Master Plans, City of Banning Grading Manual, City of Banning codes/standards, Standard Specifications for Public Works Construction (current edition), and Caltrans Standards and Specifications at no cost to any governmental agency as required by the City Engineer.

83. The design of private grading and improvements outside of public right of way shall comply with the City of Banning Grading Manual, Title 18 of the City of Banning Municipal Code, California Building Code, State Water Resources Control Board orders, rules, and regulations, and City of Banning standards and practices.

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

85. An index map shall be provided on the title sheet of all plan sets showing the overall view of the entire work area.

86. All plans shall be complete, to the satisfaction of the City Engineer, prior to final map recordation and determination of surety estimates.

87.

Permit Type	***Plan Set***	***Scale***
Grading	Rough Grading Plan	1" = 40'
	Precise Grading Plan	1" = 20'
	Retaining Walls	1" = 40'
	Erosion and Sediment Control	1" = 40'
Encroachment	Street Improvement Plan Signing and	1" = 40' Horiz/ 1" = 4' Vertica
	Striping Plan Traffic Control Plan	1" = 40'
Final Maps	Storm Drain Improvement Plan Potable Water	1" = 40'
	Plan	1" = 40' Horiz/ 1" = 4' Vertica
Technical	Sewer Plan	1" = 40' Horiz/ 1" = 4' Vertica
Studies		1" = 40' Horiz/ 1" = 4' Vertica
	Final Map	
Permits and	Easement Dedications Corner Records	1" = 40'
Agreements	Records of Survey	
	Geotechnical Report Compaction	
	Report	
	Hydrologic and Hydraulic Report Water	
	Quality Management Plan	
	BMP Agreement	
	Landscape Maintenance Agreement	
	Subdivision/Improvement Agreement	
	Performance Bonds	
	Labor and Material Bond	
	Maintenance Bond	
	Certifications Non-Interference Letter	
	Grading Certifications Pad Certifications	

Mapping/Survey

88. The submittal, approval, and recordation of the Final Map shall be in accordance with the provisions of the State Subdivision Map Act and Title 16, Subdivisions, of the Banning Municipal Code.

89. The Final Map shall have adequate reservations for public ingress and egress as well as public and/or private utility easements and abandonment of existing utility

easements to the satisfaction of the City Engineer. The applicant shall be responsible for contacting all utility providers to establish appropriate easements required to provide services to each development area.

90. 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 with the County Surveyor simultaneously with the final map and labeled ENVIRONMENTAL CONSTRAINT SHEET in the top margin. Applicable items will be shown under a heading labeled Environmental Constraints Notes. The Environmental Constraint Sheet shall contain the statement:

    THE ENVIRONMENTAL CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST. THIS INFORMATION IS DERIVED FROM PUBLIC RECORDS OR REPORTS, AND DOES NOT IMPLY THE CORRECTNESS OR SUFFICIENCY OF THOSE RECORDS OR REPORTS BY THE PREPARER OF THIS MAP SHEET.

    As required by the City Engineer, the sheet shall delineate constraints involving, but not limited to, any of the following that are conditioned by the Advisory Agency: archaeological sites, geologic mapping, grading, building, building setback lines, flood hazard zones, seismic lines and setbacks, fire protection, water availability, and sewage disposal.

91. 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 may 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 as directed by the City Engineer. All costs associated with acquiring rights-of-way or easements shall be borne by the applicant.

92. In the event that the applicant in unsuccessful in acquiring necessary property rights outside the project/development, the City will consider and potentially act on the option to acquire through eminent domain. Permits (or portions of permits) that are not affected by ROW acquisition will not be held up during the property acquisition or eminent domain process.

93. During the improvement plan checking process, turning radius template checks shall be submitted for access to all storm drain facilities, open space, and other

utility easements that are accessed from a publicly accessible paved street. These templates shall clearly show that the easements are sufficient for full access under emergency conditions. The City of Banning's review of the easements shall include appropriateness of the vehicle turning radius, easement slopes and easement widths. Additional easement widths shall be required when the design vehicle is likely to use outriggers or other means of load stabilization.

94. All public facilities including sewer, water, reclaimed water and drainage shall be located in a public right of way or public utility easement. All final maps shall include appropriate easements per the approved tentative map and as required by the City Engineer and/or other agency maintaining public facilities. All easements shall meet minimum width and access requirements as mandated by the City or governing agency.

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

96. The Applicant shall be responsible for research on private utility lines (Gas, Edison, Telephone, Cable, Internet, etc.) to ensure there are no conflicts with site development. All existing on-site utility lines that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the City Engineer.

97. 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 unless such easements are expressly made subordinate to the easements to be offered for dedication to the City. 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.

98. The applicant, at its sole expense, shall obtain all right of way or easement acquisitions necessary to implement any portion of condition of this project, including public improvements, off-site grading and construction, offsite street requirements, offsite public utility requirements, storm drain improvements, or any other requirement of these conditions.

99. The applicant shall provide an easement over, across, and which provides ingress and egress to all private water quality, stormwater, drainage basins, public water facilities, public sewer facilities, public electric facilities, and fire department access to be dedicated to the City, for ingress, egress, and right to inspect, repair, remove, and replace unless otherwise directed by the City Engineer.

100. The applicant shall offer for dedication on the Final Map, within Final Map boundaries, all public street right-of-way and public utility easements in conformance with project entitlement documents. The City may reject the dedications and leave them open for future acceptance when all required public street improvements for the map are installed by the applicant in the rights of way.

101. The applicant shall offer to dedicate to the City of Banning additional Right of Way as described below:

Lincoln Street: 55' half width dedication (measured from Centerline)
All offers of dedication shall include the corner cut-back at all intersections.

102. 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 - In the amount as supplied by the Record Engineer/Land Surveyor and as approved by the City Engineer

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.

103. The City and the applicant are to enter into a Public Improvement Agreement to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans.

104. The applicant shall verify and/or set all property corners, r/w corners, and centerline monuments. Subsequently, the applicant shall cause the surveyor to file the appropriate documents and records to the County of Riverside.

105. Public improvements shall be completed and accepted by City of Banning prior to release of Faithful Performance Bond and Labor and Material Bond for such improvements. Faithful Performance Bond for applicable public improvements shall be reduced to 10% once City accepts improvements into maintenance period. Final 10% to serve as the maintenance bond for the 1- year maintenance period.

106. The Applicant shall comply with Assembly Bill 1414, which was enacted on January 1, 1995, and amended Section 8771 of the Business and Professions

Code of the Land Surveyors Act. Assembly Bill 1414 requires that two (2) corner records be filed when:

- 1 Monuments exist that control the location of subdivisions or tracts, streets or highways; or provides survey control. The monuments are located and referenced by a licensed Land Surveyor before any streets or highways are reconstructed or relocated. The corner record(s) of the references are filed with the County Surveyor.

- 1 Monuments are reset in the surface of the new construction and a corner record is filed with the County Surveyor before recording of a Certificate of Completion for the project.

107. Permanent survey monuments shall be set at the intersection of street centerlines, beginning, and end of curves in centerlines, and at other locations designated by the Director of Public Works and City Engineer. All other centerline monuments shall be placed in accordance with standard survey practice. A complete set of street centerline ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of the monumentation bond.

Grading

108. The applicant shall comply with Title 18 of the Banning Municipal Code "Grading, Erosion, and Sediment Control", the City of Banning Grading Manual, California Building Code related to excavation and grading, and State Water Resources Control Board orders, rules, and regulations.

109. Grading work shall be balanced on-site, wherever possible. If export is required as a result of the final grading plan, then measures will be taken to be in compliance with the applicable City of Banning Ordinances at time of final grading plan approval.

110. 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 within the property boundaries, or within drainage devices and easements obtained by the applicant.

111. Rough grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions. The Applicant shall submit design

calculations and obtain permits for all perimeter and retaining walls from the Building and Safety Department.

112. A Grading Plan and Erosion Control Plan shall be submitted to the City Engineer for review and approval.

113. Detailed grading plans shall be prepared and approved by the City prior to any on-site grading for the project.

114. A soils report and geotechnical study shall be submitted in conjunction with the grading plan with further analyses of on-site soil conditions and appropriate measures to control erosion and dust. Any issues or recommendations provided in the report shall be addressed to the satisfaction of the City Engineer. The responsible geotechnical engineer shall sign and stamp all grading plans indicating the plan complies with the recommendations of the comprehensive soils and geotechnical report.

115. A grading permit shall be obtained from the Public Works Department prior to the commencement of any grading work.

116. 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 (RWQCB). The applicant shall provide proof that the NOI and SWPPP has been approved by the RWQCB prior to issuance of any permits. 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. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):

Temporary Soil Stabilization (erosion control).
Temporary Sediment Control.
Wind Erosion Control.
Tracking Control.
Non-Storm Water Management.
Waste Management and Materials Pollution Control.

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. 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.

117. Construction documents shall include language that requires all construction contractors to strictly control the staging of construction equipment and the cleanliness of construction equipment stored or driven beyond the limits of the construction work area. Construction equipment shall be parked and staged within the project site. Staging areas shall be screened from view from adjacent properties. Vehicles shall be kept clean and free of mud and dust before leaving the development site. Surrounding streets shall be swept daily and maintained free of dirt and debris.

118. 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.

119. The applicant shall provide a lot pad certification. The pad certification shall include an elevation and compaction certification. The elevation certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. The compaction certification shall list the relative compaction of the pad soil and shall be certified by a licensed geotechnical engineer.

120. The applicant shall provide a Final Grade Certification. The certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall show actual building setbacks, swales, drainage devices, and other items shown in conformance with the approved Precise Grading Plan.

Stormwater/Water Quality

121. The applicant shall comply with Chapter 13.24 "Stormwater Management Systems" of the Banning Municipal Code.

122. The applicant shall 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.

123. The proposed drainage improvement plans shall be designed such that drainage facilities will maintain or reduce the 100-year peak runoff rates presently exiting all Project boundaries. The Project will use on-site detention basins to reduce the storm water flows to or below the existing condition flows prior to their discharge to areas located downstream of the project. The project shall be designed to retain the 100-year 3-hour storm. Detention facilities shall have a maximum draw down time of 72 hours.

124. Applicant shall submit drainage improvement plans for the proposed subdivision with the accompanying hydrology and hydraulic analysis and shall be designed per the RCFC&WCD Hydrology Manual and the City of Banning flood control standards. Finalized studies shall verify the size of flood control facilities. Drainage facilities shall be in accordance with the approved tentative map and specific plan. Plans shall be submitted to RCFC&WCD and/or the City of Banning for review and approval for facilities that are to be owned and/or maintained by RCFC&WCD.

125. Trash Capture Devices are designed to keep trash, sediment, and debris from entering the City's storm sewer system including its' curb and gutters. The proposed project is in a "Priority Land Use" area (defined as: high-density residential areas (starting from 10 dwellings units/acre), Industrial areas (manufacturers, storage warehouses, distribution centers, junkyards), Commercial areas (populated consumer areas where goods and services are exchanged), Mixed-use areas (areas where high-density residential, industrial, and commercial intermix), and Public Transportation areas (property drains to or from bus stops)). Therefore, the developer shall install, operate, and maintain a "Full Capture" trash treatment control device for all storm drain systems (catch basins, inlets, etc.) on the property that capture runoff from the Priority Land Use area to comply with Trash Amendments/Provisions as defined by the SWRCB. The full capture system/device shall be selected from the SWRCB's approved Certified "Full Capture Systems" list and shall also be approved by the City Engineer. If the project does not require a WQMP but is in a "Priority Land Use" area, a BMP Maintenance Agreement shall be prepared and executed with the City to ensure proper operation and maintenance of the full capture system/device and an annual self-inspection report shall be submitted to the Engineering Division.

126. The applicant shall identify and include in its improvement plans structural and non-structural Best Management Practices (BMP's) as outlined in the Final Water Quality Management Plan (WQMP).

127. The applicant shall prepare final Water Quality Management Plan in accordance with the California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011. The WQMP shall identify project

Site Design BMP's, Source Control BMPs and Treatment Control BMP's as applicable. LID/Site Design BMPs should be incorporated in lieu of Treatment Control BMPs where feasible. The Whitewater River Region WQMP Guidance document shall be utilized by the applicant. The WQMP shall be reviewed and approved by the City Engineer.

128. The applicant shall execute a Stormwater Facilities Management Agreement on terms agreed to by the parties guaranteeing the maintenance of stormwater pollution controls. This Agreement shall include language that the City of Banning shall inspect the stormwater facilities on 3-year intervals at sole cost of the property owner. Said agreement shall be recorded with the Riverside County Recorder and run with the land.

129. The applicant shall provide their SIC code to the Engineering Division to determine if a SWRCB issued Industrial General Permit will be required.

130. A NPDES/Industrial Waste Inspection performed by the Public Works Dept. will occur and be paid for prior to the issuance of the Certificate of Occupancy.

Streets and Traffic

131. All street designs shall comply with City of Banning standard drawings where available. If no City standard is available applicant may select standards in the following order:
1 - City of Banning Standards
2 - Riverside County Standard Drawings
3 - 'Greenbook' Standard Drawings
4 - Caltrans Standard Drawing
5 - Other published standards, subject to approval from the City Engineer. Any standard drawing other than City of Banning standards shall be included on the improvement plan set as reference.

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

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

134. 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.

135. Applicant's geotechnical engineer shall provide the design of the pavement section and field measured "R-Values" based upon the Caltrans Method.

136. Street pavement design shall take into account the subgrade soil strength, the projected traffic loading, and have a design life of 20 years.

137. Minimum AC Thickness for any roadway shall be 4" AC, completed in 2 lifts. Final lift shall be a 0.15-foot cap completed after onsite construction is completed.

138. In accordance with the California Building Code, Title 24, and the requirements of the Americans with Disabilities Act (ADA), facilities for disabled persons shall be constructed in locations specified by the City Engineer (i.e., accessible paths of travel, curb ramps, etc.).

139. Parking areas shall be designed and improved with grades not to exceed five percent slope. All applicable ADA standards will be adhered to.

140. The street improvement plans shall include details for all ADA ramps, indicating elevations and grades in accordance with City of Banning standard drawings at a scale of 1"=5' or larger if necessary.

141. ADA Ramps shall comply with City of Banning Standards and PROWAG guidelines, whichever is stricter.

142. Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans. Commercial/Industrial driveway grades shall not exceed eight percent unless approved by the City Engineer.

143. 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.

144. All existing overhead utility lines located on or adjacent to the site shall be undergrounded prior to public improvement acceptance and surety release, to the satisfaction of the Public Works Director, including but not limited to, electrical distribution, telephone, and cable lines, with the exception of electric utility lines over 33 kV in accordance with Ordinance 1500.

145. Lincoln Street: Construct half width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST-101.1, (55' half width, 43' offset to C&G) including the following: Curb and Gutter, AC Pavement, Painted Median, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping.

146. The applicant shall provide estimates to construct, improve, or finance the proposed public improvements to the City Engineer for review and approval. The estimate shall differentiate between public improvements within the property boundaries of the tentative map, improvements outside the project boundaries and public improvements which abut the boundary of the property to be subdivided.

147. Applicant shall post a bond with the City of Banning to guarantee the repair of the roads.

148. Street lights shall be installed in accordance with the City of Banning Electric Department Standards. A detailed lighting plan shall be submitted for review and approval by the City's Electric Department and City Engineer prior to recordation of Tr 37766. The plan shall indicate style, illumination, location, height and length of mast arm.

149. Applicant shall provide a modified Commercial Driveway to allow for truck movements in/out of the site to access the far right lane for westbound Lincoln Street.

150. Striping Plan shall accommodate bike lanes within the paved in accordance with the City's Active Transportation Plan.

151. 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.

152. All required public improvements for the project shall be completed, tested, and approved by City of Banning and/or other governing agency to the satisfaction of the City Engineer or their designee.

153. Applicant shall install all street name signs, striping, and related signage as shown on the approved plans to the satisfaction of the City Engineer and Public Works Director.

154. Applicant shall make pavement repairs necessary to mitigate the impacts of project construction traffic on all affected existing streets.

Landscaping

155. The applicant shall be required to enter into a Landscape Maintenance Agreement for the perpetual maintenance of landscaping within the public right-of-way fronting the project sites.

156. Prior to laying of the aggregate base layer for any new streets, all landscaping irrigation services (or sleeves to accommodate said services) shall be installed. Street cut permits may be denied and alternate methods may be required for any construction within a street that was accepted by the City within the prior five years.

157. The applicant shall plant and maintain trees, shrubs, and ground cover placed in the parkway and slopes adjacent to public rights-of-way in connection with the project in accordance with applicable City standards.

158. Landscape and irrigation plans for all required facilities shall be submitted for approval. The final design of the parkways, walls, landscaping, and sidewalks shall be included in the plans and shall be subject to approval by the Community Development Director and City Engineer.

159. All landscape improvements within public right of way shall be compliant with the City of Banning MWELO guidelines.

160. An automatic sprinkler system and landscaping shall be installed, prior to certificate of occupancy for the portion of the project for which certificates of occupancy are requested, within the common areas including perimeter slopes and the interior collector streets. Each system shall include a smart landscape irrigation controller (including remote communication), 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.

161. 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.

Potable Water

162. All public potable water improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.

163. All private potable water improvement shall be designed and constructed per California Building Code, California Plumbing Code, and California Fire Code,

latest editions. All private improvements shall be concurrently reviewed by the Building and Safety Department.

164. All private fire suppression systems shall be reviewed and approved by the City Fire Marshall.

165. Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.

166. Fire hydrants shall be installed within and on the tract boundaries as per approved plans, at a 300-foot maximum spacing.

167. The fire service with require a RPDA backflow protection device. Private fire hydrants shall be painted red, and approval of location and materials to be coordinated with the Fire Department.

168. A backflow device must be installed on all common-area buildings and at each irrigation water connection. The backflow device must be in compliance with City of Banning standards and specifications.

169. A water improvement plan shall be submitted, separate from grading or site plans, showing proposed water service connection sizes and locations, including separate laterals for irrigation and fire protection. Both the domestic and irrigation water services will require the installation of a RP backflow protection device. Delta revision to existing plan to show new lateral locations is acceptable.

170. All required water lines and fire hydrants shall be installed and made operable before any building permits are issued. This may be done in phases if the construction work is in progress for emergency vehicles.

Sewer

171. All public sewer improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.

172. Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.

173. Each property shall have its own sewer lateral and shall be PVC SDR 26.

174. 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.

175. Applicant shall fill out and submit an Industrial User Survey form and an Industrial Waste Permit application.

176. A sewer improvement plan shall be submitted showing the sewer lateral size and location within the public right of way. A delta revision to the existing sewer plan is acceptable.

Solid Waste/Refuse

177. Effective January 1, 2022, all businesses shall subscribe to City's three-container (trash, recycling, organics), Collection Services per Banning Municipal Code, Title 8.28, "Garbage Collection and Disposal" unless a City approved exemption is granted. Information on the program is available on the City of Banning website and made available at the following link: https://library.municode.com/ca/banning/codes/code_of_ordinances.

178. Applicant is required to use the City's exclusive franchise hauler (Waste Management) unless otherwise approved in writing by the Public Works Department.

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

180. Applicant is encouraged to review the referenced sections in the 2019 California Green Building Standard Code:https://calgreenenergyservices.com/wp/wp-content/uploads/2019_california_green_code.pdf

181. Applicants shall submit a Construction and Demolition Waste Diversion Plan to the City's Solid Waste Program Coordinator (SWPC) prior to commencement of construction or demolition. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a plan template.

182. The developer shall participate in the City's recycling and diversion programs by providing a solid waste enclosure to accommodate necessary solid waste containers.

183. All new development projects including, but not limited to, industrial and business buildings and facilities, as well as multi-family complexes shall provide a solid waste enclosure to accommodate trash, recycle and organics waste bins and/or containers. Solid waste enclosures for multiple tenant properties, such as a shopping center, must design the enclosure to accommodate all waste containers of the property.

184. Solid waste enclosures shall be located on the site to be serviced.

185. The enclosure shall be designed for the exclusive use of housing solid waste containers including trash, recyclable and organics materials.

186. Enclosures shall be lockable and/or contain locking bins. Locking mechanisms on enclosures and/or bins shall be approved by the City of Banning Solid Waste Franchise Hauler.

187. Design Criteria:

a. The size and dimensions of the trash enclosure shall be based on the required number and size of containers at a minimum accommodating one (1) container each for trash, recyclables and organics materials.
b. Enclosure shall be architecturally compatible with the primary building on site to provide a coordinated design.
c. Exterior materials and colors of the enclosure shall match the building walls.
d. Chain link fencing with or without/plastic slats is prohibited.
e. Enclosure shall have solid metal or wood gates with latches that can be secured in an open or closed position.
f. Enclosures shall be constructed in a permanent manner.
g. Exterior must be fully enclosed with solid roofing to prevent rainfall from entering the enclosure and to prevent wind dispersal, as well as offsite transport of trash and recycling.
h. Provide the minimum clearance for collector and user accessibility.
i. City Engineer approval shall be obtained in writing prior to the construction of any solid waste enclosure.

188. Pursuant to CAL Green Building Standards Code section code 5.408. Construction and demolition wastes must be recycled and or salvaged for a reuse minimum of 65% of nonhazardous construction demolition waste materials. All projects require construction waste reduction, disposal and recycling services that comply with the 2019 California Green Building Standards Code (CALGreen) as described in the Non- Residential (5.408).

189. Applicants shall submit a Construction and Demolition Waste Diversion Reporting Form to the City's Solid Waste Program Coordinator upon completion

of the project to obtain diversion approval prior to final sign-off. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a report form template.

Public Works Fees

190. All fees must be paid in full at the thresholds identified below. Plan check fees for professional report review and all improvement plan reviews shall be paid at the time of submittal of said documents in accordance with the fee schedule in effect at the time of the submittal.

191. Applications submitted without full payment of fees are deemed incomplete. Plan review will not commence until all fees are paid.

192. Evidence of paid fees to agencies outside the City of Banning is required prior to the issuance of any applicable permit.

193. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision.

194. Public Works Grading Permit fees (including fees for NPDES inspections) shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.

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

196. Water Meter fees and installation fees shall be paid in full prior to installation of any water meter in accordance with the fee schedule in effect at the time of installation.

197. Water connection fees shall be paid in accordance with the fee schedule in effect at the time of installation.

198. Sewer connection fees shall be paid in accordance with the fee schedule in effect at the time of installation.

199. Traffic Impact fees shall be paid in accordance with the fee schedule in effect at the time of issuance of occupancy permit.

200. A NPDES/Industrial Waste Inspection performed by the Public Works Dept. will occur and be paid for prior to the issuance of the Certificate of Occupancy. The applicant shall provide their SIC code to the Engineering Division to determine if a SWRCB issued Industrial General Permit will be required. For industrial facilities subject to the SWRCB's Industrial General Permit due to its SIC code, prior to the Grading or Building Permit the applicant shall demonstrate coverage has been obtained by providing its WDID/NOI to the City Engineer.

END

EXECUTED IN DUPLICATE

Bond No. 72BCSJF0306

Premium: $8,705.00
Premium is for Contract Term a nd Subject to Adjustment Based on Final Contract Price

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

Whereas, the City of Banning, State of California, and **Brown Strauss Inc. and Bremco Construction, Inc.** (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 20____, and identified as project Brown Strauss Industrial Project, is hereby referred to and made a part hereof; and

Whereas, Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the Principal and **Hartford Fire Insurance Company** as surety (hereinafter designated as "Surety"), are held and firmly bound unto the City of Banning in the penal sum of Eight Hundred Six Thousand Fifty Five and 45/100ths dollars ($806,055.45), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, his, her, or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his, her, its or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Banning, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City of Banning in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Further, Surety hereby waives the provisions of California Civil Code Sections 2845 and 2849. The City of Banning is the principal beneficiary of this bond and has all rights of a party hereto.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original hereof, have been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these

presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: June 24, 2025

"Principal"

Brown Strauss Inc.

By: _____
Its:

Bremco Construction, Inc.

By: _____
Its: President, Greg Darling

(Seal)

"Surety"

Hartford Fire Insurance Compaany

_____

By: _____
Its: Attorney-in-Fact, Lawrence F. McMahon

By: _____
Its:

HARTFORD FIRE INSURANCE CO. INCORPORATED 1810

(Seal)

APPROVED AS TO FORM:

RICHARDS, WATSON & GERSHON
A Professional Corporation

By: _____
City Attorney

Note: This bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.

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 San Diego)

On June 24, 2025 before me, Maria Hallmark, Notary Public
(insert name and title of the officer)

personally appeared Lawrence F. McMahon,
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.

MARIA HALLMARK
Notary Public - California
San Diego County
Commission # 2516988
My Comm. Expires May 9, 2029

Signature _____ (Seal)

POWER OF ATTORNEY

Direct Inquiries/Claims to:
THE HARTFORD
BOND, T-11
One Hartford Plaza
Hartford, Connecticut 06155
Bond.Claims@thehartford.com
call: **888-266-3488** *or fax:* **860-757-5835**

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: ALLIANT INSURANCE SERVICES INC
Agency Code: 72-160200

- [X] **Hartford Fire Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- [X] **Hartford Casualty Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- [X] **Hartford Accident and Indemnity Company**, a corporation duly organized under the laws of the State of Connecticut
- [ ] **Hartford Underwriters Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- [ ] **Twin City Fire Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- [ ] **Hartford Insurance Company of Illinois**, a corporation duly organized under the laws of the State of Illinois
- [ ] **Hartford Insurance Company of the Midwest**, a corporation duly organized under the laws of the State of Indiana
- [ ] **Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, ***up to the amount of*** Unlimited :

Lilia De Loera, Maria Guise, Janice Martin, Lawrence F. McMahon, Sarah Myers of SAN DIEGO, California

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.

Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA
COUNTY OF SEMINOLE } ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.

Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of June 24, 2025.

Signed and sealed in Lake Mary, Florida.

Keith Dozois

Keith D. Dozois, Assistant Vice President

EXECUTED IN DUPLICATE

Bond No. 72BCSJF0306
Premium included in
Performance Bond

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

Whereas, the City of Banning, State of California, and **Brown Strauss Inc. and Bremco Construction, Inc.** (hereinafter designated as "Principal") have entered into an agreement whereby the Principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 20____, and identified as project Brown Strauss Industrial Project, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Banning to secure the claims to which reference is made in Part 6 (commencing with Section 8000) of Division 4 of the Civil Code.

Now, therefore, the Principal and Hartford Fire Insurance Company as surety (hereinafter designated as "Surety"), are held firmly bound unto the City of Banning and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the agreement and referred to in Part 6 (commencing with Section 8000) of Division 4 of the Civil Code in the penal sum of Eight Hundred Six Thousand Fifty Five and 45/100ths dollars ($806,055.45), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City of Banning in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Part 6 (commencing with Section 8000) of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

Further, Surety hereby waives the provisions of California Civil Code Sections 2845 and 2849. The City of Banning is the principal beneficiary of this bond and has all rights of a party hereto.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original hereof, have been duly executed by Principal and Surety,

on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: June 24, 2025

"Principal"

Brown Strauss Inc.

By: _____
Its:

Bremco Construction, Inc.

By: _____
Its: President, Greg Darling

(Seal)

"Surety"

Hartford Fire Insurance Compaany

_____

By: _____
Its: Attorney-in-Fact, Lawrence F. McMahon

By: _____
Its:

HARTFORD FIRE INSURANCE CO. INCORPORATED 1810

(Seal)

APPROVED AS TO FORM:

RICHARDS, WATSON & GERSHON
A Professional Corporation

By: _____
City Attorney

Note: This bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.

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 San Diego)

On June 24, 2025 before me, Maria Hallmark, Notary Public
(insert name and title of the officer)

personally appeared Lawrence F. McMahon,
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)

POWER OF ATTORNEY

Direct Inquiries/Claims to:
THE HARTFORD
BOND, T-11
One Hartford Plaza
Hartford, Connecticut 06155
Bond.Claims@thehartford.com
call: **888-266-3488** *or fax:* **860-757-5835**

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: ALLIANT INSURANCE SERVICES INC
Agency Code: 72-160200

- [X] **Hartford Fire Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- [X] **Hartford Casualty Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- [X] **Hartford Accident and Indemnity Company**, a corporation duly organized under the laws of the State of Connecticut
- [ ] **Hartford Underwriters Insurance Company**, a corporation duly organized under the laws of the State of Connecticut
- [ ] **Twin City Fire Insurance Company**, a corporation duly organized under the laws of the State of Indiana
- [ ] **Hartford Insurance Company of Illinois**, a corporation duly organized under the laws of the State of Illinois
- [ ] **Hartford Insurance Company of the Midwest**, a corporation duly organized under the laws of the State of Indiana
- [ ] **Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, ***up to the amount of*** Unlimited :

Lilia De Loera, Maria Guise, Janice Martin, Lawrence F. McMahon, Sarah Myers of SAN DIEGO, California

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.

Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA
COUNTY OF SEMINOLE } ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.

NOTARY PUBLIC STATE OF FLORIDA

Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of June 24, 2025.

Signed and sealed in Lake Mary, Florida.

Keith D. Dozois

Keith D. Dozois, Assistant Vice President

EXECUTED IN DUPLICATE

Bond No. 72BCSJF0306

Premium included in Performance Bond

WARRANTY BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

Whereas, the City of Banning, State of California, and **Brown Strauss Inc. and Bremco Construction, Inc.** (hereinafter designated as "Principal") have entered into an agreement, dated _____, 20____, and identified as project Brown Strauss Industrial Project, is hereby referred to and made a part hereof; and

Whereas, Principal is required under the terms of said agreement to furnish a bond for the good and sufficient warranty of all of the improvements installed pursuant to said agreement.

Now, therefore, we, the Principal and Hartford Fire Insurance Company as surety (hereinafter designated as "Surety"), are held and firmly bound unto the City of Banning in the penal sum of Eight Hundred Six Thousand Fifty Five and 45/100ths dollars ($806,055.45) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall remedy, without cost to the City of Banning, any defects which may develop during a period of one (1) year from the date of the completion and acceptance of the last of the improvements installed under the agreement, caused by defective or inferior materials or workmanship as determined by the City, and shall indemnify, defend and hold harmless the City of Banning, its officers, agents, and employees for any and all claims, demands, causes of action, damages, injuries, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense, which arise out of, pertain to, or relate to such defects or inferior materials or workmanship or to the Principal's actions or inactions in remedying such defects or inferior materials or workmanship, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

If suit is brought upon this bond, Surety further agrees to pay, in addition to the Penal Sum, all costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by the City of Banning in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

Further, Surety hereby waives the provisions of California Civil Code Sections 2845 and 2849. The City of Banning is the principal beneficiary of this bond and has all rights of a party hereto.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original hereof, have been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: June 24, 2025

"Principal"

Brown Strauss Inc.

By: _____
Its:

Bremco Construction, Inc.

By: _____
Its: President, Greg Darling

(Seal)

"Surety"

Hartford Fire Insurance Compaany

_____

By: _____
Its: Attorney-in-Fact, Lawrence F. McMahon

By: _____
Its:

(Seal)

APPROVED AS TO FORM:

RICHARDS, WATSON & GERSHON
A Professional Corporation

By: _____
City Attorney

Note: This bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.

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 San Diego)

On June 24, 2025 before me, Maria Hallmark, Notary Public
(insert name and title of the officer)

personally appeared Lawrence F. McMahon,
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.

MARIA HALLMARK
Notary Public - California
San Diego County
Commission # 2516988
My Comm. Expires May 9, 2029

Signature _____ (Seal)

POWER OF ATTORNEY

Direct Inquiries/Claims to:
THE HARTFORD
BOND, T-11
One Hartford Plaza
Hartford, Connecticut 06155
Bond.Claims@thehartford.com
call: **888-266-3488** *or fax:* **860-757-5835**

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- [ ] **Hartford Insurance Company of the Southeast**, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, ***up to the amount of*** Unlimited :
Lilia De Loera, Maria Guise, Janice Martin, Lawrence F. McMahon, Sarah Myers of SAN DIEGO, California

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by ☒, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.

Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA
COUNTY OF SEMINOLE } ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of June 24, 2025.

Signed and sealed in Lake Mary, Florida.

Keith D. Dozois, Assistant Vice President

RESOLUTION 2025-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 38659; AUTHORIZING STAFF TO SIGN THE FINAL PARCEL MAP AND PROJECT IMPROVEMENT AGREEMENT; RELEASING THE FINAL MAP FOR RECORDATION; AND ACCEPTING THE PERFORMANCE AND LABOR AND MATERIAL BONDS FOR PUBLIC IMPROVEMENTS

WHEREAS, Tentative Parcel Map (TPM) No. 38659 was approved by City Council on June 24th, 2024 with Resolution 2024-112; and

WHEREAS, Final Parcel Map (PM) No. 38659 will combine 3 existing parcels into a single 14.27 acre parcel and dedication for Lincoln Street to the ultimate width per the Circulation Element within the General Plan; and

WHEREAS, the property owner has signed a Project Improvement Agreement and has submitted bonds to assure that the required public improvements are constructed; and

WHEREAS, the PM 38659 have been deemed technically correct and that they conform to the requirements of the Subdivision Map Act and the City Engineer has verified that PM 38659 are in substantial conformance with the approved TPM 38659.

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

SECTION 1. The City Council approves PM 38659, a copy of which is hereby attached as Exhibit “A” and made part of this Resolution.

SECTION 2. The City Council approves the execution of the Project Improvement Agreement to be signed by the Mayor which is hereby attached as Exhibit “B” and made part of this resolution.

SECTION 3. The City Council accepts the performance and labor and material bonds and authorize staff to sign the final maps

SECTION 4. The City Council directs the Administrative City Clerk to transmit PM 38659 to the County Recorder of the County of Riverside for recordation.

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, APPROVED AND ADOPTED this 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Vicky Sellers, City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney

CERTIFICATION:

I, Vicky Sellers, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-102, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Vicky Sellers, City Clerk
City of Banning, California

EXHIBIT A
Final Parcel Map 38659

EXHIBIT B
Project Improvement Agreement for Final Parcel Map 38659

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Nate Smith, Deputy Director of Public Works/City Engineer**
Art Vela, Director of Public Works

MEETING DATE: **July 8, 2025**

SUBJECT: **Consider Resolution 2025-103, Approving a 2-Year Contract with a 1-Year Optional Extension to Terminix International Company, LP For City Wide Facilities and As-Needed Pest Control Services For a total of $75,000.**

RECOMMENDATION:

Adopt Resolution 2025-103.

BACKGROUND:

The City of Banning solicited an RFP (RFP22-017) in 2022 for City Wide Pest Control Services, and a contract was awarded to Terminix Pest Control to provide those services. Initial contract was for a 1-year term with four (4) 1-year extensions. After 2 years, the current contract is expiring, and a new contract with Terminix is necessary.

The contract include approximately $17,000 in annual expenses for regular services at City facilities. An additional $8,000 is estimated for 'as-needed' expenses, which cover items like the recently completed pest control work at the animal shelter, and could include if other unused city facilities are brought back online. The Facility Maintenance Department is requesting that the contract be written for the remainder of the 5-years originally contemplated, with would be this 2-year contract with an optional 1-year extension for a total of $75,000.

JUSTIFICATION:

Pest control services is a necessary function of the Building Maintenance department to ensure that city facilities and work area are treated and clear of various pests, that may pose health risks to City employees or damage to inventory if pests are not controlled.

FISCAL IMPACT:

This contract is funded from the Building Maintenance Interfund Service Account (704-3200-412.23.24), which all city departments and enterprises contribute to. This item is budgeted within that account.

ALTERNATIVES:

Do not approve Resolution 2025-103 and provide alternate direction to staff on providing pest control services.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-103.docx
2. Resolution 2025-103 Exhibit A - Terminix International Contract.docx

RESOLUTION 2025-103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A 2-YEAR CONTRACT WITH A 1-YEAR OPTIONAL EXTENSION TO TERMINIX INTERNATIONAL CO, LP, FOR CITY WIDE FACILITIES AND AS NEEDED PEST CONTROL SERVICES FOR A TOTAL OF $75,000

WHEREAS, The City of Banning issued RFP22-017 in 2022 to solicit bids for City Wide and As Needed Pest Control Services for a 1-year contract with up to four (4) 1-year extensions; and

WHEREAS, The City of Banning awarded Terminix a contract for City Wide and As Needed Pest Control Services as a result of this RFP; and

WHEREAS, The current contract with Terminix expired on June 30, 2025 which necessitates a new contract to be entered into; and

WHEREAS, Pest control services are a necessary service for the City to provide to city owned and utilized facilities.

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

SECTION 1. The City Council approves the Agreement for Contract Services with Terminix International Company, LP for the City-Wide Pest Control Services for a 2-year term in an amount of $50,000 and subsequent amendments to extend the Agreement for up to 1 additional year terms upon satisfactory performance, with a total not-to-exceed amount of $75,000 over three (3) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Agreement for Contract Services and to execute the Agreement for Contract Services with Terminix International Company, LP on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Sandra Calderon, Acting Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Sandra Calderon, Acting Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-103, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Acting Administrative City Clerk
City of Banning, California

EXHIBIT A
Agreement Document Title

C01172 – Agreement for Contract Services for City Wide Pest Control Services By and Between City of Banning and the Terminix International Company Limited Partnership

AGREEMENT FOR CONTRACT SERVICES (C01172) FOR CITY-WIDE PEST CONTROL SERVICES BY AND BETWEEN CITY OF BANNING AND THE TERMINIX INTERNATIONAL COMPANY LIMITED PARTNERSHIP

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this day: _____, by and between the **CITY OF BANNING**, **a municipal corporation** ("City") and The Terminix International Company LP ("Contractor"). The Contractor has been qualified by the Secretary of State to conduct business in California. City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties.".

RECITALS

A. City has sought, by issuance of a Request for Proposals (RFP No. 22-017), the performance of the Services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a bid for the performance of the Services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those Services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement. An original agreement Contract C00765 was entered into on November 22, 2022 with an expiration date of June 30, 2023 with an option of 4 one year renewal options. A secondary one-year contract was entered into on August 24, 2024. The contracted Parties wish to continue services under this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those Services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those Services specified in the "Scope of Services" attached hereto as Exhibit "A" and "A-1" and incorporated herein by this reference, which Services may be referred to herein as the "Services" or "Work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Work and Services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Work and Services required

hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

The Scope of Services shall include the Contractor's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the Services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the Services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof, to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Warranty and Guarantee**.**

Contractor warrants all under the Agreement (which for purposes of this Section shall be deemed to include unauthorized Work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship.

Contractor shall, upon the request of City and at no additional costs to City, make a service visit to reapply pesticides to the structures on the premises as reasonably necessary to control for and mitigate against acute infestations of pests and locations covered by this Agreement which occur within thirty (30) days from the last performance of the initial or regularly scheduled service visit, provided, however, that City must correct any and all documented conducive sanitation conditions within sixty (60) days and structural conditions within ninety (90) days, otherwise any additional treatments in areas of such conditions that are not corrected as required shall be paid for by City as an extra charge..

1.8 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000.00 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from third party claims or liabilities arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible for the Services of the other.

1.10 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra Work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said Work. No such extra Work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to five percent (5%) of the Contract Sum or $25,000.00, whichever

is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to Services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and "C-1", and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed FIFTY THOUSAND DOLLARS ($50,00.000) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii payment per service based upon the Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Scope of Services shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the Work with City is a critical component of the Services. If Contractor is required to attend meetings in addition to the project meetings, to facilitate coordination of the Services and/or Work, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all Work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories:

labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor charges. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the Work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for Work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will pay Contractor within thirty (30) days of receipt of Contractor's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

2.5 Waiver.

Payment to Contractor for Work performed pursuant to this Agreement shall not be deemed to waive any defects in Work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's Work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's Work within forty-five (45) days after it is submitted to City. City shall accept Work by a timely written

acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any Work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Article 1 and 5, pertaining to warranty, and indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence upon execution by both Parties and shall expire on June 30, 2027 ("Initial Term"), with one optional one-year extension remaining ("Renewal Term") (the Initial Term and Renewal Term are collectively a "Term"). Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principal of Contractor (Principal) is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Work specified herein and make all decisions in connection therewith.

Anthony Engebretson, Branch Manager

4.2 Representative Name, Title.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal was a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principal. For purposes of this Agreement, the foregoing Principal may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance.

4.3 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.4 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.5 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the Services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.6 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City. Notwithstanding the foregoing, the City acknowledges that Contractor has the right to utilize franchisees, affiliates and/or service partners to perform the Services for the City and this shall not be considered subcontracting, nor will it require prior approval by the City. Contractor's right to utilize a franchisee, affiliate and/or service partner to perform the Services shall not relieve Contractor of any of its duties or obligations under this Agreement, and Contractor shall indemnify and hold the City harmless from any payment required to be paid to any such franchisee, affiliate and/or service partner.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Throughout the life of this Agreement, Contractor shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) that meet

the standards specified in Section 5.5. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of liability of not less than the following:

$1,000,000 per occurrence
$2,000,000 general aggregate

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

(iii) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(iv) EMPLOYERS' LIABILITY insurance with limits of liability of not less than $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

(v) N/A

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

If this Agreement continues for more than three (3) years duration, or in the event the City Manager or his/her designee determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City Manager, or his/her designee. Contractor shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and Contractor shall also be responsible for payment of any self-insured retentions.

At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

5.2 General Requirements.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice has been given to City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Contractor shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for City, Contractor shall provide a new certificate,

and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form. The General Liability (including ongoing and completed operations) and Automobile Liability shall name City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Contractor's insurance shall be primary, but only for claims arising from the negligence of Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City and its officers, officials, employees, agents and volunteers. The Workers' Compensation insurance policy shall contain a waiver of subrogation as to City and its officers, officials, employees, agents and volunteers. Should Contractor maintain insurance with broader coverage and/or limits of liability greater than those shown above, City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

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

If at any time during the life of this Agreement or any extension, Contractor or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under this Agreement shall be discontinued immediately, and all payments due or that become due to Contractor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City hereunder shall in any way relieve Contractor of its responsibilities under this Agreement.

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

If Contractor should subcontract all or any portion of the Services to be performed under this Agreement, Contractor shall require each subcontractor to provide insurance protection in favor of City and its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with Contractor and City prior to the commencement of any work by the subcontractor.

5.3 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) Except to the extent any Liability (as defined below) arises from the negligent act or omission of an Indemnitee and to the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against direct damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses, including reasonable fees of attorneys asserted by third parties (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of the negligent acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or an entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement,. Contractor shall reimburse the Indemnitees for reasonable legal expenses and costs incurred by Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws.

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of the negligent acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, Contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, except to the extent any Liability arises from the negligent act or omission of an Indemnitee.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Limitation of Consequential Liabilities. **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, LIQUIDATED, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES WHATSOEVER IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT.**

E. Survival of Terms. Contractor's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

F. Notwithstanding anything to the contrary in this Agreement, the Contractor's maximum liability to the indemnified parties under this Agreement is limited to (1) One Million dollars under this Agreement, regardless of type of claimed damages or legal theory of recovery.

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of the Contract Sum, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than three (3) years duration, or in the event the Risk Manager determines that the work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Books and Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Books and Records at all

times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of 3 years following completion of the Services hereunder, and the City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of Work and Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Contractor is providing Design Services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design Services, the estimated increased or decreased cost estimate for the project being designed.

6.3 [Deleted]

6.4 Confidentiality and Release of Information.

(a) All information gained or Work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or Work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) [Deleted].

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

This Agreement may be terminated by either Party upon written notice if the other Party hereto breaches any of its obligations under this Agreement, which breach is not cured to the satisfaction of the non-breaching Party within thirty (30) days of provision of written notice of such breach.

7.3 [Deleted].

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Work or Services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 [Deleted].

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided

in the following Section for termination for cause. Each Party reserves the right to terminate this Contract at any time, with or without cause, upon ninety (90) days' written notice to the other Party. The Contractor shall be entitled to compensation for all Services rendered prior to the effective date of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the Work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages).

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of Services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation,

partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of Work and/or Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement with a copy to contracts@terminix.com. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher, Date
Acting City Manager

ATTEST:

Caroline Patton, Date
Administrative City Clerk

APPROVED AS TO FORM:
Slovak Baron Empey Murphy &
Pinkney LLP

John O. Pinkney Date
Acting City Attorney

CONSULTANT

NAME: Date
TITLE:

NAME: Date
TITLE:

Tax ID No.

Address:

City Council Approval:_____

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT "A"
SCOPE OF SERVICES

I. Contractor will perform the following Services:

As specified in RFP22-017 dated May 31, 2022

PEST CONTROL SERVICES SCOPE OF SERVICES

The City of Banning (City) is seeking services of a qualified vendor to provide monthly pest control maintenance services and abatement for the following locations. Services to be provided by a certified technician in accordance with Federal, State and local regulations. Contractor to provide all labor, equipment, tools, materials and pesticides.

- City Hall – 99 East Ramsey Street
- City Yard – 176 East Lincoln Street
- Fire Administration Building – 3900 West Wilson Street
- Fire Station #1 – 172 North Murray Street
- Repplier Park Building – 200 West George Street
- Senior Center – 769 North San Gorgonio Avenue
- Community Center – 789 North San Gorgonio Avenue
- Armory - 2041 W. Nicolet
- Pass Valley Park (Roosevelt Williams) – 1101 East George Street
- PD Central – 125 East Ramsey Street
- Water Yard - 3333 Bluff Street
- Midway Substation - 4740 West Ramsey Street
- Ivy Substation -1582 East Westward Avenue
- StageCoach Substation - 1475 North Hargrave Avenue
- San Gorgonio Substation - 176 East Lincoln Street
- 22nd Street Substation - 251 South 22nd Street
- Sunset Substation - 2301 Mountain Avenue

Additional Services as needed TBD if necessary Responsibilities:

The contractor shall commit to the following responsibilities as part of doing business with the City:

- Work with corresponding departments or assigned staff.
- Visit the work site, document existing conditions and examine requirements to implement a pest management program.
- Provide a journal that must be updated at the time of each appointment, recording detections and/or solutions.
- Provide monthly invoicing based on approved work.
- Provide staff that have proper ID and are wearing appropriate uniform, safety shoes and vests when visiting and treating City facilities.
- Ensure staff communicates he or she is on property with City's Supervisory staff.
- Provide additional abatement services based on discoveries and/or unknown changes in environment. The cost shall be based upon approved hourly rate and authorized by
- Contractor staff will not distribute or sell pesticide products to staff.
- Contractor will not store any pesticide product in the buildings specified in this contract.
- Conduct themselves in a professional manner, with minimal noise and disruption.

- Maintain certification as a Commercial Pesticide Applicators in the category of residential and institutional pest control services.
- Use additional personal protective equipment required for safe performance of work as determined and provided by the contractor that, at a minimum, conform to Occupational Safety and Health Administration (OSHA) standards for products being used.
- Use only contractor vehicles identified in accordance with state and local regulations.
- Observe all safety precautions throughout the performance of this contract. Certain areas within some buildings may require special instructions for persons entering these areas.
- Contractor will comply with all government regulations as are applicable during the time spent on government property.
- Obtain building passes, if needed, as supplied by the City departments.
- Take all necessary precautions to ensure staff and employee safety, and all necessary steps to ensure the containment of the pesticide to the site of application.

The Terminix International
Company L. P.
865 S. Milliken Ave Ste G.
Ontario, CA 91761

Proposal: City Wide Pest Control Services RFP-22-017

The bid materials were all reviewed and understood. Additionally, our previous experience with the City of Banning allows us to have a full understanding of past and likely future levels of service required.

Implementation Plan: Upon award, we will coordinate our maintenance services similarly as we have done in the past by communicating and performing services at the most practical and efficient times for the city. Our integrated pest management approach which involves inspection first and pesticide use only where needed will ensure safe applications. All SDS and pesticide labels will be provided for any products we wish to use on a regular basis.

Our technician will coordinate services for each building with the appointed contact from the city. We will ensure services are only performed during the allowed days and times and will be flexible for early or late appointments including weekend and holidays if necessary.

Any service issues, though not expected, can be brought to my attention as the branch manager. We will always do everything in our power to accommodate additional service requests in a timely manner.

There will be no additional charges for re-treatments for the covered pests:

Covered pests: Ants, roaches, crickets, silverfish, rats, mice, occasional invader pests such as pill bugs, earwigs, centipedes, millipedes, spiders and wasps 12 feet and below

Non-Covered pests: Termites, bed bugs, bees, wasps above 12 feet. These pests will normally require an addition inspection and charge to quote.

Project schedule: All services will be monthly and coordinated with the city contact or contacts prior to service. Days and times will vary but always scheduled at times approved by the city.

Company Information and Personnel

Terminix
865 S. Milliken Ave. Ste G.
Ontario, CA 91761
909-605-9929
Tmx2064@terminix.com

Branch Manager – Anthony Engebretson 28 years' experience
aengebretson@terminix.com Cell 909-772-7163.

Service Manager – Andrew Cortez 9 years' experience
acortez@terminix.com Cell 909-215-6583

Service Manager – Gerardo Garcia 10 years' experience
ggarcia@terminix.com 909-210-2405

Service Manager Stephen Emerson 12 years' experience
semerson@terminix.com 760-410-4986

Service Technician Joshua McKibben
jmckibben@terminix.com 909-969-3275

All Terminix employees who will work for or advise the city have branch 2 field representative licenses.

Terminix has no connection to the City of Banning and Terminix is independent of the City of Banning.

There are no personal or past relationships with any elected officials, appointed officials, city employees, family members of any current Banning elected officials, appointed officials, or City of Banning employee.

EXHIBIT "B"
SPECIAL REQUIREMENTS

NONE

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks in accordance with Exhibit A-1 and at the following rates:

ESTIMATED:

City of Banning

Pest Control Services to be provided Monthly at the following

Description of Services	Initial Svc Chg	Monthly Cost	Environmental Fee	Total Fee
City Hall – 99 East Ramsey Street		$75.00	7.00	$82.00
City Yard – 176 East Lincoln Street - Street/Electric/Water Ofc		$66.00	7.00	$73.00
City Yard – 176 East Lincoln Street - Electric Warehouse		$77.00	7.00	$84.00
City Yard – 176 East Lincoln Street - Fleet Shop		$50.00	7.00	$57.00
Fire Administration Building – 3900 West Wilson Street		$45.00	7.00	$52.00
Fire Station #1 – 172 North Murray Street		$45.00	7.00	$52.00
Repplier Park Building – 200 West George Street		$45.00	7.00	$52.00
Senior Center – 769 North San Gorgonio Avenue		$60.00	7.00	$67.00
Community Center 789 North San Gorgonio Ave		$55.00	7.00	$62.00
PD Central – 125 East Ramsey Street		$148.00	7.00	$155.00
Pass Valley Park (Roosevelt Williams) – 1101 East George Stre		$45.00	7.00	$52.00
Armory - 2041 W. Nicolet		$75.00	7.00	$82.00
Water Yard - 3333 Bluff Street *	$ 250.00	$80.00	7.00	$87.00
Midway Substation - 4740 West Ramsey Street		$60.00	7.00	$67.00
Ivy Substation -1582 East Westward Avenue		$60.00	7.00	$67.00
StageCoach Substation - 1475 North Hargrave Avnue		$66.00	7.00	$73.00
San Gorgonio Substation - 176 East Lincoln Street		$66.00	7.00	$73.00
22nd Street Substation - 251 South 22nd Street		$50.00	7.00	$57.00
Sunset Substation - 2301 Mountain Avenue		$ 60.00	7.00	$67.00
	$ 250.00	$1,228.00	133.00	$1,361.00

3% discount annual prepayment	Price per Month	1,320.17
		12
	Annualized Cost	15,842.04
	Initial new site visit *	250.00
	Annual Cost plus initial site visit	16,092.04

II. To the extent a project proposal consists of multiple subtasks, within the budgeted amounts for each subtask, and with the approval of the Contract Officer, funds may be shifted from one subtask sub-budget to another so long as the project budget is not exceeded per Section 2.1, unless additional services are approved per Section 2.3.

III. For each project assignment the City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Work performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

Exhibit “C -1” - 2

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.5.

II. All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nicole Jews, Human Resources Manager** **Robert Fisher, Interim City Manager**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-104, Amending the Classification & Compensation Plan for the City of Banning**

RECOMMENDATION:

Adopt Resolution 2025-104.

BACKGROUND:

It is necessary to amend the City's Classification & Compensation Plan from time to time to maintain a current plan that reflects budget amendments, organizational structure, and department needs. Past City Council resolutions have identified the necessity to maintain a current Classification & Compensation Plan that reflects the nature of work and organizational structure and that the plan is updated to reflect both market changes and appropriate compensation for work performed.

JUSTIFICATION:

Proposed changes to the Classification and Compensation plan include:

Due to recent staffing and organizational changes, the Administrative Services Director position will be reclassified to a Finance Director. The Finance Director will oversee the following departments: Fiscal Services, Information Technology, Purchasing and Utility Billing. The Finance Director will continue to focus on the finances, budget and other necessary processes to keep the city solvent.

Also included in the Fiscal services restructure is the elimination of the Finance Manager position and the creation of an Accounting Supervisor position. This position will oversee the tasks and processes for the finance staff and report to the Deputy Finance Director. This position's salary was based on the October 2022 all-city classification and compensation study. Staff also completed a brief market survey of other local jurisdictions based on the Teamsters Mid-Management and Professionals Unit MOU. Due to limited comparable positions to survey, staff located additional local cities to include in the salary survey.

With the Administrative Services Department organizational restructure, the Human Resources and Risk

Management department will need to fund a Human Resources Director position. This position will provide efficiencies and effectiveness of the HR processes, ensure compliance with labor laws and regulations, develop and implement recruitment and retention strategies and improve employee engagement and satisfaction. This position's salary is based on the October 2022 all-city classification and compensation study for the Executive level positions.

The job descriptions for the Finance Director, Human Resources Director and Accounting Supervisor are included with the agenda item. Making these changes provides consistency and represents the wide variety of duties performed in these roles.

FISCAL IMPACT:

Fiscal Services Department:

Fiscal Impact – Funding from General Fund (Fiscal Services budget)

Position/Grade	Proposed Salary Range (min to max)	Current Salary	Proposed Base Wage Difference (min to max)
Finance Director / D01	$155,361.93 to $210,185.66	$0	$155,361.93 to $210,185.66
Defund Administrative Services Director / D06		$231,891.30	$(231.891.30)
TOTAL ANNUAL FISCAL IMPACT			$76,529.37 to $21,705.64 (savings)

Position/Grade	Proposed Salary Range (min to max)	Current Salary	Proposed Base Wage Difference (min to mx)
Accounting Supervisor / T79	$97,799.11 to $132,310.22	$0	$97,799.11 to $132,310.22
Defund Finance Manager / T85		$142,272.00	$(142,272.00)
TOTAL ANNUAL FISCAL IMPACT			$44,472.89 to $9,961.78 (savings)

Grand Total Annual Fiscal Impact for Both positions: $121,002.26 to $31,667.42 (savings - base wage salary only)

Human Resources & Risk Management Department:

Fiscal Impact – Funding from General Fund (HR & Risk Management budgets)

Position/Grade	Proposed Salary Range (min to max)	Current Salary	Proposed Base Wage Difference (min to max)

Human Resources Director / D01	$155,361.93 to $210,185.66	$0	$155,361.93 to $210,185.66
TOTAL ANNUAL FISCAL IMPACT			$155,361.93 to 210,185.66

ALTERNATIVES:

Do not adopt Resolution 2025-XX and provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution_2025-104__Class_and_Comp.docx
2. Finance Director 2025.pdf
3. Accounting Supervisor 2025.pdf
4. Human Resources Director 2025.pdf

RESOLUTION 2025-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE CLASSIFICATION & COMPENSATION PLAN FOR THE CITY OF BANNING

WHEREAS, it is necessary to amend the City's Classification & Compensation Plan from time to time to maintain a current plan that reflects the nature of work, organizational structure, or otherwise; and

WHEREAS, changes to job descriptions, job titles, and/or pay ranges require City Council approval.

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

SECTION 1. That the City Council approve the following position control changes to the effective Fiscal Year 2025-2026 classification and compensation plan:

Unfund	Finance Manager (Financial Services Group)	1
	Administrative Services Director (Financial Services Group)	1
Fund	Finance Director (Financial Services Group)	1
	Human Resources Director (Human Resources Group)	1
Add	Accounting Supervisor (Financial Services Group)	1

SECTION 2. The City Council approves the new position of Accounting Supervisor effective Fiscal Year 2025-2026.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkey, City Attorney

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-104, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Building Permit Technician Job Description

JOB DESCRIPTION

TITLE: Finance Director	**JOB CODE: 1110**
DEPARTMENT: Fiscal Services	**EFFECTIVE DATE: 9/14/2021**
REPORTS TO: City Manager	**FLSA STATUS:** Exempt
SUPERVISES: Budget & Financial Analyst, Customer Service & Billing Manager, Purchasing Manager and Finance Department	**UNION STATUS:** Unrepresented, Executive
SALARY: D01 ($155,361.93 TO $210,185.66)	

JOB PURPOSE/SUMMARY

Under general direction of the City Manager, the Finance Director functions as the City's chief financial officer and is responsible for overall leadership and management of the Fiscal Services Department. The Director plans, organizes, directs and administers all of the City's financial operations, including purchasing, payroll, accounting, business licensing, financial reporting, grant compliance, assessment district administration, debt management, revenue monitoring, budget development, capital project financial monitoring and investments, internal control, treasury functions and utility billing operations; and to perform related work as required. The incumbent is designated as confidential and shall be appointed "at-will" and serve at the pleasure of the City Manager.

ABOUT THE CITY OF BANNING

The City of Banning is located in the San Gorgonio Pass area of Southern California. The community of over 30,000 people is diverse with income levels slightly lower than other areas of Riverside County. However, growth and development is occurring rapidly, which will create new jobs, increase the population and raise income levels. Our employees are the most important asset in preserving our Proud History, Creating a Prosperous Tomorrow, and in responding to the community's needs. The City provides competitive salaries, outstanding benefits and professional growth opportunities.

CITY VISION

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsible, fair treatment to all and is the pride of its citizens.

CORE VALUES

- Customer Service Excellence: We excel in what we do by staying responsive, flexible, patient, effective, and professional.
- Integrity: We are ethical, accountable and compliant with our responsibility to the public and community.
- Teamwork: We work together and maintain great communication and respect and foster a fun and enjoyable atmosphere to take pleasure in what we do.
- Yes-Minded: We recognize diversity and maintain a positive attitude to do all we can to serve the community in the safest and most responsible manner.

PERFORMANCE EXPECTATIONS

- **Leadership:** Contributes to a positive work culture consistent with the City of Banning Leadership Philosophy, actively welcomes new approaches to public service and supports change and process improvements at all levels within the organization.
- **Management:** Able to independently assess and organize personal work performance while contributing to the overall organization.
- **Teamwork:** Demonstrates ability and willingness to work collaboratively with a team.
- **Communication:** Communicates effectively with peers, supervisors, subordinates, and individuals to who service is provided.

ESSENTIAL FUNCTIONS

- Functions as a member of the City's management team and works closely with the City Manager, Department Directors, and City Council on activities related to strategic planning and the development of City vision, mission and values.
- Plans, organizes, directs and evaluates the activities of the divisions comprising the Fiscal Services Department; ensures that the department's programs are implemented in a manner consistent with the City's goals and policies; determines major departmental policies, performs short- and long-range planning activities, and sets direction, goals, objectives and priorities for the department.
- Directs and manages the City's financial operations within limits prescribed by law and in accordance with guidelines established by generally accepted accounting principles and practices.
- Directs the City's financial planning functions including long range revenue projections and is responsible for facilitating long range financial planning, rate and fee analysis, and tax options.
- Directs the City's budget planning and reporting functions and is responsible for the collection, reporting, display, monitoring, and evaluation of expenditure information.
- Directs and manages the City's cash and investments and relations with the banking, financial and investment resources.
- Directs and manages the City's long term financial management, including debt issuance, debt management, ongoing disclosure, and related functions.
- Directs and oversees the effective billing and collection of City accounts receivable, local taxes, and utility charges.
- Provides financial information to facilitate decision making; oversees the compilation and analysis of data; prepares materials for and makes presentations to elected officials, other agencies and the public; attends City Council meetings and other meetings as required.
- Advises the City Manager, City Council and department directors regarding the budget preparation process, consequences of financial alternatives, and the presentation and recommendation of budget and fiscal options.
- Develops and administers departmental budgets, including forecast of funds for staffing, projects, equipment, materials and supplies, and monitoring of expenses; makes recommendations concerning priorities, allocation of funds, materials and personnel for departmental activities.
- Monitors federal, state and other local legislation to determine impacts on financial policies and practices; prepares, coordinates and implements responses and recommendations.
- Provides managerial assistance and supervision to subordinates in planning and implementing programs; selects, trains, motivates, coaches and evaluates staff; establishes and monitors employee performance objectives; reviews employee performance evaluations completed by the department management team; provides or coordinates staff training.
- Meets regularly with staff to discuss and resolve priorities, workload and technical issues.
- Facilitates problem solving in the department and encourages a high degree of communication and feedback between employees and supervisors; leads by example by maintaining high standards of behavior and performance.
- Maintains timely and regular attendance.
- Other duties as assigned.

KNOWLEDGE OF:

- City organization, operations, policies and procedures.
- Structure, organization and interrelationships of City departments, agencies and related governmental agencies and offices affecting assigned functions.

- Current social, political and economic trends and operating problems of municipal government.
- Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.
- Principles and practices of public accounting and finance, and municipal government budget preparation and administration.
- Rules and regulations governing public meetings.
- Sources of information related to a broad range of municipal programs, services and administration.
- Pertinent Federal, State and local laws, codes and regulations.
- Program and project management techniques and principles.
- Research methods and report preparation and presentation.
- Management practices in a union environment.
- Correct English usage, grammar, spelling, punctuation and vocabulary.

ABILITY TO:
- Develop short- and long-range goals, and plan, assign, coordinate and evaluate the work of subordinates.
- Analyze issues, evaluate alternatives and make logical recommendations based on findings.
- Administer program goals and objectives; implement initiatives and recommendations in support of department and City goals.
- Foster cooperative group processes and efficiently use resources; delegate tasks and workload assignments.
- Develop and monitor departmental and program/project operating budgets, costs and schedules.
- Assess and prioritize multiple tasks, projects and demands.
- Supervise, lead, coach and use best management practices to improve staff performance.
- Effectively administer a variety of city-wide programs.
- Interpret and apply city policies, procedures, laws and regulations.
- Support and model the identified vision, values and behaviors of the organization.
- Establish and maintain effective working relationships.
- Operate a personal computer utilizing a variety of standard and specialized software.
- Communicate effectively both orally and in writing.

PREFERRED QUALIFICATIONS

A bachelor's degree in finance, accounting, public administration or a related field and ten (10) years of public sector finance experience that includes five (5) years of management and/or supervision. A master's degree in finance, business or public administration is preferred.

LICENSE AND CERTIFICATION REQUIREMENTS
- Valid California State driver's license is required.
- Must be bondable.
- Successful completion of a pre-employment background check is required.
- Certified Public Accountant (CPA), Certified Government Finance Officer (CGFO), or Certified Government Financial Manager (CGFM) designation is preferred.

WORKING CONDITIONS

The regular work schedule is generally Monday through Friday, 8 am to 5 pm. Work is primarily performed in an office which is busy, oriented to public service and subject to occasional work interruptions. Noise level is moderate. Frequent attendance at meetings before or after regular work hours is required.

PHYSICAL REQUIREMENTS

Continuous repetitive arm/hand movement is essential to performance. The incumbent in this position must be able to discern voice conversation, have the physical ability to perform essential job functions, and have hand-eye coordination sufficient to operate computers, do keyboarding and operate other office equipment. The incumbent must have the ability to produce legible handwritten documents and may need to push, pull, lift and carry up to 20 pounds.

The City of Banning is an equal opportunity employer. All employees and candidates for employment will be recruited, selected, trained, promoted, compensated and, if necessary, disciplined or terminated without regard to sex/gender, race, national origin, religion, creed, color, marital status, veteran status, age, national origin, pregnancy, sexual orientation, gender identity, disability, genetic information or any other basis prohibited by law.

While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently. This job description does not constitute an employment agreement between the Employer and Employee and is subject to change as the needs of the Employer and requirements of the job change.

JOB DESCRIPTION

TITLE: Accounting Supervisor	**JOB CODE:** 2059
DEPARTMENT: Fiscal Services	**EFFECTIVE DATE:** 07/08/2025
REPORTS TO: DEPUTY FINANCE DIRECTOR	**FLSA STATUS:** Exempt
SUPERVISES: Senior Accountant, Accountants, and Accounting Specialists	**UNION STATUS:** Confidential
SALARY: T79 ($97,799.11 TO $132,310.22)	

JOB PURPOSE/SUMMARY

Under direction from the Deputy Director of Finance, the Accounting Supervisor plans, supervises, oversees, and participates in the activities and operations of the Accounting Division to include General Accounting, Payroll, Accounts Payable, Accounts Receivable, Projects & Grants, Cash Management, Fixed Assets, Audits and Financial Reporting. The Accounting Supervisor leads a dedicated team, collaborates with various departments, and provides highly responsible and complex finance support to the Deputy Director of Finance and the Finance Department as a whole.

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CORE VALUES

- Customer Service Excellence: We excel in what we do by staying responsive, flexible, patient, effective, and professional.
- Integrity: We are ethical, accountable and compliant with our responsibility to the public and community.
- Teamwork: We work together and maintain great communication and respect and foster a fun and enjoyable atmosphere to take pleasure in what we do.
- Yes-Minded: We recognize diversity and maintain a positive attitude to do all we can to serve the community in the safest and most responsible manner.

PERFORMANCE EXPECTATIONS

- **Leadership:** Contributes to a positive work culture consistent with the City of Banning Leadership Philosophy, actively welcomes new approaches to public service and supports change and process improvements at all levels within the organization.

- **Management:** Able to independently assess and organize personal work performance while contributing to the overall organization.
- **Teamwork:** Demonstrates ability and willingness to work collaboratively with a team.
- **Communication:** Communicates effectively with peers, supervisors, subordinates, and individuals to who service is provided.

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:

- Manage the city's general ledger, ensuring accurate and comprehensive recording of financial transactions according to Generally Accepted Accounting Principles (GAAP); implement GASB pronouncements; ensure the use of appropriate internal controls.
- Oversee reconciliations of accounts, promptly resolving discrepancies and addressing any concerns.
- Respond to requests for information and advises City departments, other governmental agencies and the public on City financial and accounting practices, policies, procedures, and data.
- Plan, organize, control, integrate and evaluate the work of staff; supervise and participate in developing, implementing, and evaluating work processes, systems, and procedures to achieve goals, objectives, and work standards.
- Plan and evaluate the performance of assigned staff; establish performance requirements and regularly monitor performance; subject to management concurrence, take disciplinary action to address performance deficiencies, in accordance with City personnel rules and policies.
- Develop and implement fiscal policies, controls, and systems relating to budget monitoring and enforcement, accounting, and financial reporting; provide accounting and budget support to City departments.
- Provide guidance on complex accounting matters and facilitate the resolution of accounting-related issues.
- Serve as the primary contact and liaison with banking institutions and external auditors.
- Lead the payroll process to ensure accurate and timely compensation for city employees.
- Ensure compliance with federal, state, and local payroll regulations and tax obligations.
- Ensure accurate payroll tax calculations and filings.
- Manage the accounts payable function, overseeing the processing of invoices and vendor payments.
- Implement and enforce policies and procedures for streamlined and controlled accounts payable operations.
- Oversee accounts receivable processes, including billing, collections, and reconciliation of outstanding balances.
- Collaborate with departments to ensure timely and accurate invoicing and collections.
- Monitor aged receivables and implement strategies to mitigate outstanding balances.
- Oversee financial aspects of projects and grants, including revenue and expense recording and monitoring, reporting, and budgeting.
- Provide financial grant administration in collaboration with other departments to ensure effective fund allocation and adherence to grant guidelines.
- Ensure all grant reporting requirements are met, and reimbursements are requested timely.
- Execute the management and monitoring of cash and investment balances according to the direction of the City Treasurer.
- Reconcile debt and investment statements and account for activity; manage debt service payments.
- Review and approve monthly bank reconciliations.
- Manage fixed asset accounting, tracking acquisitions, disposals, and depreciation.
- Maintain accurate records of asset values and locations for reporting and compliance.
- Coordinate and facilitate external audits, providing necessary documentation and explanations to auditors.

- Address audit findings by implementing corrective actions and process enhancements.
- Maintain proper documentation for audit trails and compliance purposes.
- Verify and coordinate with auditors and management for the presentation of audited financial statements to the City Council.
- Prepare accurate and timely financial statements and reports for city management and stakeholders, including but not limited to the Annual Comprehensive Financial Report, the Single Audit Report, and State Controller Report.
- Ensure compliance with reporting requirements and communicate financial insights to support decision-making.
- Prepare and present reports to City Officials and City Council, as required.
- Perform related duties as assigned

KNOWLEDGE OF:

- Principles and practices of governmental accounting consistent with Generally Accepted Accounting Principles (GAAP) as it directly applies to the City of Banning.
- Applicable federal, state, and local laws, codes, and regulations.
- Modern office equipment including applicable computer applications such as enterprise resource planning (ERP) applications, and other financial, accounting, and statistical applications.

ABILITY TO:

- Train individual team members to perform at or above department standards.
- Develop the accounting team to meet or exceed expectations within its role in City operations.
- Develop and implement goals, objectives, policies, procedures, work standards, and internal controls.
- Analyze complex technical, administrative, and financial problems and reports.
- Prepare clear and concise reports, correspondence, and other written materials.
- Establish and maintain cooperative working relationships with City Staff and City Council.
- Interpret and apply fundamental principles of accounting and payroll related laws, policies, and procedures.
- Analyze and review financial data and make recommendations.
- Prepare and maintain accurate reports and records.
- Reconcile differences within the record keeping system.
- Communicate effectively, both orally and in writing.
- Maintain great sensitivity with confidential information.
- Work well under pressure, meeting multiple and sometimes conflicting deadlines.
- Operate and use modern office equipment including a computer and applicable software, including specialized financial software.
- Follow workplace safety procedures and policies.
- Prioritize, organize, assign, review, and coordinate the work of accounting, clerical and technical personnel.
- Work independently and as an effective member of a team.
- Know and understand all aspects of the job; intermittently analyze work papers, reports, and special projects; identify and interpret technical and numerical information; observe and solve operational problems and technical policy and procedures.

PREFERRED QUALIFICATIONS

A bachelor's degree in accounting, finance or a related field and three (3) years of increasingly responsible experience in a municipal government or similar public agency setting including Finance, Accounting, and Grants Administration. One year of experience in a supervisory capacity is preferred. A master's degree in accounting, finance or a related field is preferred.

LICENSE AND CERTIFICATION REQUIREMENTS

- Valid California State driver's license is required.
- Successful completion of a pre-employment background check is required.

WORKING CONDITIONS

The regular work schedule is generally Monday through Friday, 9/80 schedule. Work is primarily performed in an office which is busy, oriented to public service and subject to occasional work interruptions. Noise level is moderate. Frequent attendance at meetings before or after regular work hours is required.

PHYSICAL REQUIREMENTS

Continuous repetitive arm/hand movement is essential to performance. The incumbent in this position must be able to discern voice conversation, have the physical ability to perform essential job functions, and have hand-eye coordination sufficient to operate computers, do keyboarding and operate other office equipment. The incumbent must have the ability to produce legible handwritten documents and may need to push, pull, lift and carry up to 20 pounds.

The City of Banning is an equal opportunity employer. All employees and candidates for employment will be recruited, selected, trained, promoted, compensated and, if necessary, disciplined or terminated without regard to sex/gender, race, national origin, religion, creed, color, marital status, veteran status, age, national origin, pregnancy, sexual orientation, gender identity, disability, genetic information or any other basis prohibited by law.

While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently. This job description does not constitute an employment agreement between the Employer and Employee and is subject to change as the needs of the Employer and requirements of the job change.

JOB DESCRIPTION

TITLE: Human Resources Director	**JOB CODE:** 1210
DEPARTMENT: Human Resources & Risk Management	**EFFECTIVE DATE:** 07/21/2004 ; updated 07/08/2025
REPORTS TO: City Manager	**FLSA STATUS:** Exempt
SUPERVISES: Human Resources Manager, Senior Human Resources Generalist, Human Resources Generalist & Risk & Safety Analyst	**UNION STATUS:** Unrepresented, Executive
SALARY: D01 ($155,361.93 TO $210,185.66)	

JOB PURPOSE/SUMMARY

Under general direction of the City Manager, the Human Resources Director plans, organizes, manages, continuously improves, and provides administrative direction and oversight for the City's human resources functions including labor relations, learning and development, recruitment, classification and compensation, benefits administration, employee performance evaluation, employee engagement and recognition, safety and regulatory compliance, and risk management, including the City's insurance, loss control and benefits programs. The Director supervises a team of four and also serves as an individual contributor. The incumbent is designated as confidential and shall be appointed "at-will" and serve at the pleasure of the City Manager.

ABOUT THE CITY OF BANNING

The City of Banning is located in the San Gorgonio Pass area of Southern California. The community of over 30,000 people is diverse with income levels slightly lower than other areas of Riverside County. However, growth and development is occurring rapidly, which will create new jobs, increase the population and raise income levels. Our employees are the most important asset in preserving our Proud History, Creating a Prosperous Tomorrow, and in responding to the community's needs. The City provides competitive salaries, outstanding benefits and professional growth opportunities.

CITY VISION

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsible, fair treatment to all and is the pride of its citizens.

CORE VALUES

- Customer Service Excellence: We excel in what we do by staying responsive, flexible, patient, effective, and professional.
- Integrity: We are ethical, accountable and compliant with our responsibility to the public and community.
- Teamwork: We work together and maintain great communication and respect and foster a fun and enjoyable atmosphere to take pleasure in what we do.
- Yes-Minded: We recognize diversity and maintain a positive attitude to do all we can to serve the community in the safest and most responsible manner.

PERFORMANCE EXPECTATIONS

- **Leadership:** Contributes to a positive work culture consistent with the City of Banning Leadership Philosophy, actively welcomes new approaches to public service and supports change and process improvements at all levels within the organization.
- **Management:** Able to independently assess and organize personal work performance while contributing to the overall organization.
- **Teamwork:** Demonstrates ability and willingness to work collaboratively with a team.
- **Communication:** Communicates effectively with peers, supervisors, subordinates, and individuals to who service is provided.

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:

- Administers Memorandums of Understanding (MOU's) and interacts with employee representatives and staff to interpret and explain provisions of the MOU terms within the context of Human Resources law.
- Represents the City in labor relations, negotiates labor contracts and ensures negotiated settlements are reduced to writing and incorporated into agreements.
- Researches procedures, methods and legislation relative to public employer-employee negotiations.
- Develops recommendations for appropriate procedure and emphasis on negotiations.
- Counsels and advises managers and supervisors on issues governed by the collective bargaining agreements.
- Oversees the operations of the Human Resources Department including recruitment/retention, drug testing, employee orientation and benefit administration.
- Reviews and evaluates the procedures and methods used in Human Resources relative to effective utilization of resources and compliance with state and Federal regulations.
- Develops, updates and administers personnel rules and administrative policies.
- Trains, supervises and evaluates performance of subordinate staff.
- Researches and resolves grievances and suggests disciplinary actions.
- Assists departments in personnel administration through interpretation, explanation and consultation of Human Resources management provision of laws, rules, policies and procedures.
- Conducts investigations related to policy violations and handles a variety of confidential issues.
- Performs critical personnel analysis and recommends solutions to complex issues and problems.
- Oversees Risk Management for the City, reviews and evaluates claims filed against the City to determine liability and potential settlement.
- Processes claims against responsible parties to obtain restitution and recovery.
- Manages workers' compensation, outside legal issues and litigation costs for claims.
- Develops and monitors budget for payment of liability and workers' compensation claims retained within the self-insured retention, including payments to vendors.
- Establishes general liability and workers' compensation premium deposit rates and dividends based on recommendations and City policy.
- Purchases commercial insurance products for property, special events and employment practices.
- Performs other duties as assigned or required. Other duties as assigned.

KNOWLEDGE OF:

- City, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- City's and the Department's policies and procedures.
- Management and/or supervision principles.
- Human resources practices and principles.
- Workers' compensation claim processes, methods and procedures.

- Personnel, employee relations, workers' compensation and benefit practices and principles.
- Structure, organization and interrelationships of City departments, agencies and related governmental agencies and offices affecting assigned functions.
- Current social, political and economic trends and operating problems of municipal government.
- Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.
- Rules and regulations governing public meetings.
- Sources of information related to a broad range of municipal programs, services and administration.
- Program and project management techniques and principles.
- Research methods and report preparation and presentation.
- Management practices in a union environment.
- Correct English usage, grammar, spelling, punctuation and vocabulary.

ABILITY TO:

- 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.
- Assessing and prioritizing multiple tasks, projects and/or demands.
- Working within deadlines to complete projects and assignments.
- 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.
- Develop short- and long-range goals, and plan, assign, coordinate and evaluate the work of subordinates.
- Analyze issues, evaluate alternatives and make logical recommendations based on findings.
- Administer program goals and objectives; implement initiatives and recommendations in support of department and City goals.
- Foster cooperative group processes and efficiently use resources; delegate tasks and workload assignments.
- Develop and monitor departmental and program/project operating budgets, costs and schedules.
- Assess and prioritize multiple tasks, projects and demands.
- Supervise, lead, coach and use best management practices to improve staff performance.
- Effectively administer a variety of city-wide programs.
- Interpret and apply city policies, procedures, laws and regulations.
- Support and model the identified vision, values and behaviors of the organization.
- Establish and maintain effective working relationships.
- Operate a personal computer utilizing a variety of standard and specialized software.
- Communicate effectively both orally and in writing.

PREFERRED QUALIFICATIONS

A bachelor's degree in human resources management, business administration or a related field and seven (7) years of public sector human resources and risk management experience that includes five (5) years of management and/or supervision. A master's degree in human resources, business or public administration is preferred.

LICENSE AND CERTIFICATION REQUIREMENTS

- Valid California State driver's license is required.
- Must be bondable.
- Successful completion of a pre-employment background check is required.
- Certification from SHRM-CP or SHRM-SCP highly preferred.

WORKING CONDITIONS

The regular work schedule is generally Monday through Friday, 8 am to 5 pm. Work is primarily performed in an office which is busy, oriented to public service and subject to occasional work interruptions. Noise level is moderate. Frequent attendance at meetings before or after regular work hours is required.

PHYSICAL REQUIREMENTS

Continuous repetitive arm/hand movement is essential to performance. The incumbent in this position must be able to discern voice conversation, have the physical ability to perform essential job functions, and have hand-eye coordination sufficient to operate computers, do keyboarding and operate other office equipment. The incumbent must have the ability to produce legible handwritten documents and may need to push, pull, lift and carry up to 20 pounds.

The City of Banning is an equal opportunity employer. All employees and candidates for employment will be recruited, selected, trained, promoted, compensated and, if necessary, disciplined or terminated without regard to sex/gender, race, national origin, religion, creed, color, marital status, veteran status, age, national origin, pregnancy, sexual orientation, gender identity, disability, genetic information or any other basis prohibited by law.

While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently. This job description does not constitute an employment agreement between the Employer and Employee and is subject to change as the needs of the Employer and requirements of the job change.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**David Newell, Community Development Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-105, Rescinding City Council Resolution 2025-59, Resolution 2025-60, and Ordinance 1609 for Approvals Related to an Industrial Development Consisting of 1,320,284-Square Foot Warehouse Building on Approximately 131.28-Acres of Vacant Land Generally Located East of Hathaway Street and North of Interstate 10**

RECOMMENDATION:

Adopt Resolution 2025-105.

BACKGROUND:

On May 27, 2025, the City Council took the following actions related to the Banning Commerce Center Project, a proposed industrial development consisting of a 1.3-million-square foot building on 131 acres of land generally located east of Hathaway Street and north of the Interstate 10 freeway:

- Resolution 2025-59: Approving the Project Design Review application Case PLN 21-7017 and Tentative Parcel Map application TPM 38576.
- Resolution 2025-60: Certifying the Final Environmental Impact Report (EIR) and adopting findings and a Mitigation Monitoring and Reporting Program (MMRP) pursuant to CEQA.
- Ordinance 1609: Approving a Development Agreement by and between the City and Sansone Group/JDNJ Enterprises, LLC, to establish terms and obligations for both parties related to PLN 21-7017, TPM 38576 and infrastructure on- and off-site.

Following the Council's decision on the above, the City received a letter from the Center for Biological Diversity on June 11, 2025, asserting that the City failed to provide notice of the Notice of Decision (NOD) for the Project EIR as required by CEQA. The letter claims that the group was not notified in accordance with CEQA's requirements for agencies, organizations, and individuals who have requested notice or are otherwise entitled to receive it under State law. Staff reviewed the City's noticing and distribution procedures and determined that due to an administrative oversight, the group did not receive a copy of the NOD notice. To cure this procedural defect and mitigate any legal risk associated with the approval of the project, staff recommends rescinding the three actions and conducting the noticing and hearing process in full compliance with CEQA. This action will preserve the City's transparency and commitment to robust public participation and environmental review.

JUSTIFICATION:

The Project applicant requested the Council rescind the prior approvals and consider the project applications as a separate matter, allowing the commentor the opportunity to provide comments on the project.

FISCAL IMPACT:
None.

ALTERNATIVES:
Do not adopt the proposed resolution and provide alternative direction.

BUDGETED?:
Yes

CONTRACT/AGREEMENT:
No

ATTACHMENTS:
1. Council Draft Resolution 2025-105 Rescission of Approvals
2. Center for Biological Diversity Letter 2025.6.11

RESOLUTION 2025-105

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, RESCINDING ITS DECISIONS ON ENTITLEMENT APPLICATIONS FOR A PROPOSED INDUSTRIAL DEVELOPMENT CONSISTING OF A 1,320,284-SQUARE FOOT BUILDING ON 131.28-ACRES OF VACANT LAND LOCATED GENERALLY EAST OF HATHAWAY STREET AND NORTH OF THE INTERSTATE 10 (PROJECT), INCLUDING CITY COUNCIL RESOLUTION 2025-59 APPROVING THE DESIGN REVIEW AND TENTATIVE PARCEL MAP APPLICATIONS, RESOLUTION 2025-60 CERTIFYING THE PROJECT EIR AND CEQA FINDINGS AND ORDINANCE 1609 APPROVING A DEVELOPMENT AGREEMENT FOR THE PROJECT.

WHEREAS, Sansone Group submitted applications for a Design Review (Case DR 2021-7017), Tentative Parcel Map (Case TPM 38756), and Development Agreement with the City of Banning, for the development of industrial uses within a proposed 1,320,204-square foot building on a 131.28-acre project site located north of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 (collectively, the "Project" or "Banning Commerce Center Project"); and

WHEREAS, on May 27, 2025, the City Council took the following actions related to the Banning Commerce Center Project:

- Resolution 2025-59: Approving the Project Design Review application Case PLN 21-7017 and Tentative Parcel Map application TPM 38576.
- Resolution 2025-60: Certifying the Final Environmental Impact Report (EIR) and adopting findings and a Mitigation Monitoring and Reporting Program (MMRP) pursuant to the California Environmental Quality Act (CEQA).
- Ordinance 1609: Approving a Development Agreement by and between the City and Sansone Group/JDNJ Enterprises, LLC, to establish terms and obligations for both parties related to PLN 21-7017, TPM 38576 and infrastructure on- and off-site (all of the forgoing collectively the "Approvals").

WHEREAS, following the Council's decision on the above, the City received a letter from the Center for Biological Diversity on June 11, 2025, asserting that the City failed to provide notice of the Notice of Decision (NOD) for the Project EIR as required by CEQA. The letter claims that the group was not notified in accordance with CEQA's requirements for agencies, organizations, and individuals who have requested notice or are otherwise entitled to receive it under State law. Staff reviewed the City's noticing and distribution procedures and determined that due to an administrative oversight, the group did not receive a copy of the NOD notice.

WHEREAS, to cure this procedural defect and mitigate legal risk associated with the approval of the project , on July 8, 2025, the applicant requested the City Council reconsider this matter at a public meeting and offer another opportunity for members of the public to submit comments, evidence and other information relating to the Banning Commerce Center Project Approvals.

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

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. RESCISSION OF DECISIONS. Based on the foregoing, the City Council hereby rescinds the following City Council Approvals: Resolution 2025-59, Resolution 2025-60, and Ordinance 1609.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-105, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

June 11, 2025

Sent via email

David Newell
City of Banning
99 E Ramsey Street
Banning, CA 92220
951-922-3100

Re: Banning Commerce Center Project SCH # 2022090102 Notice of Decision

Dear Mr. Newell,

I write to inform you that the City of Banning ("City") failed to notify the Center for Biological Diversity ("Center") regarding the City's decision to approve the Banning Commerce Center Project SCH # 2022090102 ("Project") and subsequent publication of a Notice of Decision ("NOD") on May 27, 2025. This failure deprived the Center of the opportunity to appeal the decision and violates the California Environmental Quality Act's clear mandates to provide notice to interested parties.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Riverside County. The Center frequently participates in environmental review for development projects in California and submits comment letters throughout the CEQA environmental review process.

The Center engaged throughout the environmental review process for the Project. On October 3, 2022, the Center submitted comments on the NOP and asked to be placed on the notice list. (Exhibit A.) On August 1, 2024, the Center submitted comments on the DEIR and again asked to be placed on the notice list. (Exhibit B.) On February 10, 2025, the Center emailed the City with an updated mailing address and a request that the City provide notice of any updates to the Project at the new address. (Exhibit C.) On May 27, 2025, the City made a final decision on the Project and released an NOD, but did not notify the Center or any staff members. To date, the City has not provided the Center with notice of any Project developments, including the publication of the FEIR, nor has the City explained why it failed to provide notice. The City has no apparent justification for the failure to provide notice.

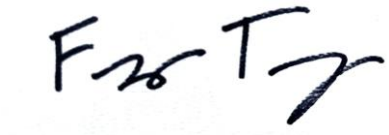
The California Environmental Quality Act ("CEQA") requires that lead agencies provide notice to the name and last known address of all individuals and organizations that have previously made a written request for such notice. (Pub. Resources Code, 21080.4, subd. (a), 21092.2, subd. (a), 21167, subd. (f); CEQA Guidelines 15082, subd. (a).) The Center has made three written requests. By failing to notify the Center, the City has deprived the Center of its right to participate in the process.

Approving the Project with deficient notice is violation of CEQA. (Pub Resources Code 21167 subd. (f). See *Organizacion de Comunidad de Alviso v City of San Jose* (2021) 60 CA5th 783, 793.) The Center requests that the City recirculate the NOD and reopen the appeal period for at least 15 days in order to give the Center—and any other potentially interested parties who were not notified of the document's availability—time to review the decision.

Given the possibility that the Center will be required to pursue legal remedies to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

We request a response to this letter. Please direct your response to me at the email listed below and do not hesitate to call me with any questions.

Sincerely,



Frances Tinney
Attorney
Center for Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612
(509) 432-9256
ftinney@biologicaldiversity.org

EXHIBIT A

October 3, 2022

Sent via email

Adam B. Rush, M.A., AICP, Director
Community Development Department
99 E. Ramsey Street
Banning, CA 92220
(951) 922-3131 | Fax: (951) 922-3128
arush@banningca.gov

RE: Comments on Notice of Preparation of an Environment Impact Report for the Banning Commerce Center Project, SCH # 2022090102

Mr. Rush,

These comments are submitted on behalf of the Center for Biological Diversity ("the Center") regarding the Notice of Preparation of an Environmental Impact Report ("EIR") for the Banning Commerce Center Project ("the Project"). The Center urges the City to undertake a thorough and comprehensive environmental review of the Project as required under the California Environmental Quality Act ("CEQA"), prior to considering approval. By replacing open space and riparian habitat with 1.3 million square feet of warehouses, the Project will increase traffic and criteria pollutant and greenhouse gas emissions, as well as harm riparian habitat that likely supports many wetlands species. (*See* Notice of Preparation (hereinafter "NOP") at 1, Initial Study ("IS") at 24-25.) The EIR must fully disclose and analyze the Project's potential impacts to sensitive species and habitat, air quality, greenhouse gas emissions, traffic, and water quality while thoroughly analyzing all reasonable alternatives, and then must provide effective and enforceable mitigation measures for impacts found to be significant.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Banning and Riverside County.

Under CEQA, an EIR must provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment, list ways in which the significant effects of a project might be minimized, and indicate alternatives to the project. (Pub. Res. Code § 21002.2.) The proposed Project will build a high-traffic warehouse facility on 130 undeveloped acres that contain a creek and surrounding wetlands. (NOP at 1-2.)

The EIR must fully disclose the impacts of this land use change, so that the public can fully understand the publicly born costs associated with the Project.

I. The EIR Must Adequately Assess and Mitigate the Project's Impact on Biological Resources.

A. The proposed Project will have significant impacts on special-status species and species covered by the Western Riverside County Multiple Species Habitat Conservation Plan.

CEQA requires that an EIR provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment. (Pub. Res. Code § 21061.)

The EIR must adequately assess and mitigate impacts to special-status species that are known to occur, have the potential to occur, or historically occurred in and near the Project area. Although the IS mentions several special-status species that have been documented in the California Natural Diversity Data Base (CNDDB), the IS only looks at occurrences within one mile of the Project site. The search should be expanded to five miles, as is what is commonly provided in EIRs. In addition, occurrence data from other sources should also be consulted, including but not limited to iNaturalist, eBird, and the Global Biodiversity Information Facility (GBIF). CNDDB records are important to consider when assessing existing conditions and a Project's potential impacts; however, the records are limited because they rely on field biologists voluntarily submitting data to the California Department of Fish and Wildlife (CDFW). CDFW must then add such data to the database, which can take time and result in delay. In addition, the database may be biased toward species that receive more survey effort. The lack of occurrence data (in CNDDB or otherwise) does not equate to a species being absent from the area, as the species may be present but evade observation. If suitable habitat is present in or near the Project area, then it must be assumed that the species occurs, has the potential to occur, or historically occurred in the area.

The IS fails to mention several key special-status species that may occur in the Project area, including but not limited to mountain lions (candidate threatened species under the California Endangered Species Act (CESA) and an MSHCP-covered species), western spadefoot toads (species of special concern (SSC) and an MSHCP-covered species), arroyo toad (SSC and an MSHCP-covered species), American badger (SSC and an MSHCP-covered species), coast range newt (SSC and an MSHCP-covered species), Aguanga kangaroo rat (an MSHCP-covered species), and likely others. The EIR should include analyses of the Project's potential impacts to these species through extensive literature reviews and targeted species and habitat surveys conducted using CDFW and/or US Fish and Wildlife Service (USFWS) guidelines and protocols. Movement studies should also be conducted, particularly for wide-ranging species like mountain lions, coyotes, and American badgers.

Of particular importance are local mountain lions, which are within the Southern California and Central Coast Evolutionarily Significant Unit (ESU) that is currently a candidate threatened species under CESA. There is ample scientific evidence that indicates mountain lion

populations in and around the Project area are struggling to survive and that human activities and land use planning that fail to integrate adequate habitat connectivity can have adverse impacts on mountain lions. Continued habitat loss and fragmentation has led to 10 genetically isolated populations within California. There are six identified mountain lion populations in the ESU, and several are facing an "extinction vortex" due to high levels of inbreeding, low genetic diversity, and high human-caused mortality rates from car strikes on roads, depredation kills, rodenticide poisoning, poaching, disease, and increased human-caused wildfires. (Benson et al., 2016, 2019; Ernest et al., 2003, 2014; Gustafson et al., 2018, 2021; Riley et al., 2014; Vickers et al., 2015). The primary driver of this extinction vortex is lack of connectivity. (Yap et al., 2019).

The Project area is located between the San Gabriel/San Bernardino (SGSB) population and the Eastern Peninsular Range (EPR) population, and the Santa Ana Mountains (SAM) population is nearby to the southwest. Scientists have documented physical and reproductive signs of inbreeding depression in local mountain lions (from the EPR and Santa Ana mountains, as well as the nearby Central Coast South [i.e. Santa Monica Mountains]) due to being boxed in by roads and development (Huffmeyer et al., 2021). Researchers have found that, of the California mountain lion subpopulations, the SGSB population has the smallest effective population size and the smallest area of available habitat (Dellinger et al., 2020; Gustafson et al., 2021). Scientists suggest that the SGSB population "may be approaching levels of genetic drift and inbreeding similar to the well-monitored and genetically depauperate Santa Ana and Central Coast South populations (Ernest et al., 2014; Gustafson et al., 2017; Riley et al., 2014)" (Gustafson et al., 2021), which are predicted to have a 99% chance of becoming locally extinct within 50 years if inbreeding depression continues. (Benson et al., 2019). This emphasizes the importance of protecting the remaining SGSB population, specifically through maintaining and enhancing connectivity among and between the subpopulations.

The proposed Project has the potential to amplify the barrier effects of I-10, especially given the Project's proximity to a critical riparian corridor (San Gorgonio River) with an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. The proposed Project could degrade this important connectivity area and drive the SGSB, EPR, and SAM puma populations towards extinction.

The EIR must consider that the Project's impacts to mountain lions (and other special-status species and sensitive habitats) extend beyond its physical footprint. Ample evidence documents the effects of human activity on mountain lions. One study found that mountain lions are so fearful of humans and noise generated by humans that they will abandon the carcass of a deer and forgo the feeding opportunity just to avoid humans (Smith et al., 2017). The study concluded that even "non-consumptive forms of human disturbance may alter the ecological role of large carnivores by affecting the link between these top predators and their prey" (Smith et al., 2017). In addition, mountain lions have been found to respond fearfully upon hearing human vocalizations, avoiding the area and moving more cautiously when hearing humans (Smith et al., 2017; Suraci et al., 2019). Other studies have demonstrated that mountain lion behavior is negatively affected when exposed to other evidence of human presence, such as lighting or vehicles/traffic (Smith et al., 2015; Wang et al., 2017; Wilmers et al., 2013). Therefore, both physical and behavioral barriers drive genetic isolation, and continued land use that further fragments mountain lion habitat in the region without adequately minimizing impacts to

functional connectivity, will drive pumas in the area to extinction. The Project will result in increased traffic, light, noise, etc. in an important connectivity area between the San Bernardino and San Jacinto mountains, where mountain lions are known to occur and are known to be struggling. The Project will significantly impact how mountain lions navigate the landscape by fortifying existing human-made barriers and decreasing opportunities for them to move between mountain ranges.

Yovovich et al. (2020) further documented the impacts of human activities on local mountain lions, specifically on communication and reproductive behaviors important for their survival. Males use scrapes to delineate territories as well as attract potential mates (Allen et al., 2015, 2016), and the males in the study preferred to use relatively flat areas away from human influence as scrape habitat (Yovovich et al., 2020). Similarly, when nursing females (with kittens less than 8 weeks old) shrank their home ranges to an average of 9 km^2 while their young were most vulnerable, they also selected undeveloped lands away from human disturbance, opting for habitat with protective cover and sufficient water and prey availability (Yovovich et al., 2020). The loss of adequate undisturbed communication and nursery habitat could disrupt important communication and reproductive behaviors that facilitate social structure and overall survival.

In a study that investigated the drivers of fine-scale movement decisions by pumas in fragmented landscapes in the Santa Cruz Mountains, Suraci et al. (2020) identified that mountain lions prefer larger habitat patches that are closer together and further away from buildings, and they preferred shrub over tree patches. However, mountain lions were willing to accept higher densities of anthropogenic features if target habitat patch areas were larger or the distance between patches was shorter (Suraci et al., 2020). In addition, pumas were found to travel longer distances through open habitats to access larger habitat patches, perhaps for more protective cover and/or for better hunting opportunities within the larger habitat patch areas (Suraci et al., 2020). These findings corroborate those of Smith et al. (2019), which found that pumas are able to move through partially developed habitat, though they are less likely to move through parcels with higher densities compared to parcels with less dense housing in and around the parcels. In fact, puma avoidance increased sharply as housing density increased up to 41 houses/km^2, after which avoidance remained high. Although these studies demonstrate that mountain lions have some tolerance of human presence, they mostly highlight the negative impacts of increased human use/density on the movement and survival of mountain lions and the importance of habitat connectivity among large, intact, heterogeneous habitat patches.

In addition, Riley et al. (2021) found that, although pumas had some flexibility to navigate urbanized landscapes, they spent more than 95% of their time away from developed areas and actively avoided open areas like golf courses, cemeteries, and other altered landscaped spaces. Mountain lions consistently selected native vegetation types with dense cover, like chaparral, riparian woodland, and coastal sage scrub, with shrublands being their preferred habitat. This highlights the importance of intact and connected natural heterogeneous landscapes to the long-term health and persistence of constrained mountain lion populations. The authors state, “An important requirement for the effective conservation of at-risk mountain lion populations in southern California is preserving and enhancing connectivity between larger natural areas.” (Riley et al., 2021).

Mountain lions are a key indicator species of wildlife connectivity and healthy ecosystems. As the last remaining wide-ranging top predator in the region, the ability to move through large swaths of interconnected habitat is vital for genetic connectivity and their long-term survival. In addition, impacts to mountain lions in the region could have severe ecological consequences; loss of the ecosystem engineer could have ripple effects on other plant and animal species, potentially leading to a decrease in biodiversity and diminished overall ecosystem function. Many scavengers, including California condors, kit foxes, raptors, and numerous insects, would lose a reliable food source (Barry et al., 2019; Ruth & Elbroch, 2014). Fish, birds, amphibians, reptiles, rare native plants, and butterflies would potentially diminish if this apex predator were lost (Ripple et al., 2014; Ripple & Beschta, 2006, 2008). In fact, a recent literature review found that mountain lions are important ecosystem engineers and have been documented to have ecological interactions with at least 485 plant and animal species (Labarge et al., 2022). Adequate assessment and mitigation of the Project's impacts to mountain lions is necessary to ensure their long-term survival as well as the long-term health of the area's biodiversity and ecosystems.

Wildlife connectivity in this region is paramount for the survival of the Southern California mountain lions. Any project that does not adequately assess and address impacts to mountain lions and wildlife connectivity could lead to the extirpation of local mountain lions and severe loss of biodiversity and ecosystem function in the region. Further destruction of wildlife connectivity in the area will push local mountain lions closer towards extinction. See further discussion below regarding the DEIR's requirement to adequately describe, assess, and mitigate impacts to wildlife movement and connectivity.

B. The proposed Project will have significant impacts on wildlife movement and habitat connectivity.

To comply with CEQA, the EIR must adequately disclose the existing conditions of the site and adequately assess and mitigate the Project's impacts to wildlife connectivity. The Project is located within an area that has been identified as a "Special linkage area in the MSHCP" (the San Gorgonio River/San Bernardino-San-Jacinto Mountains Linkage)[1], a "Conservation Planning Linkage" by CDFW, [2] and a south coast missing linkage (San Bernardino-San Jacinto Connection) that is critical for connectivity between coastal and desert ecoregions (SC Wildlands, 2008). In addition, the adjacent segment of I-10 has been identified by CDFW as a "Priority Barrier to Habitat Connectivity," particularly for mountain lion, black bear, and bobcat, where financial resources should be focused to improve wildlife movement (CDFW, 2020). It is located within the floodplain of the San Gorgonio River immediately adjacent to an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. In fact, it is likely the last-chance connection between the SGSB and EPR puma populations. The proposed Project will result in habitat loss and edge effects due to increased human presence and activities (e.g., traffic, noise, light, etc.)

[1] See Cores and Linkages within the MSHCP Conservation Area. Available at https://rctlma.org/Portals/0/mshcp/volume1/sec3.html#3.2.3 (Accessed September 28, 2022).
[2] See CDFW Areas of Conservation Emphasis Version 3.0. Available at https://apps.wildlife.ca.gov/ace/ (Accessed September 28, 2022).

that will further degrade this last-remaining connectivity and drive local puma populations towards extinction while harming other wildlife.

As detailed in a 2021 Center Report (Yap et al., 2021), roads and development create barriers that lead to habitat loss and fragmentation, which harms native wildlife, plants, and people. As barriers to wildlife movement, poorly-planned development and roads can affect an animal's behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function (Brehme et al., 2013; Ceia-Hasse et al., 2018; Haddad et al., 2015; Marsh & Jaeger, 2015; Mitsch & Wilson, 1996; Trombulak & Frissell, 2000; van der Ree et al., 2011). For example, habitat fragmentation from roads and development has been shown to cause mortalities and harmful genetic isolation in mountain lions in Southern California and along the Central Coast (Ernest et al., 2014; Gustafson et al., 2018, 2021; Riley et al., 2014; Saremi et al., 2019; Vickers et al., 2015). Habitat fragmentation has also been found to increase local extinction risk in amphibians and reptiles (Brehme et al., 2018; Cushman, 2006; Delaney et al., 2021), cause high levels of avoidance behavior and mortality in birds and insects (Benítez-López et al., 2010; Kantola et al., 2019; Loss et al., 2014), and alter pollinator behavior and degrade habitats (Aguilar et al., 2008; Goverde et al., 2002; Trombulak & Frissell, 2000).

Habitat fragmentation also severely impacts plant communities. An 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number is likely to continue to rise as time passes (Damschen et al., 2019). The authors conclude that efforts to preserve and enhance connectivity will pay off over the long-term (Damschen et al., 2019). In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes (Cushman et al., 2013; Heller & Zavaleta, 2009; Krosby et al., 2018). Loss of wildlife connectivity decreases biodiversity and degrades ecosystems while reducing climate change resilience.

Edge effects of development in and adjacent to critical linkage areas, like the proposed Project, will likely impact key, wide-ranging predators, such as mountain lions and bobcats (Crooks, 2002; Delaney et al., 2010; Lee et al., 2012; Riley et al., 2006; Smith et al., 2015, 2017; Vickers et al., 2015; Wang et al., 2017), as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and herpetofauna (Benítez-López et al., 2010; Cushman, 2006; Delaney et al., 2010; Gray, 2017; Kociolek et al., 2011; Slabbekoorn & Ripmeester, 2008). Limiting movement and dispersal can affect species' ability to find food, shelter, mates, and refugia after disturbances like fires or floods. Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. Negative edge effects from human activity, such as traffic, lighting, noise, domestic pets, pollutants, invasive weeds, and increased fire frequency, have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute, 2003).

For example, field observations and controlled laboratory experiments have shown that traffic noise can significantly degrade habitat value for migrating songbirds (Ware et al., 2015). Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding

behavior and duration, as well as increased vigilance behavior (Ware et al. 2015). Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. A recent study also highlighted the detrimental impacts of siting development near open space. The study noted that "Anthropogenic noise 3 and 10 dB above natural sound levels . . . has documented effects on wildlife species richness, abundance, reproductive success, behavior, and physiology" (Buxton et al., 2017). The study further noted that "there is evidence of impacts across a wide range of species [] regardless of hearing sensitivity, including direct effects on invertebrates that lack ears and indirect effects on plants and entire ecological communities (*e.g*., reduced seedling recruitment due to altered behavior of seed distributors)" (Buxton et al. 2017). Moreover, human transportation networks and development resulted in high noise exceedances in protected areas (Buxton et al. 2017).

In addition, preliminary results from studies underway by researchers at UC Davis and University of Southern California, as well as those by other researchers, suggest that the light, noise, and other aspects of highways can have negative impacts on wildlife numbers and diversity near the highways (Shilling, 2020; Vickers, 2020). The researchers found a significant difference between species richness and species type (mammals), with lower richness and fewer species at crossing structures compared to background areas 1 km away from the roads (Shilling, 2020). They also found that as traffic noises surpassed 60 dBC, the number of visits by small to large mammals decreased, and most of the species in their study avoid traffic noise (Shilling, 2020). The proposed Project would increase human activity and traffic, thereby increasing noise, light, and other edge effects in this important connectivity area. The EIR must adequately assess and mitigate the proposed Project's impacts, including its edge effects, on wildlife connectivity.

C. The proposed Project will have significant impacts on riparian wetland habitats.

The EIR must adequately assess the Project's impacts to wetland habitats, including perennial and ephemeral riparian habitat that occur in and near the Project area. (CEQA Guidelines, Appendix G(IV)(c).) The Project area is located within the San Gorgonio River's 100-year floodplain, and as mentioned in the IS, "According to the USFWS National Wetlands Inventory, the Project site is transected by Riverine habitat that is intermittent and potentially seasonally flooded" (IS at 24). Although the IS states that "Project development would potentially have significant impacts on sensitive natural communities and/or riparian habitats" (IS at 25), it then immediately contradicts itself, concluding that the Project "does not contain any wetlands" and therefore "would not adversely affect state or federally protected wetlands" (IS at 25).

A strong presumption in favor of studying an environmental impact is built into CEQA. This presumption is reflected in what is known as the "fair argument" standard, under which an agency must study an impact in an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. (*Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of "B" St. v City of Hayward* (1980) 106 Cal.App.3d 988, 1002.)

There is substantial evidence sufficient to support a fair argument that impacts to ephemeral waterways could occur and thus should be studied in the EIR. USFWS has identified the Project site as riverine habitat, which includes perennial and ephemeral riparian habitat and extends to the outer limits of where any stream braiding occurs. (IS at 24, USFWS 1992.) Development may impact this habitat and thus the effects of such development must be studied in the EIR.

Riparian ecosystems have long been recognized as biodiversity hotspots performing important ecological functions in a transition zone between freshwater systems and upland habitats. Many species that rely on these aquatic habitats also rely on the adjacent upland habitats (*e.g.*, riparian areas along streams, floodplains, and habitat adjacent to wetlands). In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion depend on riparian-stream systems for survival (Kelsey and West 1998). While many species use riparian areas as live-in habitat, wide-ranging species like mountain lions, bears, and bobcats often use riparian areas as migration corridors or foraging habitat (Dickson et al, 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017).

Recent scientific literature states that "[i]n many intermittent streams, remnant pools persist after flow ceases and provide refuge for aquatic organisms" (Bogan et al., 2019). The researchers found that remnant pools at nearby Coyote Creek "supported a full assemblage of native fishes and numerous imperiled taxa, including California red-legged frogs (CRLF) and California floater mussels," almost all of which were absent from artificially perennial and urbanized reaches of Coyote Creek (Bogan et al., 2019). The researchers concluded:

> Remnant pools in intermittent streams should be a focus of conservation efforts in regions with a Mediterranean climate, especially during extreme droughts. Native fauna adapted to harsh intermittent flow regimes can thrive in these habitats, whereas non-native taxa may fare poorly. Furthermore, remnant pools supported by deep groundwater sources, such as those along geological faults, may provide both ecological refuge and evolutionary refugia for freshwater biota. (Bogan et al., 2019)

Hydroperiod diversity is important for native amphibian population stability. Intermittent and ephemeral habitats are important refugia from invasive fish and American bullfrogs that outcompete and prey upon native amphibians in permanent waterbodies. They may also be important refuge and recovery sites for native amphibian species after extreme drought. Many native amphibian species that occur or have the potential to occur in or near the Project area, like western spadefoot toads, arroyo toads, and coast range newts, are adapted to successfully reproduce in seasonally-drying wetlands, including intermittent streams and vernal pools. But during dry years some species may go to permanent waterbodies to breed while species with long-lived adult forms may be able to recover quickly from a skipped breeding season. Although amphibian population declines due to drought have been observed, these adaptations make them more resilient than invasive species to rebound and recover (Moss et al., 2021). In fact, researchers have found that invasive fish and bullfrogs were extirpated from several permanent ponds that had completely dried out during extreme drought, which, once refilled with water,

opened up new sites for native species to re-colonize (Moss et al., 2021). This suggests that conserving intermittent and ephemeral waterways is vital for native amphibians to persist, particularly in areas where invasive species may occur or have the potential to occur. As climate change intensifies, preservation of connected habitats with diverse hydroperiods is vital for the persistence and metapopulation dynamics of native amphibians. The EIR must adequately assess and mitigate the Project's impacts to perennial and ephemeral waters and the wildlife plants that they support.

With the driest 22-year period in 1,200 years in the western US and drought conditions that will likely continue (Williams et al., 2022) climate change refugia and resilience provided by ecosystems like riparian areas will be ever more critical for species survival and ecosystem health. As discussed in a 2021 Center report (Yap et al., 2021):

> Climate change is worsening ecosystem stress and species extinction risk (Trisos et al., 2020). Increasing variability and extremes in temperature, wind, and precipitation are all products of a warming climate, leaving species struggling to adapt. As a result, species' genes are changing, physiological and physical features such as body size are changing, ranges are shifting as species try to maintain a suitable climate space, and numerous species are expressing new breeding and migration behaviors (Scheffers et al., 2016).
>
> For example, some plants are budding and flowering earlier, some marine and freshwater fishes are spawning either earlier or later, and some species with temperature-dependent sex determination are experiencing shifts in sex ratios. ***Climate-related local extinctions have already occurred in hundreds of plant and animal species*** (Wiens, 2016). And one study found that terrestrial bird and mammal populations that are experiencing greater climate warming are more likely to be experiencing greater population declines (Spooner et al., 2018). Reportedly, climate change is already impacting 82% of key ecological processes that form the foundation of healthy ecosystems (Scheffers et al., 2016). If climate change goes unabated, more than one-third of all plant and animal species could become extinct in the next 50 years (Román-Palacios & Wiens, 2020).
>
> ***Wildlife connectivity is critical for biodiversity resilience and climate change adaptability***. A permeable landscape that has multiple pathways or linkages between habitat patches allows a wide variety of species to adjust to shifts in resource availability (Mcrae et al., 2012; Olson & Burnett, 2013; Pinto & Keitt, 2008). For smaller species with poor dispersal abilities, like San Francisco garter snakes, CRLF and San Bernardino kangaroo rats, multiple linkages can provide habitat while still allowing for their dispersal.
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> Multiple connections also help populations persist after extreme events worsened by climate change. During floods, landslides or wildfires, these pathways provide escape routes or refugia for animals seeking safety (Cushman et al., 2013; Mcrae et al., 2008; Olson & Burnett, 2013). Such events can cause local extinctions in small, isolated populations.

Prior to roads and development severely fragmenting and degrading habitats, a species could persist because individuals from neighboring populations would be able to recolonize an area that experiences a local extinction. But without adequate connectivity, recolonization and species persistence are improbable.

California cannot afford to lose more riparian corridors. It is estimated that 90-95% of historic riparian habitat in the state has been lost (Bowler, 1989; Riparian Habitat Joint Venture, 2009). Using 2002 land cover data from CAL FIRE, the Riparian Habitat Joint Venture estimated that riparian vegetation makes up less than 0.5% of California's total land area at about 360,000 acres (Riparian Habitat Joint Venture, 2004). This is alarming because riparian habitats perform a number of biological and physical functions that benefit wildlife, plants, and humans, and loss of what little is left will have severe, harmful impacts on special-status species, overall biodiversity, wildlife connectivity, and ecosystem function.

II. The EIR Should Carefully Assess and Mitigate the Project's Impacts on Air Quality

The EIR must also carefully consider the effects of a project of this scale on air quality for local communities. Warehouse projects are well-documented sources of air quality degradation that can create serious, negative health outcomes for communities. (Betancourt et al. 4-5.) Particulate emissions from diesel vehicles that carry freight to and from warehouses contribute to "cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death." (*Id.* at 5.) Warehouses with refrigeration, called "cold storage" warehouses, produce even more air pollution and greenhouse gas emissions. (CARB 2022.) Refrigerated goods must be kept in cold environments to maintain quality, which requires that cold storage warehouses "continually consume[] energy, contrary to other type of warehouses." (Dimitrov 2022.) With "cold storage" warehouses, trucks and trailers visiting the Project site are typically equipped with transport refrigeration units (TRU), internal refrigeration systems powered by diesel. TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. (Wu 2013; Tassou 2009.)[3]

The surrounding area is a mix of open space, residential, and land belonging to the Morongo Band of Mission Indians. High-density affordable housing projects border the western and eastern boundaries of the Project site, with a large residential neighborhood to the west of the site. (Initial Study at 2, 20-21.) Hoffer Elementary School is within 1,500 feet of the Project site. (*Ibid*.) The Interstate 10 freeway runs along the southern edge of the Project.

A. The Initial Study Omits a Key Threshold of Significance

The Initial Study omits a key threshold of significance from the EIR, which has the potential to obscure project impacts. The Initial Study draws its thresholds of significance from

[3] This Project proposes to construct up to 1.3 million square feet (sf) of "speculative industrial" warehousing uses. The NOP and IS fail to mention whether the Project will include refrigerated uses, which significantly drive up the air quality and greenhouse gas impacts. The EIR must disclose whether the Project will include refrigerated uses and then analyze the full slate of environmental impacts associated with those uses.

"Appendix G"—the checklist of potentially significant environmental impacts included as an appendix to the CEQA Guidelines. (Initial Study at 18.) Appendix G contains five separate checklist questions regarding a proposed project's air quality impacts. The Initial Study considers four air quality-related questions from Appendix G as its thresholds of significance, to define the scope of impacts. (*Ibid*.) But inexplicably, the Initial Study omits checklist question 2 (whether the Project would "[v]iolate any air quality standard or contribute substantially to an existing or projected air quality violation"). (Guidelines, App. G., subd. III(b).) This omission potentially forecloses consideration of the Project's full impacts.

Although lead agencies have discretion in their choice of significance thresholds, they may not choose or apply them in a manner that downplays or overlooks potentially significant impacts. (See *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 892-894.) Given that the Project will have a potentially significant air quality impact by every metric identified, the EIR should consider whether the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

B. The EIR Must Study Cumulative Impacts and Conduct a Health Risk Assessment.

This community is already highly burdened by pollution. According to CalEnviroScreen 4.0, CalEPA's screening tool that identifies the California communities most affected by pollution and where people are often especially vulnerable to pollution's effects, the Project's census tract is more polluted than 90% of the state's census tracts, making it among the most polluted areas in the state. (OEHHA 2021.) Residents here suffer from some of the highest exposures statewide to ozone and lead in housing (97th and 91st percentiles, respectively). (*Ibid.*) The community also currently ranks 81st in the prevalence of poor traffic. Living near freeways already subjects residents to higher rates of asthma, heart attacks, strokes, lung cancer, and pre-term births. (Barboza 2017.)[4]

Approving warehouse development here, which carries increased rates of asthma and cancer, would compound the community's existing environmental health problems. (Esquivel 2019.) The EIR must pay careful attention to the cumulative impacts of additional air pollution in an area with a high existing pollution burden when drafting the EIR. An EIR must discuss the "cumulative impacts of a project when the project's incremental effect is cumulatively considerable[.]" (14 CCR § 15130(a).) Even if a project only represents a relatively small contribution to a condition like poor air quality, the EIR must still assess the cumulative impacts of Project completion on unacceptable environmental conditions. (*See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 693, 728.) The Project's effects on air quality should be considered in the context of existing industrial uses and pollution burdens on neighboring properties.

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[4] https://www.latimes.com/projects/la-me-freeway-pollution/

C. The County Must Design the Project to Avoid These Impacts and Adopt Best Practice Mitigation Measures.

This Project will certainly add to and compound the environmental and health problems of people living in the area. The compounded risk of further contributing to air quality degradation in an area already so burdened should be carefully considered in the EIR and stringent mitigation measures should be adopted. (*See* California Office of Environmental Health Hazard Assessment.) Should the Project proceed, the Project should be designed to avoid serious harm to adjacent residents.

The California Office of the Attorney General has published a document entitled "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act" to help lead agencies design warehouse projects to minimize and mitigate environmental harms. (AGO 2021.) It contains the following best practices for siting and designing warehouse facilities, along with recommended mitigation measures (not repeated here) that should be incorporated into the Project:

- Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.
- Creating physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present, such as homes, schools, daycare centers, hospitals, community centers, and parks.
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets.
- Placing facility entry and exit points from the public street away from sensitive receptors, e.g., placing these points on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Locating warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors, e.g., placing these dock doors on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Screening dock doors and onsite areas with significant truck traffic with physical, structural, and/or vegetative barriers that adequately prevent or substantially reduce pollutant dispersal from the facility towards sensitive receptors.
- Posting signs clearly showing the designated entry and exit points from the public street for trucks and service vehicles.
- Posting signs indicating that all parking and maintenance of trucks must be conducted within designated on-site areas and not within the surrounding community or public streets.

The effects the Project will have on the air quality in an area with a sizeable existing pollution burden must be fully and carefully considered in the EIR, and mitigation measures must be clearly described and adopted should this Project move forward.

III. The EIR Should Assess and Mitigate the Impacts of the Project on Climate Change-Causing Greenhouse Gas Emissions

In addition to assessing the impact on traffic, the EIR should carefully consider the project's effects on statewide goals for reducing greenhouse gas emissions. Where a project will generate greenhouse gas emissions either directly or indirectly, the EIR should describe the expected increase in emissions and discuss mitigation measures. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41; *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 430-34; Pub. Res. Code §§ 21002; 21083.5.) Major warehouse projects have the documented effect of substantially increasing construction, operation, and vehicle-related emissions, all of which produce climate change-causing greenhouse gases. (Betancourt et al. at 4-5; USEPA 2022.) The EIR must carefully and completely address both the impacts on emissions from construction and operation of the plant, and those from vehicle miles traveled by trucks transporting goods to and from the warehouse and commuting employees.

To mitigate the known environmental harms of warehouse projects, the EIR should identify specific measures that the developers will take to minimize any increase in greenhouse gas emissions caused by the Project. These measures should include sustainability measures, like ensuring roofs are white to minimize the need for air conditioning and including rooftop solar for energy production. (AGO 2021; Betancourt et al. at 6.) Moreover, the Project should incorporate features to minimize greenhouse gas emissions, like zero-emissions off-road vehicles and construction equipment, electric vehicle charging stations, and a plan to adopt zero-emissions heavy trucks. (AGO 2021; *id.*) Mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (*Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) Mitigation measures should be designed so benefits are realized by the local community and could include funding zero emission public transit, solar installations on residential homes, or providing publicly accessible electric vehicle charging infrastructure.

Finally, the EIR must fully describe the greenhouse gases the warehouse's construction will produce and outline all feasible mitigation measures that will be taken to address them. Construction of such a large warehouse will require substantial quantities of construction materials, such as concrete. Cement and concrete manufacture is extremely energy intensive and produces a large amount of greenhouse gas emissions. (Masanet et al. at 89.) Concrete manufacturing accounts for roughly 3 percent of California's greenhouse gas emissions. (*Id.*) This and other sources of greenhouse gas and particulate emissions—such as dust and emissions from heavy machinery used during construction—should be thoroughly examined and mitigated in the EIR.

IV. The EIR Must Adequately Assess and Mitigate the Project's Impact on Local Traffic.

CEQA requires that the EIR fully assess the impact the construction of 1.3 million square feet of high cube warehouse facilities will have on transportation and traffic. (Pub. Res. Code §

21099; NOP at 2.) During construction, all the materials, heavy machinery, and construction workers will need to drive through the community daily, potentially creating disruptive and unpredictable traffic patterns during construction. After completion, the Project will bring additional traffic to the area from trucks picking up goods and employees commuting to work in the warehouses. (Betancourt et al. at 4; Initial Study at 19, 61.) Trucks serving facilities often idle on public streets and clog local roads when warehouses are at capacity, creating traffic congestion and hazards to local drivers who depend on these roads. (*See* Betancourt at 5.)

The City must assess how the traffic increases associated with this project will affect the species in the surrounding area. (Pub. Res. Code § 21099.) As discussed in later sections, traffic congestion can hurt air quality and harm habitat through generating waste that is carried into waterways through stormwater runoff. The potential harms of increased runoff should be carefully considered and mitigated in the EIR. Moreover, even if substantial increased congestion would not result from the Project, the EIR should assess the project's impact on Vehicle Miles Traveled. (14 CCR § 15064.3(a).) Should the project substantially increase Vehicle Miles Traveled, the EIR should adopt reasonable mitigation measures, such as requiring the use of highly efficient or electric trucks to transport goods.

After assessing the Project's impact on transportation and traffic, the EIR must fully comply with CEQA's mandates for mitigating the harms associated with increased traffic in the area. Mitigation of a project's environmental impacts is one of the "most important" functions of CEQA and it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41; Pub. Res. Code § 21002.) Particular care should be taken to ensure that the traffic impacts of this project are fully assessed and mitigated, because there are already many warehouses drawing trucks to the area.

The Project should be designed to avoid congestion caused by truck staging on local roads and limit the number of trucks travelling during normal commuting hours to avoid serious harm to locals who rely on nearby roads. Moreover, the City must ensure the EIR includes mitigation for the traffic that construction of such a large project would likely cause.

V. The EIR Should Carefully Assess and Mitigate the Impacts of the Project on Water Quality

The EIR must adequately assess the Project's effects on Hathaway creek, any surrounding wetlands and the riverine habitat located on the property, and connected bodies of water. (Initial Study at 24-25.) The United States Fish and Wildlife Survey National Wetlands Inventory identifies the Project site as transected by riverine habitat that can seasonally flood. (*See* Initial Study at 24.) This inquiry should detail at a minimum the municipal control over activities on privately held land, associated impacts on sensitive biological resources, habitat connectivity, and the efficacy of proposed mitigation measures.

First, mitigation measures for preserving the on-site riverine habitat should include adequate buffer zones between built features (like roads and buildings) and the habitat. The

terrestrial land surrounding riverine habitat is essential for both preserving water quality by serving as a water filter and providing upland habitat for wetland-dwelling species. (Semlitsch & Bodie at 1220.) To ensure that riverine habitat and water quality are preserved, the EIR should ensure there are sufficient buffer zones surrounding Hathaway Creek and its wetlands to maintain the quality of the creek and surrounding wetlands.

Moreover, the EIR must detail long-term management plans for the creek and wetlands, as well as measures that will be taken to protect the creek from the long-term effects of operating warehouses nearby. Notably, there is evidence that roadway runoff produced by the vehicles that will be picking up and dropping off goods significantly contributes to water pollution. (*See* Nixon & Saphores at 1.) Sediments from construction and road erosion, oils from car operation, heavy metals from exhaust, and anti-freeze and other chemicals all can be carried into streams by stormwater runoff. (*See* Nixon & Saphores at 1-2; Shore Stewards.) Additionally, the construction of the warehouses on the property will likely leave behind significant quantities of loose sediment from grading and excavation that can runoff into water and significantly harm wetlands by increasing turbidity, which harms plant growth and destroys habitat for fish species. (*See id.* at 1-2; Shore Stewards.) Spoils from grading must be properly disposed of, and adequate erosion control and spill prevention measures should be implemented to avoid impacts to adjacent wetlands.

The EIR should fully detail the potential risks to water quality operation and construction of the warehouses may cause and adopt binding mitigation measures to minimize these harms.

VI. The EIR Must Thoroughly Consider Reasonable and Prudent Alternatives

The EIR must present and consider "a range of reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project" in order to facilitate "informed decision-making and public participation." (14 CCR § 15126.6(a).) The EIR's alternative analysis should assess the proposed size and location of the Project. The EIR should also assess whether there is sufficient need for another warehouse in this region. Importantly, even if alternatives are costly or would interfere with achievement of some of the project goals, they should be considered if they can substantially reduce the environmental harms of the project. (14 CCR §15126.6(b).) Moreover, the City should avoid adopting overly narrow project objectives to attempt to avoid a broad analysis of alternative mechanisms for achieving the Project's purpose. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.4th 647, 669.)

VII. Other Impacts That Must Be Analyzed in the EIR

In addition to those issues raised above, the EIR must also thoroughly address a variety of other related issues. For example, the EIR must fully disclose and analyze the Project's impacts on aesthetics and noise, and discuss alternatives and effective mitigation measures to avoid, reduce, and mitigate these impacts. Additionally, it is essential that the EIR consider the cumulative effects of the Project, such as air quality and traffic, in light of the many existing warehouses nearby. (*See* IS at 9-11.)

VIII. Conclusion

Thank you for the opportunity to submit comments on the Notice of Preparation of an Environmental Impact Report for the Banning Commerce Center. The environmental effects of the Project will include direct and indirect impacts on biological resources, air quality, climate change, traffic, and water quality. Evaluation of each of these impacts as well as analysis of a reasonable range of alternatives and mitigation measures must be included in the EIR.

Given the possibility that the Center will be required to pursue legal remedies to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,

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EXHIBIT B

August 1, 2024

Sent via email

Emery Papp
Senior Planner
Community Development Department
City of Banning
99 East Ramsey Street,
Banning, California 92220
epapp@banningca.gov

Re: Draft EIR for the Banning Commerce Center Project, SCH # 2022090102

Dear Mr. Papp:

These comments are submitted on behalf of the Center for Biological Diversity (the "Center") regarding the Banning Commerce Center Project, SCH # 2022090102 (the "Project"). The Center has reviewed the Draft Environmental Impact Report ("DEIR") closely and is troubled by its failure to disclose and mitigate significant impacts to biological resources, including mountain lions, burrowing owls, and wildlife connectivity. The Center is also concerned with the DEIR's conclusions of significant and unavoidable impacts regarding the Project's air quality impacts and greenhouse gas emissions – conclusions that ignore relevant, feasible mitigation measures. The Center urges the City of Banning recirculate a legally compliant EIR that fully analyzes, discloses, and mitigates all significant impacts.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Riverside County.

I. THE DEIR FAILS TO ADEQUATELY ASSESS AND MITIGATE THE PROJECT'S IMPACTS TO BIOLOGICAL RESOURCES.

The California Environmental Quality Act (CEQA) requires an EIR to provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment, to list ways in which the significant effects of a project might be minimized, and to indicate alternatives to the project. (Pub. Res. Code § 21061.) CEQA further requires a lead agency to mitigate to the extent feasible significant impacts. (CEQA

Guidelines § 15064.4.) The DEIR fails to provide sufficient analyses and mitigation for the Project's potential impacts to biological resources and therefore fails to comply with CEQA.

The Project must be considered in context of the landscape it is located in and surrounded by. The proposed Project includes destroying more than 130 acres of undeveloped habitat that supports numerous sensitive and special-status species located within an identified vital ecological connectivity area between the transverse and peninsular ranges. Special-status species and sensitive habitats that occur in, near, and downstream of the proposed Project will be significantly impacted by a large warehouse project that will increase traffic, noise and light pollution, runoff, and carbon emissions. The DEIR fails to adequately assess the Project's impacts to wildlife connectivity and the special-status species and sensitive habitats that occur, potentially occur, or historically occurred in and near the Project area.

A. The DEIR fails to adequately assess, and mitigate the Project's impacts to special-status species

As mentioned in the Center's NOP comments[1] (Exhibit 1), CEQA requires that an EIR provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment. (Pub. Res. Code § 21061.) The EIR must adequately assess and mitigate impacts to special-status species that are known to occur, have the potential to occur, or historically occurred in and near the Project area. Yet the DEIR fails to adequately describe, assess, and mitigate the Project's impacts to numerous special-status species that occur, potentially occur, or historically occurred in or near the Project area, including mountain lions (CESA-candidate species), coastal California gnatcatcher (federally threatened, state species of special concern [SSC]), burrowing owl (state SSC that is currently being petitioned to be listed under CESA (Miller, 2024)), Coachella Valley fringe-toed lizard (federally threatened, state endangered), and many others.

Regardless of the species' status in the MSHCP, to comply with CEQA the DEIR must adequately analyze and mitigate the Project's impacts to any special-status species that occurs, may occur, or historically occurred in and near the Project area. The existence of State and federal standards does not absolve the City from the duty to do everything that is within its power to mitigate the impacts of this Project. (See *Save Our Capitol! v Department of Gen. Servs*. (2023) 87 CA5th 655, 696 (agency could not rely on compliance with LEED and CAL-Green building standards to mitigate light and glare impacts in absence of project-specific analysis of impacts and effect of compliance); *Californians for Alternatives to Toxics v Department of Food & Agric*. (2005) 136 CA4th 1 (EIR failed to analyze environmental and health risks of crop disease control program and instead presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation). See also *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 C4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain registered herbicides in general not excuse its failure to assess effects of their use for specific timber harvesting project).)

[1] The Center's NOP comments were submitted on October 3, 2022 yet excluded from the DEIR. This is concerning given the City's responsibility to consider all comments submitted on the Project. (14 Cal Code Regs §15084(c); Pub Res C §21082.1.)

The DEIR buries most information in its appendices; however, analyses need to be provided within the main text of the EIR – "a report buried in an appendix is not a substitute for a good faith reasoned analysis" (*Vineyard Area Citizens for Responsible Growth, Inc. v City of Rancho Cordova* (2007)). Exhibit 2 lists special-status species that have been documented within the California Natural Diversity Database (CNDDB) quadrant that the Project area is located in; the DEIR should provide adequate analyses and assessments regarding the Project's impacts on at least these species within the main text of the EIR. The DEIR fails to accomplish this, and therefore fails to comply with CEQA.

Below are a few in-depth examples of the DEIR's deficiencies. This is not a comprehensive list and there are likely other special-status species that require additional impact analyses.

i. Mountain Lions

The DEIR fails to adequately describe, assess, and mitigate the Project's impacts to local mountain lions, candidate species under the California Endangered Species Act (CESA). In fact, there is no mention of mountain lions in the main text of the DEIR at all. Instead, the limited information regarding mountain lions is buried in a table in an appendix (DEIR Appendix C1 Table 5) with no mention of their CESA status nor sufficient analysis or discussion regarding the Project's impacts to this sensitive species that is currently experiencing an extinction vortex. The appendix merely mentions mountain lions as an MSHCP Covered Species and states they have "low potential" to occur in or move through the Project area without providing substantial evidence to support such claims (DEIR Appendix C1 Table 5), as no movement studies were conducted. The conclusion in the appendix is pure conjecture and not based on the best available science.

CEQA condemns an agency's failure to include important information on analysis and methodology by only including such information in appendices. (*San Joaquin Raptor Rescue Ctr. v. Cty. of Merced*, 57 Cal. Rptr. 3d 663, 675 (Cal. Ct. App. 2007)). As the California Supreme Court has held, information in a CEQA analysis "must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 442). Information and analysis "buried in an appendix is not a substitute for a good faith reasoned analysis." *Id*. (citations omitted). Sufficient information regarding wildlife connectivity must be provided within the main text of an EIR. The DEIR fails to comply with CEQA.

As mentioned in the Center's NOP comments (Exhibit 1), local mountain lions are within the Southern California and Central Coast Evolutionarily Significant Unit (ESU) that is currently a candidate threatened species under CESA. There is ample scientific evidence that indicates mountain lion populations in and around the Project area are struggling to survive and that human activities and land use planning that fail to integrate adequate habitat connectivity can have adverse impacts on mountain lions. Continued habitat loss and fragmentation has led to 10 genetically isolated populations within California. There are six identified mountain lion

populations in the ESU, and several are facing an "extinction vortex" due to high levels of inbreeding, low genetic diversity, and high human-caused mortality rates from car strikes on roads, depredation kills, rodenticide poisoning, poaching, disease, and increased human-caused wildfires. (Benson et al., 2016, 2019; Ernest et al., 2003; Gustafson et al., 2018, 2021; Riley et al., 2014; Vickers et al., 2015). The primary driver of this extinction vortex is lack of connectivity. (Yap et al., 2019).

The Project area is located between the San Gabriel/San Bernardino (SGSB) population and the Eastern Peninsular Range (EPR) population, and the Santa Ana Mountains (SAM) population is nearby to the southwest. Scientists have documented physical and reproductive signs of inbreeding depression in local mountain lions (from the EPR and Santa Ana mountains, as well as the nearby Central Coast South [i.e. Santa Monica Mountains]) due to being boxed in by roads and development (Huffmeyer et al., 2021). Researchers have found that, of the California mountain lion subpopulations, the SGSB population has the smallest effective population size and the smallest area of available habitat (Dellinger et al., 2020; Gustafson et al., 2021). Scientists suggest that the SGSB population "may be approaching levels of genetic drift and inbreeding similar to the well-monitored and genetically depauperate Santa Ana and Central Coast South populations (Ernest et al., 2014; Gustafson et al., 2017; Riley et al., 2014)" (Gustafson et al., 2021), which are predicted to have a 99% chance of becoming locally extinct within 50 years if inbreeding depression continues. (Benson et al., 2019). This emphasizes the importance of protecting the remaining SGSB population, specifically through maintaining and enhancing connectivity among and between the subpopulations.

Collared mountain lions have been documented moving through the Project area to approach I-10. The proposed Project has the potential to amplify the barrier effects of I-10, especially given the Project's proximity to a critical riparian corridor (San Gorgonio River) with an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. The proposed Project could degrade this important connectivity area and drive the SGSB, EPR, and SAM puma populations towards extinction.

The EIR must consider that the Project's impacts to mountain lions (and other special-status species and sensitive habitats) extend beyond its physical footprint. Ample evidence documents the effects of human activity on mountain lions. One study found that mountain lions are so fearful of humans and noise generated by humans that they will abandon the carcass of a deer and forgo the feeding opportunity just to avoid humans (Smith et al., 2017). The study concluded that even "non-consumptive forms of human disturbance may alter the ecological role of large carnivores by affecting the link between these top predators and their prey" (Smith et al., 2017). In addition, mountain lions have been found to respond fearfully upon hearing human vocalizations, avoiding the area and moving more cautiously when hearing humans (Smith et al., 2017; Suraci et al., 2019). Other studies have demonstrated that mountain lion behavior is negatively affected when exposed to other evidence of human presence, such as lighting or vehicles/traffic (Smith et al., 2015; Wang et al., 2017; Wilmers et al., 2013). Therefore, both physical and behavioral barriers drive genetic isolation, and continued land use that further fragments mountain lion habitat in the region without adequately minimizing impacts to functional connectivity, will drive pumas in the area to extinction. The Project will result in

increased traffic, light, noise, etc. in an important connectivity area between the San Bernardino and San Jacinto mountains, where mountain lions are known to occur and are known to be struggling. The Project will significantly impact how mountain lions navigate the landscape by fortifying existing human-made barriers and decreasing opportunities for them to move between mountain ranges. The DEIR fails to adequately assess and mitigate the Project's impacts to mountain lions.

Yovovich et al., (2020) further documented the impacts of human activities on local mountain lions, specifically on communication and reproductive behaviors important for their survival. Males use scrapes to delineate territories as well as attract potential mates (M. L. Allen et al., 2015, 2016), and the males in the study preferred to use relatively flat areas away from human influence as scrape habitat (Yovovich et al., 2020). Similarly, when nursing females (with kittens less than 8 weeks old) shrank their home ranges to an average of 9 km^2 while their young were most vulnerable, they also selected undeveloped lands away from human disturbance, opting for habitat with protective cover and sufficient water and prey availability (Yovovich et al., 2020). The loss of adequate undisturbed communication and nursery habitat could disrupt important communication and reproductive behaviors that facilitate social structure and overall survival.

In a study that investigated the drivers of fine-scale movement decisions by pumas in fragmented landscapes in the Santa Cruz Mountains, (Suraci et al., 2020) identified that mountain lions prefer larger habitat patches that are closer together and further away from buildings, and they preferred shrub over tree patches. However, mountain lions were willing to accept higher densities of anthropogenic features if target habitat patch areas were larger or the distance between patches was shorter (Suraci et al., 2020). In addition, pumas were found to travel longer distances through open habitats to access larger habitat patches, perhaps for more protective cover and/or for better hunting opportunities within the larger habitat patch areas (Suraci et al., 2020). These findings corroborate those of (Smith et al., 2019), which found that pumas are able to move through partially developed habitat, though they are less likely to move through parcels with higher densities compared to parcels with less dense housing in and around the parcels. In fact, puma avoidance increased sharply as housing density increased up to 41 houses/km^2, after which avoidance remained high. Although these studies demonstrate that mountain lions have some tolerance of human presence, they mostly highlight the negative impacts of increased human use/density on the movement and survival of mountain lions and the importance of habitat connectivity among large, intact, heterogeneous habitat patches.

In addition, (Riley et al., 2021) found that, although pumas had some flexibility to navigate urbanized landscapes, they spent more than 95% of their time away from developed areas and actively avoided open areas like golf courses, cemeteries, and other altered landscaped spaces. Mountain lions consistently selected native vegetation types with dense cover, like chaparral, riparian woodland, and coastal sage scrub, with shrublands being their preferred habitat. This highlights the importance of intact and connected natural heterogeneous landscapes to the long-term health and persistence of constrained mountain lion populations. The authors state, "An important requirement for the effective conservation of at-risk mountain lion populations in southern California is preserving and enhancing connectivity between larger natural areas." (Riley et al., 2021). In addition, especially in areas where pumas are severely

isolated and wildlife connectivity is already constrained, like in and near the Project area, it is important to note that even a single migrant from a different population can help enhance genetic diversity in inbred puma populations (Gustafson et al., 2017). This suggests that any area with important connectivity is critical for the long-term survival of local pumas. The proposed Project could drive local puma populations towards extinction while harming other wildlife.

Mountain lions are a key indicator species of wildlife connectivity and healthy ecosystems. As the last remaining wide-ranging top predator in the region, the ability to move through large swaths of interconnected habitat is vital for genetic connectivity and their long-term survival. In addition, impacts to mountain lions in the region could have severe ecological consequences; loss of the ecosystem engineer could have ripple effects on other plant and animal species, potentially leading to a decrease in biodiversity and diminished overall ecosystem function. Many scavengers, including California condors, kit foxes, raptors, and numerous insects, would lose a reliable food source (Barry et al., 2019; Ruth & Elbroch, 2014). Fish, birds, amphibians, reptiles, rare native plants, and butterflies would potentially diminish if this apex predator were lost (Ripple et al., 2014; Ripple & Beschta, 2006, 2008). In fact, a recent literature review found that mountain lions are important ecosystem engineers and have been documented to have ecological interactions with at least 485 plant and animal species (Labarge et al., 2022). Adequate assessment and mitigation of the Project's impacts to mountain lions is necessary to ensure their long-term survival as well as the long-term health of the area's biodiversity and ecosystems.

Wildlife connectivity in this region is paramount for the survival of the Southern California mountain lions. Any project that does not adequately assess and address impacts to mountain lions and wildlife connectivity could lead to the extirpation of local mountain lions and severe loss of biodiversity and ecosystem function in the region. Further destruction of wildlife connectivity in the area will push local mountain lions closer towards extinction. See further discussion below regarding the DEIR's requirement to adequately describe, assess, and mitigate impacts to wildlife movement and connectivity.

ii. Special-status and Migratory Birds, including Burrowing Owl

Many bird species throughout North America area experiencing declines. The widely-publicized results of a 2019 research study showed that nearly three billion birds have been lost in the last half-century, with grassland birds experiencing the heaviest losses (Rosenberg et al., 2019). Threats to birds are numerous and complex, and include habitat loss, pesticide and rodenticide use, urban and agricultural development, and climate change, among others.

The DEIR fails to adequately describe, assess, and mitigate the Project's impacts to burrowing owls. The DEIR fails to mention that local burrowing owls are currently being petitioned to be listed under CESA (Miller, 2024). The DEIR also fails to list burrowing owl as a "special-status species potentially occurring onsite" in the main text (DEIR at 4.3-5) despite the presence of suitable habitat throughout the Project area and nearby burrows. The DEIR states that "[s]uitable burrowing owl burrows potentially utilized for refugia and/or nesting were documented adjacent to the property including foraging habitat documented throughout the Project site" (DEIR at 4.3-12), while consultants documented California ground squirrels, whose

burrows burrowing owls depend on, in and near the Project area (DEIR at 4.3-3). According to numerous publicly available databases, including iNaturalist,[2] eBird,[3] and the Global Biodiversity Information Facility (GBIF),[4] burrowing owls have been documented in the vicinity. These owls have been found to forage up to two miles from their burrows. Therefore, the Project area should be considered burrowing owl habitat and the DEIR should assume burrowing owls use the area.

The DEIR states that "No burrowing owl or characteristic sign such as white-wash, feathers, tracks, or pellets were detected within or immediately adjacent to the Project site during the 2023 survey effort" (DEIR at 4.3-13) and therefore assumes burrowing owls have "low potential" to occur in the Project area (DEIR Appendix C1 Table 5). However, only spring breeding season surveys were conducted, and lack of detection of burrowing owls in just one breeding season should not lead to the assumption that burrowing owls are absent. Even if the area was not used as breeding habitat in the spring of 2023, it is possible that burrowing owls could establish or re-establish a colony in the area. In addition, it is possible that the Project area supports wintering burrowing owls. The DEIR should include both summer and winter burrowing owl surveys to determine burrowing owl presence. The DEIR fails to adequately assess the Project's impacts to burrowing owls.

Burrowing owls have experienced significant declines in California. The Southwestern California population, which includes burrowing owls local to the Project area, along with two other populations, was recently petitioned for listing as endangered under CESA due to substantial population declines. As the petition states:

> Burrowing owls were historically abundant throughout Southwestern California. Focused surveys from 1991-1993 estimated 263 pairs in the region (227 in the interior and 36 on the coast), a 57-85% decline since the mid-1980s… Resurvey efforts from 2006-2007 estimated 150 pairs in the interior, a further 34% decline… Significant breeding populations remained in western Riverside and southwestern San Bernardino counties, where further recent declines have been documented and long term persistence is unlikely. Southwestern California owls are threatened by urban development, habitat loss, degradation and fragmentation, ground squirrel eradication, coastal predator management, and disturbance. (Miller, 2024).

Any impacts to burrowing owls in the Project area, including loss of current or potential habitat and further habitat fragmentation, will push this population closer to extinction.

MM BIO-1 and MM BIO-2 require burrowing owl and nesting bird preconstruction surveys, respectively (DEIR at 4.3-14); however, these mitigation measures are insufficient and improperly deferred. Although MM BIO-1 requires a 30-day pre-construction survey for burrowing owls prior to ground-disturbing activities, a Burrowing Owl Protection and Relocation Plan would only be prepared if burrowing owls are documented on site during the surveys (DEIR

[2] https://www.inaturalist.org/observations?place_id=any&subview=map&taxon_id=19975 (accessed July 25, 2024)
[3] https://ebird.org/species/burowl (accessed July 25, 2024)
[4] https://www.gbif.org/occurrence/map?q=burrowing%20owl (accessed July 25, 2024)

at 4.3-14). Meanwhile MM BIO-2 states "[i]f active nests are documented, species-specific measures will be prepared by a qualified biologist and implemented to prevent abandonment of the active nest" (DEIR at 4.3-14) without providing specific measures for burrowing owls or other special-status species. At a minimum, no-work buffers of at least 300 feet should be implemented should burrowing owl or other raptor nests be identified.

The DEIR provides insufficient detail for the public and decision makers to ascertain whether such measures would adequately mitigate the Project's impacts to burrowing owls and burrowing owl habitat *before* the Project is approved. (See *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670 [EIR inadequate where the success or failure of mitigation efforts "may largely depend upon management plans that have not yet been formulated, and have not been subject to analysis and review within the EIR"]). In the limited circumstances in which deferred mitigation is appropriate, the agency must meet all of the following elements: (1) practical considerations prevented the formulation of mitigation measures during the planning process; (2) the agency committed itself to developing mitigation measures in the future; (3) the agency adopted specific performance criteria prior to project approval; and (4) the EIR lists the mitigation measures to be considered, analyzed, and possibly incorporated into the mitigation plan. (See *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 736-37 [review denied].) The DEIR's proposed mitigation fails to meet these criteria.

The California Department of Fish and Wildlife recommends numerous additional mitigation measures, including the development of a Burrowing Owl Exclusion Plan as well as securing and permanently protecting lands to mitigate for loss of habitat *before* any activities that may impact BUOW begin (CDFW, 2012). Mitigation measures should include the permanent protection of occupied nesting and foraging habitat at a mitigation ratio of 5:1, with adequate resources set aside to protect, monitor, and adaptively manage these areas in perpetuity. The DEIR fails to adhere to best practices regarding BUOW surveys and mitigation.

Numerous other special-status bird species may also be present, including coastal California gnatcatcher (federally threatened, SSC), northern harrier (SSC), loggerhead shrike (SSC), white-tailed kite (a state fully protected species), and many others. These species were included in Table 5 within the Biological Resources Technical Report (Appendix C1) but were not discussed in the EIR itself. As mentioned above, analyses need to be provided within the main text of the EIR—" a report buried in an appendix is not a substitute for a good faith reasoned analysis" (*Vineyard Area Citizens for Responsible Growth, Inc. v City of Rancho Cordova* (2007)). The DEIR fails to adequately assess and mitigate the Project's impacts to burrowing owls and other special-status birds in and near the Project area, and therefore fails to comply with CEQA.

As discussed in more detail below, edge effects like noise and light from Project construction and operation will have impacts on wildlife and wildlife movement. Negative edge effects from human activity, traffic, lighting, noise, domestic pets, pollutants, and invasive weeds have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute, 2003). This is important to consider when open space is immediately adjacent to the Project area, as birds and

other wildlife have been found to be sensitive to edge effects. For example, field observations and controlled laboratory experiments have shown that traffic noise can significantly degrade habitat value for migrating songbirds (Ware et al., 2015). Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding behavior and duration, as well as increased vigilance behavior (Ware et al. 2015). Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. Another study found a 28% decrease in bird abundance in areas when traffic noise was present compared to when there was no traffic noise (McClure et al., 2013). The DEIR fails to analyze these impacts and should be revised to determine the Project's impacts to special-status birds.

B. The DEIR fails to adequately disclose, assess, and mitigate the Project's impacts to wildlife connectivity.

The DEIR fails to adequately describe the Project area's importance for wildlife connectivity. Although the Biological Resources Technical Report (Appendix C1) acknowledges that the Project site is within a Special Linkage Area (SLA) within the Western Riverside Multi-species Habitat Conservation Plan (WS-MSHCP) that serves as a connection between the San Bernardino and San Jacinto Mountains via the San Gorgonio River (DEIR Appendix C1 at 50), there is no mention of this within the main text of the DEIR. The DEIR simply states that "the Project site does not serve as a regional travel route, wildlife corridor, or wildlife crossing, the mitigation area" (DEIR at 4.3-20) and erroneously concludes that the Project would result in "a less than significant impact" (DEIR at 4.3-18) without providing substantial evidence to support such claims. The DEIR is misleading and insufficient.

CEQA condemns an agency's failure to include important information on analysis and methodology by only including such information in appendices. (*San Joaquin Raptor Rescue Ctr. v. Cty. of Merced*, 57 Cal. Rptr. 3d 663, 675 (Cal. Ct. App. 2007)). As the California Supreme Court has held, information in a CEQA analysis "must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 442). Information and analysis "buried in an appendix is not a substitute for a good faith reasoned analysis." *Id.* (citations omitted). Sufficient information regarding wildlife connectivity must be provided within the main text of an EIR. The DEIR fails to comply with CEQA.

Both the U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) expressed concerns about the Project being located within the SLA, stating that the SLA "provides a connection between the San Bernardino and San Jacinto mountains" that is "vital to ensuring regional connectivity from the U.S.-Baja California border to the southern Sierra Nevada" (DEIR Appendix A3). The San Bernardino-San Jacinto Connection is where the Transverse and Peninsular Ranges converge and is in an ecological transition zone between the South Coast and Desert ecoregions" (DEIR Appendix A3). Yet the DEIR fails to mention this.

The USFWS and CDFW go on to express concerns regarding the Project's downstream impacts. In particular, the agencies state:

> "Project activities have the potential to cause significant downstream impacts to sediment transportation through fluvial and aeolian riverine systems, which may further impact federally endangered Coachella Valley (*Astragalus lentiginosus var. coachellae*) and triple-ribbed milkvetch (*Astragalus tricarinatus*) and the fringe-toed lizard (*Uma inornate*), species identified within the CV-MSHCP with specific conservation objectives. Additionally, the Special Linkage Area within the WR-MSHCP directly connects to the CV-MSHCP Cabazon Conservation Area providing further wildlife movement and connectivity between the MSHCPs. The primary goal of the Cabazon Conservation Area is conserve lands that provide for vital sand transport functions to the core conservation areas for the CV-MSHCP covered species" (DEIR Appendix A3).

Yet the DEIR fails to mention the importance of the SLA to local and regional wildlife connectivity, fails to conduct any species movement studies in or near the Project area, and fails to assess the Project's downstream impacts on special-status species and sand transport functions.

As mentioned in the Center's NOP comments (Exhibit 1), to comply with CEQA the EIR must adequately disclose the existing conditions of the site and adequately assess and mitigate the Project's impacts to wildlife connectivity. Not only does the DEIR fail to acknowledge that the Project are is located within an SLA in the WS-MSHCP within the main text, but the DEIR also fails to mention that CDFW has prioritized an adjacent stretch of the I-10 for wildlife connectivity enhancement (CDFW, 2022). The area is particularly important for mountain lions, black bears, bobcats, birds, and bats, and CDFW states that resources should be focused to improve wildlife movement at this priority barrier (CDFW, 2022). It is located within the floodplain of the San Gorgonio River immediately adjacent to an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. In fact, it is likely the last-chance connection between the San Gabriel-San Bernardino and the Eastern Peninsular Range puma populations.

Given that CDFW is calling for resources to be directed to improve an existing barrier immediately adjacent to the Project area, the DEIR should adequately consider and analyze the Project's impacts to present and future wildlife connectivity. The proposed Project will result in habitat loss and edge effects due to increased human presence and activities (e.g., traffic, noise, light, runoff etc.) that will further degrade this last-remaining connectivity and undermine connectivity enhancement efforts in the area. The DEIR fails to adequately assess and mitigate the Project's impacts to wildlife connectivity and erroneously concludes that the Project's impacts to wildlife connectivity will be less than significant.

The DEIR also fails to mention that CDFW identifies the Project area as "ACE Rank 4 – Conservation Planning Linkages" (Figure 1), which are areas that "represent the best connections between core natural areas to maintain habitat connectivity" (CDFW, 2019). Importantly, CDFW also defines the area as having a high ecoregion biodiversity ranking (Figure 1), which makes wildlife movement and habitat connectivity critical to protect the area's existing biodiversity.

Yet the DEIR fails to adequately disclose, assess, and mitigate the Project's impacts to wildlife movement and habitat connectivity in and near the Project area.

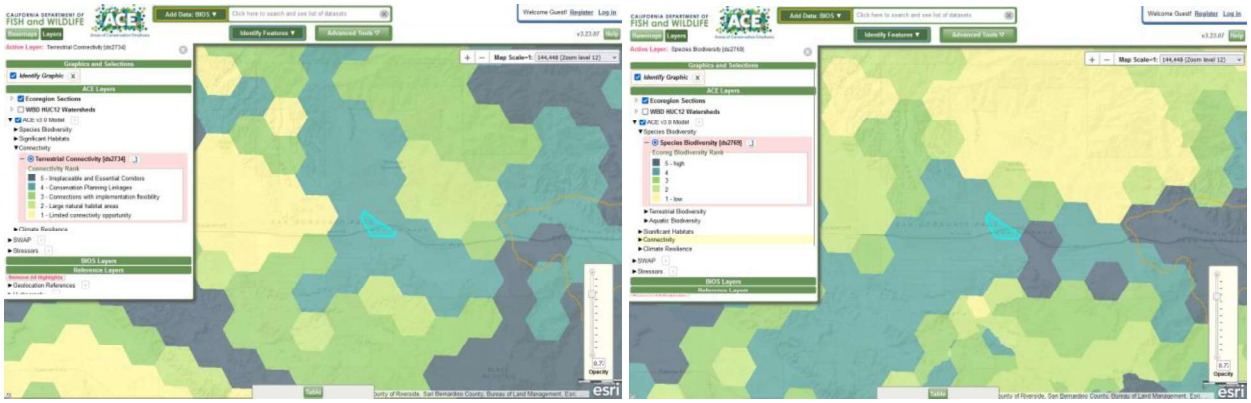


Figure 1: The California Department of Fish and Wildlife Area of Conservation Emphasis Terrestrial Connectivity Rankings (top) and Biodiversity Rankings (bottom) in and near the Project area. The Project is generally located within the highlighted turquoise polygon. Source: https://apps.wildlife.ca.gov/ace/. Accessed July 18, 2024.

As detailed in a 2021 Center Report (Yap et al., 2021), roads and development create barriers that lead to habitat loss and fragmentation, which harms native wildlife, plants, and people. As barriers to wildlife movement, poorly-planned development and roads can affect an animal's behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function (Brehme et al., 2013; Ceia-Hasse et al., 2018; Haddad et al., 2015; Marsh & Jaeger, 2015; Mitsch & Wilson, 1996; Trombulak & Frissell, 2000; van der Ree et al., 2011). For example, habitat fragmentation from roads and development has been shown to cause mortalities and harmful genetic isolation in mountain lions in southern California (Ernest et al., 2014; Riley et al., 2014; Vickers et al., 2015), increase local extinction risk in amphibians and reptiles (Brehme et al., 2018; Cushman, 2006), cause high levels of avoidance behavior and mortality in birds and insects (Benítez-López et al., 2010; Kantola et al., 2019; Loss et al., 2014), and alter pollinator behavior and degrade habitats (Aguilar et al., 2008; Goverde et al., 2002; Trombulak & Frissell, 2000).

Habitat loss and fragmentation also severely impacts plant communities. An 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number is likely to continue to rise as time passes (Damschen et al., 2019). The authors conclude that efforts to preserve and enhance connectivity will pay off over the long-term (Damschen et al., 2019). In addition, connectivity is important to allow for range shifts and species migrations as climate changes (Cushman et al., 2013; Heller & Zavaleta, 2009; Krosby et al., 2018). Loss of wildlife connectivity decreases biodiversity and degrades ecosystems. It also prevents the reestablishment of native species, like bald eagles, vernal pool fairy shrimp, and valley elderberry longhorn beetles that may occur in or near the Project area.

Edge effects like noise and light from Project construction and operation will have impacts on wildlife and wildlife movement, particularly next to open space like the IBA as well as the designated critical habitat for numerous fish species, including the federally threatened North American green sturgeon (southern DPS), federally-threatened delta smelt, federally-and

state-threatened Chinook salmon (Central Valley spring run ESU), federally- and state-endangered Chinook salmon (Sacramento winter run ESU), and federally-threatened steelhead (Central Valley DPS).

Negative edge effects from human activity, traffic, lighting, noise, domestic pets, pollutants, and invasive weeds have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute, 2003). This is important to consider when open space is immediately adjacent to the Project area, as birds and other wildlife have been found to be sensitive to edge effects. For example, field observations and controlled laboratory experiments have shown that traffic noise can significantly degrade habitat value for migrating songbirds (Ware et al., 2015). Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding behavior and duration, as well as increased vigilance behavior (Ware et al. 2015). Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. Another study found a 28% decrease in bird abundance in areas when traffic noise was present compared to when there was no traffic noise (McClure et al., 2013). Negative edge effects of roads and development have been documented in wide-ranging predators, such as mountain lions and bobcats (Crooks, 2002; Delaney et al., 2010, 2021, p. 202; Lee et al., 2012; Riley et al., 2006; Smith et al., 2015, 2017; Vickers et al., 2015; Wang et al., 2017), as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and herpetofauna (Benítez-López et al., 2010; Cushman, 2006; Kociolek et al., 2011; Slabbekoorn & Ripmeester, 2008).

The Project will result in significant impacts to wildlife connectivity due to habitat loss as well as increased traffic, noise and light pollution, and runoff. The DEIR fails to analyze these impacts and should be revised to determine the Project's impacts to wildlife connectivity and provide appropriate mitigation.

C. The DEIR fails to adequately assess the Project's cumulative impacts to special-status species and wildlife connectivity.

The DEIR concludes that the Project "will not result in an adverse cumulative impact" to biological resources (DEIR at 4.3-23) without providing substantial evidence to support such claims. The DEIR fails to mention other development projects in the region that would cumulatively negatively affect special-status species, sensitive habitats, and wildlife connectivity. For example, there are two important connectivity areas/critical linkages between the San Bernardino Mountains and San Jacinto. The Project area is located in one linkage, while the other linkage is located northwest of the Project area near the City of Calimesa. The linkage near Calimesa is under threat from development. Prior to filing for bankruptcy, the Oak Valley Town Center graded a large area of the critical linkage, and the Oak Valley North warehouse project is being considered within that same linkage. In addition, the Mesa Verde Specific Plan is also being considered for development within that linkage. These projects must be considered in the DEIR's cumulative impacts to biological resources. The Project area is located within the area's last-remaining, mostly-intact corridor for imperiled local mountain lions and other wildlife to be able to move between the San Bernardino Mountains and the San Jacinto range. Further encroachment on this connectivity area will have significant impacts on local pumas, burrowing

owls, and other sensitive and special-status species and habitats. The DEIR fails to adequately assess and mitigate the Project's cumulative impacts.

The DEIR fails to consider corridor redundancy (*i.e*. the availability of alternative pathways for movement), which allows for improved functional connectivity and resilience. Compared to a single pathway, multiple connections between habitat patches increase the probability of movement across landscapes by a wider variety of species, and they provide more habitat for low-mobility species while still allowing for their dispersal (Mcrae et al., 2012; Olson & Burnett, 2013; Pinto & Keitt, 2008). In addition, corridor redundancy provides resilience to uncertainty, impacts of climate change, and extreme events, like flooding or wildfires, by providing alternate escape routes or refugia for animals seeking safety (Cushman et al., 2013; Mcrae et al., 2008, 2012; Olson & Burnett, 2013; Pinto & Keitt, 2008). Ensuring a more permeable landscape will allow bighorn sheep, pumas, and other sensitive and special-status species to safely move through habitats to find the resources they need to survive.

Corridor redundancy is critical when considering the impacts of climate change on wildlife movement and habitat connectivity. Climate change is increasing stress on species and ecosystems, causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes, and increasing species extinction risk (Warren et al., 2011). A 2016 analysis found that climate-related local extinctions are already widespread and have occurred in hundreds of species, including almost half of the 976 species surveyed (Wiens, 2016). A separate study estimated that nearly half of terrestrial non-flying threatened mammals and nearly one-quarter of threatened birds may have already been negatively impacted by climate change in at least part of their distribution (Pacifici et al., 2017). A 2016 meta-analysis reported that climate change is already impacting 82 percent of key ecological processes that form the foundation of healthy ecosystems and on which humans depend for basic needs (Scheffers et al., 2016). Genes are changing, species' physiology and physical features such as body size are changing, species are moving to try to keep pace with suitable climate space, species are shifting their timing of breeding and migration, and entire ecosystems are under stress (Cahill et al., 2012; Chen et al., 2011; Maclean & Wilson, 2011; Parmesan, 2006; Parmesan & Yohe, 2003; Root et al., 2003; Warren et al., 2011).

It is widely recognized that the continuing fragmentation of habitat by humans threatens biodiversity and diminishes our (humans, plants, and animals) ability to adapt to climate change. In a report for the International Union for Conservation of Nature (IUCN), world-renowned scientists from around the world stated that "[s]cience overwhelmingly shows that interconnected protected areas and other areas for biological diversity conservation are much more effective than disconnected areas in human-dominated systems, especially in the face of climate change" and "[i]t is imperative that the world moves toward a coherent global approach for ecological connectivity conservation, and begins to measure and monitor the effectiveness of efforts to protect connectivity and thereby achieve functional ecological networks" (Hilty et al., 2020). The DEIR fails to adequately assess and mitigate the Project's cumulative impacts to wildlife connectivity and sensitive and special-status species.

II. THE DEIR FAILS TO ADEQUATELY ANALYZE OR MITIGATE GREENHOUSE GAS EMISSIONS.

A. Climate change is a catastrophic and pressing threat to California.

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and that climate change threats are becoming increasingly dangerous. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2023 Sixth Assessment Report that: "[u]nsustainable and unequal energy and land use as well as more than a century of burning fossil fuels have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 in 2011-2020." (IPCC 2023.) The increase in global surface temperature has resulted in sea level rise, increased frequency of extreme weather events, and has resulted in "irreversible losses" at the species and ecosystem levels. (IPCC 2023.) These findings were echoed in the United States' own 2023 Fifth National Climate Assessment, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The 2023 Assessment concluded that "[t]he global warming observed over the industrial era is unequivocally caused by greenhouse gas emissions from human activities–primarily burning fossil fuels" and long-term responses include "sea level rise, ice sheet losses, and associated disruptions to human health, social systems, and ecosystems." (Jay 2023.)

Immediate and aggressive greenhouse gas emissions reductions are necessary to keep warming well below 2°C above pre-industrial levels. The IPCC Sixth Assessment Report and other expert assessments have established global carbon budgets, or the total amount of carbon that can be burned while maintaining some probability of staying below a given temperature target. According to the IPCC, "[t]he best estimates of the remaining carbon budgets from the beginning of 2020 are 500 GtCO2 for a 50% likelihood of limiting global warming to 1.5°C and 1150 GtCO2 for a 67% likelihood of limiting warming to 2°C." (IPCC 2023 at 19.) Additionally, "[i]f the annual CO2 emissions between 2020-2030 stayed, on average, at the same level as 2019, the resulting cumulative emissions would almost exhaust the remaining carbon budget for 1.5°C (50%), and deplete more than a third of the remaining carbon budget for 2°C (67%)." (IPCC 2023). As of 2023, climate policies by the world's countries would lead to an estimated 2.7°C of warming, and possibly up to 3.4°C of warming, well above the level needed to avoid the worst dangers of climate change. (Climate Action Tracker, The CAT Thermometer 2023.)

In California, climate change will transform our climate, resulting in increased temperature and frequency of wildfires, and a reduction in snowpack, precipitation levels, and water availability. (Turco 2023.) California has taken steps through legislation and regulation to fight climate change and reduce statewide GHG emissions. Enforcement of and compliance with these steps are essential in order to stabilize the climate and avoid catastrophic impacts to our environment.

California has a mandate under AB 1279, the California Climate Crisis Act, to achieve net zero GHG emissions by no later than 2045, and achieve and maintain net negative GHG emissions thereafter, and to ensure that by 2045, statewide GHG emissions are reduced to 85% the level in 1990. (AB 1279 2022.) In 2019, Governor Newsom issued an executive order to leverage state investments to further California's climate goals (Executive Order N-19-19 (2019).) Newsom has continued to issue climate-related executive orders, such as a 2020 order requiring that, by 2035, all passenger vehicles will be zero-emission, in addition to other motor

vehicle emission goals. (Executive Order N-79-20 (2020).) Through these bills and orders, California has laid a path that may allow the state to achieve tangible climate solutions, but there is still work to be done.

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, (9th Cir. 2008) 538 F.3d 1172, 1217 ("the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis" that agencies must conduct).) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California's climate as a whole. Therefore, project-specific GHG emission disclosure, analysis and mitigation is vital to California meeting its climate goals and maintaining our climate.

B. The DEIR fails to disclose and analyze significant greenhouse gas emissions from lost carbon storage and sequestration.

Despite the urgent dangers of the climate crisis, the DEIR fails to adequately calculate the Project's greenhouse gas emissions from destroying 106.36 acres of undeveloped desert scrub, 17.45 acres of non-native grassland, and 6.26 acres of Riversidean sage scrub (DEIR Appendix C1 Table 6). In fact, carbon emissions from destroying these habitats and degrading adjacent habitats is omitted from the analysis. To adequately assess and mitigate the Project's GHG impacts, the DEIR must include the carbon storage and sequestration potential of these habitats in the analysis.

Lead agencies are required to quantify and disclose GHG emissions that would occur during construction, and the South Coast Air Quality Management District requires construction GHG emissions to be amortized over the life of the project, defined as 30 years. Yet the DEIR fails to comply with these requirements. When describing the emissions sources during construction activities, the DEIR only lists emissions from "construction equipment and the transportation of employees and materials to and from the Project site" (DEIR at 4.7-19). The DEIR fails to account for carbon emissions from intact habitats that would be dug up and paved over during construction as well as the annual loss of carbon that existing habitats would have continued to sequester for 30 years if the Project were not constructed.

As detailed in a 2023 Center Report, "Hidden in Plain Sight: California's Native Habitats are Valuable Carbon Sinks" (Yap et al., 2023), diverse native California habitats, including deserts, are important carbon sinks that should be included in carbon calculations. In California, desert landscapes consist of dunes, desert scrub, sandy soil grasslands, juniper-pinyon woodlands and rock formations. The Mojave Desert is dominated by deep-rooted shrub species, including creosote bush and white bursage, as well as many forbs, trees, grasses, and dunes. In the Project area, the landscape consists of a variety of vegetation, including desert scrub, grasses, and Riversidean sage scrub. Although the carbon storage and sequestration potential of such habitats are often overlooked, carbon in these systems is stored in the form of soil organic carbon (e.g., extensive root networks, soil microbial communities, mycorrhizae), soil inorganic carbon (e.g., calcite/caliche), and above-ground vegetation (Janzen, 2004; Meyer, 2012; Mi et al., 2008; Thomey et al., 2014; Wang et al., 2010; Zamanian et al., 2016).

Any loss of nature-based carbon storage must be accounted for when assessing a Project's GHG impacts. When calculating carbon loss from habitats, it is important to consider the types of habitats. Although more research is needed to understand the carbon storage and sequestration potential for desert systems, it is clear that various desert habitats store and sequester different amounts of carbon. For example, desert ceanothus (*Ceanothus greggii*) was found to store an average of 19.7 metric tons of carbon per acre in their aboveground biomass and 3.23 metric tons of carbon per acre in their belowground biomass while accumulating 2.4 metric tons of carbon per acre per year (this does not include organic or inorganic soil carbon that can store significant amounts of carbon, see Table 1) (Bohlman et al., 2018). Shrublands, including chaparral and sage scrub, have been found to store an estimated average of 22.5 – 35.3 metric tons of carbon per acre (in their aboveground biomass, leaf litter, and soil) and sequester 0.45 to 1.7 metric tons of carbon per acre per year (Bohlman et al., 2018) while non-native grasslands have been found to store an estimated average of 38.4 – 60.3 metric tons of carbon per acre and accumulate 1.05-1.94 metric tons of carbon per acre per year (Koteen et al., 2011). And experts reported "back of the envelope conservative estimates" of carbon storage for creosote bajada scrub and microphyll woodland habitats in California desert as about 2.47 million and 1.23 million metric tons of carbon per acre, respectively (D. M. Allen et al., 2023).

Table 1: Carbon storage and sequestration of different habitat types in California. Source: Yap et al., (2023).

Habitat Type	Age (years)	Average Aboveground Biomass (metric tons/acre)	Average Belowground Biomass (metric tons/acre)	Average Soil Carbon (metric tons/acre)	Soil Depth (cm)	Average Leaf Litter Biomass (metric tons/ acre)	Estimated Average Total Carbon Storage (metric tons/ acre)	Estimated Annual Carbon Accumulation (metric tons/ acre/year)	Ref.
Riparian Habitat[a]	1-45	233.8	51.6	40.2	50			0.81	2
Channel		61.8	14						2
Floodplain		92.9	20.1	17.5	50			0.35	2
Upper Bank		79.1	17.5	22.7	50			0.45	2
Grasslands									
Dominated by *Agrostis halli* (native species)		1.34 - 1.7	0.85 - 1.66	71.2	50		71.2[b]	2.18 - 3.36	3
Dominated by *Festuca rubra* (native species)		1.41 - 1.5	2.02 - 4.09	68.4	50		68.4[b]	3.44 - 5.58	3
Nassella pulchra, Bromus carinatus, Elymus glaucus mix (native species)		1.05 - 1.05	1.5 - 3	59.5	50		59.5[b]	2.55 - 4.05	3
Non-native Grasslands		0.49 - 1.13	0.57 - 0.81	38.4 - 60.3	50		38.4 - 60.3[b]	1.05 - 1.94	3
Rangelands				15.8 - 23	40		15.8 – 23[b]		4
Shrubland									
Mixed Chaparral	1 - 30+	14	5.38	5.66	100	10.3	35.3	1.73	5,6
Chamise Chaparral	1 - 30+	8.55	5.13[c]	3.65	100	5.17	22.5	0.45	5,6
Coastal Sage Scrub	1 - 10+	6.4				5.63			5,6
Desert							4.17[d]	0.4-0.51[d]	7-9
Ceanothus greggii (desert shrub)	21 - 24	19.7	3.23					2.41	5
Natural Forest[e]							48.6	1.21 - 3.16	10
Urban Trees[f]							3.3 - 6.2	1.3 - 2	11

a Only maximum estimates of carbon storage and carbon sequestration rates are provided.
b Only includes average soil carbon because average biomass data was provided as a range.
c Calculated based on the 0.6 shoot:root ratio provided for chamise (*Adenostoma fasciculatum*) in Bohlman et al. (2018).
d Estimates are based on measurements taken in the northern Mojave Desert in Nevada.
e Estimates include forests in Northern California and Oregon, only includes total tree biomass.
f Only includes total tree biomass.

Given that the Project area is vegetated and filled with desert scrub, Riversidean sage scrub, and non-native grasslands, it is likely that the area stores and sequesters a significant amount of carbon. This must be accounted for in the DEIR's GHG impact assessment. CEQA requires the adequate assessment and mitigation of a project's impacts. Destroying and degrading undeveloped desert habitats could release significant amounts of carbon that must be accounted for. The EIR must disclose the carbon emissions associated with the loss of currently stored carbon as well as the loss of future carbon that would have been sequestered by these habitats over the Project lifetime. The DEIR fails to adequately disclose, assess, and mitigate the Project's GHG impacts.

C. The DEIR fails to adopt all feasible mitigation measures.

Even despite the emissions it ignores, the DEIR admits that the Project will result in enormous GHG impacts. It says that total mitigated emissions will be 22,969 MT CO_2e per year, 20,000 MT above the threshold of significance. (DEIR at 4.7-20.) The mitigation measures managed to reduce emissions by only 4,000 MT. (*Ibid*.). The City must adopt additional mitigation, such as requiring on-site solar and electric truck infrastructure on site, unless it can demonstrate with substantial evidence and analysis that these measures are infeasible. (*Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029.) Because the DEIR does not contain that evidence, its inadequate mitigation does not comply with CEQA. (See Pub. Resources Code, § 21002 [It is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects."], CEQA Guidelines, §§ 15092(b), 15043, 15126.4, subd. (a)(1).)

i. Electrical Truck Infrastructure on Site

Emissions from heavy-duty diesel trucks are one of the most significant harmful effects related to warehouse developments. (Betancourt 2012.) The only way to fully mitigate this harm is through a rapid transition to all-electric fleets. Considering that warehouse projects are the sites of concentrated, severe diesel impacts, it is crucial that they are readily able to accommodate the transition to all-electric fleets.

The overwhelming majority of GHG emissions associated with the Project (approximately 86 percent) are associated with non-construction-related mobile sources. (DEIR at 4.7-20.) The DEIR states that there are no additional feasible measures available because the Project has no control over these emissions, relying on the fact that emissions from motor vehicles are controlled by State and federal standards. (DEIR at 4.7-21-22.) The DEIR therefore includes minimal to no mitigation measures that could effectively reduce vehicle emissions. This argument ignores what CEQA is meant to do – namely, ensure that a lead agency does whatever it can to mitigate a project's significant environmental effects, beyond what other environmental laws might already require. (Pub. Resources Code, §21004.) The existence of State and federal standards does not absolve the City from the duty to do everything that is within its power to mitigate the impacts of this Project. (See *Save Our Capitol! v Department of Gen. Servs*. (2023) 87 CA5th 655, 696 (agency could not rely on compliance with LEED and CAL-Green building standards to mitigate light and glare impacts in absence of project-specific analysis of impacts

and effect of compliance); *Californians for Alternatives to Toxics v Department of Food & Agric*. (2005) 136 CA4th 1 (EIR failed to analyze environmental and health risks of crop disease control program and instead presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation). See also *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 C4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain registered herbicides in general did not excuse its failure to assess effects of their use for specific timber harvesting project).) Addressing the harms from heavy-duty trucks on individual land-use projects is manifestly within the power of lead agencies. The California Attorney General is clear that compliance with laws and regulations is a "baseline expectation" and that lead agencies must adopt mitigation measures that go further. (AGO 2021.) Specifically, the Attorney General recommends mitigation like requiring participation in the EPA's SmartWay program, requiring tenants to use trucks from certain model years, and requiring electric truck charging. (AGO 2021.) And warehouse projects commonly do. For just one recent example, the Airport South Industrial Project requires 4.5% of heavy-duty vehicles to be zero emission by full buildout of the project. (Airport South Industrial Project DEIR at 2-14.)

The DEIR must require concrete, enforceable measures that prepare the Project to operate with an all-electric fleet, as it will soon be required to do. CARB has developed strategies to achieve 100% zero-emissions from medium and heavy-duty on-road vehicles in the State by 2045 everywhere feasible, and specifically to achieve 100% zero-emissions drayage trucks by 2035. (CARB 2022b.) The DEIR makes a start by requiring a sufficiently-sized electrical room and conduit to facilitate future installation of electrical hookups, but it does not require any actual truck charging stations to be installed when the project starts operation in 2026. (DEIR at 4.7-25.) Preparing for a fully electric drayage fleet in 2035 will require at least some charging infrastructure in place in 2026. Otherwise, the Project will lag behind the much-needed transition. To do this, the Project must include electric truck charging stations sufficient to allow every truck that serves the Project to be charged. Additionally, since the expected use of the warehouse could include refrigeration, the Project must have electric plugs for electric transport refrigeration units at every dock door. In order to account for the increased energy demand associated with these charging stations, the projected energy use of an all-electric fleet must be added to the Project's projected electricity use and the energy must be supplied by on-site solar panels.

ii. 100% Rooftop Solar

In order to meet its decarbonization targets, California needs to double its clean energy generation in the next decade, which will require a "record breaking" expansion of clean energy infrastructure. (Cart 2022, California Energy Commission 2021.) The Joint Agency SB 100 Report calls for building 2.8 GW/year of solar every year for 25 years, which is higher than the previous maximum annual build. (Joint Agency at 116.) The main issue with increasing solar energy infrastructure and capacity at the rate needed to meet these goals is the large quantity of sunny, flat land needed for solar farms to operate. (Groom 2022.) Building solar infrastructure across undeveloped land is an imperfect solution that puts ecosystems at risk, eliminates

opportunities for natural carbon sinks, and is often opposed by local residents. (Groom 2022, Cart 2022, Courage 2021.)

Installing solar infrastructure on the roofs of California's warehouses is an excellent opportunity to use miles of flat, sunny space that would otherwise be wasted. A recent study found that California's 674 million square feet of big box stores could generate almost 10,000 gigawatt hours of energy from rooftop solar. (Huxley-Reicher 2023.) Warehouses cover an estimated 1 billion square feet in the Inland Empire. (Calma 2022.) The untapped potential for solar energy production is significant.

Each warehouse that is built with the capacity to meet 100% of its own energy demands via rooftop solar brings California closer to the clean energy targets we must meet in order to avoid the most devastating effects of the climate crisis. The DEIR requires that the Project *either* meet its energy need with onsite solar or acquire renewable energy elsewhere. (DEIR at 1-16.) Allowing the Project to merely consume renewable energy—when it has the potential to reduce its impacts even further by producing that energy—is a lost opportunity. The California Attorney General recommends that new warehouses are built to produce their own solar energy, and companies and municipalities are following suit. (AGO 2021.) The City of Fontana already requires that every warehouse over 400,000 square feet meet all of its energy needs from on-site rooftop solar, supporting the feasibility of this requirement. (City of Fontana at 9-73.4) This is a feasible mitigation measure, and the DEIR must require rooftop solar to meet 100 percent of the Project's energy needs.

III. THE DEIR FAILS TO PROPERLY ANALYZE OR ADEQUATELY MITIGATE AIR QUALITY IMPACTS.

The Project will have significant air quality impacts because it will result in exceedances of the regional emissions thresholds for NO_x. (DEIR at 4.2-16.) NO_x is a precursor to ozone, for which the region is in extreme nonattainment. (DEIR at 4.2-10.) Ozone (commonly referred to as smog) is created by the atmospheric mixing of chemicals released from fossil fuel combustion – such as NO_x – and sunlight. Exposure to ozone poses significant health risks, and has been linked to an increased incidence and risk of cancer, birth defects, low birth weights and premature death, in addition to a variety of cardiac and lung diseases such as asthma, COPD, stroke, and heart attack. (Laurent 2016; ALA 2024.)

Air quality is a significant environmental and public health concern in California. Unhealthy, polluted air contributes to and exacerbates many diseases and increases mortality rates. The U.S. government has estimated that between 10 to 12 percent of total health costs can be attributed to air pollution. (VCAPCD 2003.) Air pollution and its impacts are felt most heavily by young children, the elderly, pregnant women and people with existing heart and lung disease. People living in poverty are also more susceptible to air pollution as they are less able to relocate to less polluted areas, and their homes and places of work are more likely to be located near sources of pollution, such as freeways or ports, as these areas are more affordable. (ALA 2024.) Warehouse projects are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities. (Betancourt 2012, pp. 4-5.)

The DEIR fails to adopt commonsense, available mitigation measures, or explain why adopting such measures would be infeasible. By proposing inadequate mitigation and then concluding that the Project's air quality impacts are significant and unavoidable, the City has fallen short of CEQA's requirement that lead agencies consider all feasible mitigation to reduce or avoid the Project's significant impacts. (See Pub. Resources Code, § 21002 [It is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects."], CEQA Guidelines, §§ 15092(b), 15043, 15126.4, subd. (a)(1).)

A. The DEIR fails to fully consider the project's impacts on sensitive receptors.

The DEIR concludes that the Project would not expose sensitive receptors to substantial pollutant concentrations and impacts would be less than significant. (DEIR at 4.3-39.) There are many residences within half a mile of the proposed site, and the nearest is four hundred feet away. (DEIR at Figure 4.2-1). Both the California Air Resources Board and the California Attorney General recommend siting warehouses so that their property lines are at least 1,000 ft from the property lines of the nearest sensitive receptors. (AGO 2021.) In ignoring the guidance of these agencies, the City is neglecting its duty to protect residents from the noise, traffic, and health risks that come from living next door to a warehouse. Furthermore, in reaching the conclusion of no significant impacts, the DEIR explains that the localized impacts analysis only includes on-site sources of pollution. (DEIR at 4.2-25.) This analysis completely ignores the off-site effects that will occur from increased vehicle traffic through the neighboring areas. The DEIR must explain what routes trucks will take to access the site and consider the impacts on sensitive receptors along the route. Without a proper analysis and quantification of the effects on the surrounding community, the DEIR's conclusion of no significant impact is improper.

B. The DEIR fails to adopt all feasible mitigation measures.

The EIR admits that NOx emissions during operations will exceed regional emissions thresholds. (DEIR at 4.2-16.) Because the impact is significant, the DEIR has an obligation to adopt all feasible mitigation measures. (*Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1029.)

i. 2-Minute Idling Restrictions

The DEIR adopts a so-called mitigation measure that allows trucks to idle for up to five minutes—more than twice as long as the California Attorney General's recommendation of a two-minute limit. (DEIR at 1-9, AGO 2021.) Further, a five-minute idling restriction is required by the California Airborne Toxics Control Measure. (DEIR at 4.2-6.) Therefore, it is not truly mitigation measure, it is a promise to follow the law. As the California Attorney General notes, compliance with regulations is a baseline expectation and should not be labeled a mitigation measure. (AGO 2021.) Again the DEIR replaces a recommended, feasible mitigation measure with a much weaker substitute that does not properly mitigate a significant impact. The Project must revise MM AQ-4 to require idling times to be kept under two minutes. The DEIR does not discuss nor provide substantial evidence that limiting idling to two minutes is not feasible.

ii. Measures to Protect Sensitive Receptors

As discussed above, the DEIR fails to adequately consider impacts to sensitive receptors, and the determination of a less than significant impact is improper. The City must perform an adequate analysis of these impacts, and if it is determined that the impacts are significant, to mitigate accordingly. The California Attorney General recommends specific mitigation measures to protect sensitive receptors from trucking impacts. These include:

- Creating physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present, such as homes, schools, daycare centers, hospitals, community centers, and parks.

- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevents trucks and other vehicles from parking or idling on public streets

- Locating warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors, e.g., placing these dock doors on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.

- Screening dock doors and onsite areas with significant truck traffic with physical, structural, and/or vegetative barriers that adequately prevent or substantially reduce pollutant dispersal from the facility towards sensitive receptors (AGO 2021.)

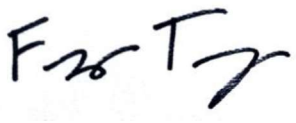
IV. CONCLUSION

Thank you for the opportunity to submit comments on the Draft Environmental Impact Report for the Banning Commerce Center Project. We urge the City to revise the DEIR to adequately analyze, disclose, and mitigate significant impacts to greenhouse gas emissions, air pollution, and biological resources.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA…" (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact us with any questions at the number or email listed below.

Sincerely,





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Exhibit 1

October 3, 2022

Sent via email

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RE: Comments on Notice of Preparation of an Environment Impact Report for the Banning Commerce Center Project, SCH # 2022090102

Mr. Rush,

These comments are submitted on behalf of the Center for Biological Diversity ("the Center") regarding the Notice of Preparation of an Environmental Impact Report ("EIR") for the Banning Commerce Center Project ("the Project"). The Center urges the City to undertake a thorough and comprehensive environmental review of the Project as required under the California Environmental Quality Act ("CEQA"), prior to considering approval. By replacing open space and riparian habitat with 1.3 million square feet of warehouses, the Project will increase traffic and criteria pollutant and greenhouse gas emissions, as well as harm riparian habitat that likely supports many wetlands species. (*See* Notice of Preparation (hereinafter "NOP") at 1, Initial Study ("IS") at 24-25.) The EIR must fully disclose and analyze the Project's potential impacts to sensitive species and habitat, air quality, greenhouse gas emissions, traffic, and water quality while thoroughly analyzing all reasonable alternatives, and then must provide effective and enforceable mitigation measures for impacts found to be significant.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Banning and Riverside County.

Under CEQA, an EIR must provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment, list ways in which the significant effects of a project might be minimized, and indicate alternatives to the project. (Pub. Res. Code § 21002.2.) The proposed Project will build a high-traffic warehouse facility on 130 undeveloped acres that contain a creek and surrounding wetlands. (NOP at 1-2.)

The EIR must fully disclose the impacts of this land use change, so that the public can fully understand the publicly born costs associated with the Project.

I. The EIR Must Adequately Assess and Mitigate the Project's Impact on Biological Resources.

A. The proposed Project will have significant impacts on special-status species and species covered by the Western Riverside County Multiple Species Habitat Conservation Plan.

CEQA requires that an EIR provide decision-making bodies and the public with detailed information about the effect a proposed project is likely to have on the environment. (Pub. Res. Code § 21061.)

The EIR must adequately assess and mitigate impacts to special-status species that are known to occur, have the potential to occur, or historically occurred in and near the Project area. Although the IS mentions several special-status species that have been documented in the California Natural Diversity Data Base (CNDDB), the IS only looks at occurrences within one mile of the Project site. The search should be expanded to five miles, as is what is commonly provided in EIRs. In addition, occurrence data from other sources should also be consulted, including but not limited to iNaturalist, eBird, and the Global Biodiversity Information Facility (GBIF). CNDDB records are important to consider when assessing existing conditions and a Project's potential impacts; however, the records are limited because they rely on field biologists voluntarily submitting data to the California Department of Fish and Wildlife (CDFW). CDFW must then add such data to the database, which can take time and result in delay. In addition, the database may be biased toward species that receive more survey effort. The lack of occurrence data (in CNDDB or otherwise) does not equate to a species being absent from the area, as the species may be present but evade observation. If suitable habitat is present in or near the Project area, then it must be assumed that the species occurs, has the potential to occur, or historically occurred in the area.

The IS fails to mention several key special-status species that may occur in the Project area, including but not limited to mountain lions (candidate threatened species under the California Endangered Species Act (CESA) and an MSHCP-covered species), western spadefoot toads (species of special concern (SSC) and an MSHCP-covered species), arroyo toad (SSC and an MSHCP-covered species), American badger (SSC and an MSHCP-covered species), coast range newt (SSC and an MSHCP-covered species), Aguanga kangaroo rat (an MSHCP-covered species), and likely others. The EIR should include analyses of the Project's potential impacts to these species through extensive literature reviews and targeted species and habitat surveys conducted using CDFW and/or US Fish and Wildlife Service (USFWS) guidelines and protocols. Movement studies should also be conducted, particularly for wide-ranging species like mountain lions, coyotes, and American badgers.

Of particular importance are local mountain lions, which are within the Southern California and Central Coast Evolutionarily Significant Unit (ESU) that is currently a candidate threatened species under CESA. There is ample scientific evidence that indicates mountain lion

populations in and around the Project area are struggling to survive and that human activities and land use planning that fail to integrate adequate habitat connectivity can have adverse impacts on mountain lions. Continued habitat loss and fragmentation has led to 10 genetically isolated populations within California. There are six identified mountain lion populations in the ESU, and several are facing an "extinction vortex" due to high levels of inbreeding, low genetic diversity, and high human-caused mortality rates from car strikes on roads, depredation kills, rodenticide poisoning, poaching, disease, and increased human-caused wildfires. (Benson et al., 2016, 2019; Ernest et al., 2003, 2014; Gustafson et al., 2018, 2021; Riley et al., 2014; Vickers et al., 2015). The primary driver of this extinction vortex is lack of connectivity. (Yap et al., 2019).

The Project area is located between the San Gabriel/San Bernardino (SGSB) population and the Eastern Peninsular Range (EPR) population, and the Santa Ana Mountains (SAM) population is nearby to the southwest. Scientists have documented physical and reproductive signs of inbreeding depression in local mountain lions (from the EPR and Santa Ana mountains, as well as the nearby Central Coast South [i.e. Santa Monica Mountains]) due to being boxed in by roads and development (Huffmeyer et al., 2021). Researchers have found that, of the California mountain lion subpopulations, the SGSB population has the smallest effective population size and the smallest area of available habitat (Dellinger et al., 2020; Gustafson et al., 2021). Scientists suggest that the SGSB population "may be approaching levels of genetic drift and inbreeding similar to the well-monitored and genetically depauperate Santa Ana and Central Coast South populations (Ernest et al., 2014; Gustafson et al., 2017; Riley et al., 2014)" (Gustafson et al., 2021), which are predicted to have a 99% chance of becoming locally extinct within 50 years if inbreeding depression continues. (Benson et al., 2019). This emphasizes the importance of protecting the remaining SGSB population, specifically through maintaining and enhancing connectivity among and between the subpopulations.

The proposed Project has the potential to amplify the barrier effects of I-10, especially given the Project's proximity to a critical riparian corridor (San Gorgonio River) with an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. The proposed Project could degrade this important connectivity area and drive the SGSB, EPR, and SAM puma populations towards extinction.

The EIR must consider that the Project's impacts to mountain lions (and other special-status species and sensitive habitats) extend beyond its physical footprint. Ample evidence documents the effects of human activity on mountain lions. One study found that mountain lions are so fearful of humans and noise generated by humans that they will abandon the carcass of a deer and forgo the feeding opportunity just to avoid humans (Smith et al., 2017). The study concluded that even "non-consumptive forms of human disturbance may alter the ecological role of large carnivores by affecting the link between these top predators and their prey" (Smith et al., 2017). In addition, mountain lions have been found to respond fearfully upon hearing human vocalizations, avoiding the area and moving more cautiously when hearing humans (Smith et al., 2017; Suraci et al., 2019). Other studies have demonstrated that mountain lion behavior is negatively affected when exposed to other evidence of human presence, such as lighting or vehicles/traffic (Smith et al., 2015; Wang et al., 2017; Wilmers et al., 2013). Therefore, both physical and behavioral barriers drive genetic isolation, and continued land use that further fragments mountain lion habitat in the region without adequately minimizing impacts to

functional connectivity, will drive pumas in the area to extinction. The Project will result in increased traffic, light, noise, etc. in an important connectivity area between the San Bernardino and San Jacinto mountains, where mountain lions are known to occur and are known to be struggling. The Project will significantly impact how mountain lions navigate the landscape by fortifying existing human-made barriers and decreasing opportunities for them to move between mountain ranges.

Yovovich et al. (2020) further documented the impacts of human activities on local mountain lions, specifically on communication and reproductive behaviors important for their survival. Males use scrapes to delineate territories as well as attract potential mates (Allen et al., 2015, 2016), and the males in the study preferred to use relatively flat areas away from human influence as scrape habitat (Yovovich et al., 2020). Similarly, when nursing females (with kittens less than 8 weeks old) shrank their home ranges to an average of 9 km^2 while their young were most vulnerable, they also selected undeveloped lands away from human disturbance, opting for habitat with protective cover and sufficient water and prey availability (Yovovich et al., 2020). The loss of adequate undisturbed communication and nursery habitat could disrupt important communication and reproductive behaviors that facilitate social structure and overall survival.

In a study that investigated the drivers of fine-scale movement decisions by pumas in fragmented landscapes in the Santa Cruz Mountains, Suraci et al. (2020) identified that mountain lions prefer larger habitat patches that are closer together and further away from buildings, and they preferred shrub over tree patches. However, mountain lions were willing to accept higher densities of anthropogenic features if target habitat patch areas were larger or the distance between patches was shorter (Suraci et al., 2020). In addition, pumas were found to travel longer distances through open habitats to access larger habitat patches, perhaps for more protective cover and/or for better hunting opportunities within the larger habitat patch areas (Suraci et al., 2020). These findings corroborate those of Smith et al. (2019), which found that pumas are able to move through partially developed habitat, though they are less likely to move through parcels with higher densities compared to parcels with less dense housing in and around the parcels. In fact, puma avoidance increased sharply as housing density increased up to 41 houses/km^2, after which avoidance remained high. Although these studies demonstrate that mountain lions have some tolerance of human presence, they mostly highlight the negative impacts of increased human use/density on the movement and survival of mountain lions and the importance of habitat connectivity among large, intact, heterogeneous habitat patches.

In addition, Riley et al. (2021) found that, although pumas had some flexibility to navigate urbanized landscapes, they spent more than 95% of their time away from developed areas and actively avoided open areas like golf courses, cemeteries, and other altered landscaped spaces. Mountain lions consistently selected native vegetation types with dense cover, like chaparral, riparian woodland, and coastal sage scrub, with shrublands being their preferred habitat. This highlights the importance of intact and connected natural heterogeneous landscapes to the long-term health and persistence of constrained mountain lion populations. The authors state, “An important requirement for the effective conservation of at-risk mountain lion populations in southern California is preserving and enhancing connectivity between larger natural areas.” (Riley et al., 2021).

Mountain lions are a key indicator species of wildlife connectivity and healthy ecosystems. As the last remaining wide-ranging top predator in the region, the ability to move through large swaths of interconnected habitat is vital for genetic connectivity and their long-term survival. In addition, impacts to mountain lions in the region could have severe ecological consequences; loss of the ecosystem engineer could have ripple effects on other plant and animal species, potentially leading to a decrease in biodiversity and diminished overall ecosystem function. Many scavengers, including California condors, kit foxes, raptors, and numerous insects, would lose a reliable food source (Barry et al., 2019; Ruth & Elbroch, 2014). Fish, birds, amphibians, reptiles, rare native plants, and butterflies would potentially diminish if this apex predator were lost (Ripple et al., 2014; Ripple & Beschta, 2006, 2008). In fact, a recent literature review found that mountain lions are important ecosystem engineers and have been documented to have ecological interactions with at least 485 plant and animal species (Labarge et al., 2022). Adequate assessment and mitigation of the Project's impacts to mountain lions is necessary to ensure their long-term survival as well as the long-term health of the area's biodiversity and ecosystems.

Wildlife connectivity in this region is paramount for the survival of the Southern California mountain lions. Any project that does not adequately assess and address impacts to mountain lions and wildlife connectivity could lead to the extirpation of local mountain lions and severe loss of biodiversity and ecosystem function in the region. Further destruction of wildlife connectivity in the area will push local mountain lions closer towards extinction. See further discussion below regarding the DEIR's requirement to adequately describe, assess, and mitigate impacts to wildlife movement and connectivity.

B. The proposed Project will have significant impacts on wildlife movement and habitat connectivity.

To comply with CEQA, the EIR must adequately disclose the existing conditions of the site and adequately assess and mitigate the Project's impacts to wildlife connectivity. The Project is located within an area that has been identified as a "Special linkage area in the MSHCP" (the San Gorgonio River/San Bernardino-San-Jacinto Mountains Linkage)[1], a "Conservation Planning Linkage" by CDFW, [2] and a south coast missing linkage (San Bernardino-San Jacinto Connection) that is critical for connectivity between coastal and desert ecoregions (SC Wildlands, 2008). In addition, the adjacent segment of I-10 has been identified by CDFW as a "Priority Barrier to Habitat Connectivity," particularly for mountain lion, black bear, and bobcat, where financial resources should be focused to improve wildlife movement (CDFW, 2020). It is located within the floodplain of the San Gorgonio River immediately adjacent to an undercrossing that has the best vegetation cover to support mountain lion movement between the San Jacinto and San Bernardino mountains. In fact, it is likely the last-chance connection between the SGSB and EPR puma populations. The proposed Project will result in habitat loss and edge effects due to increased human presence and activities (e.g., traffic, noise, light, etc.)

[1] See Cores and Linkages within the MSHCP Conservation Area. Available at https://rctlma.org/Portals/0/mshcp/volume1/sec3.html#3.2.3 (Accessed September 28, 2022).
[2] See CDFW Areas of Conservation Emphasis Version 3.0. Available at https://apps.wildlife.ca.gov/ace/ (Accessed September 28, 2022).

that will further degrade this last-remaining connectivity and drive local puma populations towards extinction while harming other wildlife.

As detailed in a 2021 Center Report (Yap et al., 2021), roads and development create barriers that lead to habitat loss and fragmentation, which harms native wildlife, plants, and people. As barriers to wildlife movement, poorly-planned development and roads can affect an animal's behavior, movement patterns, reproductive success, and physiological state, which can lead to significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function (Brehme et al., 2013; Ceia-Hasse et al., 2018; Haddad et al., 2015; Marsh & Jaeger, 2015; Mitsch & Wilson, 1996; Trombulak & Frissell, 2000; van der Ree et al., 2011). For example, habitat fragmentation from roads and development has been shown to cause mortalities and harmful genetic isolation in mountain lions in Southern California and along the Central Coast (Ernest et al., 2014; Gustafson et al., 2018, 2021; Riley et al., 2014; Saremi et al., 2019; Vickers et al., 2015). Habitat fragmentation has also been found to increase local extinction risk in amphibians and reptiles (Brehme et al., 2018; Cushman, 2006; Delaney et al., 2021), cause high levels of avoidance behavior and mortality in birds and insects (Benítez-López et al., 2010; Kantola et al., 2019; Loss et al., 2014), and alter pollinator behavior and degrade habitats (Aguilar et al., 2008; Goverde et al., 2002; Trombulak & Frissell, 2000).

Habitat fragmentation also severely impacts plant communities. An 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number is likely to continue to rise as time passes (Damschen et al., 2019). The authors conclude that efforts to preserve and enhance connectivity will pay off over the long-term (Damschen et al., 2019). In addition, connectivity between high quality habitat areas in heterogeneous landscapes is important to allow for range shifts and species migrations as climate changes (Cushman et al., 2013; Heller & Zavaleta, 2009; Krosby et al., 2018). Loss of wildlife connectivity decreases biodiversity and degrades ecosystems while reducing climate change resilience.

Edge effects of development in and adjacent to critical linkage areas, like the proposed Project, will likely impact key, wide-ranging predators, such as mountain lions and bobcats (Crooks, 2002; Delaney et al., 2010; Lee et al., 2012; Riley et al., 2006; Smith et al., 2015, 2017; Vickers et al., 2015; Wang et al., 2017), as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and herpetofauna (Benítez-López et al., 2010; Cushman, 2006; Delaney et al., 2010; Gray, 2017; Kociolek et al., 2011; Slabbekoorn & Ripmeester, 2008). Limiting movement and dispersal can affect species' ability to find food, shelter, mates, and refugia after disturbances like fires or floods. Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. Negative edge effects from human activity, such as traffic, lighting, noise, domestic pets, pollutants, invasive weeds, and increased fire frequency, have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems (Environmental Law Institute, 2003).

For example, field observations and controlled laboratory experiments have shown that traffic noise can significantly degrade habitat value for migrating songbirds (Ware et al., 2015). Subjects exposed to 55 and 61 dBA (simulated traffic noise) exhibited decreased feeding

behavior and duration, as well as increased vigilance behavior (Ware et al. 2015). Such behavioral shifts increase the risk of starvation, thus decreasing survival rates. A recent study also highlighted the detrimental impacts of siting development near open space. The study noted that "Anthropogenic noise 3 and 10 dB above natural sound levels . . . has documented effects on wildlife species richness, abundance, reproductive success, behavior, and physiology" (Buxton et al., 2017). The study further noted that "there is evidence of impacts across a wide range of species [] regardless of hearing sensitivity, including direct effects on invertebrates that lack ears and indirect effects on plants and entire ecological communities (*e.g*., reduced seedling recruitment due to altered behavior of seed distributors)" (Buxton et al. 2017). Moreover, human transportation networks and development resulted in high noise exceedances in protected areas (Buxton et al. 2017).

In addition, preliminary results from studies underway by researchers at UC Davis and University of Southern California, as well as those by other researchers, suggest that the light, noise, and other aspects of highways can have negative impacts on wildlife numbers and diversity near the highways (Shilling, 2020; Vickers, 2020). The researchers found a significant difference between species richness and species type (mammals), with lower richness and fewer species at crossing structures compared to background areas 1 km away from the roads (Shilling, 2020). They also found that as traffic noises surpassed 60 dBC, the number of visits by small to large mammals decreased, and most of the species in their study avoid traffic noise (Shilling, 2020). The proposed Project would increase human activity and traffic, thereby increasing noise, light, and other edge effects in this important connectivity area. The EIR must adequately assess and mitigate the proposed Project's impacts, including its edge effects, on wildlife connectivity.

C. The proposed Project will have significant impacts on riparian wetland habitats.

The EIR must adequately assess the Project's impacts to wetland habitats, including perennial and ephemeral riparian habitat that occur in and near the Project area. (CEQA Guidelines, Appendix G(IV)(c).) The Project area is located within the San Gorgonio River's 100-year floodplain, and as mentioned in the IS, "According to the USFWS National Wetlands Inventory, the Project site is transected by Riverine habitat that is intermittent and potentially seasonally flooded" (IS at 24). Although the IS states that "Project development would potentially have significant impacts on sensitive natural communities and/or riparian habitats" (IS at 25), it then immediately contradicts itself, concluding that the Project "does not contain any wetlands" and therefore "would not adversely affect state or federally protected wetlands" (IS at 25).

A strong presumption in favor of studying an environmental impact is built into CEQA. This presumption is reflected in what is known as the "fair argument" standard, under which an agency must study an impact in an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. (*Quail Botanical Gardens Found., Inc. v City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602; *Friends of "B" St. v City of Hayward* (1980) 106 Cal.App.3d 988, 1002.)

There is substantial evidence sufficient to support a fair argument that impacts to ephemeral waterways could occur and thus should be studied in the EIR. USFWS has identified the Project site as riverine habitat, which includes perennial and ephemeral riparian habitat and extends to the outer limits of where any stream braiding occurs. (IS at 24, USFWS 1992.) Development may impact this habitat and thus the effects of such development must be studied in the EIR.

Riparian ecosystems have long been recognized as biodiversity hotspots performing important ecological functions in a transition zone between freshwater systems and upland habitats. Many species that rely on these aquatic habitats also rely on the adjacent upland habitats (*e.g.*, riparian areas along streams, floodplains, and habitat adjacent to wetlands). In fact, 60% of amphibian species, 16% of reptiles, 34% of birds and 12% of mammals in the Pacific Coast ecoregion depend on riparian-stream systems for survival (Kelsey and West 1998). While many species use riparian areas as live-in habitat, wide-ranging species like mountain lions, bears, and bobcats often use riparian areas as migration corridors or foraging habitat (Dickson et al, 2005; Hilty & Merenlender, 2004; Jennings & Lewison, 2013; Jennings & Zeller, 2017).

Recent scientific literature states that "[i]n many intermittent streams, remnant pools persist after flow ceases and provide refuge for aquatic organisms" (Bogan et al., 2019). The researchers found that remnant pools at nearby Coyote Creek "supported a full assemblage of native fishes and numerous imperiled taxa, including California red-legged frogs (CRLF) and California floater mussels," almost all of which were absent from artificially perennial and urbanized reaches of Coyote Creek (Bogan et al., 2019). The researchers concluded:

> Remnant pools in intermittent streams should be a focus of conservation efforts in regions with a Mediterranean climate, especially during extreme droughts. Native fauna adapted to harsh intermittent flow regimes can thrive in these habitats, whereas non-native taxa may fare poorly. Furthermore, remnant pools supported by deep groundwater sources, such as those along geological faults, may provide both ecological refuge and evolutionary refugia for freshwater biota. (Bogan et al., 2019)

Hydroperiod diversity is important for native amphibian population stability. Intermittent and ephemeral habitats are important refugia from invasive fish and American bullfrogs that outcompete and prey upon native amphibians in permanent waterbodies. They may also be important refuge and recovery sites for native amphibian species after extreme drought. Many native amphibian species that occur or have the potential to occur in or near the Project area, like western spadefoot toads, arroyo toads, and coast range newts, are adapted to successfully reproduce in seasonally-drying wetlands, including intermittent streams and vernal pools. But during dry years some species may go to permanent waterbodies to breed while species with long-lived adult forms may be able to recover quickly from a skipped breeding season. Although amphibian population declines due to drought have been observed, these adaptations make them more resilient than invasive species to rebound and recover (Moss et al., 2021). In fact, researchers have found that invasive fish and bullfrogs were extirpated from several permanent ponds that had completely dried out during extreme drought, which, once refilled with water,

opened up new sites for native species to re-colonize (Moss et al., 2021). This suggests that conserving intermittent and ephemeral waterways is vital for native amphibians to persist, particularly in areas where invasive species may occur or have the potential to occur. As climate change intensifies, preservation of connected habitats with diverse hydroperiods is vital for the persistence and metapopulation dynamics of native amphibians. The EIR must adequately assess and mitigate the Project's impacts to perennial and ephemeral waters and the wildlife plants that they support.

With the driest 22-year period in 1,200 years in the western US and drought conditions that will likely continue (Williams et al., 2022) climate change refugia and resilience provided by ecosystems like riparian areas will be ever more critical for species survival and ecosystem health. As discussed in a 2021 Center report (Yap et al., 2021):

> Climate change is worsening ecosystem stress and species extinction risk (Trisos et al., 2020). Increasing variability and extremes in temperature, wind, and precipitation are all products of a warming climate, leaving species struggling to adapt. As a result, species' genes are changing, physiological and physical features such as body size are changing, ranges are shifting as species try to maintain a suitable climate space, and numerous species are expressing new breeding and migration behaviors (Scheffers et al., 2016).
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> For example, some plants are budding and flowering earlier, some marine and freshwater fishes are spawning either earlier or later, and some species with temperature-dependent sex determination are experiencing shifts in sex ratios. ***Climate-related local extinctions have already occurred in hundreds of plant and animal species*** (Wiens, 2016). And one study found that terrestrial bird and mammal populations that are experiencing greater climate warming are more likely to be experiencing greater population declines (Spooner et al., 2018). Reportedly, climate change is already impacting 82% of key ecological processes that form the foundation of healthy ecosystems (Scheffers et al., 2016). If climate change goes unabated, more than one-third of all plant and animal species could become extinct in the next 50 years (Román-Palacios & Wiens, 2020).
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> ***Wildlife connectivity is critical for biodiversity resilience and climate change adaptability***. A permeable landscape that has multiple pathways or linkages between habitat patches allows a wide variety of species to adjust to shifts in resource availability (Mcrae et al., 2012; Olson & Burnett, 2013; Pinto & Keitt, 2008). For smaller species with poor dispersal abilities, like San Francisco garter snakes, CRLF and San Bernardino kangaroo rats, multiple linkages can provide habitat while still allowing for their dispersal.
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> Multiple connections also help populations persist after extreme events worsened by climate change. During floods, landslides or wildfires, these pathways provide escape routes or refugia for animals seeking safety (Cushman et al., 2013; Mcrae et al., 2008; Olson & Burnett, 2013). Such events can cause local extinctions in small, isolated populations.

Prior to roads and development severely fragmenting and degrading habitats, a species could persist because individuals from neighboring populations would be able to recolonize an area that experiences a local extinction. But without adequate connectivity, recolonization and species persistence are improbable.

California cannot afford to lose more riparian corridors. It is estimated that 90-95% of historic riparian habitat in the state has been lost (Bowler, 1989; Riparian Habitat Joint Venture, 2009). Using 2002 land cover data from CAL FIRE, the Riparian Habitat Joint Venture estimated that riparian vegetation makes up less than 0.5% of California's total land area at about 360,000 acres (Riparian Habitat Joint Venture, 2004). This is alarming because riparian habitats perform a number of biological and physical functions that benefit wildlife, plants, and humans, and loss of what little is left will have severe, harmful impacts on special-status species, overall biodiversity, wildlife connectivity, and ecosystem function.

II. The EIR Should Carefully Assess and Mitigate the Project's Impacts on Air Quality

The EIR must also carefully consider the effects of a project of this scale on air quality for local communities. Warehouse projects are well-documented sources of air quality degradation that can create serious, negative health outcomes for communities. (Betancourt et al. 4-5.) Particulate emissions from diesel vehicles that carry freight to and from warehouses contribute to "cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death." (*Id.* at 5.) Warehouses with refrigeration, called "cold storage" warehouses, produce even more air pollution and greenhouse gas emissions. (CARB 2022.) Refrigerated goods must be kept in cold environments to maintain quality, which requires that cold storage warehouses "continually consume[] energy, contrary to other type of warehouses." (Dimitrov 2022.) With "cold storage" warehouses, trucks and trailers visiting the Project site are typically equipped with transport refrigeration units (TRU), internal refrigeration systems powered by diesel. TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. (Wu 2013; Tassou 2009.)[3]

The surrounding area is a mix of open space, residential, and land belonging to the Morongo Band of Mission Indians. High-density affordable housing projects border the western and eastern boundaries of the Project site, with a large residential neighborhood to the west of the site. (Initial Study at 2, 20-21.) Hoffer Elementary School is within 1,500 feet of the Project site. (*Ibid*.) The Interstate 10 freeway runs along the southern edge of the Project.

A. The Initial Study Omits a Key Threshold of Significance

The Initial Study omits a key threshold of significance from the EIR, which has the potential to obscure project impacts. The Initial Study draws its thresholds of significance from

[3] This Project proposes to construct up to 1.3 million square feet (sf) of "speculative industrial" warehousing uses. The NOP and IS fail to mention whether the Project will include refrigerated uses, which significantly drive up the air quality and greenhouse gas impacts. The EIR must disclose whether the Project will include refrigerated uses and then analyze the full slate of environmental impacts associated with those uses.

"Appendix G"—the checklist of potentially significant environmental impacts included as an appendix to the CEQA Guidelines. (Initial Study at 18.) Appendix G contains five separate checklist questions regarding a proposed project's air quality impacts. The Initial Study considers four air quality-related questions from Appendix G as its thresholds of significance, to define the scope of impacts. (*Ibid*.) But inexplicably, the Initial Study omits checklist question 2 (whether the Project would "[v]iolate any air quality standard or contribute substantially to an existing or projected air quality violation"). (Guidelines, App. G., subd. III(b).) This omission potentially forecloses consideration of the Project's full impacts.

Although lead agencies have discretion in their choice of significance thresholds, they may not choose or apply them in a manner that downplays or overlooks potentially significant impacts. (See *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 892-894.) Given that the Project will have a potentially significant air quality impact by every metric identified, the EIR should consider whether the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

B. The EIR Must Study Cumulative Impacts and Conduct a Health Risk Assessment.

This community is already highly burdened by pollution. According to CalEnviroScreen 4.0, CalEPA's screening tool that identifies the California communities most affected by pollution and where people are often especially vulnerable to pollution's effects, the Project's census tract is more polluted than 90% of the state's census tracts, making it among the most polluted areas in the state. (OEHHA 2021.) Residents here suffer from some of the highest exposures statewide to ozone and lead in housing (97th and 91st percentiles, respectively). (*Ibid.*) The community also currently ranks 81st in the prevalence of poor traffic. Living near freeways already subjects residents to higher rates of asthma, heart attacks, strokes, lung cancer, and pre-term births. (Barboza 2017.)[4]

Approving warehouse development here, which carries increased rates of asthma and cancer, would compound the community's existing environmental health problems. (Esquivel 2019.) The EIR must pay careful attention to the cumulative impacts of additional air pollution in an area with a high existing pollution burden when drafting the EIR. An EIR must discuss the "cumulative impacts of a project when the project's incremental effect is cumulatively considerable[.]" (14 CCR § 15130(a).) Even if a project only represents a relatively small contribution to a condition like poor air quality, the EIR must still assess the cumulative impacts of Project completion on unacceptable environmental conditions. (*See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 693, 728.) The Project's effects on air quality should be considered in the context of existing industrial uses and pollution burdens on neighboring properties.

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[4] https://www.latimes.com/projects/la-me-freeway-pollution/

C. The County Must Design the Project to Avoid These Impacts and Adopt Best Practice Mitigation Measures.

This Project will certainly add to and compound the environmental and health problems of people living in the area. The compounded risk of further contributing to air quality degradation in an area already so burdened should be carefully considered in the EIR and stringent mitigation measures should be adopted. (*See* California Office of Environmental Health Hazard Assessment.) Should the Project proceed, the Project should be designed to avoid serious harm to adjacent residents.

The California Office of the Attorney General has published a document entitled "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act" to help lead agencies design warehouse projects to minimize and mitigate environmental harms. (AGO 2021.) It contains the following best practices for siting and designing warehouse facilities, along with recommended mitigation measures (not repeated here) that should be incorporated into the Project:

- Per CARB guidance, siting warehouse facilities so that their property lines are at least 1,000 feet from the property lines of the nearest sensitive receptors.
- Creating physical, structural, and/or vegetative buffers that adequately prevent or substantially reduce pollutant dispersal between warehouses and any areas where sensitive receptors are likely to be present, such as homes, schools, daycare centers, hospitals, community centers, and parks.
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets.
- Placing facility entry and exit points from the public street away from sensitive receptors, e.g., placing these points on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Locating warehouse dock doors and other onsite areas with significant truck traffic and noise away from sensitive receptors, e.g., placing these dock doors on the north side of the facility if sensitive receptors are adjacent to the south side of the facility.
- Screening dock doors and onsite areas with significant truck traffic with physical, structural, and/or vegetative barriers that adequately prevent or substantially reduce pollutant dispersal from the facility towards sensitive receptors.
- Posting signs clearly showing the designated entry and exit points from the public street for trucks and service vehicles.
- Posting signs indicating that all parking and maintenance of trucks must be conducted within designated on-site areas and not within the surrounding community or public streets.

The effects the Project will have on the air quality in an area with a sizeable existing pollution burden must be fully and carefully considered in the EIR, and mitigation measures must be clearly described and adopted should this Project move forward.

III. The EIR Should Assess and Mitigate the Impacts of the Project on Climate Change-Causing Greenhouse Gas Emissions

In addition to assessing the impact on traffic, the EIR should carefully consider the project's effects on statewide goals for reducing greenhouse gas emissions. Where a project will generate greenhouse gas emissions either directly or indirectly, the EIR should describe the expected increase in emissions and discuss mitigation measures. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41; *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413, 430-34; Pub. Res. Code §§ 21002; 21083.5.) Major warehouse projects have the documented effect of substantially increasing construction, operation, and vehicle-related emissions, all of which produce climate change-causing greenhouse gases. (Betancourt et al. at 4-5; USEPA 2022.) The EIR must carefully and completely address both the impacts on emissions from construction and operation of the plant, and those from vehicle miles traveled by trucks transporting goods to and from the warehouse and commuting employees.

To mitigate the known environmental harms of warehouse projects, the EIR should identify specific measures that the developers will take to minimize any increase in greenhouse gas emissions caused by the Project. These measures should include sustainability measures, like ensuring roofs are white to minimize the need for air conditioning and including rooftop solar for energy production. (AGO 2021; Betancourt et al. at 6.) Moreover, the Project should incorporate features to minimize greenhouse gas emissions, like zero-emissions off-road vehicles and construction equipment, electric vehicle charging stations, and a plan to adopt zero-emissions heavy trucks. (AGO 2021; *id.*) Mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (*Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) Mitigation measures should be designed so benefits are realized by the local community and could include funding zero emission public transit, solar installations on residential homes, or providing publicly accessible electric vehicle charging infrastructure.

Finally, the EIR must fully describe the greenhouse gases the warehouse's construction will produce and outline all feasible mitigation measures that will be taken to address them. Construction of such a large warehouse will require substantial quantities of construction materials, such as concrete. Cement and concrete manufacture is extremely energy intensive and produces a large amount of greenhouse gas emissions. (Masanet et al. at 89.) Concrete manufacturing accounts for roughly 3 percent of California's greenhouse gas emissions. (*Id.*) This and other sources of greenhouse gas and particulate emissions—such as dust and emissions from heavy machinery used during construction—should be thoroughly examined and mitigated in the EIR.

IV. The EIR Must Adequately Assess and Mitigate the Project's Impact on Local Traffic.

CEQA requires that the EIR fully assess the impact the construction of 1.3 million square feet of high cube warehouse facilities will have on transportation and traffic. (Pub. Res. Code §

21099; NOP at 2.) During construction, all the materials, heavy machinery, and construction workers will need to drive through the community daily, potentially creating disruptive and unpredictable traffic patterns during construction. After completion, the Project will bring additional traffic to the area from trucks picking up goods and employees commuting to work in the warehouses. (Betancourt et al. at 4; Initial Study at 19, 61.) Trucks serving facilities often idle on public streets and clog local roads when warehouses are at capacity, creating traffic congestion and hazards to local drivers who depend on these roads. (*See* Betancourt at 5.)

The City must assess how the traffic increases associated with this project will affect the species in the surrounding area. (Pub. Res. Code § 21099.) As discussed in later sections, traffic congestion can hurt air quality and harm habitat through generating waste that is carried into waterways through stormwater runoff. The potential harms of increased runoff should be carefully considered and mitigated in the EIR. Moreover, even if substantial increased congestion would not result from the Project, the EIR should assess the project's impact on Vehicle Miles Traveled. (14 CCR § 15064.3(a).) Should the project substantially increase Vehicle Miles Traveled, the EIR should adopt reasonable mitigation measures, such as requiring the use of highly efficient or electric trucks to transport goods.

After assessing the Project's impact on transportation and traffic, the EIR must fully comply with CEQA's mandates for mitigating the harms associated with increased traffic in the area. Mitigation of a project's environmental impacts is one of the "most important" functions of CEQA and it is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41; Pub. Res. Code § 21002.) Particular care should be taken to ensure that the traffic impacts of this project are fully assessed and mitigated, because there are already many warehouses drawing trucks to the area.

The Project should be designed to avoid congestion caused by truck staging on local roads and limit the number of trucks travelling during normal commuting hours to avoid serious harm to locals who rely on nearby roads. Moreover, the City must ensure the EIR includes mitigation for the traffic that construction of such a large project would likely cause.

V. The EIR Should Carefully Assess and Mitigate the Impacts of the Project on Water Quality

The EIR must adequately assess the Project's effects on Hathaway creek, any surrounding wetlands and the riverine habitat located on the property, and connected bodies of water. (Initial Study at 24-25.) The United States Fish and Wildlife Survey National Wetlands Inventory identifies the Project site as transected by riverine habitat that can seasonally flood. (*See* Initial Study at 24.) This inquiry should detail at a minimum the municipal control over activities on privately held land, associated impacts on sensitive biological resources, habitat connectivity, and the efficacy of proposed mitigation measures.

First, mitigation measures for preserving the on-site riverine habitat should include adequate buffer zones between built features (like roads and buildings) and the habitat. The

terrestrial land surrounding riverine habitat is essential for both preserving water quality by serving as a water filter and providing upland habitat for wetland-dwelling species. (Semlitsch & Bodie at 1220.) To ensure that riverine habitat and water quality are preserved, the EIR should ensure there are sufficient buffer zones surrounding Hathaway Creek and its wetlands to maintain the quality of the creek and surrounding wetlands.

Moreover, the EIR must detail long-term management plans for the creek and wetlands, as well as measures that will be taken to protect the creek from the long-term effects of operating warehouses nearby. Notably, there is evidence that roadway runoff produced by the vehicles that will be picking up and dropping off goods significantly contributes to water pollution. (*See* Nixon & Saphores at 1.) Sediments from construction and road erosion, oils from car operation, heavy metals from exhaust, and anti-freeze and other chemicals all can be carried into streams by stormwater runoff. (*See* Nixon & Saphores at 1-2; Shore Stewards.) Additionally, the construction of the warehouses on the property will likely leave behind significant quantities of loose sediment from grading and excavation that can runoff into water and significantly harm wetlands by increasing turbidity, which harms plant growth and destroys habitat for fish species. (*See id.* at 1-2; Shore Stewards.) Spoils from grading must be properly disposed of, and adequate erosion control and spill prevention measures should be implemented to avoid impacts to adjacent wetlands.

The EIR should fully detail the potential risks to water quality operation and construction of the warehouses may cause and adopt binding mitigation measures to minimize these harms.

VI. The EIR Must Thoroughly Consider Reasonable and Prudent Alternatives

The EIR must present and consider "a range of reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project" in order to facilitate "informed decision-making and public participation." (14 CCR § 15126.6(a).) The EIR's alternative analysis should assess the proposed size and location of the Project. The EIR should also assess whether there is sufficient need for another warehouse in this region. Importantly, even if alternatives are costly or would interfere with achievement of some of the project goals, they should be considered if they can substantially reduce the environmental harms of the project. (14 CCR §15126.6(b).) Moreover, the City should avoid adopting overly narrow project objectives to attempt to avoid a broad analysis of alternative mechanisms for achieving the Project's purpose. (*North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.4th 647, 669.)

VII. Other Impacts That Must Be Analyzed in the EIR

In addition to those issues raised above, the EIR must also thoroughly address a variety of other related issues. For example, the EIR must fully disclose and analyze the Project's impacts on aesthetics and noise, and discuss alternatives and effective mitigation measures to avoid, reduce, and mitigate these impacts. Additionally, it is essential that the EIR consider the cumulative effects of the Project, such as air quality and traffic, in light of the many existing warehouses nearby. (*See* IS at 9-11.)

VIII. Conclusion

Thank you for the opportunity to submit comments on the Notice of Preparation of an Environmental Impact Report for the Banning Commerce Center. The environmental effects of the Project will include direct and indirect impacts on biological resources, air quality, climate change, traffic, and water quality. Evaluation of each of these impacts as well as analysis of a reasonable range of alternatives and mitigation measures must be included in the EIR.

Given the possibility that the Center will be required to pursue legal remedies to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762-65.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, *inter alia*, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Please add the Center to your notice list for all future updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,



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Exhibit 2

List of California Natural Diversity Database (CNDDB) records of sensitive plant and animal species in and near the Project area (within the Cabazon quadrant). This is not a comprehensive list of sensitive species that occur, potentially occur, or historically occurred in and/or near the Project area.

Type	Scientific_Name	Common_Name
Animals - Amphibians	Rana muscosa	southern mountain yellow-legged frog
Animals - Amphibians	Spea hammondii	western spadefoot
Animals - Birds	Accipiter cooperii	Coopers hawk
Animals - Birds	Accipiter striatus	sharp-shinned hawk
Animals - Birds	Aquila chrysaetos	golden eagle
Animals - Birds	Buteo regalis	ferruginous hawk
Animals - Birds	Circus hudsonius	northern harrier
Animals - Birds	Elanus leucurus	white-tailed kite
Animals - Birds	Eremophila alpestris actia	California horned lark
Animals - Birds	Chaetura vauxi	Vauxs swift
Animals - Birds	Ardea herodias	great blue heron
Animals - Birds	Botaurus lentiginosus	American bittern
Animals - Birds	Falco mexicanus	prairie falcon
Animals - Birds	Falco peregrinus anatum	American peregrine falcon
Animals - Birds	Spinus lawrencei	Lawrences goldfinch
Animals - Birds	Progne subis	purple martin
Animals - Birds	Xanthocephalus xanthocephalus	yellow-headed blackbird
Animals - Birds	Lanius ludovicianus	loggerhead shrike
Animals - Birds	Toxostoma lecontei	Le Contes thrasher
Animals - Birds	Pandion haliaetus	osprey
Animals - Birds	Setophaga petechia	yellow warbler
Animals - Birds	Aimophila ruficeps canescens	southern California rufous-crowned sparrow
Animals - Birds	Artemisiospiza belli belli	Bells sparrow
Animals - Birds	Passerculus sandwichensis rostratus	large-billed savannah sparrow
Animals - Birds	Spizella breweri	Brewers sparrow
Animals - Birds	Melanerpes lewis	Lewis woodpecker
Animals - Birds	Polioptila californica californica	coastal California gnatcatcher
Animals - Birds	Polioptila melanura	black-tailed gnatcatcher
Animals - Birds	Athene cunicularia	burrowing owl
Animals - Birds	Strix occidentalis occidentalis	California Spotted Owl
Animals - Birds	Calypte costae	Costas hummingbird
Animals - Birds	Selasphorus rufus	rufous hummingbird
Animals - Birds	Contopus cooperi	olive-sided flycatcher
Animals - Birds	Empidonax traillii	willow flycatcher

Animals - Birds	Empidonax traillii extimus	southwestern willow flycatcher
Animals - Birds	Vireo bellii pusillus	least Bells vireo
Animals - Insects	Bombus crotchii	Crotchs bumble bee
Animals - Insects	Bombus pensylvanicus	American bumble bee
Animals - Insects	Stenopelmatus cahuilaensis	Coachella Valley jerusalem cricket
Animals - Mammals	Neotoma lepida intermedia	San Diego desert woodrat
Animals - Mammals	Lynx rufus pallescens	pallid bobcat
Animals - Mammals	Chaetodipus fallax fallax	northwestern San Diego pocket mouse
Animals - Mammals	Chaetodipus fallax pallidus	pallid San Diego pocket mouse
Animals - Mammals	Dipodomys simulans	Dulzura kangaroo rat
Animals - Mammals	Perognathus longimembris bangsi	Palm Springs pocket mouse
Animals - Mammals	Perognathus longimembris brevinasus	Los Angeles pocket mouse
Animals - Mammals	Lepus californicus bennettii	San Diego black-tailed jackrabbit
Animals - Mammals	Taxidea taxus	American badger
Animals - Mammals	Xerospermophilus tereticaudus chlorus	Palm Springs round-tailed ground squirrel
Animals - Mammals	Antrozous pallidus	pallid bat
Animals - Mammals	Corynorhinus townsendii	Townsends big-eared bat
Animals - Reptiles	Anniella stebbinsi	Southern California legless lizard
Animals - Reptiles	Arizona elegans occidentalis	California glossy snake
Animals - Reptiles	Salvadora hexalepis virgultea	coast patch-nosed snake
Animals - Reptiles	Thamnophis hammondii	two-striped gartersnake
Animals - Reptiles	Phrynosoma blainvillii	coast horned lizard
Animals - Reptiles	Uma inornata	Coachella Valley fringe-toed lizard
Animals - Reptiles	Aspidoscelis tigris stejnegeri	coastal whiptail
Animals - Reptiles	Gopherus agassizii	desert tortoise
Animals - Reptiles	Crotalus ruber	red-diamond rattlesnake
Plants - Vascular	Deinandra mohavensis	Mojave tarplant
Plants - Vascular	Deinandra paniculata	paniculate tarplant
Plants - Vascular	Symphyotrichum defoliatum	San Bernardino aster
Plants - Vascular	Caulanthus simulans	Paysons jewelflower
Plants - Vascular	Astragalus lentiginosus var. borreganus	Borrego milk-vetch
Plants - Vascular	Astragalus lentiginosus var. coachellae	Coachella Valley milk-vetch
Plants - Vascular	Astragalus pachypus var. jaegeri	Jaegers milk-vetch
Plants - Vascular	Juglans californica	southern California black walnut
Plants - Vascular	Calochortus plummerae	Plummers mariposa-lily
Plants - Vascular	Petalonyx linearis	narrow-leaf sandpaper-plant
Plants - Vascular	Abronia villosa var. aurita	chaparral sand-verbena
Plants - Vascular	Chorizanthe parryi var. parryi	Parrys spineflower

Plants - Vascular	Chorizanthe xanti var. leucotheca	white-bracted spineflower
Plants - Vascular	Delphinium parishii ssp. subglobosum	Colorado Desert larkspur
Plants - Vascular	Delphinium parryi ssp. purpureum	Mt. Pinos larkspur
Plants - Vascular	Horkelia cuneata var. puberula	mesa horkelia

FP: Fully Protected
SSC: Species of Special Concern
WL: Watch List

EXHIBIT C

Outlook

Re: Banning Commerce Center Project, SCH # 2022090102

From Frances Tinney <FTinney@biologicaldiversity.org>
Date Mon 2/10/2025 10:49 AM
To epapp@banningca.gov <epapp@banningca.gov>
Cc Adam Rush <arush@banningca.gov>; Theresa Rettinghouse <trettinghouse@biologicaldiversity.org>

Good morning,

The Center for Biological Diversity has changed our office address to

Center for Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612

Could please remove the 1212 Broadway address from your list and use the above address for any future mailed notices related to this project? All email addresses remain the same.

Thanks so much for your help,

Frances

Frances Tinney
she/her
Attorney
Urban Wildlands Program
CENTER *for* BIOLOGICAL DIVERSITY
509-432-9256
ftinney@biologicaldiversity.org

From: Frances Tinney
Sent: Thursday, August 1, 2024 11:34 AM
To: epapp@banningca.gov <epapp@banningca.gov>
Cc: Adam Rush <arush@banningca.gov>; Tiffany Yap <TYap@biologicaldiversity.org>; J.P. Rose <JRose@biologicaldiversity.org>; Theresa Rettinghouse <trettinghouse@biologicaldiversity.org>; Aruna Prabhala

<APrabhala@biologicaldiversity.org>
Subject: Banning Commerce Center Project, SCH # 2022090102

Dear Mr. Papp:

Please find attached the Center for Biological Diversity's comments on the Banning Commerce Center Project, SCH # 2022090102.

The references cited in the letter are available at an FTP link here:

Banning Commerce Center References

Please confirm receipt of the letter and references.

Thank you,

Frances Tinney
Attorney
Urban Wildlands Program
CENTER *for* BIOLOGICAL DIVERSITY
509-432-9256
ftinney@biologicaldiversity.org

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nate Smith, Deputy Director of Public Works/City Engineer** **Art Vela, Director of Public Works**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Accepting Easements from North Pointe Development for Right of Way, Maintenance and Access, and Temporary Construction necessary for the Sun Lakes Boulevard Extension Project**

RECOMMENDATION:

Accept Easements from North Pointe Development for Right of Way, Maintenance and Access, and Temporary Construction necessary for the Sun Lakes Boulevard Extension Project

BACKGROUND:

The proposed Sun Lakes Boulevard Extension Project ("SLB Extension Project") is identified on the Council approved Capital Improvement Program and, once constructed, would complete a gap in the roadway and circulation network along Sun Lakes Boulevard between Highland Home Road and Sunset Avenue. This unfinished portion of Sun Lakes Boulevard has been identified on the City's circulation element dating back to at least 1994. The SLB Extension Project has been a vision for the City since the construction of the Sun Lakes Country Club starting in the mid 1980's to provide an important secondary access point from the Sun Lakes Country Club community to Sunset Avenue, relieving pressure of Highland Springs Avenue. Initial steps were taken with a Right of Way dedication to the City of Banning on Parcel Map 25541 in February of 1990. In 2020, the City Council revived efforts to complete the SLB Extension Project with the following actions:

- Resolution 2020-21 (adopted on 2/11/20): Accepting the lots dedicated to the City on Parcel Map 25541
- Resolution 2020-48 (adopted on 4/14/20): Awarding a Professional Services Agreement for the design of the SLB Extension Project to Albert A Webb Associates
- Resolution 2020-97 (adopted on 7/14/20): Approving A TUMF Reimbursement Agreement with the Western Riverside Council Of Governments for $1,000,000 in TUMF funds City expenditures related to the SLB Extension Project. This agreement has been revised to increase the reimbursement total from $1,000,000 to $12,000,000, and will be adjusted again to $20,000,000 to reflect recent approved funding from WRCOG.

The City Council's adoption of the resolutions listed above in 2020 started the City's efforts to design the proposed SLB Extension Project and, once designed, prepare the environmental review documents for the SLB Extension Project based on the project scope identified in the design documents. In the time since the initiation of the design contract in 2020, City staff and the City's consultant, Albert A. Webb Associated, have engaged continuously to get the SLB Extension Project to an environmentally cleared and shovel ready condition. A redesign effort was necessitated when comments were received from (1) the U.S. Fish and Wildlife Service ("USFWS"), (2) the California Department of Fish and Wildlife

("CDFW"), and (3) utility holders within the existing utility corridor. These comments required the City to revise the initial project design and negotiate with the stakeholders mentioned above on an acceptable design solution. Once those efforts were completed, City staff and the City's Consultant revised the necessary studies, reports, and plans.

The Right of Way offer that is included with this package is consistent with the agreed upon revised alignment described above. The other easements for Maintenance and Access, and Temporary Construction were prepared with the revised right of way as well. The easements offered are necessary for the construction and operation of the roadway, and are described in more detail below.

- **Right of Way Dedication - Road and Utility Purposes:** This easement is required for the ultimate roadway alignment, and would be held permanently by the City of Banning. The legal and plat were prepared by the City's design consultant for the SLB Extension Project and peer reviewed by the City's plan check consultant for technical accuracy.
- **Easement - Public Maintenance and Access Purposes:** This easement is required for the City to maintain cut slope and embankments, as well as drainage devices installed to protect those slopes and convey storm water to the culvert crossings. The legal and plat were prepared by the City's design consultant for the SLB Extension Project and peer reviewed by the City's plan check consultant for technical accuracy. There were two (2) clauses added to the grant deed at the request of the Grantor;
    1. A clause that states that if the SLB Extension Project is not initiated by the City by June 1, 2027, that the easement shall terminate and the City would forfeit the easement rights. City staff reviewed the request internally and with the City's legal counsel, and agreed to the addition of the clause. Delay to initiate the project to June 1, 2027 would also forfeit the RCTC grant, making construction impractical in this particular case.
    2. A clause that states that if and when development occurs adjacent to the road right of way that would alter the cut slopes, embankments, or drainage devices are substantially completed, and that would render the City's need to maintain as moot, that the City shall quitclaim this easement back to the underlying land owner. City staff reviewed the request internally and with the City's legal counsel, and agreed to the clause. It is typical that private development is responsible for the maintenance of their private property, and this action is consistent with that practice utilized throughout the City, and would ultimately reduce the City's maintenance liability.
- **Temporary Construction Easement:** This easement is required during the construction phase of the project to allow for contractors to access Grantor's private property to construct necessary cuts, fills, drainage, and roadway improvements. The legal and plat were prepared by the City's design consultant for the SLB Extension Project and peer reviewed by the City's plan check consultant for technical accuracy. The Grantor has agreed to provide the easement for a term of 24 months, with one (1) 12-month extension, if necessary. The Grantor has also agreed to provide the easement at no cost to the City of Banning. It is typical that and the end of the construction project, that the Temporary Construction Easement would terminate, as it is no longer necessary for the City to hold onto.

JUSTIFICATION:

It is necessary to obtain the easements for the construction, operation, and maintenance of the SLB Extension Project. The three (3) easements are being provided to the City at no cost.

FISCAL IMPACT:

There is no direct cost to the City of Banning to obtain the easements offered with this action.

ALTERNATIVES:

Do not accept the easements and provide alternate direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Att. 1 - SLB ROW CofA, Grant Deed, Legal, Plat.pdf
2. Att. 2 - SLB Maint Easement CofA, Grant Deed, Legal, Plat.pdf
3. Att. 3 - SLB TCE CofA, Grant Deed, Legal, Plat.pdf

EXEMPT RECORDING REQUESTED BY City of Banning PER GOV'T CODE 6103 AND WHEN RECORDED MAIL TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220 MAIL TAX STATEMENTS TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220	

APN: SPACE ABOVE THIS LINE FOR RECORDER' S USE

The undersigned grantor declares that **NO** documentary transfer tax is payable, because this is merely the conveyance of an easement and the consideration and value is less than $100. R&T 11911.

RIGHT-OF-WAY DEDICATION – ROAD AND UTILITIES PURPOSES

The undersigned ("Grantor"), being the present title owner(s) of record of the herein described parcel of land, does hereby make an irrevocable R.O.W. DEDICATION to the City of Banning, a general law city ("City"), and its successors or assigns, for public road, street, highway, and utilities purposes (the "Easement"), over, on and across portions of the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

When Recorded Mail To:
City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE.

SPACE FOR RECORDER'S USE

CERTIFICATE OF ACCEPTANCE

This is to certify that the RIGHT OF WAY DEDICATION – ROAD AND UTILITY PURPOSES from **NP Banning Industrial, LLC** dated 7/1/25, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this 8th day of July, 2025, and the grantees consent to recordation thereof by its duly authorized agent.

Dated:_____

CITY OF BANNING

By_____
Vicki Sellers
City Clerk

IN WITNESS THEREOF, these presents have executed this instrument this 1st day of July, 2025

NP Banning Industrial, LLC
Individual/Corporation (Type Name)

Signature

Nathaniel Hagedorn, Manager of NPD Management, LLC,
Manager of NP Banning Industrial, LLC
Name and Title (Type)

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~~ Missouri)

County of Clay)

On July 1, 2025, before me, Lisa Beasley, Notary Public, personally appeared

Nathaniel Hagedorn, 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)

LISA BEASLEY
Notary Public - Notary Seal
Platte County - State of Missouri
Commission Number 19497557
My Commission Expires Sep 10, 2027

EXHIBIT "A"

LEGAL DESCRIPTION

(Attached)

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

PARCEL 1:

BEING A PORTION OF PARCEL 3 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG THE WESTERLY LINE OF SAID SECTION 7 NORTH 00°09'58" EAST, A DISTANCE OF 79.56 FEET;

THENCE LEAVING SAID SECTION LINE, AT A RIGHT-ANGLE, SOUTH 89°50'02" EAST A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS NORTH 89°50'02" WEST, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD AND THE NORTHERLY RIGHT-OF-WAY LINE WESTWARD AVENUE (55.00 FEET IN HALF-WIDTH) THE FOLLOWING TWO (2) COURSES:

1) SOUTHERLY, SOUTHEASTERLY, AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°39'47", AN ARC DISTANCE OF 39.12 FEET;

2) SOUTH 89°29'49" EAST, A DISTANCE OF 23.22 FEET;

THENCE LEAVING SAID WESTWARD AVENUE NORTHERLY RIGHT-OF-WAY LINE NORTH 79°43'21" WEST, A DISTANCE OF 27.18 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 21.00 FEET;

THENCE WESTERLY, NORTHWESTERLY, AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 79°02'38", AN ARC DISTANCE OF 28.97 FEET;

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

THENCE NORTH 89°50'02" WEST, A DISTANCE OF 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 197 SQ. FT. (0.004 AC.) MORE OR LESS

PARCEL 2:

BEING A PORTION OF PARCEL 3, AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, SOUTH 89°29'49" EAST, A DISTANCE OF 119.08 FEET;

THENCE LEAVING SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, AT A RIGHT ANGLE, NORTH 00°30'11" EAST, A DISTANCE OF 55.00 TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WESTWARD AVENUE FOR THE **TRUE POINT OF BEGINNING**, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 00°30'11" WEST;

THENCE EASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 338.83 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19";

THENCE NORTH 73°32'52" EAST, A DISTANCE OF 156.63 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

THENCE EASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 371.39 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19" TO A POINT ON A LINE PARALLEL WITH AND DISTANT 205.00 FEET NORTHERLY MEASURED AT RIGHT ANGLES TO SAID SOUTHERLY SECTION LINE OF SECTION 7;

THENCE ALONG SAID PARALLEL LINE, SOUTH 89°29'49" EAST, A DISTANCE OF 462.06 FEET TO A POINT OF CUSP OF A TANGENT CURVE, CONCAVE SOUTHERLY, SAID CURVE HAVING A RADIUS OF 1255.00 FEET, SAID POINT ALSO BEING ON THE NORTHERLY LINE OF SAID LOT "D", REFERRED TO HEREAFTER AS **POINT "A"**;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT "D" THE FOLLOWING THREE (3) COURSES:

1. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 371.39 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19";

2. SOUTH 73°32'52" WEST, A DISTANCE OF 156.63 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET;

3. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 54.92 FEET, THROUGH A CENTRAL ANGLE OF 2°44'53" TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 1145.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS NORTH 04°50'28" WEST, SAID CURVE LYING 110.00 FEET SOUTHERLY, MEASURED RADIALLY, AND CONCENTRIC WITH THE AFORMENTIONED 1255.00 FOOT RADIUS CURVE;

THENCE LEAVING SAID NORTHERLY LINE OF LOT "D", ALONG SAID CURVE, AN ARC DISTANCE OF 196.74 FEET, THROUGH A CENTRAL ANGLE OF 09°50'41" TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WESTWARD AVENUE;

THENCE ALONG SAID NORTHERLY RIGHT-A-WAY LINE OF WESTWARD AVENUE NORTH 89°29'49" WEST, A DISTANCE OF 549.73 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 1.575 ACRES, MORE OR LESS.

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

PARCEL 3:

THOSE PORTIONS OF PARCELS 3 AND 4, AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT **POINT "A"** REFERRED TO HEREON;

THENCE SOUTH 89°29'49" EAST, ALONG THE NORTH LINE OF LOT "D" AS SHOWN ON SAID PARCEL MAP, A DISTANCE OF 202.29 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET FOR THE **TRUE POINT OF BEGINNING**:

THENCE LEAVING SAID NORTHERLY LINE OF LOT "D", SOUTH 89°29'49" EAST, A DISTANCE OF 84.19 FEET;

THENCE SOUTH 89°14'50" EAST, A DISTANCE OF 2305.40 FEET, SAID COURSE AND DISTANCE HEREAFTER REFERRED TO AS **COURSE B**, TO A POINT OF CUSP OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, SAID CURVE HAVING A RADIUS OF 1255.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS NORTH 00°30'11" EAST, SAID POINT ALSO BEING ON THE NORTHERLY LINE OF LOT "E", AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT "E" THE FOLLOWING THREE (3) COURSES:

1. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 359.05 FEET, THROUGH A CENTRAL ANGLE OF 16°26'31";

2. SOUTH 74°06'40" WEST, A DISTANCE OF 150.25 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET;

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

3. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 54.73 FEET, THROUGH A CENTRAL ANGLE OF 2°44'20" TO A POINT ON A LINE PARALLEL WITH AND 110.00 FEET SOUTHERLY MEASURED AT RIGHT ANGLES TO SAID AFOREMENTIONED **COURSE B**;

THENCE LEAVING SAID NORTHERLY LINE OF LOT "E" ALONG SAID PARALLEL LINE, NORTH 89°14'50" WEST, A DISTANCE OF 376.04 FEET;

THENCE SOUTH 41°56'33" WEST, A DISTANCE OF 45.35 FEET TO A POINT ON SAID NORTHERLY LINE OF LOT "A";

THENCE ALONG SAID NORTHERLY LINE, NORTH 89°29'49" WEST, A DISTANCE OF 99.43 FEET;

THENCE LEAVING SAID NORTHERLY LINE, NORTH 41°01'41" WEST, A DISTANCE OF 46.34 FEET TO A POINT ON A LINE PARALLEL WITH AND 110.00 FEET SOUTHERLY MEASURED AT RIGHT ANGLES TO SAID AFOREMENTIONED **COURSE B**;

THENCE NORTH 89°14'50" WEST, A DISTANCE OF 745.99 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT "D", SAID POINT ALSO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 15°17'41" WEST ;

THENCE WESTERLY ALONG SAID NORTHERLY LINE AND SAID CURVE, AN ARC DISTANCE OF 45.86 FEET, THROUGH A CENTRAL ANGLE OF 2°17'41";

THENCE NORTH 72°24'38" WEST, 150.01 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

THENCE WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 374.26 FEET, THROUGH A CENTRAL ANGLE OF 17°05'11" TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 4.359 ACRES, MORE OR LESS.

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

PARCEL 4:

BEING A PORTION OF LOT "G" AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING A POINT ON THE CENTERLINE OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, NORTH 89°29'49" WEST, A DISTANCE OF 679.34 FEET;

THENCE LEAVING SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, AT A RIGHT ANGLE, NORTH 00°30'11" EAST, A DISTANCE OF 55.00 FEET TO A POINT ON THE NORTHERLY LINE OF THE EASEMENT FOR ROADWAY AND UTILITY PURPOSES GRANTED TO THE CITY OF BANNING, RECORDED MAY 1, 1985, AS INSTRUMENT NO. 91551, OFFICIAL RECORDS OF SAID COUNTY, FOR THE **TRUE POINT OF BEGINNING**;

THENCE ALONG SAID NORTHERLY LINE AND PARALLEL WITH SAID CENTERLINE OF WESTWARD AVENUE, SOUTH 89°29'49" EAST, A DISTANCE OF 131.46 FEET TO A POINT OF CUSP OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1145.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 13°38'09" EAST, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP;

THENCE WESTERLYALONG SAID SOUTHERLY LINE OF LOT "E" AND SAID CURVE, AN ARC DISTANCE OF 262.44 FEET, THROUGH A CENTRAL ANGLE OF 13°07'58";

THENCE CONTINUING ALONG SAID SOUTHERLY LINE OF LOT "E", NORTH 89°29'49" WEST, A DISTANCE OF 131.46 FEET TO A POINT OF CUSP OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1145.00 FEET;

THENCE EASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 262.44 FEET, THROUGH A CENTRAL ANGLE OF 13°07'58" TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 3,967 SQ. FT. (0.091 AC.), MORE OR LESS.

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

PARCEL 5:

BEING A PORTION OF PARCEL 4 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE EASTERLY LINE OF SAID SECTION 7 NORTH 00°04'18" EAST, A DISTANCE OF 108.73 FEET;

THENCE LEAVING SAID SECTION LINE, AT A RIGHT ANGLE, NORTH 89°55'42" WEST A DISTANCE OF 30.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE AND THE NORTHERLY LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP, THE FOLLOWING THREE (3) COURSES:

1) SOUTH 00°04'18" WEST, A DISTANCE OF 26.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 25.00 FEET;

2) SOUTHERLY, SOUTHWESTERLY, AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 93°33'46", AN ARC DISTANCE OF 40.82 FEET, TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY, AND HAVING A RADIUS OF 1145.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID CURVE BEARS SOUTH 03°38'05" WEST;

3) WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°34'56", AN ARC DISTANCE OF 31.62 FEET, TO A POINT OF CUSP OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 53.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS SOUTH 22°00'19" EAST;

EXHIBIT "A"
PUBLIC STREET AND UTILITY EASEMENT
LEGAL DESCRIPTION

THENCE NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE 67°40'09", AN ARC DISTANCE OF 62.60 FEET;

THENCE NORTH 89°28'10" EAST, A DISTANCE OF 25.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 1,645 SQ. FT. (0.04 AC.), MORE OR LESS.

SEE PLAT ATTACHED HERETO AS EXHIBIT "B" AND MADE A PART HEREOF.
PREPARED UNDER MY SUPERVISION

Michael E. Johnson, L.S. 7673 — Date: 11/13/2024



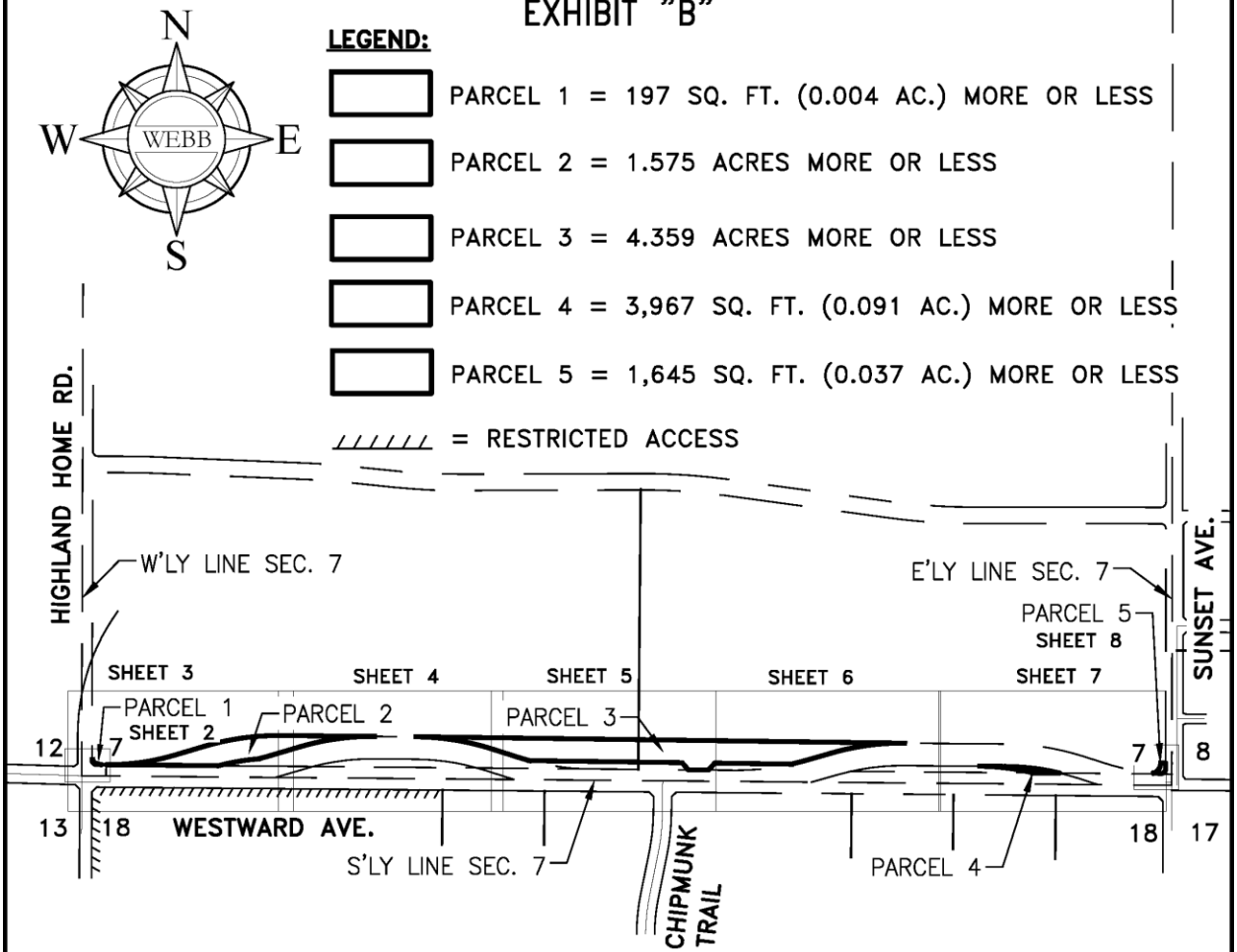
Prepared By: CGS
Checked By: MEJ

EXHIBIT "B"

DEPICTION

(Attached)

EXHIBIT "B"



1" = 800'

800 0 800

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

11/13/2024

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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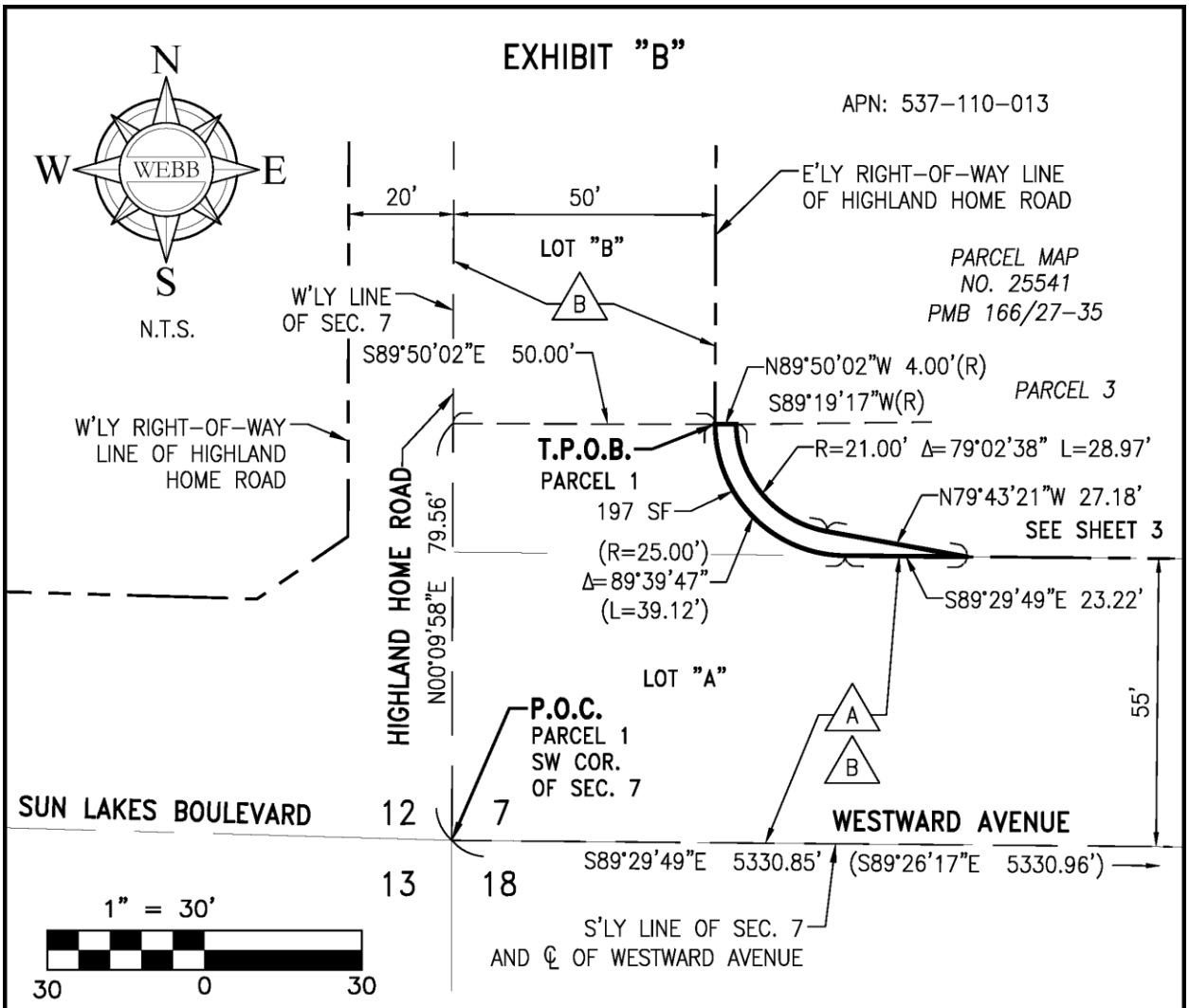
THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 1 OF 8

W.O. 20-0126

SCALE: 1" = 800' DRWN BY CGS DATE 8/28/2024 CHKD BY MEJ DATE 9/04/2024 SUBJECT: PUBLIC STREET AND UTILITY EASEMENT

EXHIBIT "B"



A = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. #91551, REC. 05/01/1985, O.R.

B = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

() = RECORD INFORMATION PER PM 166/27-35

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

11/13/2024

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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11/13/2024 9:57 AM Carlossi

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SHEET 2 OF 8

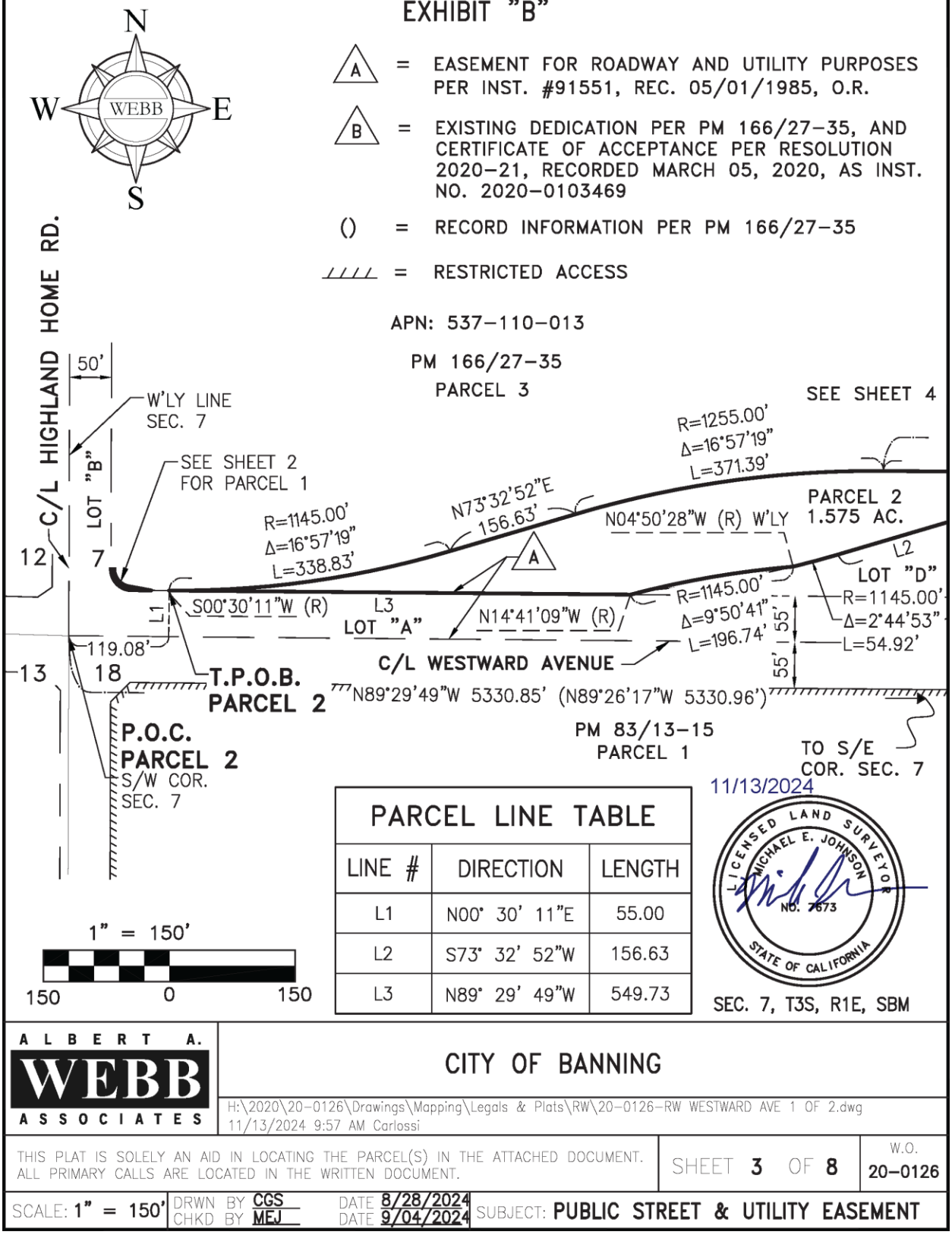
W.O. 20-0126

SCALE: 1" = 30'

DRWN BY TSW DATE 6/6/2022
CHKD BY MEJ DATE 6/6/2022

SUBJECT: PUBLIC STREET & UTILITY EASEMENT

EXHIBIT "B"



PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N00° 30' 11"E	55.00
L2	S73° 32' 52"W	156.63
L3	N89° 29' 49"W	549.73

11/13/2024

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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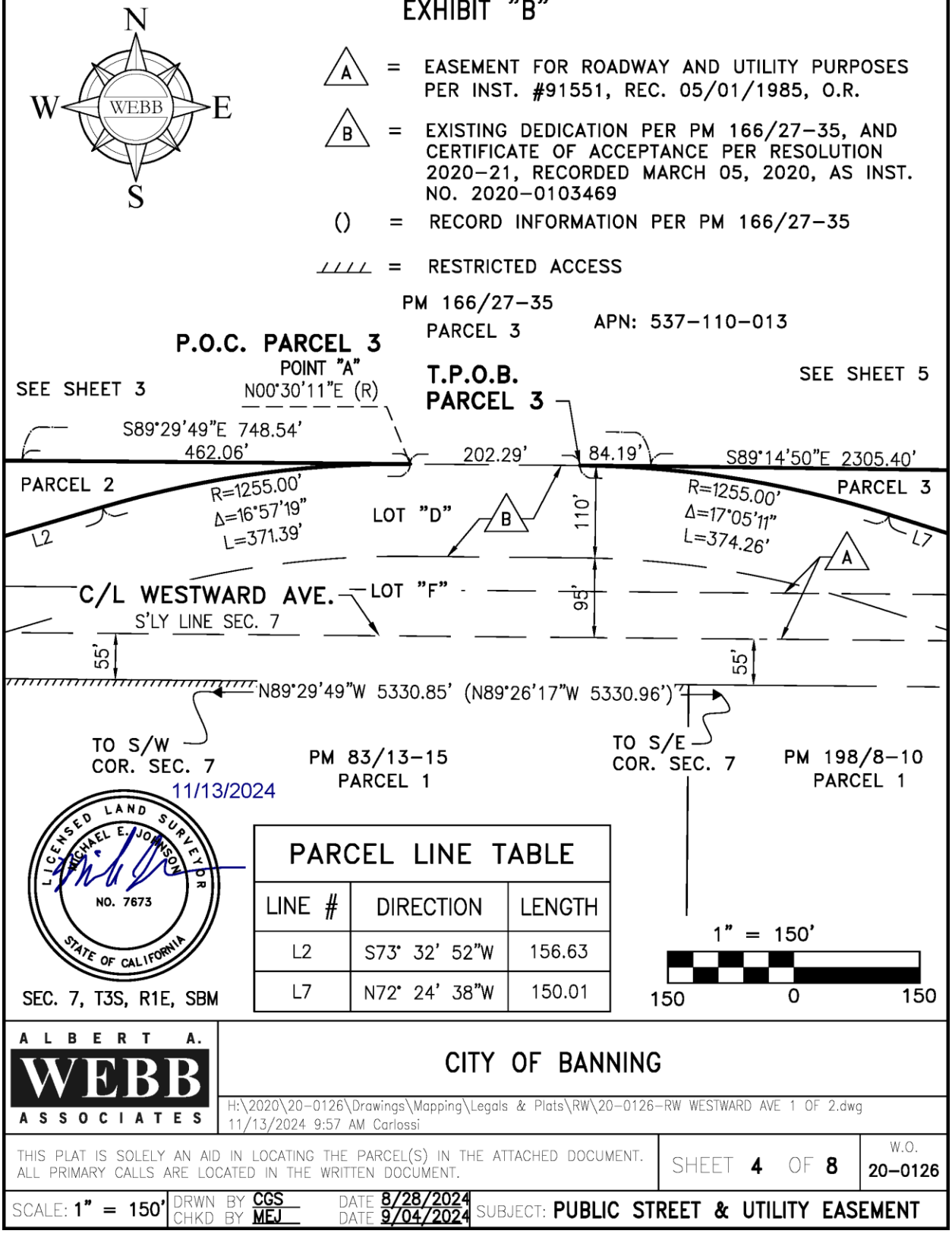
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SHEET 3 OF 8

W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 8/28/2024 CHKD BY MEJ DATE 9/04/2024 SUBJECT: PUBLIC STREET & UTILITY EASEMENT

EXHIBIT "B"



11/13/2024

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

SEC. 7, T3S, R1E, SBM

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L2	S73° 32' 52"W	156.63
L7	N72° 24' 38"W	150.01

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CITY OF BANNING

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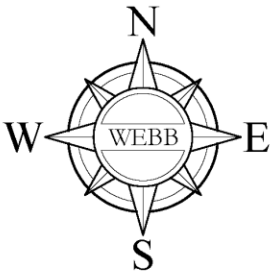
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SHEET 4 OF 8

W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 8/28/2024 CHKD BY MEJ DATE 9/04/2024 SUBJECT: PUBLIC STREET & UTILITY EASEMENT

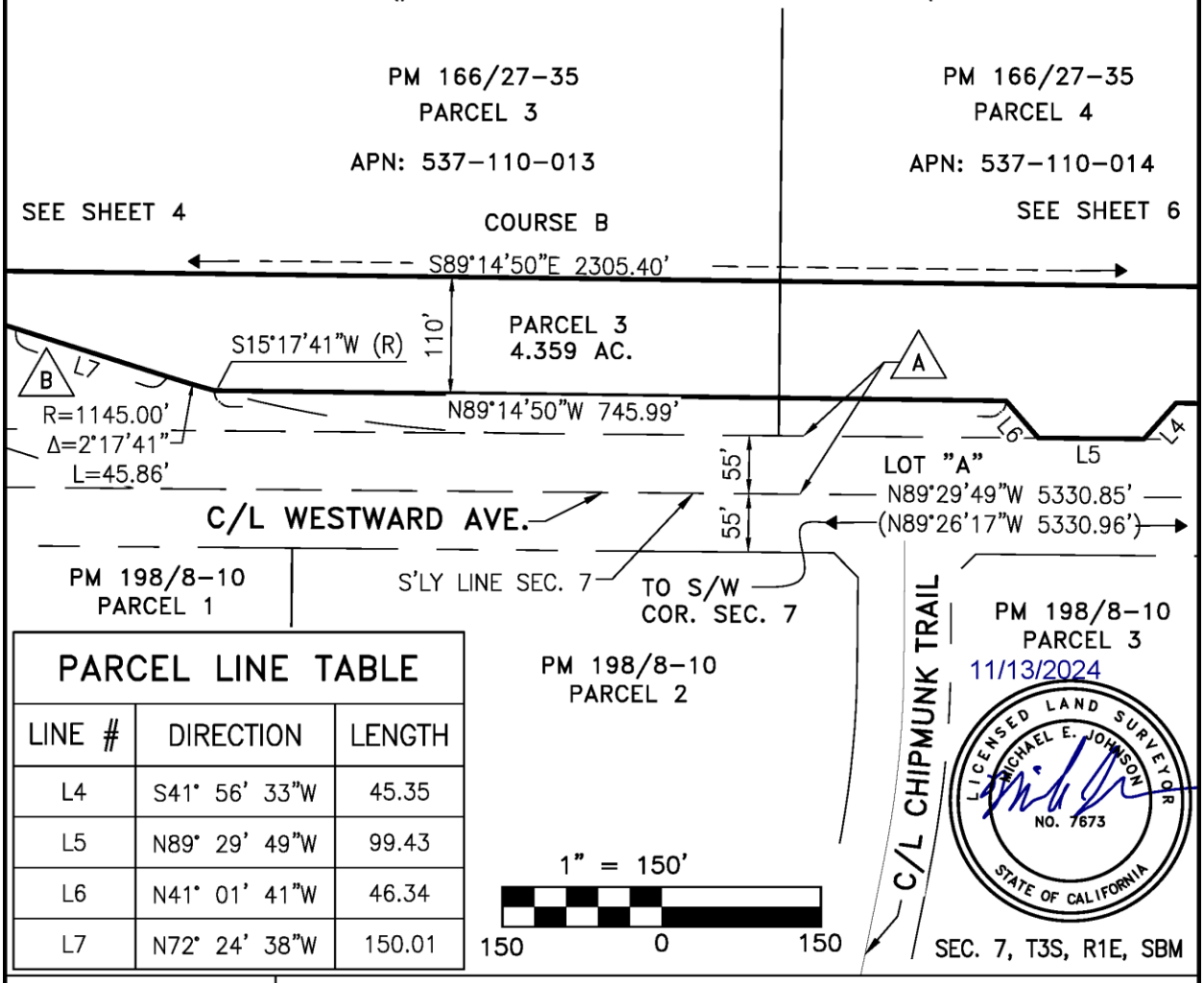
EXHIBIT "B"



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B = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

() = RECORD INFORMATION PER PM 166/27-35



PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L4	S41° 56' 33"W	45.35
L5	N89° 29' 49"W	99.43
L6	N41° 01' 41"W	46.34
L7	N72° 24' 38"W	150.01

11/13/2024

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

ALBERT A. WEBB ASSOCIATES

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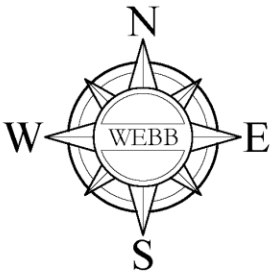
THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 5 OF 8

W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 8/28/2024 CHKD BY MEJ DATE 9/04/2024 SUBJECT: PUBLIC STREET & UTILITY EASEMENT

EXHIBIT "B"



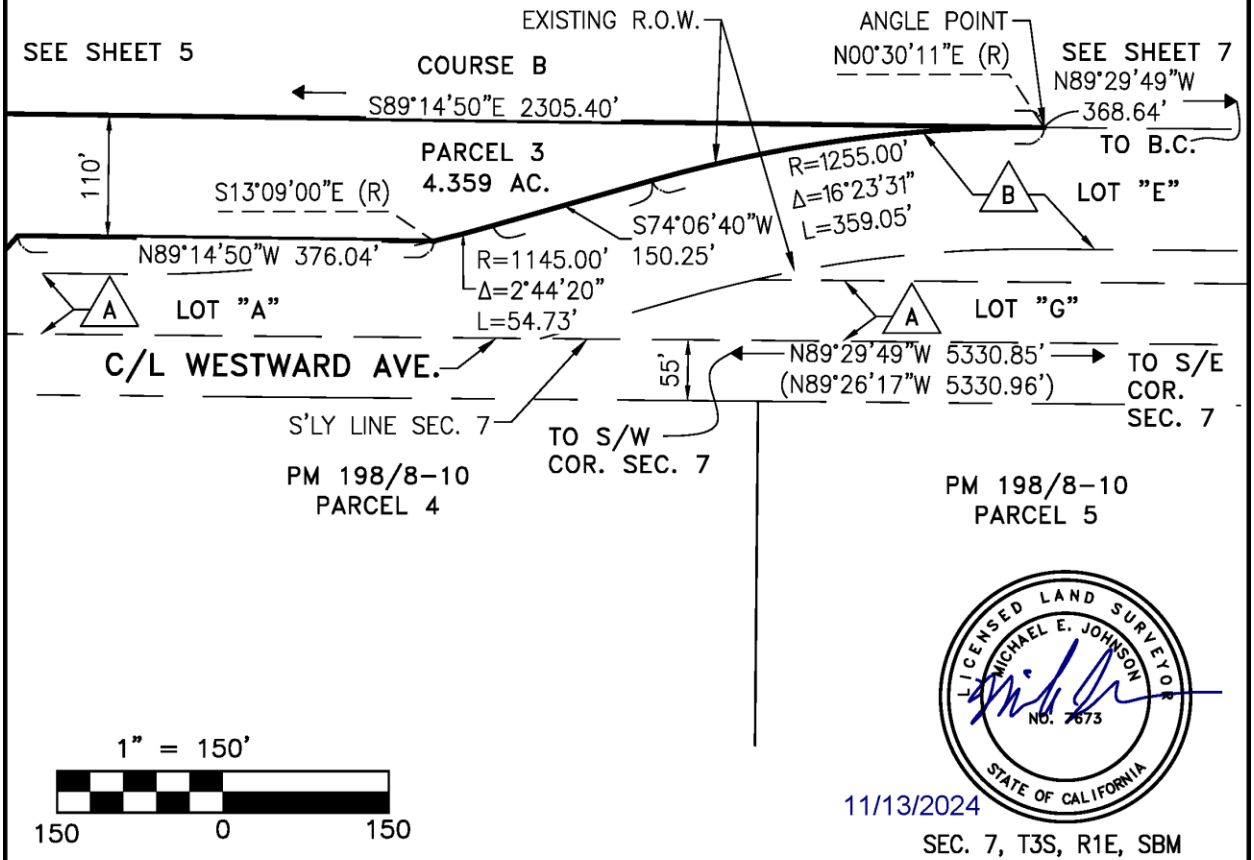
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() = RECORD INFORMATION PER PM 166/27-35

PM 166/27-35
PARCEL 4

APN: 537-110-014



11/13/2024

1" = 150'

150 0 150

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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11/13/2024 9:57 AM Carlossi

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 6 OF 8

W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 8/28/2024 CHKD BY MEJ DATE 9/04/2024 SUBJECT: PUBLIC STREET & UTILITY EASEMENT

EXHIBIT "B"

A = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. #91551, REC. 05/01/1985, O.R.

B = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

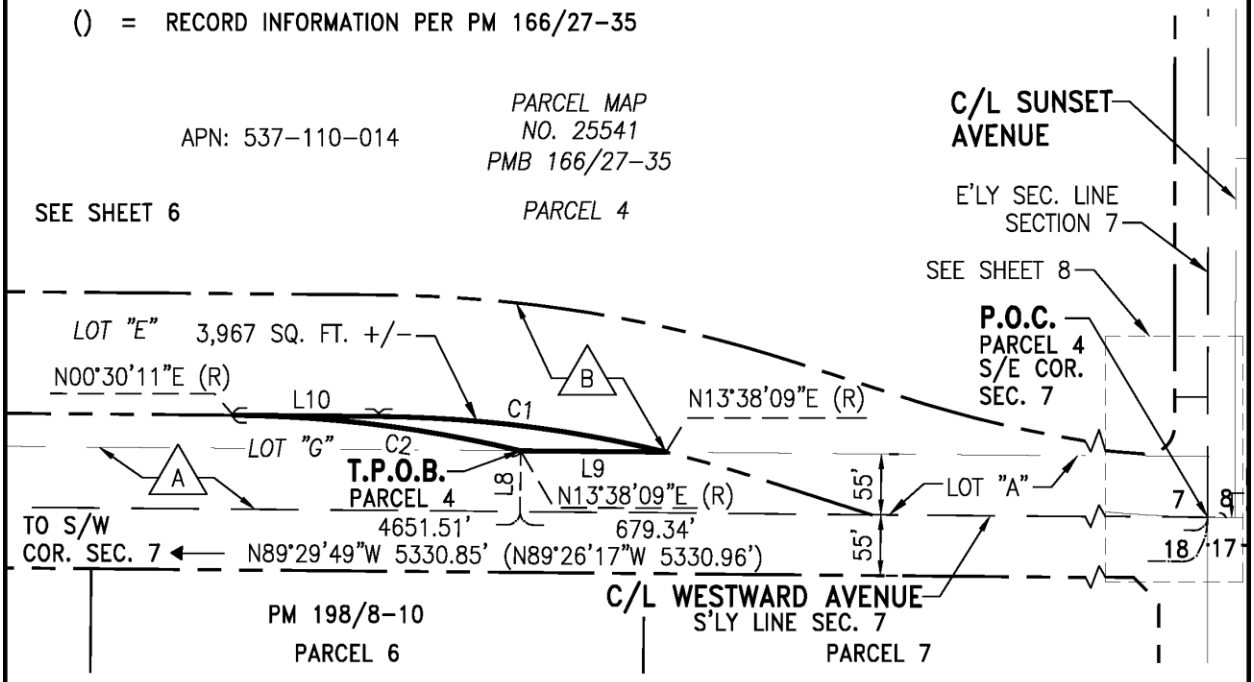
() = RECORD INFORMATION PER PM 166/27-35

N
W WEBB E
S

APN: 537-110-014

PARCEL MAP NO. 25541
PMB 166/27-35

PARCEL 4



1" = 150'

150 0 150

CURVE TABLE			
CURVE #	RADIUS	LENGTH	DELTA
C1	1145.00	262.44	13°07'58"
C2	1145.00	262.44	13°07'58"

LINE TABLE		
#	DIRECTION	LENGTH
L8	N00° 30' 11"E	55.00
L9	S89° 29' 49"E	131.46
L10	N89° 29' 49"W	131.46

11/13/2024

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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11/13/2024 9:57 AM Carlossi

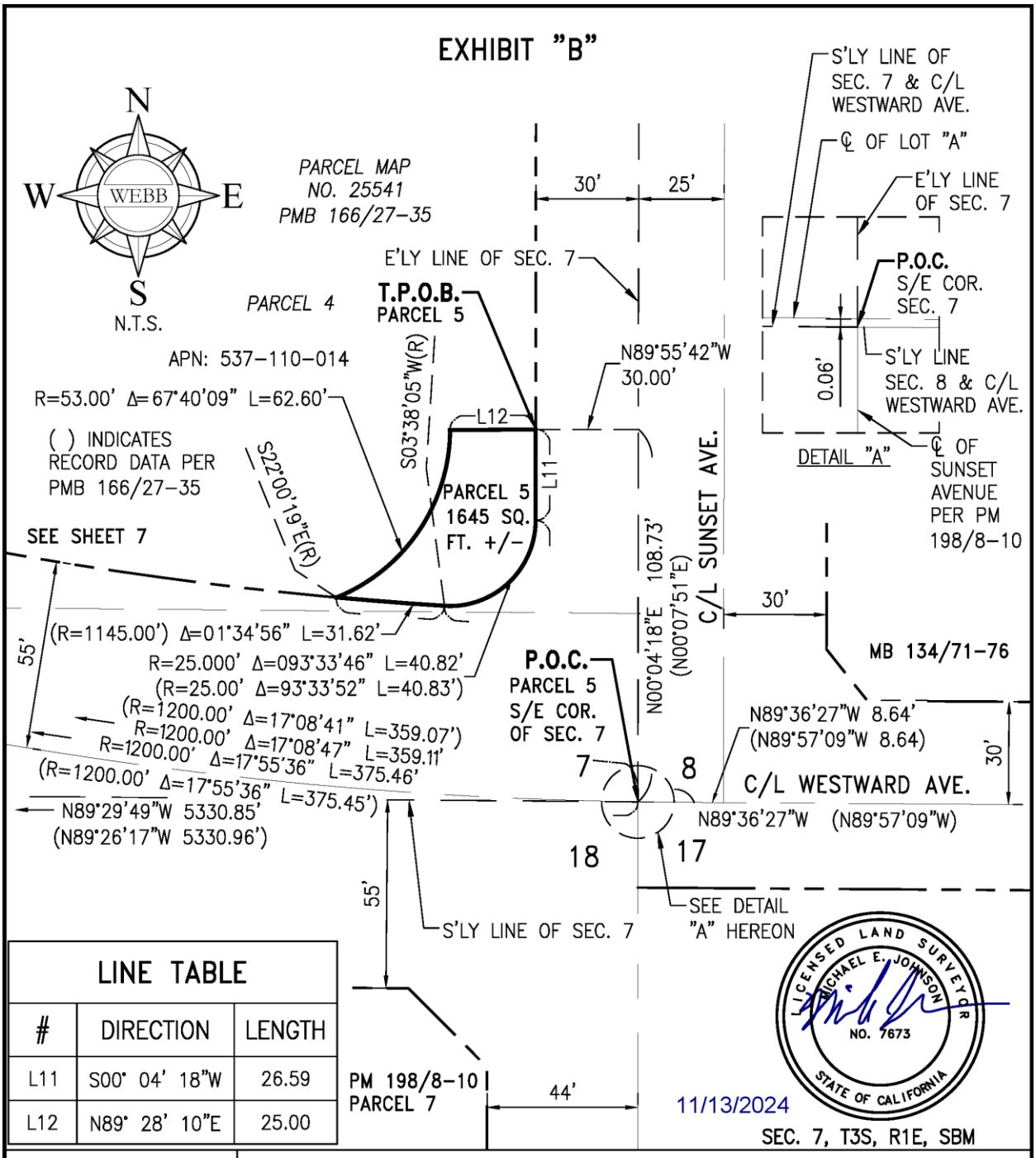
THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 7 OF 8

W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 10/7/2024 CHKD BY MEJ DATE 10/8/2024 SUBJECT: PUBLIC STREET & UTILITY EASEMENT

EXHIBIT "B"



LINE TABLE		
#	DIRECTION	LENGTH
L11	S00° 04' 18"W	26.59
L12	N89° 28' 10"E	25.00

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CITY OF BANNING

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11/13/2024 9:57 AM Carlossi

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 8 OF 8 | W.O. 20-0126

SCALE: N.T.S. | DRWN BY TSW DATE 6/6/2022 | CHKD BY MEJ DATE 6/6/2022 | SUBJECT: PUBLIC STREET & UTILITY EASEMENT

When Recorded Mail To:
City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE.

SPACE FOR RECORDER'S USE

CERTIFICATE OF ACCEPTANCE

This is to certify that the EASEMENT – PUBLIC MAINTENANCE AND ACCESS PURPOSES from **NP Banning Industrial, LLC** dated 7/1/25, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this 8th day of July, 2025, and the grantees consent to recordation thereof by its duly authorized agent.

Dated:_____

CITY OF BANNING

By_____
Vicky Sellers
City Clerk

EXEMPT RECORDING REQUESTED BY City of Banning PER GOV'T CODE 6103 AND WHEN RECORDED MAIL TO: City of Banning – City Clerk P.O. Box 998 Banning, CA 92220 MAIL TAX STATEMENTS TO:	

APN: SPACE ABOVE THIS LINE FOR RECORDER' S USE

The undersigned grantor declares that **NO** documentary transfer tax is payable, because this is merely the conveyance of an easement and the consideration and value is less than $100. R&T 11911.

EASEMENT – PUBLIC MAINTENANCE AND ACCESS PURPOSES

The undersigned ("Grantor"), being the present fee simple title owner(s) of record of the herein described parcel of land, does hereby grant to the City of Banning, a general law city ("City"), and its successors or assigns ("Grantee") an easement for public maintenance and access purposes for cut and fill manufactured slopes and drainage devices and the construction thereof (the "Easement"), on the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full (the "Property").

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such Easement, and shall not assume any responsibility for the Easement or any improvements thereon or therein, until such offer has been accepted by a Certificate of Acceptance approved by the City Council of the City, or of the local governing bodies or its successors or assigns.

It is further understood that Grantor has agreed to grant this Easement for the purpose of allowing Grantee's construction of cut and fill manufactured slopes and drainage facilities on the Easement in connection with the a potential extension of Sun Lakes Boulevard, (also referred to as Westward Avenue), from Sunset Avenue to Highland Home Road in the City (the "Extension Improvements"), as detailed in an Agreement for the Funding of Measure A Regional Arterial Improvements with the City of Banning, dated October 30,2023, between the Riverside County Transportation Commission and the City ("Agreement No. 23-72-091-00). This Easement shall terminate on June 1, 2027, if construction of the Extension Improvements has not commenced prior to that date.

Grantee acknowledges and agrees that after the completion of the Extension Improvements, Grantee shall, within ninety (90) days of Grantor's written request, release, terminate and/or quitclaim Grantee's interest in this Easement to Grantor (or Grantor's successors or assigns) provided that (i) Grantor (or Grantor's successors or assigns) has substantially completed development of the Easement area with slopes and drainage culverts and utility system as may be reasonably required pursuant to a condition of approval imposed by the City onto Grantor (or its successors and assigns), and (ii) provided that City has been granted, by Grantor (or its successors and assigns), and has accepted a separate offer of dedication for necessary access to maintain and repair of the Extension Improvements .

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 1st day of July, 20 25.

NP Banning Industrial, LLC
Individual/Corporation (Type Name)

Signature

Nathaniel Hagedorn, Manager of NPD Management, LLC, Manager of NP Banning Industrial, LLC
Name and Title (Type)

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~~ Missouri)

County of Clay)

On July 1, 2025, before me, Lisa Beasley, Notary Public, personally appeared

Nathaniel Hagedorn, 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~~ Missouri that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)

LISA BEASLEY
Notary Public - Notary Seal
Platte County - State of Missouri
Commission Number 19497557
My Commission Expires Sep 10, 2027

EXHIBIT “A”

LEGAL DESCRIPTION

(**Attached**)

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

PARCEL 1:

BEING THOSE PORTIONS OF PARCELS 3 AND 4, AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, SOUTH 89°29'49" EAST, A DISTANCE OF 74.53 FEET;

THENCE LEAVING SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, AT A RIGHT ANGLE, NORTH 00°30'11" EAST, A DISTANCE OF 55.00 TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WESTWARD AVENUE FOR THE **TRUE POINT OF BEGINNING**,

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AND PARALLEL TO SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE, SOUTH 89°29'49" EAST, A DISTANCE OF 44.55 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET, SAID CURVE HEREAFTER REFERED TO AS **COURSE "A"**;

THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY, WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 338.83 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19";

THENCE NORTH 73°32'52" EAST, A DISTANCE OF 156.63 FEET, SAID COURSE HEREAFTER REFERRED TO AS **COURSE "B"**, TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

THENCE WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 371.39 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19" TO A POINT ON A LINE PARALLEL WITH AND DISTANT 205.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

THENCE ALONG SAID PARALLEL LINE, SOUTH 89°29'49" EAST, A DISTANCE OF 462.06 FEET TO A POINT ON THE NORTH LINE OF LOT "D" AS SHOWN ON SAID PARCEL MAP;

THENCE CONTINUING SOUTH 89°29'49" EAST, ALONG THE NORTH LINE OF SAID LOT "D", A DISTANCE OF 202.29 FEET;

THENCE LEAVING SAID NORTH LINE OF LOT "D", SOUTH 89°29'49" EAST, A DISTANCE OF 84. 19 FEET;

THENCE SOUTH 89°14'50" EAST, A DISTANCE OF 2305.40 FEET, SAID COURSE HEREAFTER REFERRED TO AS **COURSE "C"**, TO A POINT ON THE NORTH LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT "E" THE FOLLOWING FIVE (5) COURSES:

1. NORTH 89°29'49" WEST, A DISTANCE OF 500.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

2. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 381.40 FEET, THROUGH A CENTRAL ANGLE OF 17°24'44";

3. SOUTH 72°05'05" EAST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET;

4. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 285.38 FEET, THROUGH A CENTRAL ANGLE OF 14°16'50" TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 25.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 03°38'05" WEST;

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

5. NORTHWESTERLY AND NORTHERLY ALONG SAID CURVE, AN ARC DISTANCE OF 40.82 FEET, THROUGH A CENTRAL ANGLE OF 93°33'46" TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE (30.00 FOOT WESTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, NORTH 00°04'18" EAST, A DISTANCE OF 49.70 FEET;

THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 89°28'10" WEST, A DISTANCE OF 70.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1075.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 06°11'29" WEST, SAID NON-TANGENT CURVE ALSO BEING CONCENTRIC WITH AND DISTANT NORTHERLY 70.00 FEET, MEASURED RADIALLY FROM SAID NORTHERLY LINE OF LOT "E";

THE FOLLOWING FIVE COURSES (5) ARE PARALLEL AND CONCENTRIC WITH AND DISTANT NORTHERLY 70.00 FEET, MEASURED AT RIGHT ANGLES OR RADIALLY FROM SAID NORTHERLY LINE OF LOT "E";

1. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 219.97 FEET, THROUGH A CENTRAL ANGLE OF 11°43'26";

2. **THENCE** NORTH 72°05'05" WEST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1325.00 FEET;

3. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 402.67 FEET. THROUGH A CENTRAL ANGLE OF 17°24'44";

4. **THENCE** NORTH 89°29'49" WEST, A DISTANCE OF 500.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1325.00 FEET;

5. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 224.80 FEET, THROUGH A CENTRAL ANGLE OF 9°43'15" TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 50.00 FEET, MEASURED AT RIGHT ANGLES FROM THE AFOREMENTIONED **COURSE "C";**

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID PARALLEL LINE, NORTH 89°14'50" WEST, A DISTANCE OF 1905.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1330.00 FEET, SAID NON-TANGENT CURVE ALSO BEING CONCENTRIC WITH AND DISTANT NORTHERLY 75.00 FEET, MEASURED RADIALLY FROM SAID NORTHERLY LINE OF LOT "D", A RADIAL BEARING TO SAID CURVE BEARS NORTH 11°48'00" EAST;

THE FOLLOWING 2 COURSES (2) ARE CONCENTRIC AND PARALLEL WITH AND DISTANT NORTHERLY 75.00 FEET, MEASURED RADIALLY AND AT RIGHT ANGLES FORM SAID NORTHERLY LINE OF LOT "D";

1. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 262.23 FEET, THROUGH A CENTRAL ANGLE OF 11°17'49" TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 280.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

2. **THENCE** ALONG SAID PARALLEL LINE, NORTH 89°29'49" WEST, A DISTANCE OF 202.29 FEET;

THENCE LEAVING SAID NORTHERLY LINE OF LOT "D", ALONG SAID PARALLEL LINE TO WITH THE SOUTHERLY LINE OF SECTION 7, NORTH 89°29'49" WEST, A DISTANCE OF 462.06 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1321.54 FEET;

THENCE WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 391.65 FEET, THROUGH A CENTRAL ANGLE OF 16°58'48", TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 60.00 FEET, MEASURED AT RIGHT ANGLES FROM THE AFORMENTIONED **COURSE "B"**;

THENCE ALONG SAID PARALLEL LINE, SOUTH 73°32'52" WEST, A DISTANCE OF 156.63 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1085.00 FEET, SAID CURVE ALSO BEING CONCENTRIC WITH, AND DISTANT NORTHERLY 60.00 FEET, MEASURED RADIALLY FROM SAID **COURSE "A"**;

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID CONCENTRIC CURVE, AN ARC DISTANCE OF 321.08 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19" TO A POINT ON A LINE LYING PARALLEL WITH AND DISTANT NORTHERLY 115.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

THENCE NORTH 89°29'49" WEST, A DISTANCE OF 69.75 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD (50.00 FEET EASTERLY HALF WIDTH) AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SAID HIGHLAND HOME ROAD THE FOLLOWING TWO (2) COURSES:

1. SOUTH 00°09'58" WEST, A DISTANCE OF 35.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET;

2. SOURTHEASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 39.12 FEET, THROUGH A CENTRAL ANGLE OF 89°39'47" TO THE **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

BEING A PORTION OF PARCEL 3 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG THE WESTERLY LINE OF SAID SECTION 7 NORTH 00°09'58" EAST, A DISTANCE OF 79.56 FEET;

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

THENCE LEAVING SAID SECTION LINE, AT A RIGHT-ANGLE, SOUTH 89°50'02" EAST A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS NORTH 89°50'02" WEST, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD AND THE NORTHERLY RIGHT-OF-WAY LINE WESTWARD AVENUE (55.00 FEET IN HALF-WIDTH) THE FOLLOWING TWO (2) COURSES:

1) SOUTHERLY, SOUTHEASTERLY, AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°39'47", AN ARC DISTANCE OF 39.12 FEET;

2) SOUTH 89°29'49" EAST, A DISTANCE OF 23.22 FEET;

THENCE LEAVING SAID WESTWARD AVENUE NORTHERLY RIGHT-OF-WAY LINE NORTH 79°43'21" WEST, A DISTANCE OF 27.18 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 21.00 FEET;

THENCE WESTERLY, NORTHWESTERLY, AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 79°02'38", AN ARC DISTANCE OF 28.97 FEET;

THENCE NORTH 89°50'02" WEST, A DISTANCE OF 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

ALSO **EXCEPTING THEREFROM**, THE FOLLOWING DESCRIBED PROPERTY:

BEING A PORTION OF PARCEL 4 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE EASTERLY LINE OF SAID SECTION 7 NORTH 00°04'18" EAST, A DISTANCE OF 108.73 FEET;

THENCE LEAVING SAID SECTION LINE, AT A RIGHT ANGLE, NORTH 89°55'42" WEST A DISTANCE OF 30.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE AND THE NORTHERLY LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP, THE FOLLOWING THREE (3) COURSES:

1) SOUTH 00°04'18" WEST, A DISTANCE OF 26.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 25.00 FEET;

2) SOUTHERLY, SOUTHWESTERLY, AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 93°33'46", AN ARC DISTANCE OF 40.82 FEET, TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY, AND HAVING A RADIUS OF 1145.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID CURVE BEARS SOUTH 03°38'05" WEST;

3) WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°34'56", AN ARC DISTANCE OF 31.62 FEET, TO A POINT OF CUSP OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 53.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS SOUTH 22°00'19" EAST;

THENCE NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE 67°40'09", AN ARC DISTANCE OF 62.60 FEET;

THENCE NORTH 89°28'10" EAST, A DISTANCE OF 25.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 7.446 ACRES (324,356 SQ. FT.) MORE OR LESS

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

PARCEL 2:

THAT PORTION OF PARCEL 7, AS SHOWN BY PARCEL MAP NO. 28971 ON FILE IN BOOK 198 OF PARCEL MAPS, PAGES 8 THROUGH 10, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 18, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY SECTION CORNER OF SECTION 18, AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE NORTHERLY LINE OF SAID SECTION 18, NORTH 89°29'49" WEST, A DISTANCE OF 552.42 FEET;

THENCE LEAVING SAID NORTHERLY LINE OF SECTION 18, AT RIGHT ANGLES, SOUTH 00'30'11" EAST, A DISTANCE OF 55.00 FEET TO A POINT THE SOUTHERLY RIGHT-OF-WAY LINE OF WESTWARD AVENUE (55.00 FEET SOUTHERLY HALF WIDTH) AS SHOWN ON SAID MAP, SAID POINT ALSO BEING ON THE NORTHERLY LINE OF SAID PARCEL 7;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, SOUTH 89°29'49" EAST, A DISTANCE OF 284.70 FEET TO THE NORTHWESTERLY CORNER OF GRANT DEED TO THE CITY OF BANNING, RECORDED JANUARY 15, 1998, AS INSTURMENT NO 015506, OFFICIAL RECORDS OF SAID COUNTY;

THENCE SOUTH 00°09'44" WEST ALONG THE WESTERLY LINE OF SAID GRANT DEED, A DISTANCE OF 79.05 FEET TO THE SOUTHWESTERLY CORNER OF SAID GRANT DEED;

THENCE SOUTH 89°29'49" EAST, ALONG THE SOUTHERLY LINE OF SAID GRANT DEED, A DISTANCE OF 50.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID GRANT DEED;

THENCE NORTH 00°09'44" EAST, ALONG THE EASTERLY LINE OF SAID GRANT DEED, A DISTANCE OF 79.05 FEET TO A POINT ON SAID SOUTHERLY RIGHT-A-WAY LINE ON WESTWARD AVENUE;

EXHIBIT "A"
SLOPE AND DRAINAGE EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY OF WESTWARD AVENUE SOUTH 89°29'49" EAST, A DISTANCE OF 151.27 FEET

THENCE SOUTH 44°50'55" EAST, CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF WESTWARD AVENUE, A DISTANCE OF 32.50 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE (44.00 FEET WESTERLY HALF WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG SAID WESTERLY RIGHT-A-WAY LINE, SOUTH 00°01'42" WEST, A DISTANCE OF 77.19 FEET;

THENCE LEAVING SAID WESTERLY RIGHT-A-WAY LINE, NORTH 89°29'49" WEST, A DISTANCE OF 509.71 FEET;

THENCE NORTH 00°30'11" EAST, AT RIGHT ANGLES, A DISTANCE OF 100.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 1.072 ACRES, MORE OR LESS.

SEE PLAT ATTACHED HERETO AS EXHIBIT "B" AND MADE A PART HEREOF.
PREPARED UNDER MY SUPERVISION

Michael E. Johnson, L.S. 7673 — 01/24/2025 Date



Prepared By: CGS
Checked By: MEJ

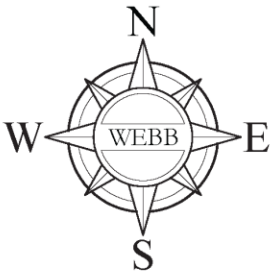
EXHIBIT “B”

DEPICTION

(Attached)

EXHIBIT "B"

SLOPE & DRAINAGE EASEMENT



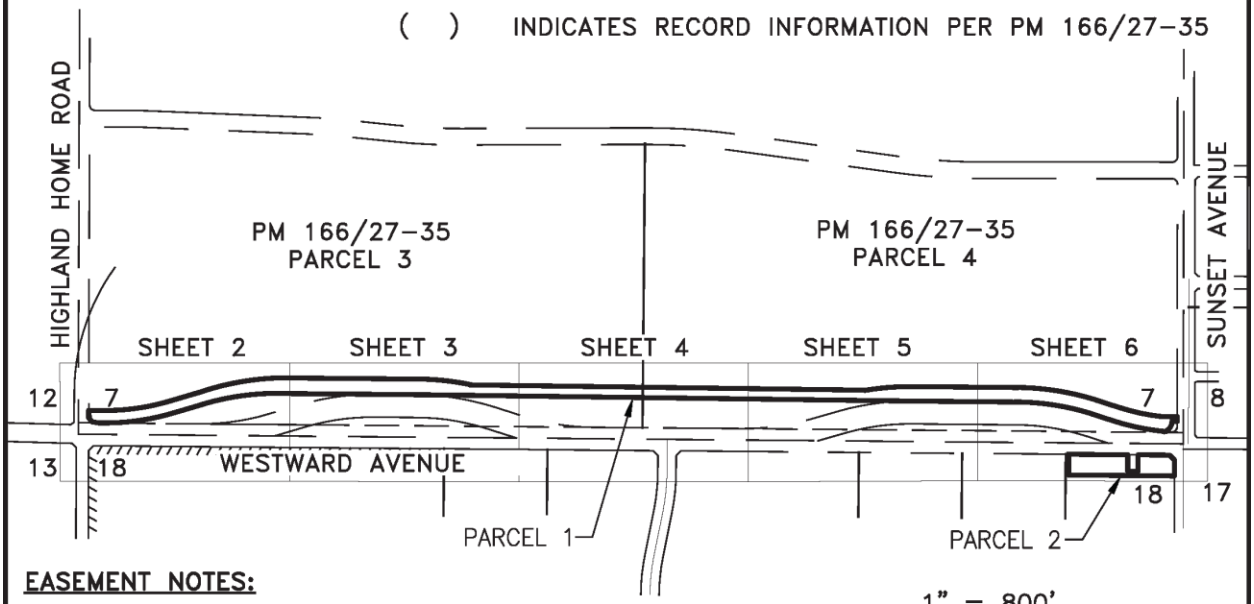
LEGEND:

PARCEL 1 = 7.446 ACRES MORE OR LESS

PARCEL 2 = 1.072 ACRES MORE OR LESS

RESTRICTED ACCESS

( ) INDICATES RECORD INFORMATION PER PM 166/27-35



EASEMENT NOTES:

(A) = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. NO. 91551, REC. 05/01/1985, O.R.

(B) = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

1" = 800'

800 0 800

RECOMMENDED FOR ACCEPTANCE:

BY ROBERT C. COLLERTON PLS 7731,
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEC. 7 & 18, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

H:\2020\20-0126\Drawings\Mapping\Legals & Plats\TCE\20-0126 TCE 1.dwg 1/24/2025 10:51 AM Carlossi

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 1 OF 9

W.O. 20-0126

SCALE: 1" = 800' DRWN BY CGS DATE 11/07/24 CHKD BY MEJ DATE 11/15/24

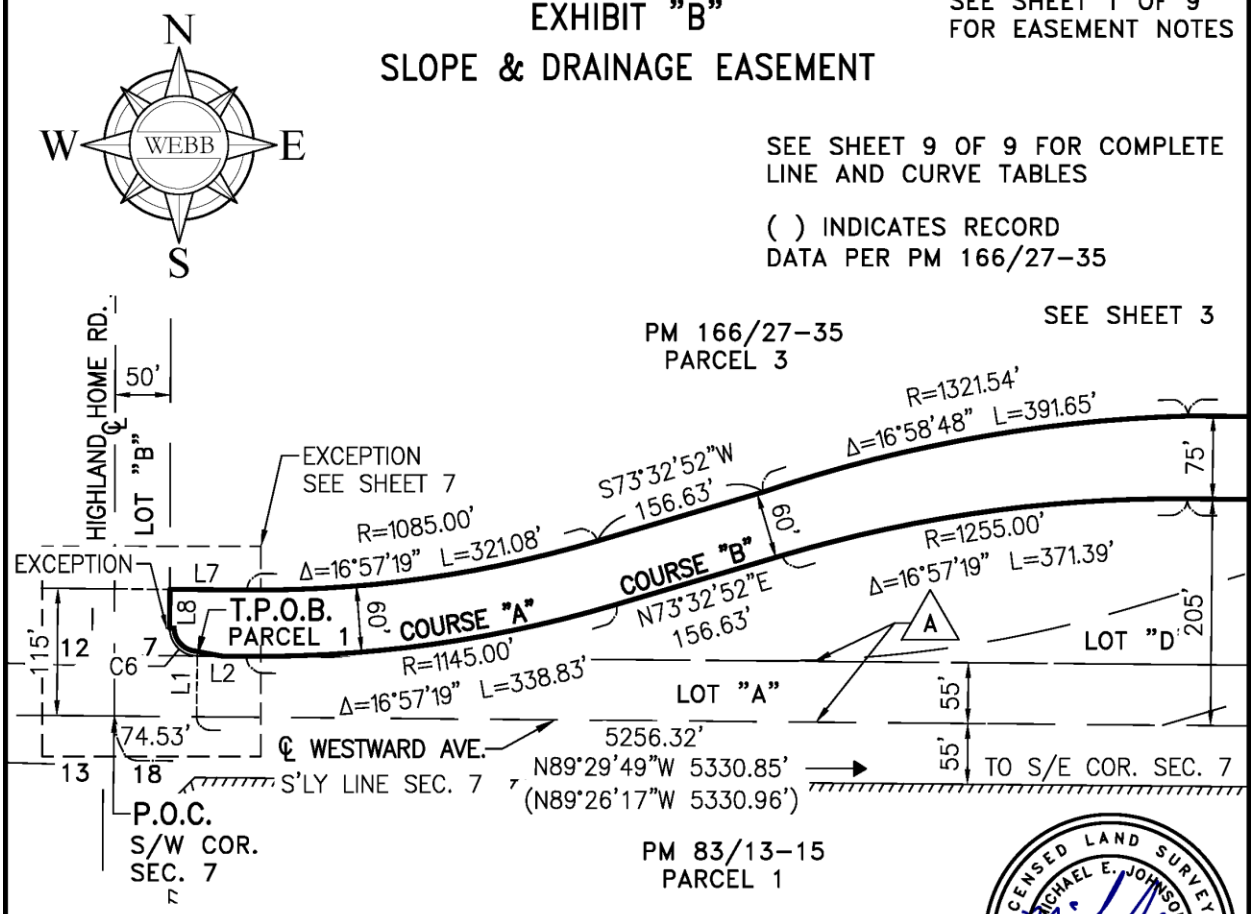
SUBJECT: SLOPE & DRAINAGE EASEMENT

EXHIBIT "B"
SLOPE & DRAINAGE EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27-35



LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	S89° 29' 49"E	44.55
L7	N89° 29' 49"W	69.75
L8	S00° 09' 58"W	35.15

1" = 150'

150 0 150

SEC. 7, T3S, R1E, SBM

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C6	25.00	89°39'47"	39.12

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

H:\2020\20-0126\Drawings\Mapping\Legals & Plats\TCE\20-0126 TCE 1.dwg 1/24/2025 10:51 AM
Carlossi

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT.
ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 2 OF 9

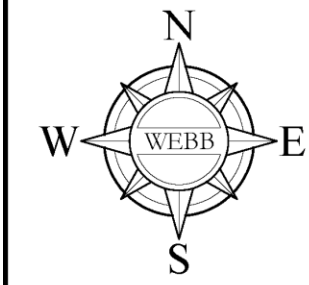
W.O. 20-0126

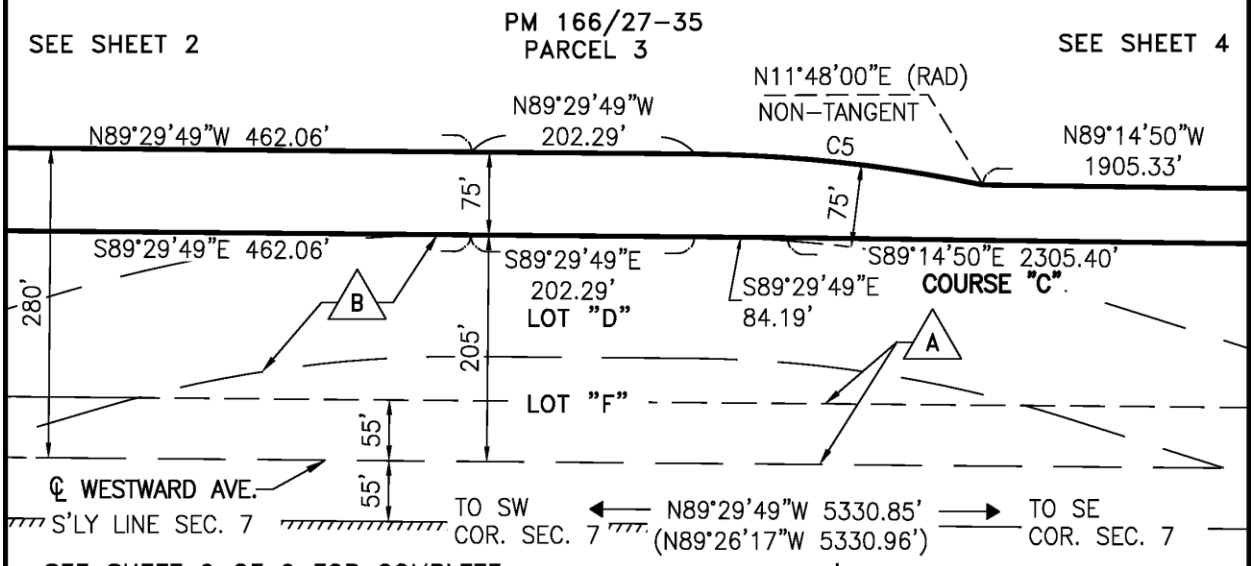
SCALE: 1" = 150' DRWN BY CGS DATE 11/07/24
CHKD BY MEJ DATE 11/15/24

SUBJECT: SLOPE & DRAINAGE EASEMENT

EXHIBIT "B"
SLOPE & DRAINAGE EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES





SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27-35

PM 83/13-15
PARCEL 1

PM 198/8-10
PARCEL 1

1" = 150'

150 0 150

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C5	1330.00	11°17'49"	262.23

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

H:\2020\20-0126\Drawings\Mapping\Legals & Plats\TCE\20-0126 TCE 1.dwg 1/24/2025 10:51 AM
Carlossi

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT.
ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 3 OF 9

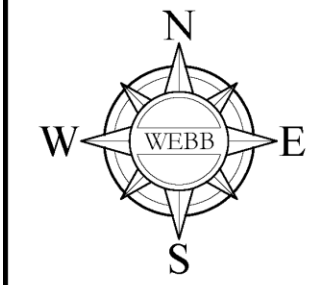
W.O. 20-0126

SCALE: 1" = 150' DRWN BY CGS DATE 11/07/24
CHKD BY MEJ DATE 11/15/24

SUBJECT: SLOPE & DRAINAGE EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

EXHIBIT "B"
SLOPE & DRAINAGE EASEMENT



PM 166/27–35
PARCEL 3

PM 166/27–35
PARCEL 4

SEE SHEET 3

SEE SHEET 5

N89°14'50"W 1905.33'

50'

50'

S89°14'50"E 2305.40'
COURSE "C"

B

A

℄ WESTWARD AVE.
S'LY LINE SEC. 7

55'

55'

LOT "A"

TO SW
COR. SEC. 7

N89°29'49"W 5330.85'
(N89°26'17"W 5330.96')

TO SE
COR. SEC. 7

PM
198/8–10
PARCEL 1

PM 198/8–10
PARCEL 2

PARCEL 3

SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27–35

℄ CHIPMUNK TRAIL

1" = 150'

150 0 150

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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SHEET 4 OF 9

W.O. 20-0126

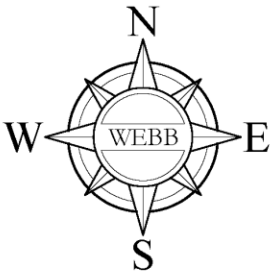
SCALE: 1" = 150'

DRWN BY CGS DATE 11/07/24
CHKD BY MEJ DATE 11/15/24

SUBJECT: SLOPE & DRAINAGE EASEMENT

EXHIBIT "B"
SLOPE & DRAINAGE EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

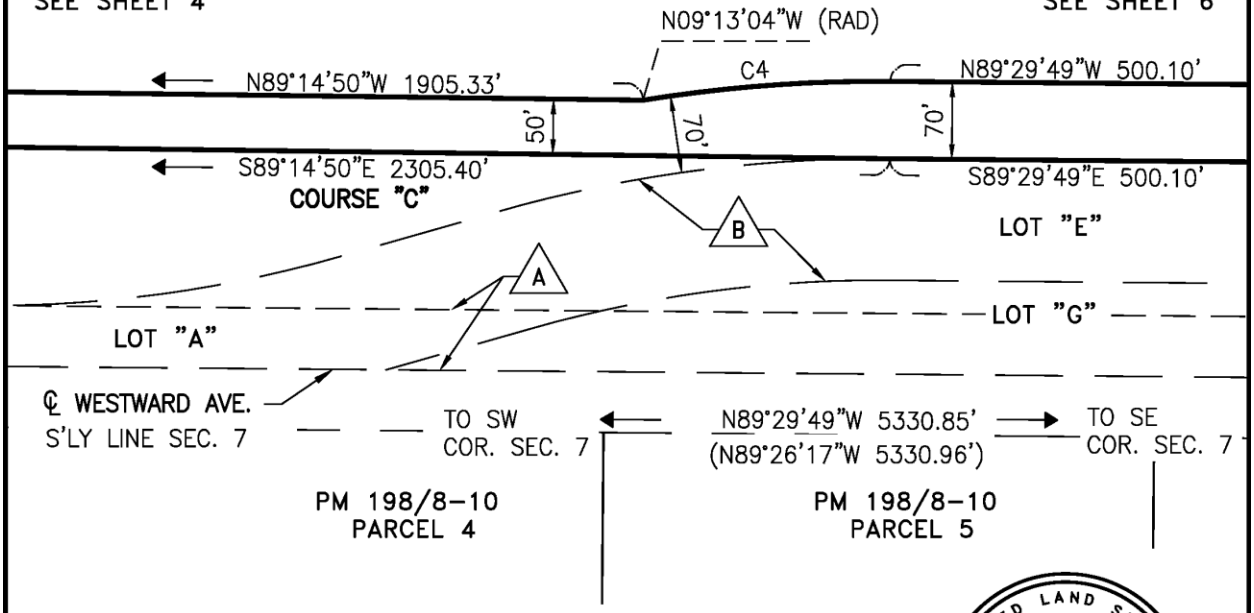


CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	1145.00	14°16'50"	285.38
C2	25.00	93°33'46"	40.82
C3	1075.00	11°43'26"	219.97
C4	1325.00	9°43'15"	224.80

PM 166/27-35
PARCEL 4

SEE SHEET 4

SEE SHEET 6



SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27-35

1" = 150'

150 0 150

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

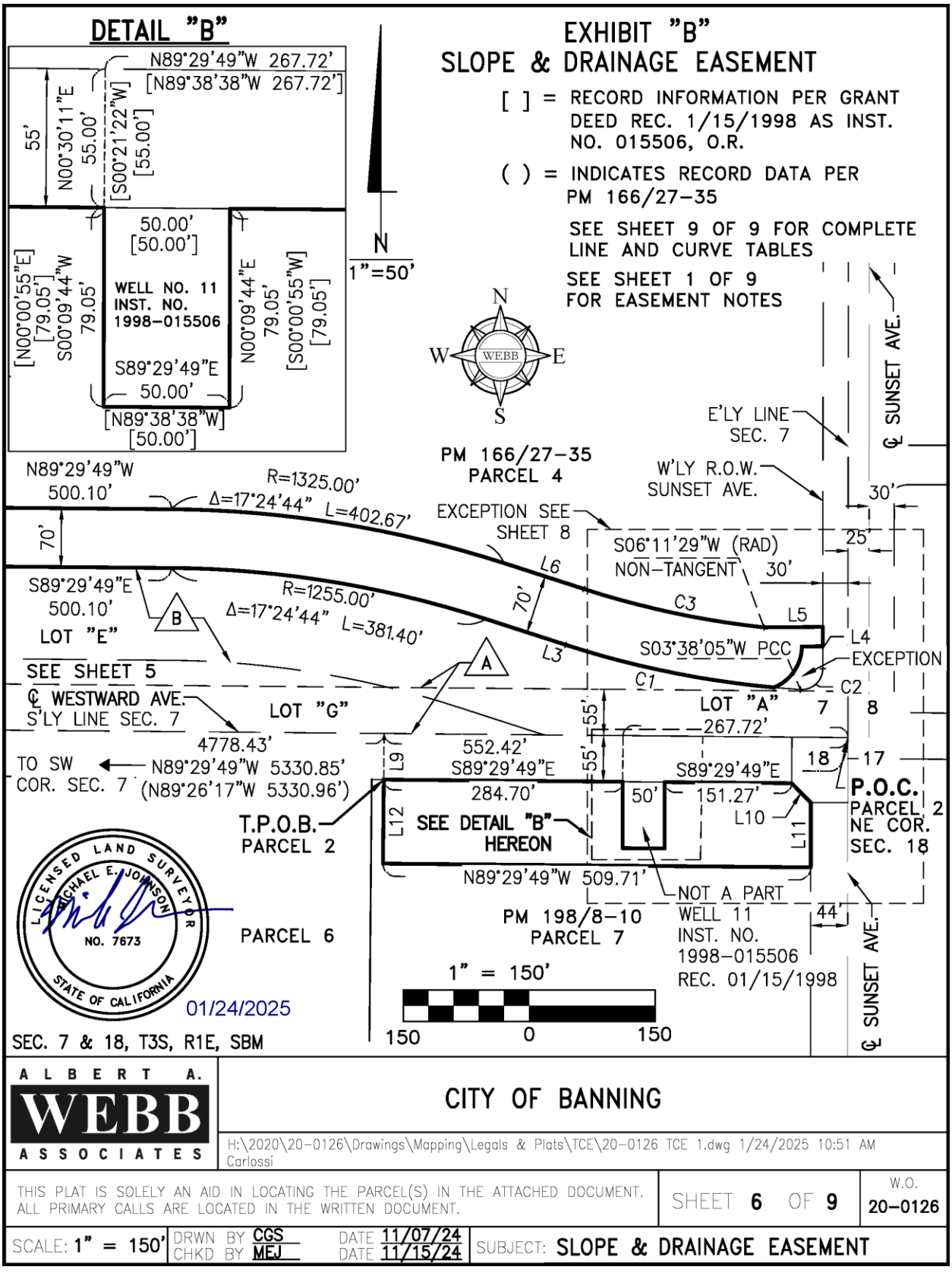
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Carlossi

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SHEET 5 OF 9

W.O. 20-0126

SCALE: 1" = 150' | DRWN BY CGS DATE 11/07/24 | CHKD BY MEJ DATE 11/15/24 | SUBJECT: SLOPE & DRAINAGE EASEMENT



ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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SHEET 6 OF 9

W.O. 20-0126

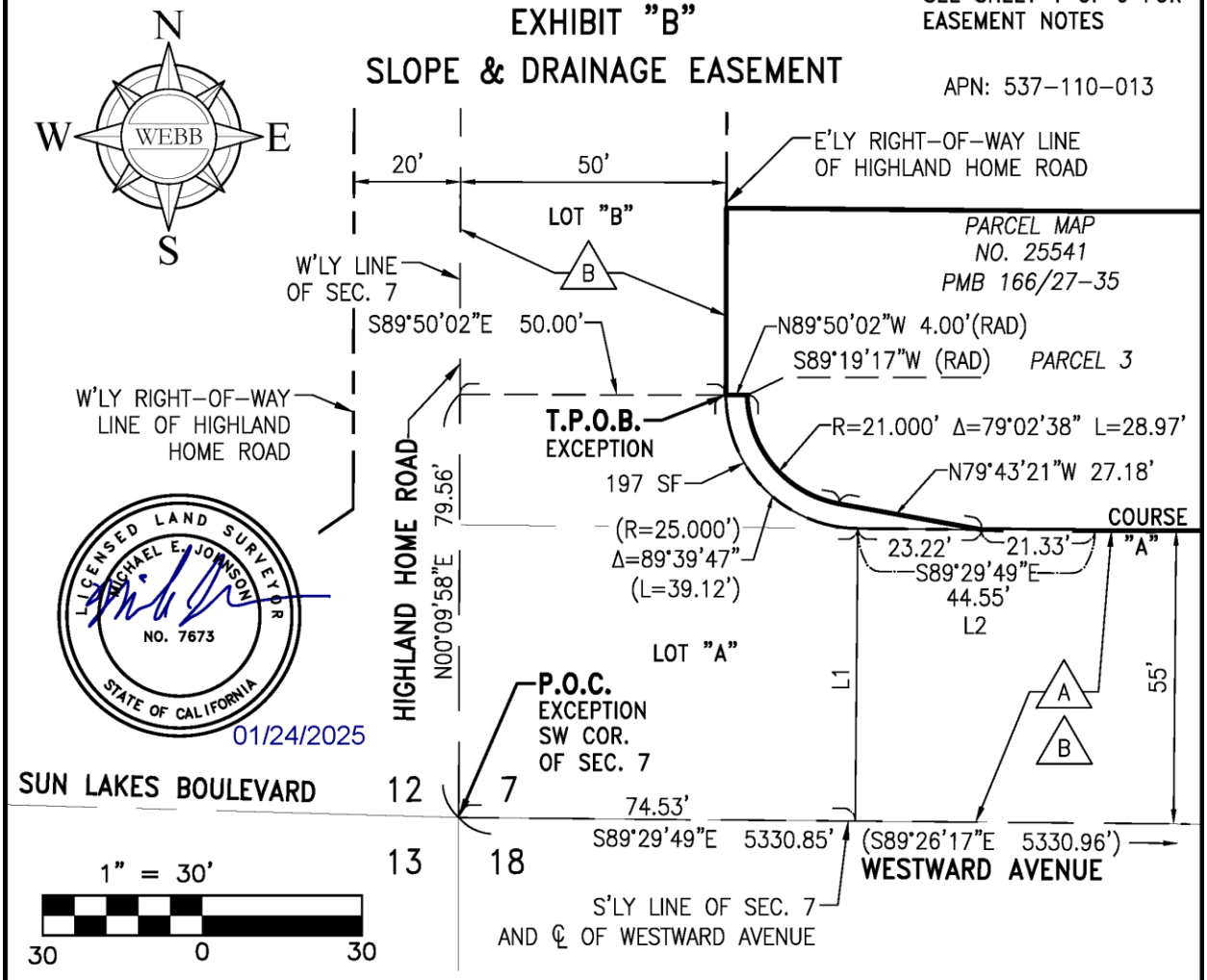
SCALE: 1" = 150' | DRWN BY CGS DATE 11/07/24 | CHKD BY MEJ DATE 11/15/24 | SUBJECT: SLOPE & DRAINAGE EASEMENT

EXHIBIT "B"

SLOPE & DRAINAGE EASEMENT

SEE SHEET 1 OF 9 FOR EASEMENT NOTES

APN: 537-110-013



LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA
01/24/2025

A = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. #91551, REC. 05/01/1985, O.R.

B = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

() = RECORD INFORMATION PER PM 166/27-35

SEC. 7, T3S, R1E, SBM

SEE SHEET 9 OF 9 FOR COMPLETE LINE AND CURVE TABLES

LINE TABLE		
#	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	N89° 29' 49"W	44.55

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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SHEET 7 OF 9

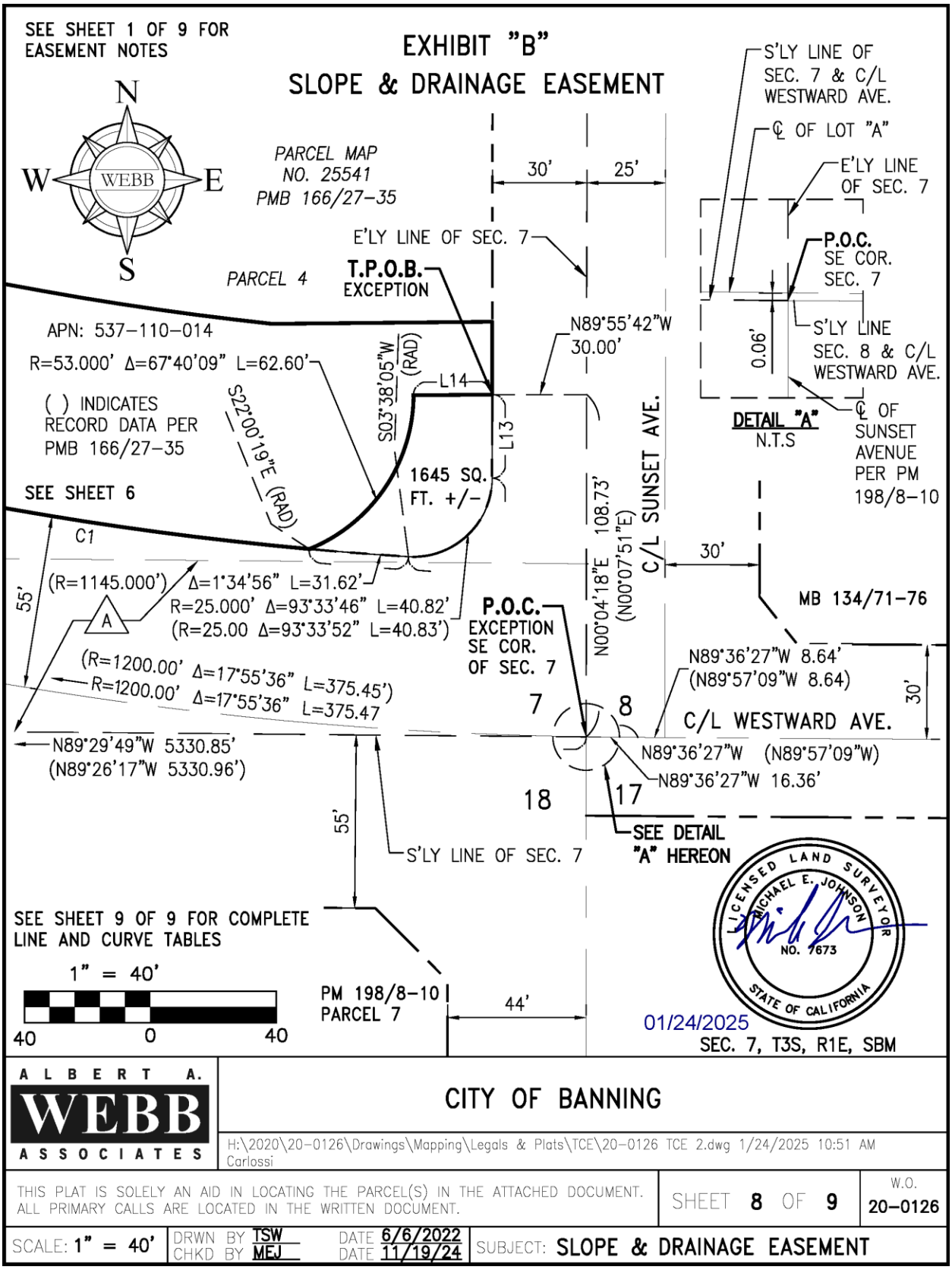
W.O. 20-0126

SCALE: 1" = 30'

DRWN BY TSW DATE 6/6/2022

CHKD BY MEJ DATE 11/19/24

SUBJECT: SLOPE & DRAINAGE EASEMENT



ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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SHEET 8 OF 9

W.O. 20-0126

SCALE: 1" = 40' | DRWN BY TSW DATE 6/6/2022 | CHKD BY MEJ DATE 11/19/24 | SUBJECT: SLOPE & DRAINAGE EASEMENT

EXHIBIT "B"
SLOPE & DRAINAGE EASEMENT

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	S89° 29' 49"E	44.55
L3	S72° 05' 05"E	100.00
L4	N00° 04' 18"E	49.70
L5	S89° 28' 10"W	70.00
L6	N72° 05' 05"W	100.00
L7	N89° 29' 49"W	69.75
L8	S00° 09' 58"W	35.15
L9	S00° 30' 11"W	55.00
L10	S44° 55' 05"E	32.50
L11	S00° 01' 42"W	77.19
L12	N00° 30' 11"E	100.00

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L13	S00° 04' 18"W	26.59
L14	N89° 28' 10"E	25.00

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	1145.00	14°16'50"	285.38
C2	25.00	93°33'46"	40.82
C3	1075.00	11°43'26"	219.97
C4	1325.00	9°43'15"	224.80
C5	1330.00	11°17'49"	262.23
C6	25.00	89°39'47"	39.12

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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Carlossi

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SHEET 9 OF 9

W.O. 20-0126

SCALE: N/A

DRWN BY CGS DATE 11/07/24
CHKD BY MEJ DATE 11/15/24

SUBJECT: SLOPE & DRAINAGE EASEMENT

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. 537-110-013 [X] Portions
Assessor 's Parcel No. 537-110-014 [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 the undersigned ("Grantor") and the CITY OF BANNING, a general law city ("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. Grantor is the record fee owner of that certain real property located north of Westward Avenue, east of Highland Home Road, and west of Sunset Ave in the City of Banning, State of California, identified as Riverside County Tax Assessor's Parcel Numbers 537-110-013 and 537-110-014 (the "**Grantor Property**").

B. Grantor hereby grant to the City an easement to utilize approximately 8.518 acres (the "**Easement**") of the Grantor Property, as described on Exhibit "A" and such Easement as depicted on Exhibit "B", attached hereto and made a part hereof by this reference, for temporary public use, namely public street purposes and all uses necessary or convenient thereto in connection with the Sun Lakes Boulevard Extension Street Improvement Project ("**Project**"). The Project is intended to improve circulation in this area of the City. The Project, as planned and designed, is intended to provide for the construction of Sun Lakes Boulevard for approximately 1.01 miles concurrent or northerly of existing Westward Ave from Highland Home Road to the west and Sunset Avenue to the east. The Project is intended to include grading of the roadbed, drainage culverts and devices, roadway improvements, electric utility improvements, City owned and third party utility relocations, street lighting, signing, and striping.

C. Grantor agrees to allow the City to access Grantor's property for a term of 24 months (the "**Initial Term**") from the issuance of a notice to proceed to the City's contractor. The

When Recorded Mail To:
City Clerk
City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE.

SPACE FOR RECORDER'S USE

CERTIFICATE OF ACCEPTANCE

This is to certify that the TEMPORARY CONSTRUCTION EASEMENT from **NP Banning Industrial, LLC** dated 7/1/25, is hereby accepted by THE CITY OF BANNING pursuant to authority conferred by the City Council this 8th day of July, 2025, and the grantees consent to recordation thereof by its duly authorized agent.

Dated:_____

CITY OF BANNING

By_____
Vicky Sellers
City Clerk

months (the "**Initial Term**") from the issuance of a notice to proceed to the City's contractor. The City may extend the term for an additional 12 months (the "**Extended Term**") with prior written notice given to the Grantor no less than thirty (30) days and no more than ninety (90) days before the expiration of the Initial Term. If Grantee fails to so timely provide such notice, this Easement shall automatically terminate pursuant to Section E below.

D. Grantor agree to permit City use of the easement property at no cost to the City.

E. Grantee acknowledges and agrees that after the completion of the Project, this Easement shall automatically terminate and be of no further force or effect and Grantee shall have no further rights related thereto, without requirement of any additional documentation from Grantor or Grantee. However, following such completion, and up request from Grantor, Grantee shall, within ninety (90) days of Grantor's written request, release, terminate and/or quitclaim Grantee's interest in this Easement to Grantor (or Grantor's successors or assigns).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their duly authorized representatives.

NP Banning Industrial, LLC

By: _____
Name: Nathaniel Hagedorn
Title: Manager of NPD Management, LLC, Manager of NP Banning Industrial, LLC
Date: July 1, 2025

CITY OF BANNING,
a municipal corporation,

By: _____

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~~ Missouri)
County of Clay)

On July 1, 2025, before me, Lisa Beasley, a Notary Public, personally appeared Nathaniel Hagedorn, 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~~ Missouri that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

LISA BEASLEY
Notary Public - Notary Seal
Platte County - State of Missouri
Commission Number 19497557
My Commission Expires Sep 10, 2027

Signature Lisa Beasley

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, 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

EXHIBIT “A”

LEGAL DESCRIPTION

(Attached)

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

PARCEL 1:

BEING THOSE PORTIONS OF PARCELS 3 AND 4, AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, SOUTH 89°29'49" EAST, A DISTANCE OF 74.53 FEET;

THENCE LEAVING SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE OF WESTWARD AVENUE, AT A RIGHT ANGLE, NORTH 00°30'11" EAST, A DISTANCE OF 55.00 TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID WESTWARD AVENUE FOR THE **TRUE POINT OF BEGINNING**,

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AND PARALLEL TO SAID SOUTHERLY LINE OF SECTION 7 AND SAID CENTERLINE, SOUTH 89°29'49" EAST, A DISTANCE OF 44.55 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET, SAID CURVE HEREAFTER REFERED TO AS **COURSE "A"**;

THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY, WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 338.83 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19";

THENCE NORTH 73°32'52" EAST, A DISTANCE OF 156.63 FEET, SAID COURSE HEREAFTER REFERRED TO AS **COURSE "B"**, TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THENCE WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 371.39 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19" TO A POINT ON A LINE PARALLEL WITH AND DISTANT 205.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

THENCE ALONG SAID PARALLEL LINE, SOUTH 89°29'49" EAST, A DISTANCE OF 462.06 FEET TO A POINT ON THE NORTH LINE OF LOT "D" AS SHOWN ON SAID PARCEL MAP;

THENCE CONTINUING SOUTH 89°29'49" EAST, ALONG THE NORTH LINE OF SAID LOT "D", A DISTANCE OF 202.29 FEET;

THENCE LEAVING SAID NORTH LINE OF LOT "D", SOUTH 89°29'49" EAST, A DISTANCE OF 84. 19 FEET;

THENCE SOUTH 89°14'50" EAST, A DISTANCE OF 2305.40 FEET, SAID COURSE HEREAFTER REFERRED TO AS **COURSE "C"**, TO A POINT ON THE NORTH LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT "E" THE FOLLOWING FIVE (5) COURSES:

1. NORTH 89°29'49" WEST, A DISTANCE OF 500.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1255.00 FEET;

2. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 381.40 FEET, THROUGH A CENTRAL ANGLE OF 17°24'44";

3. SOUTH 72°05'05" EAST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1145.00 FEET;

4. WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 285.38 FEET, THROUGH A CENTRAL ANGLE OF 14°16'50" TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 25.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 03°38'05" WEST;

5. NORTHWESTERLY AND NORTHERLY ALONG SAID CURVE, AN ARC DISTANCE OF 40.82 FEET, THROUGH A CENTRAL ANGLE OF 93°33'46" TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE (30.00 FOOT WESTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, NORTH 00°04'18" EAST, A DISTANCE OF 49.70 FEET;

THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 89°28'10" WEST, A DISTANCE OF 70.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1075.00 FEET, A RADIAL BEARING TO SAID CURVE BEARS SOUTH 06°11'29" WEST, SAID NON-TANGENT CURVE ALSO BEING CONCENTRIC WITH AND DISTANT NORTHERLY 70.00 FEET, MEASURED RADIALLY FROM SAID NORTHERLY LINE OF LOT "E";

THE FOLLOWING FIVE COURSES (5) ARE PARALLEL AND CONCENTRIC WITH AND DISTANT NORTHERLY 70.00 FEET, MEASURED AT RIGHT ANGLES OR RADIALLY FROM SAID NORTHERLY LINE OF LOT "E";

1. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 219.97 FEET, THROUGH A CENTRAL ANGLE OF 11°43'26";

2. **THENCE** NORTH 72°05'05" WEST, A DISTANCE OF 100.00 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1325.00 FEET;

3. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 402.67 FEET. THROUGH A CENTRAL ANGLE OF 17°24'44";

4. **THENCE** NORTH 89°29'49" WEST, A DISTANCE OF 500.10 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1325.00 FEET;

5. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 224.80 FEET, THROUGH A CENTRAL ANGLE OF 9°43'15" TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 50.00 FEET, MEASURED AT RIGHT ANGLES FROM THE AFOREMENTIONED **COURSE "C";**

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID PARALLEL LINE, NORTH 89°14'50" WEST, A DISTANCE OF 1905.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1330.00 FEET, SAID NON-TANGENT CURVE ALSO BEING CONCENTRIC WITH AND DISTANT NORTHERLY 75.00 FEET, MEASURED RADIALLY FROM SAID NORTHERLY LINE OF LOT "D", A RADIAL BEARING TO SAID CURVE BEARS NORTH 11°48'00" EAST;

THE FOLLOWING 2 COURSES (2) ARE CONCENTRIC AND PARALLEL WITH AND DISTANT NORTHERLY 75.00 FEET, MEASURED RADIALLY AND AT RIGHT ANGLES FORM SAID NORTHERLY LINE OF LOT "D";

1. **THENCE** WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 262.23 FEET, THROUGH A CENTRAL ANGLE OF 11°17'49" TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 280.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

2. **THENCE** ALONG SAID PARALLEL LINE, NORTH 89°29'49" WEST, A DISTANCE OF 202.29 FEET;

THENCE LEAVING SAID NORTHERLY LINE OF LOT "D", ALONG SAID PARALLEL LINE TO WITH THE SOUTHERLY LINE OF SECTION 7, NORTH 89°29'49" WEST, A DISTANCE OF 462.06 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1321.54 FEET;

THENCE WESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 391.65 FEET, THROUGH A CENTRAL ANGLE OF 16°58'48", TO A POINT ON A LINE PARALLEL WITH AND DISTANT NORTHERLY 60.00 FEET, MEASURED AT RIGHT ANGLES FROM THE AFORMENTIONED **COURSE "B"**;

THENCE ALONG SAID PARALLEL LINE, SOUTH 73°32'52" WEST, A DISTANCE OF 156.63 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1085.00 FEET, SAID CURVE ALSO BEING CONCENTRIC WITH, AND DISTANT NORTHERLY 60.00 FEET, MEASURED RADIALLY FROM SAID **COURSE "A"**;

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID CONCENTRIC CURVE, AN ARC DISTANCE OF 321.08 FEET, THROUGH A CENTRAL ANGLE OF 16°57'19" TO A POINT ON A LINE LYING PARALLEL WITH AND DISTANT NORTHERLY 115.00 FEET, MEASURED AT RIGHT ANGLES FROM SAID SOUTHERLY LINE OF SECTION 7;

THENCE NORTH 89°29'49" WEST, A DISTANCE OF 69.75 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD (50.00 FEET EASTERLY HALF WIDTH) AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF SAID HIGHLAND HOME ROAD THE FOLLOWING TWO (2) COURSES:

1. SOUTH 00°09'58" WEST, A DISTANCE OF 35.15 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET;

2. SOURTHEASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 39.12 FEET, THROUGH A CENTRAL ANGLE OF 89°39'47" TO THE **TRUE POINT OF BEGINNING**.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

BEING A PORTION OF PARCEL 3 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID SECTION 7, SAID CORNER ALSO BEING THE CENTERLINE INTERSECTION OF WESTWARD AVENUE (55.00 FEET IN NORTHERLY HALF-WIDTH) WITH HIGHLAND HOME ROAD (50.00 FEET IN EASTERLY HALF-WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG THE WESTERLY LINE OF SAID SECTION 7 NORTH 00°09'58" EAST, A DISTANCE OF 79.56 FEET;

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THENCE LEAVING SAID SECTION LINE, AT A RIGHT-ANGLE, SOUTH 89°50'02" EAST A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS NORTH 89°50'02" WEST, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF HIGHLAND HOME ROAD AND THE NORTHERLY RIGHT-OF-WAY LINE WESTWARD AVENUE (55.00 FEET IN HALF-WIDTH) THE FOLLOWING TWO (2) COURSES:

1) SOUTHERLY, SOUTHEASTERLY, AND EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°39'47", AN ARC DISTANCE OF 39.12 FEET;

2) SOUTH 89°29'49" EAST, A DISTANCE OF 23.22 FEET;

THENCE LEAVING SAID WESTWARD AVENUE NORTHERLY RIGHT-OF-WAY LINE NORTH 79°43'21" WEST, A DISTANCE OF 27.18 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 21.00 FEET;

THENCE WESTERLY, NORTHWESTERLY, AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 79°02'38", AN ARC DISTANCE OF 28.97 FEET;

THENCE NORTH 89°50'02" WEST, A DISTANCE OF 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

ALSO **EXCEPTING THEREFROM**, THE FOLLOWING DESCRIBED PROPERTY:

BEING A PORTION OF PARCEL 4 AS SHOWN BY PARCEL MAP NO. 25541 ON FILE IN BOOK 166 OF PARCEL MAPS, PAGES 27 THROUGH 35, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 7, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 7 AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE EASTERLY LINE OF SAID SECTION 7 NORTH 00°04'18" EAST, A DISTANCE OF 108.73 FEET;

THENCE LEAVING SAID SECTION LINE, AT A RIGHT ANGLE, NORTH 89°55'42" WEST A DISTANCE OF 30.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE, ALSO BEING THE **TRUE POINT OF BEGINNING**;

THENCE ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE AND THE NORTHERLY LINE OF LOT "E" AS SHOWN ON SAID PARCEL MAP, THE FOLLOWING THREE (3) COURSES:

1) SOUTH 00°04'18" WEST, A DISTANCE OF 26.59 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHWESTERLY, AND HAVING A RADIUS OF 25.00 FEET;

2) SOUTHERLY, SOUTHWESTERLY, AND WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 93°33'46", AN ARC DISTANCE OF 40.82 FEET, TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHERLY, AND HAVING A RADIUS OF 1145.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID CURVE BEARS SOUTH 03°38'05" WEST;

3) WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°34'56", AN ARC DISTANCE OF 31.62 FEET, TO A POINT OF CUSP OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 53.00 FEET, AND TO WHICH A RADIAL BEARING TO SAID POINT BEARS SOUTH 22°00'19" EAST;

THENCE NORTHEASTERLY AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE 67°40'09", AN ARC DISTANCE OF 62.60 FEET;

THENCE NORTH 89°28'10" EAST, A DISTANCE OF 25.00 FEET TO THE **TRUE POINT OF BEGINNING.**

CONTAINING 7.446 ACRES (324,356 SQ. FT.) MORE OR LESS

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

PARCEL 2:

THAT PORTION OF PARCEL 7, AS SHOWN BY PARCEL MAP NO. 28971 ON FILE IN BOOK 198 OF PARCEL MAPS, PAGES 8 THROUGH 10, INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, LYING WITHIN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, SECTION 18, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY SECTION CORNER OF SECTION 18, AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE NORTHERLY LINE OF SAID SECTION 18, NORTH 89°29'49" WEST, A DISTANCE OF 552.42 FEET;

THENCE LEAVING SAID NORTHERLY LINE OF SECTION 18, AT RIGHT ANGLES, SOUTH 00'30'11" EAST, A DISTANCE OF 55.00 FEET TO A POINT THE SOUTHERLY RIGHT-OF-WAY LINE OF WESTWARD AVENUE (55.00 FEET SOUTHERLY HALF WIDTH) AS SHOWN ON SAID MAP, SAID POINT ALSO BEING ON THE NORTHERLY LINE OF SAID PARCEL 7;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, SOUTH 89°29'49" EAST, A DISTANCE OF 284.70 FEET TO THE NORTHWESTERLY CORNER OF GRANT DEED TO THE CITY OF BANNING, RECORDED JANUARY 15, 1998, AS INSTURMENT NO 015506, OFFICIAL RECORDS OF SAID COUNTY;

THENCE SOUTH 00°09'44" WEST ALONG THE WESTERLY LINE OF SAID GRANT DEED, A DISTANCE OF 79.05 FEET TO THE SOUTHWESTERLY CORNER OF SAID GRANT DEED;

THENCE SOUTH 89°29'49" EAST, ALONG THE SOUTHERLY LINE OF SAID GRANT DEED, A DISTANCE OF 50.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID GRANT DEED;

THENCE NORTH 00°09'44" EAST, ALONG THE EASTERLY LINE OF SAID GRANT DEED, A DISTANCE OF 79.05 FEET TO A POINT ON SAID SOUTHERLY RIGHT-A-WAY LINE ON WESTWARD AVENUE;

EXHIBIT "A"
TEMPORARY CONSTRUCTION EASEMENT
LEGAL DESCRIPTION

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY OF WESTWARD AVENUE SOUTH 89°29'49" EAST, A DISTANCE OF 151.27 FEET

THENCE SOUTH 44°50'55" EAST, CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF WESTWARD AVENUE, A DISTANCE OF 32.50 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SUNSET AVENUE (44.00 FEET WESTERLY HALF WIDTH) AS SHOWN ON SAID MAP;

THENCE ALONG SAID WESTERLY RIGHT-A-WAY LINE, SOUTH 00°01'42" WEST, A DISTANCE OF 77.19 FEET;

THENCE LEAVING SAID WESTERLY RIGHT-A-WAY LINE, NORTH 89°29'49" WEST, A DISTANCE OF 509.71 FEET;

THENCE NORTH 00°30'11" EAST, AT RIGHT ANGLES, A DISTANCE OF 100.00 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 1.072 ACRES, MORE OR LESS.

SEE PLAT ATTACHED HERETO AS EXHIBIT "B" AND MADE A PART HEREOF.
PREPARED UNDER MY SUPERVISION

Michael E. Johnson, L.S. 7673 — 01/24/2025 Date

Prepared By: CGS
Checked By: MEJ



EXHIBIT “B”

DEPICTION

(**Attached**)

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

N
W WEBB E
S

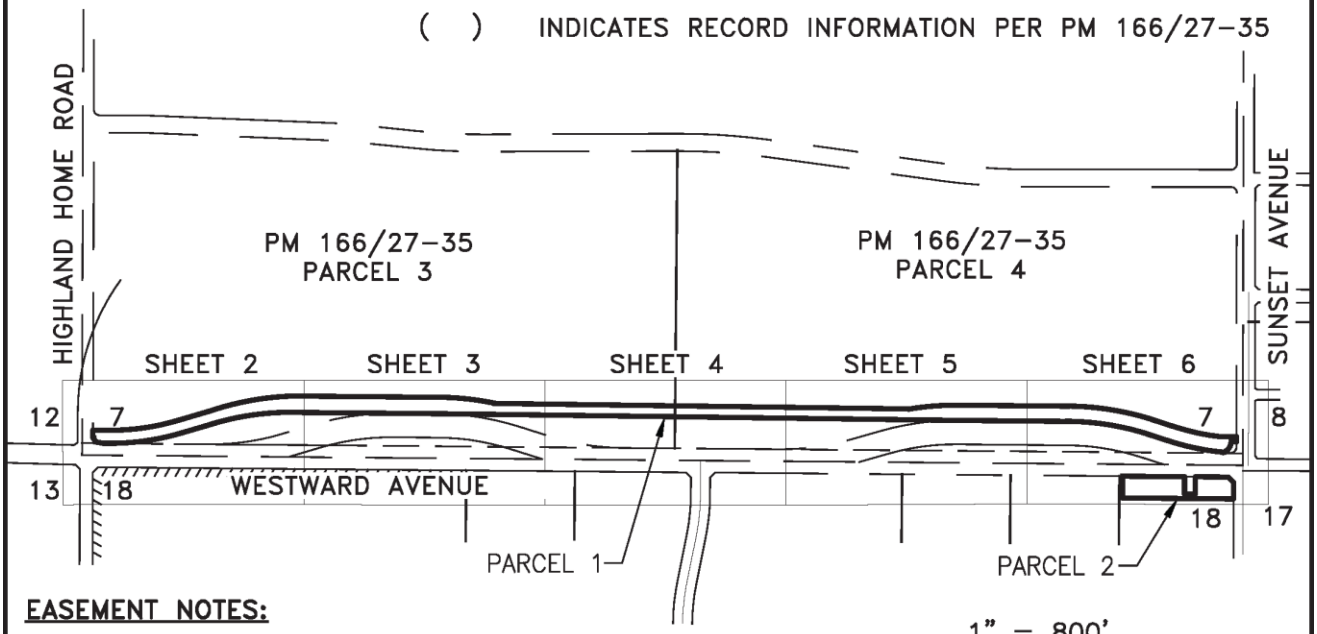
LEGEND:

PARCEL 1 = 7.446 ACRES MORE OR LESS

PARCEL 2 = 1.072 ACRES MORE OR LESS

RESTRICTED ACCESS

( ) INDICATES RECORD INFORMATION PER PM 166/27-35



EASEMENT NOTES:

(A) = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. NO. 91551, REC. 05/01/1985, O.R.

(B) = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

1" = 800'

800 0 800

RECOMMENDED FOR ACCEPTANCE:

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

BY ROBERT C. COLLERTON PLS 7731,
ENGINEERING RESOURCES OF SOUTHERN CALIFORNIA, INC.

SEC. 7 & 18, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THE WRITTEN DOCUMENT.

SHEET 1 OF 9

W.O. 20-0126

SCALE: 1" = 800' DRWN BY CGS DATE 11/07/24 CHKD BY MEJ DATE 11/15/24

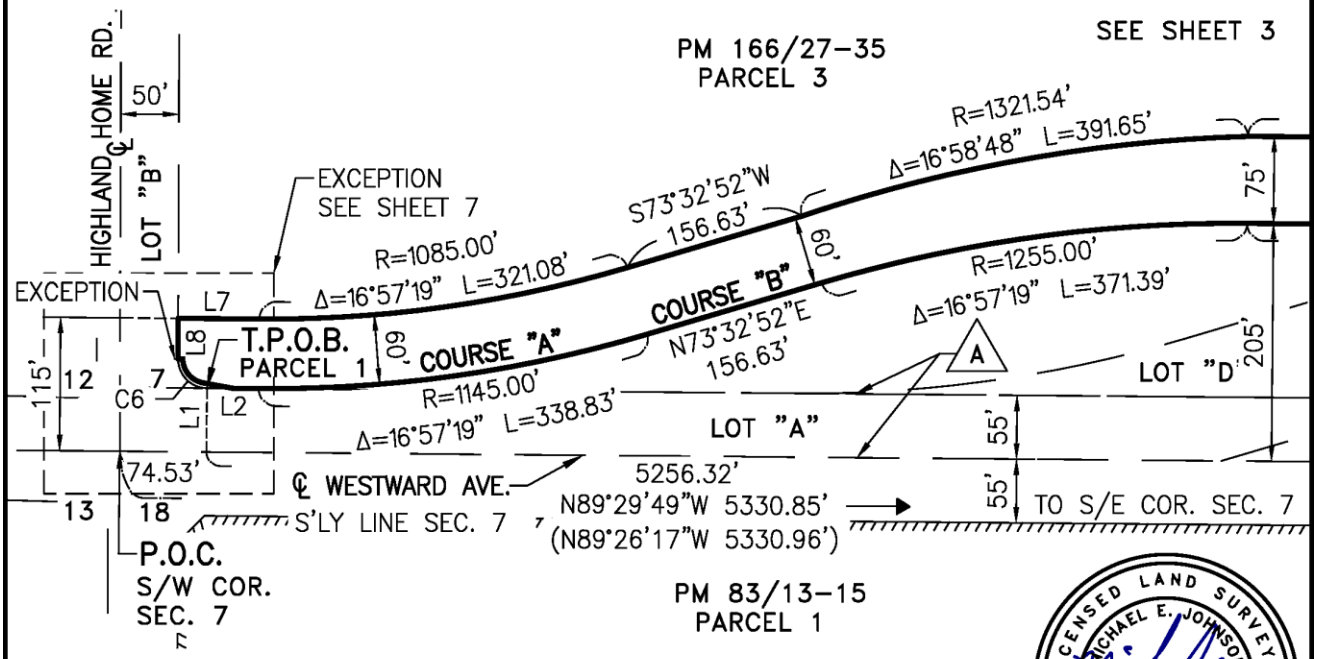
SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27-35



LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	S89° 29' 49"E	44.55
L7	N89° 29' 49"W	69.75
L8	S00° 09' 58"W	35.15

1" = 150'

150 0 150

SEC. 7, T3S, R1E, SBM

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C6	25.00	89°39'47"	39.12

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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Carlossi

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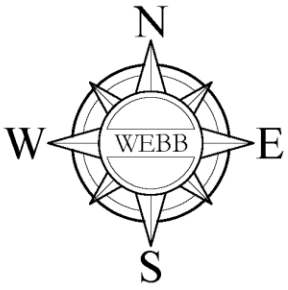
SHEET 2 OF 9

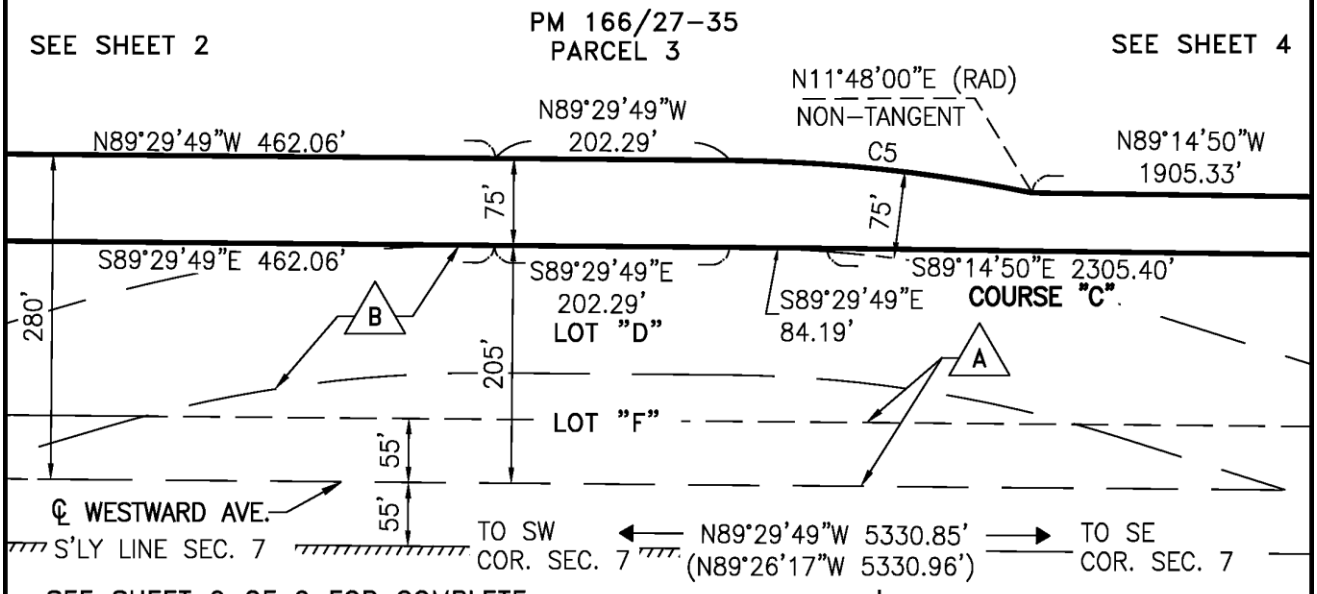
W.O. 20-0126

SCALE: 1" = 150' | DRWN BY CGS DATE 11/07/24 | CHKD BY MEJ DATE 11/15/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES





SEE SHEET 9 OF 9 FOR COMPLETE
LINE AND CURVE TABLES

( ) INDICATES RECORD
DATA PER PM 166/27-35

PM 83/13-15
PARCEL 1

PM 198/8-10
PARCEL 1

1" = 150'

150 0 150

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C5	1330.00	11°17'49"	262.23

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

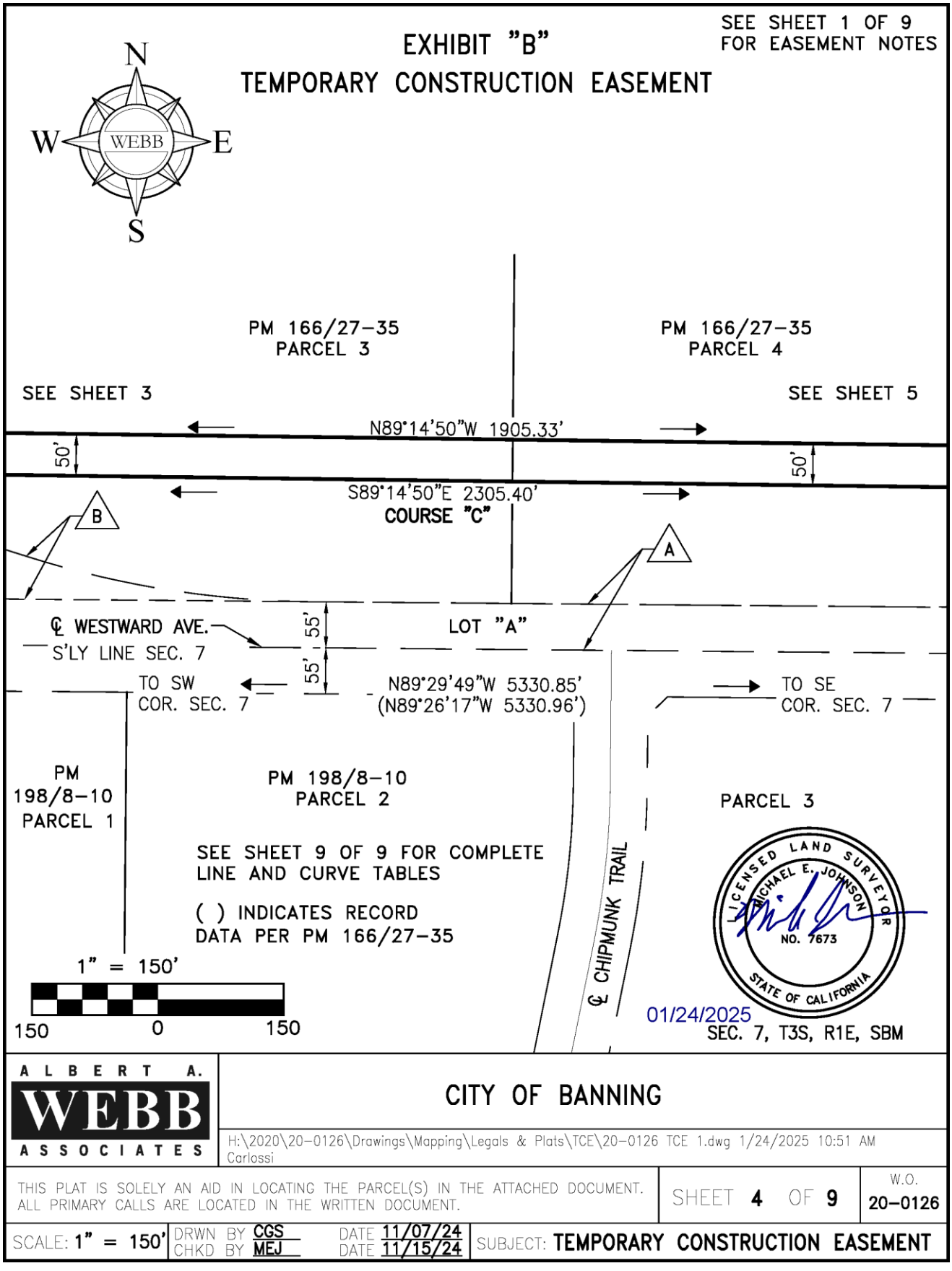
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SHEET 3 OF 9

W.O. 20-0126

SCALE: 1" = 150' | DRWN BY CGS | DATE 11/07/24 | CHKD BY MEJ | DATE 11/15/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT



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CITY OF BANNING

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SHEET 4 OF 9

W.O. 20-0126

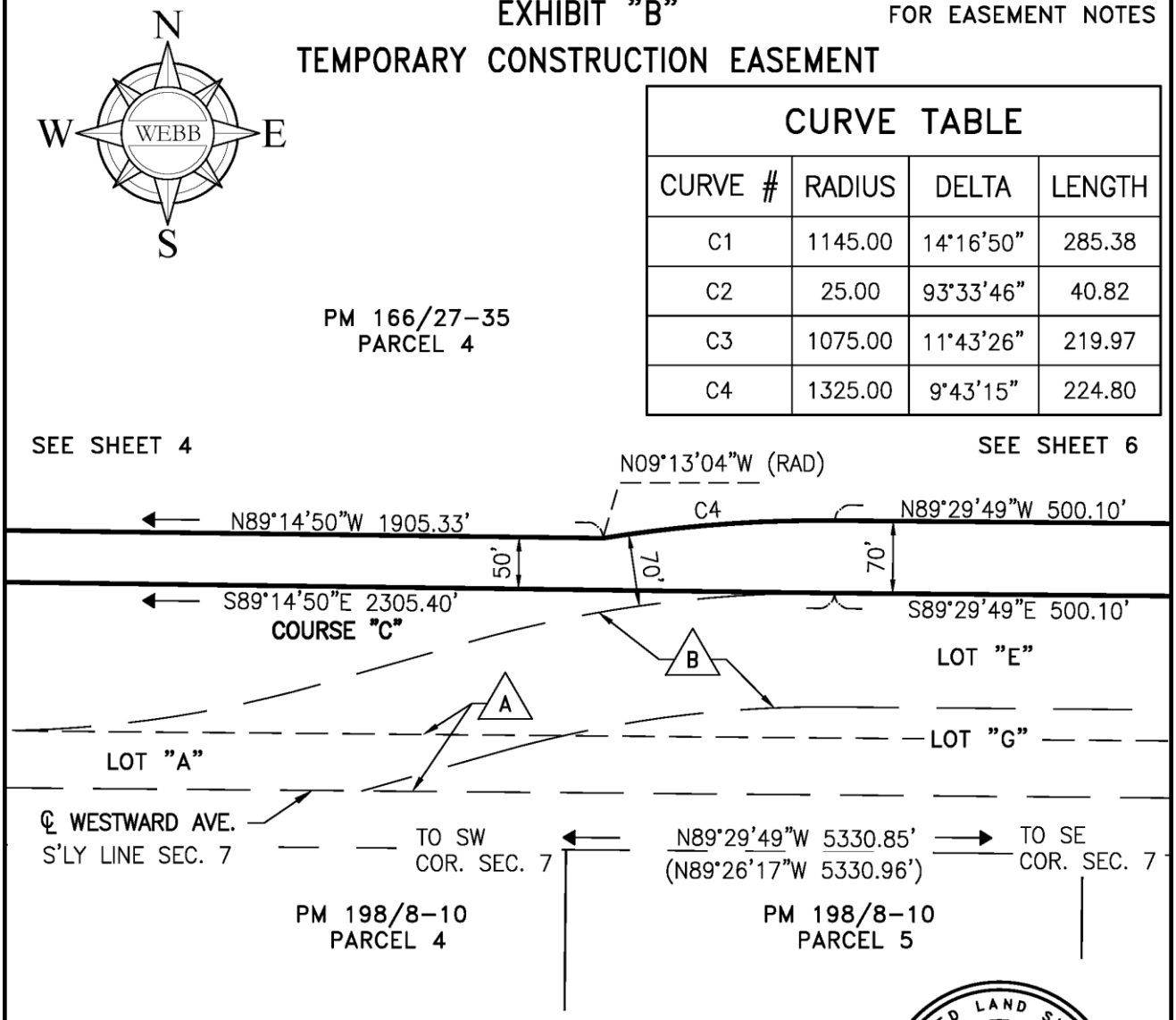
SCALE: 1" = 150' | DRWN BY CGS | DATE 11/07/24 | CHKD BY MEJ | DATE 11/15/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	1145.00	14°16'50"	285.38
C2	25.00	93°33'46"	40.82
C3	1075.00	11°43'26"	219.97
C4	1325.00	9°43'15"	224.80



LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

1" = 150'

150 0 150

SEE SHEET 9 OF 9 FOR COMPLETE LINE AND CURVE TABLES

( ) INDICATES RECORD DATA PER PM 166/27-35

SEC. 7, T3S, R1E, SBM

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

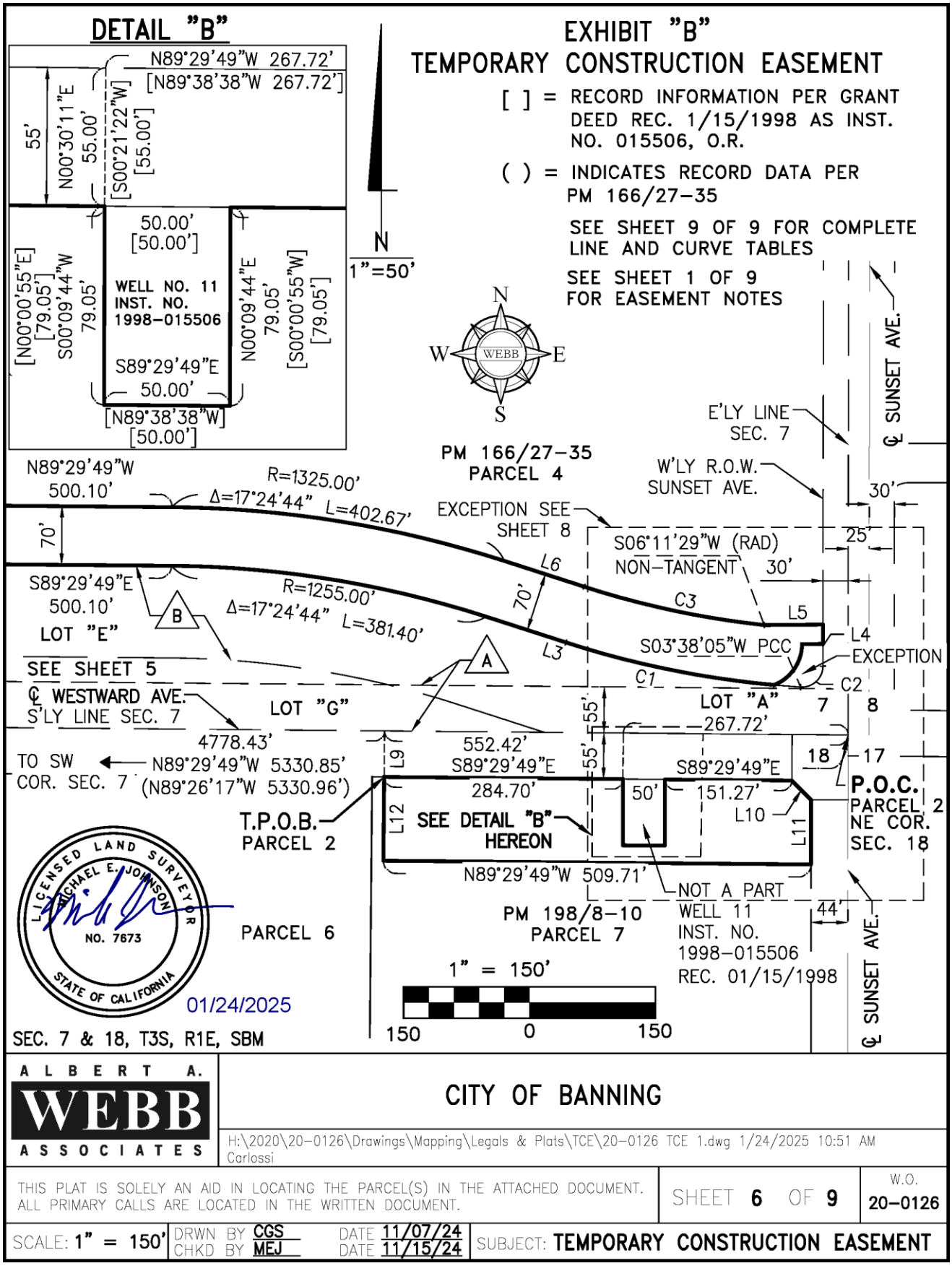
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SHEET 5 OF 9

W.O. 20-0126

SCALE: 1" = 150' | DRWN BY CGS | DATE 11/07/24 | CHKD BY MEJ | DATE 11/15/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT



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SHEET 6 OF 9

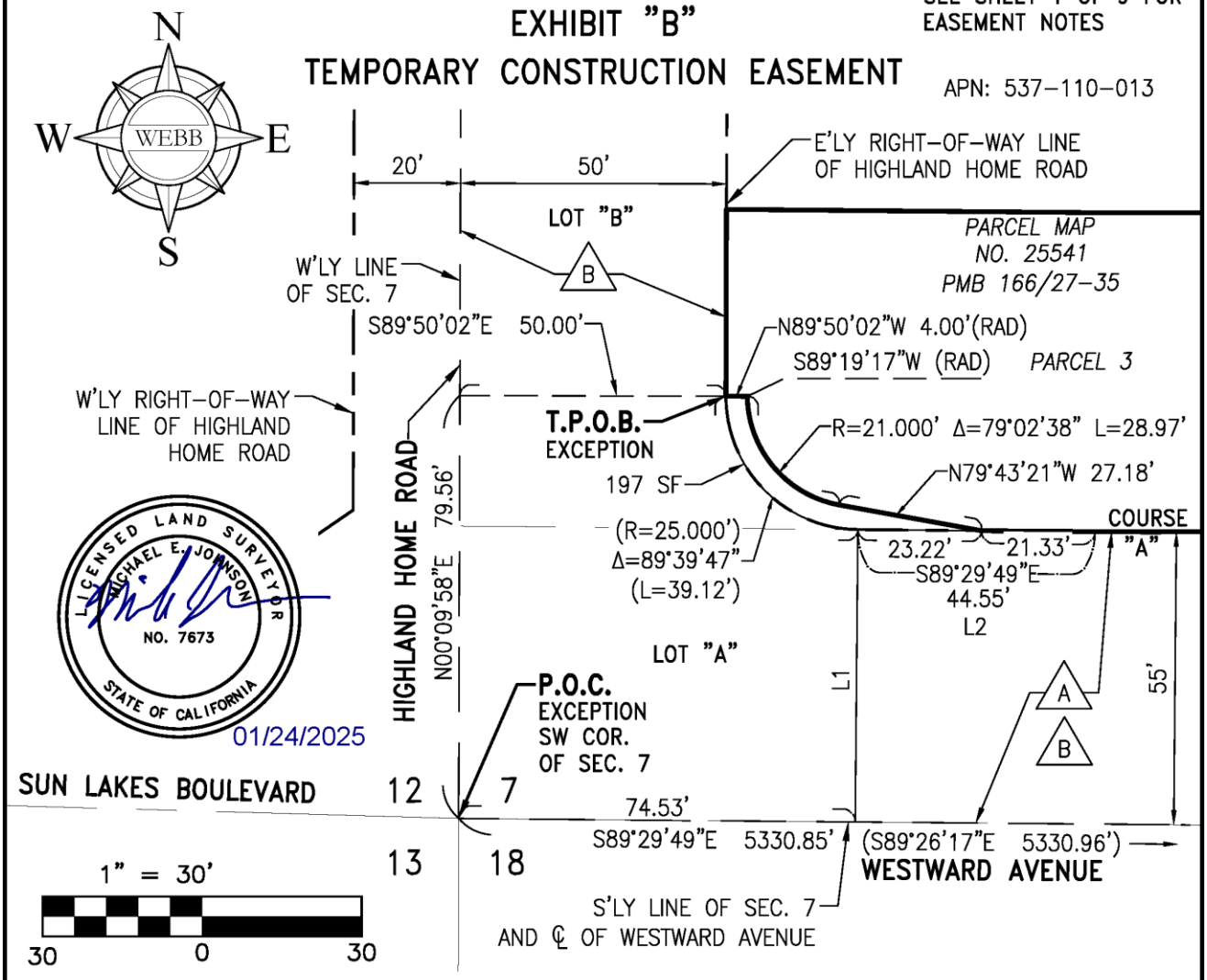
W.O. 20-0126

SCALE: 1" = 150' | DRWN BY CGS | DATE 11/07/24 | CHKD BY MEJ | DATE 11/15/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

SEE SHEET 1 OF 9 FOR EASEMENT NOTES

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

APN: 537-110-013



LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA
01/24/2025

A = EASEMENT FOR ROADWAY AND UTILITY PURPOSES PER INST. #91551, REC. 05/01/1985, O.R.

B = EXISTING DEDICATION PER PM 166/27-35, AND CERTIFICATE OF ACCEPTANCE PER RESOLUTION 2020-21, RECORDED MARCH 05, 2020, AS INST. NO. 2020-0103469

() = RECORD INFORMATION PER PM 166/27-35

SEC. 7, T3S, R1E, SBM

SEE SHEET 9 OF 9 FOR COMPLETE LINE AND CURVE TABLES

LINE TABLE		
#	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	N89° 29' 49"W	44.55

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

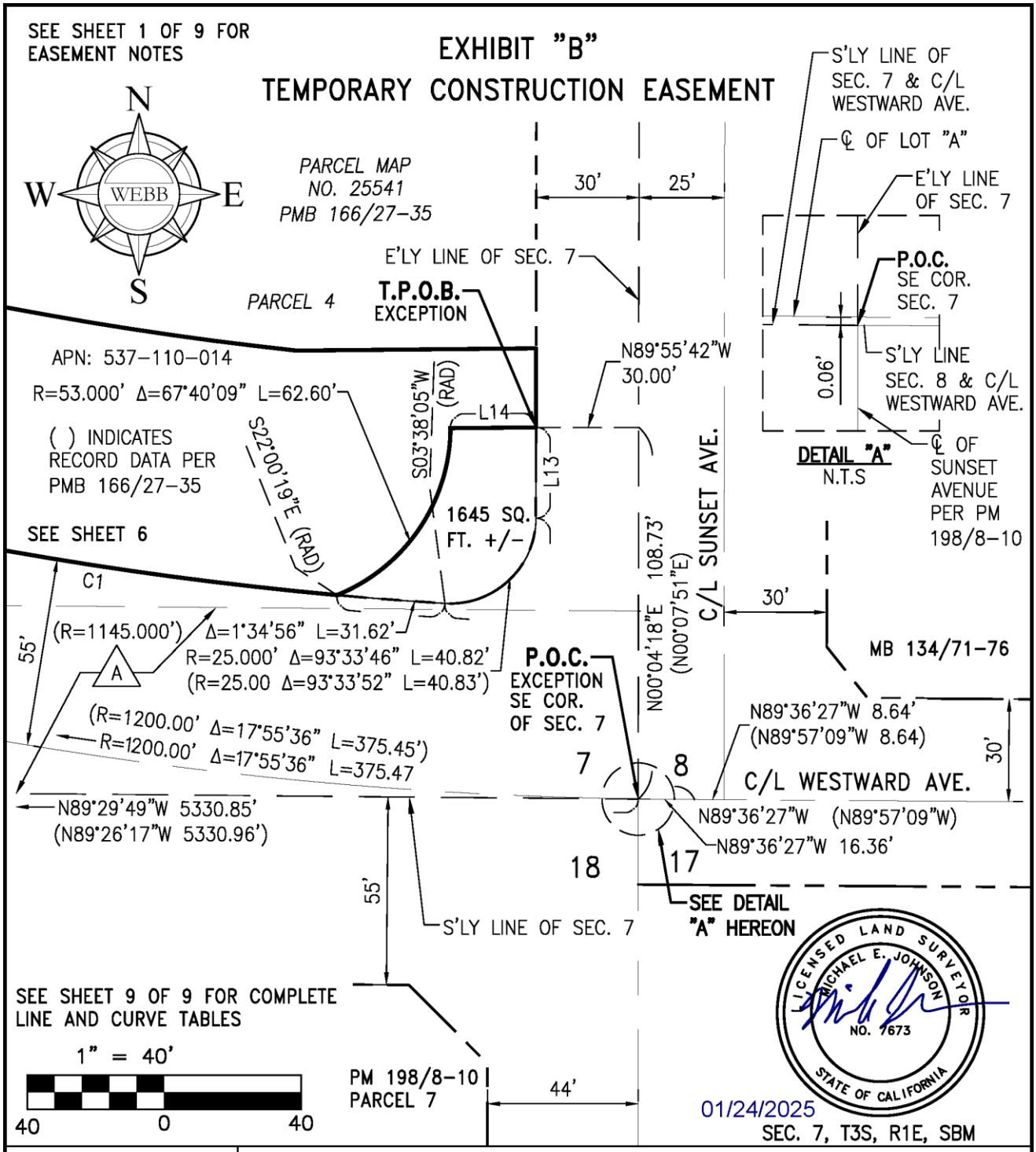
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SHEET 7 OF 9

W.O. 20-0126

SCALE: 1" = 30' | DRWN BY TSW | CHKD BY MEJ | DATE 6/6/2022 | DATE 11/19/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT



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CITY OF BANNING

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SHEET 8 OF 9

W.O. 20-0126

SCALE: 1" = 40' | DRWN BY TSW | CHKD BY MEJ | DATE 6/6/2022 | DATE 11/19/24 | SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

EXHIBIT "B"
TEMPORARY CONSTRUCTION EASEMENT

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S00° 30' 11"W	55.00
L2	S89° 29' 49"E	44.55
L3	S72° 05' 05"E	100.00
L4	N00° 04' 18"E	49.70
L5	S89° 28' 10"W	70.00
L6	N72° 05' 05"W	100.00
L7	N89° 29' 49"W	69.75
L8	S00° 09' 58"W	35.15
L9	S00° 30' 11"W	55.00
L10	S44° 55' 05"E	32.50
L11	S00° 01' 42"W	77.19
L12	N00° 30' 11"E	100.00

PARCEL LINE TABLE		
LINE #	DIRECTION	LENGTH
L13	S00° 04' 18"W	26.59
L14	N89° 28' 10"E	25.00

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	1145.00	14°16'50"	285.38
C2	25.00	93°33'46"	40.82
C3	1075.00	11°43'26"	219.97
C4	1325.00	9°43'15"	224.80
C5	1330.00	11°17'49"	262.23
C6	25.00	89°39'47"	39.12

LICENSED LAND SURVEYOR
MICHAEL E. JOHNSON
NO. 7673
STATE OF CALIFORNIA

01/24/2025

SEE SHEET 1 OF 9
FOR EASEMENT NOTES

ALBERT A. WEBB ASSOCIATES

CITY OF BANNING

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SHEET 9 OF 9

W.O. 20-0126

SCALE: N/A

DRWN BY CGS DATE 11/07/24
CHKD BY MEJ DATE 11/15/24

SUBJECT: TEMPORARY CONSTRUCTION EASEMENT

CERTIFICATE OF ACCEPTANCE

(California Government Code Section 27281)

This is to certify that the interest in real property conveyed to the City of Banning by that certain Temporary Construction Easement dated __, 2025, executed by _____ on behalf of _____, is hereby accepted by the undersigned on behalf of the City of Banning pursuant to authority conferred by City Council on _____2025 and the City of Banning consents to recordation thereof by its duly authorized officer.

Dated: _____, 2025

CITY OF BANNING,
a municipal corporation,

By: _____

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Shah Nawaz, Deputy Water/Wastewater Director** **Art Vela, Director of Public Works**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**City of Banning's Hexavalent Chromium Compliance Plan**

RECOMMENDATION:

Receive and file.

BACKGROUND:

The City of Banning ('City') operates multiple groundwater production wells that are critical to its municipal water supply. In June 2023, the California State Water Resources Control Board Division of Drinking Water (SWRCB-DDW) released SWRCB-DDW-21-003, an order of a proposed new maximum contaminant level (MCL) for Hexavalent Chromium (Cr6) of 10 parts per billion (ppb) in drinking water. Furthermore, this Order required an initial Cr6 MCL sampling by April 1, 2025, and a compliance timeline (Cr6 Compliance Plan) within 90-days after initial sampling.

Chromium is a metal found in natural deposits of ores containing other elements, mostly as chrome iron ores. It is also widely present in soil and plants. Under most conditions, natural chromium in the environment occurs as Trivalent Chromium (Cr3), but under oxidizing conditions chromium can exist as Hexavalent Chromium (Cr6). Chromium also originates as a contaminant in the environment from the discharges of dye and paint pigments, wood preservatives, chrome-plating liquid wastes, and leaching from hazardous waste sites. At an MCL of 10 ppb (equivalent to 10 drops of water in a 100,000 gallon water tank), the health risk from hexavalent chromium in drinking water is limited to a one-in-two-thousand chance of developing cancer during a lifetime (70 years) of exposure.

Since 1977, California has regulated Total Chromium (Cr3 and Cr6) at a MCL of 50 ppb. The United States Environmental Protection Agency (EPA) had also adopted the 50 ppb standard, but in 1991 raised it to the current standard of 100 ppb. Initially, in 2014, the California SWRCB established a Cr6 MCL of 10 ppb. However, California was sued over this regulation in 2017 and the Superior Court of Sacramento County ruled that the state "did not adequately document why the MCL was economically feasible." Economic feasibility evaluates how costly Cr6 treatment technologies are and whether the price tag is within a water utility's budget.

Since the Superior Court's invalidation of the Cr6 MCL, the State continued to work on establishing a new MCL for Cr6. In 2020, SWRCB published a white paper "Discussion on Economic Feasibility Analysis in Consideration of a Hexavalent Chromium Maximum Level". In 2023, the SWRCB started the formal rulemaking process for establishing a new Cr6 MCL and in 2024 adopted the new regulation setting the Cr6 MCL at 10 ppb, which became effective on October 1, 2024.

The City's water division was expecting many wells to test positive for Cr6 and the initial water quality

sampling results due prior to April 1, 2025 indicated that four (4) of the City's 21 municipal wells exceeded the newly established MCL, thus requiring regulatory compliance through mitigation. It shall also be noted that another 5 wells are either at or very close to the MCL, refer to table below for Cr6 MCL results:

Well	Cr6 MCL (ppb)	Well Capacity (gpm)
C2A	16	1,100
C3	14	1,100
C4	12	1,300
C6	12	900
M10	10	800
M11	10	800
C5	9.5	900
M3	8.3	800
C8	*	1,000

* The compliance MCL for recently drilled well C8 which is currently being equipped will be reported once sampled during production (during development of well C8, it resulted in 12 ppb).

Since the initial Cr6 MCL rulemaking in 2014, the City anticipated many wells to test positive for Cr6; therefore, it conducted several studies throughout the years to evaluate different approaches for complying with the Cr6 MCL:

- 2016 Cr6 Compliance Study – initial evaluation of treatment options and costs.
- 2022 Cr6 Compliance Study Updates – update to the original 2016 Cr6 compliance study, incorporating treatment technology advancements and updating costs.
- 2024 Cr6 Compliance Study Update – system-wide update to the 2022 Cr6 compliance study providing cost and non-cost (reliability and resiliency, operations and maintenance complexity, water loss, residuals handling, environmental and community impacts) analysis of options.

The objective of the 2024 Cr6 Compliance Study was to evaluate options for addressing Cr6 and to develop cost estimates including capital, operations and maintenance all to support the development of a treatment strategy for compliance. The 2024 Cr6 Compliance Study evaluated best available technologies (BATs) including weak base anion exchange (WBA), strong base anion exchange (SBA) and reduction coagulation and filtration/microfiltration (RCF/RCMF).

BATs were assessed based on lifecycle costs and operability considerations (chemical consumption, residual waste generation, and staffing requirements). While the accuracy range of lifecycle costs overlap for alternatives, it was found that the RCF with horizontal filter configuration located at the clustered treatment facilities and individual sites was the lowest point estimate lifecycle cost compared with WBA and SBA.

It shall be noted that the 2024 Cr6 Compliance Study did not evaluate include any non-treatment options i.e., existing well screen modifications, blending, repurposing potable wells to non-potable, or drilling new wells.

JUSTIFICATION:

The objective of this Compliance Plan is for the City to come into compliance with the established MCL via RCF treatment or non-treatment options (e.g. existing well screen modifications, blending, repurposing potable wells to non-potable, or drilling new wells). Prior to doing so, the City plans to take a wholistic approach to meet the stated objective by achieving the following milestones listed below:

i. Well profile to determine well screen modification opportunities for reducing levels of Cr6 below the MCL; and
ii. Hire an owner's advisor (consultant) to evaluate and design treatment and non-treatment options,

prepare plans, specifications, capital and annual operations and maintenance costs; and

iii. Raise capital via grants, rate increases, loans, bond issuance, etc., to implement the City's compliance strategy; and
iv. Construct treatment and/or non-treatment improvements and proceed with operations.

Since the 2024 Cr6 Compliance Study did not evaluate any non-treatment options, it would be fiscally and operationally prudent for the City to explore these options first. As indicated above, Cr6 levels were detected in 9 wells, but only 4 wells exceeded the MCL. However, based on the initial Cr6 sampling results, there are 5 additional wells (as listed in table above) that may exceed the MCL in the future; therefore, to be proactive, the City will take a system-wide approach and include these 5 additional wells as part of it's compliance strategy.

It is anticipated that milestones listed above from well profiling to construction of treatment/non-treatment improvements will begin in 2025 and will last through mid-2033.

FISCAL IMPACT:

The 2024 Cr6 Compliance Study developed a high-level range of costs to treat 9 Cr6 wells consistent with Association for the Advancement of Cost engineering (AACE) Class 4 costs with an accuracy range of 30% to +50%, resulting in $23,200,000 to $84,700,000 with an additional $2,000,000 to $3,000,000 in annual operation and maintenance.

Although the Water Operations Fund (Fund 660) currently has an approximate revenue budget from metered sales of $13,000,000; it is important to note that the City's current water rate structure does not support the required financial investment to comply with the new Cr6 regulation. A new rate study will need to be completed to determine the rate impacts. Staff will have to work on having more detailed cost estimates developed during the treatment/non-treatment design phase in order to include those costs in a future rate study.

Once the rate study is approved by the City Council, the City shall carry out a rate approval process in compliance with Proposition 218. Once rate increases are approved, the City will proceed with acquiring the necessary funding, likely through debt financing, to move forward with the identified compliance improvements. City staff also plans to aggressively seek grant funding for the implementation of the Compliance Plan.

ALTERNATIVES:

N/A

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. City of Banning Hexavalent Chromium Compliance Plan.pdf

City of Banning
Public Works Department

June 18, 2025

To: Mitchell Martinez, PE
Water Resources Control Engineer
Division of Drinking Water – Riverside District
2375 Northside Drive, Suite 100
San Diego, CA 92108

From: Shah Nawaz, PE, Deputy Water/Wastewater Director, City of Banning
Art Vela, PE, Director of Public Works, City of Banning
Perry Gerdes, Water/Wastewater Superintendent, City of Banning
Agustine Garcia, Assistant Water/Wastewater Superintendent, City of Banning

City of Banning – Hexavalent Chromium Compliance Plan

Water System Name: City of Banning
Water System Number: CA3310006
Water System Size: 10,000 service connections or more

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1. Introduction

The City of Banning ('City') operates multiple groundwater production wells that are critical to its municipal water supply. In June 2023, the California State Water Resources Control Board Division of Drinking Water (SWRCB-DDW) released SWRCB-DDW-21-003, a notice of a proposed new maximum contaminant level (MCL) for Hexavalent Chromium (Cr6) of 10 parts per billion (ppb) in drinking water. Furthermore, this Order required an initial Cr6 MCL sampling by April 1, 2025, and a compliance timeline (Compliance Plan) within 90-days after initial sampling.

As predicted, the initial Cr6 water quality sampling indicated that four (4) of the City's 21 municipal wells exceeded the newly established MCL, thus requiring regulatory compliance through mitigation.

1.1 Results of Initial Sampling for Cr6 MCL

The results of the initial sampling along with each well's pumping capacity are listed in Table 1-1 below:

Table 1-1: Well Cr6 MCL and Pumping Capacity

Well	Max Cr6 (ppb)	Well Capacity (gpm)
C2A	16	1,100
C3	14	1,100
C4	12	1,300
C6	12	900
M10*	10	800
M11*	10	800
C5*	9.5	900
M3*	8.3	800
C8	-	1,000

Note: Wells with asterisk are at or near the MCL but have not exceeded. Well C8 is currently being equipped, once equipped, Cr6 MCL will be reported once sampled during production (during testing/development of Well C8 in 2023, it tested at 12 ppb).

1.2 Background

The City's Water Division was expecting many wells to test positive for Cr6; it conducted several studies to evaluate different approaches for complying with the Cr6 MCL:

- 2016 Cr6 Compliance Study – initial evaluation of treatment options and costs.
- 2022 Cr6 Compliance Study Updates – update to the original 2016 Cr6 compliance study, incorporating treatment technology advancements and updating costs.
- 2024 Cr6 Compliance Study Update – system-wide update to the 2022 Cr6 compliance study providing cost and non-cost (reliability and resiliency, operations and maintenance complexity, water loss, residuals handling, environmental and community impacts) analysis of options.

The objective of the 2024 Cr6 Compliance Study was to evaluate options for addressing Cr6 and to develop cost estimates including capital, operations and maintenance all to support the development of a treatment strategy. The 2024 Cr6 Compliance Study evaluated best available technologies (BATs) including weak base anion exchange (WBA), strong base anion exchange (SBA) and reduction coagulation and filtration/microfiltration (RCF/RCMF).

BATs were assessed based on lifecycle costs and operability considerations (chemical consumption, residual waste generation, and staffing requirements). While the accuracy range of lifecycle costs overlap for alternatives, it was found that the RCF with horizontal filter configuration located at the clustered treatment facilities and individual sites was the lowest point estimate lifecycle cost compared with WBA and SBA.

The 2024 Cr6 Compliance Study developed a high-level range of costs to treat nine (9) Cr6 wells consistent with Association for the Advancement of Cost engineering (AACE) Class 4 costs with an accuracy range of 30% to +50%, resulting in $23,200,000 to $84,700,000 with an additional $2,000,000 to $3,000,000 in annual operation and maintenance.

It is important to note that the City's current water rate structure does not support the required financial investment to comply with the new Cr6 regulation. A new rate study will need to be completed to determine the rate impacts. Staff will have to work on having more detailed cost estimates developed in order to include those costs in a future rate study.

It shall also be noted that the 2024 Cr6 Compliance Study did not include any non-treatment options (existing well screen modifications, blending, repurposing potable wells to non-potable, or drilling new wells).

2. Objectives and Approach

2.1 Objective

The main objective of this Compliance Plan is for the City to come into compliance with the established MCL via RCF treatment or non-treatment options (e.g. existing well screen modifications, blending, repurposing potable wells to non-potable, or drilling new wells). Prior to doing so, the City plans to take a wholistic approach to meet the stated objective by achieving the following milestones listed below:

1. Well profile to determine well screen modification opportunities for reducing levels of Cr6 below the MCL; and
2. Hire an owner's advisor (consultant) to evaluate and design treatment and non-treatment options, prepare plans, specifications, capital and annual operations and maintenance costs; and
3. Raise capital via grants, rate increases, loans, bond issuance, etc., to implement the City's compliance strategy; and
4. Construct treatment and/or non-treatment improvements proceed with operations.

2.2 Approach

Since the 2024 Cr6 Compliance Study did not evaluate any non-treatment options, it would be fiscally and operationally prudent for the City to explore these options first. The City currently has 9 wells that were Cr6 has been detected, but only 4 wells have exceeded the MCL. However, based on the initial sampling results, there are 5 additional (as shown on Table 1-1) that may exceed the MCL in the future; therefore, to be proactive, the City will take a system-wide approach and include these 5 additional wells as part of it's compliance strategy.

It is anticipated that milestones listed under section 2.1 from *well profiling to construction of treatment/non-treatment improvements will begin in 2025 and will last through mid-2033*. These tasks do overlap each other and a brief description of each milestone, and its timeline are listed below.

2.2.1 Dynamic Well Profiling

The City will conduct water quality "well profiling" to identify opportunities for well screen modifications to reduce levels of Cr6. Based on the collected information, detailed recommendations for zonal isolation, packer installation, or other mitigation measures to reduce or eliminate Cr6 from the production stream will be evaluated. It shall be noted that zonal isolation (screening off) will likely result in loss in production capacity. These recommendations will be further evaluated by the City's owner advisor (OA) and evolve into detailed designed plans, specifications and construction cost estimates for bidding and construction purposes.

Task Timeline – This task is expected to begin in August 2025 through December 2026.

2.2.2 Design Phase

Towards the end of the dynamic well profiling project, the City will advertise a request for qualifications (RFQ) to hire an OA that will be tasked with evaluating the dynamic well profiling project's recommendations and prepare detailed plans, specification and estimates. In addition, the OA team will review the 2024 Cr6 Compliance Study and guide the City towards critical decision making that will lead to a final compliance strategy, which will identify both treatment and/or non-treatment alternatives.

The design phase is critical and will be labor-intensive and comprehensive, as it will produce detailed plans, specifications and costs estimates for all 9 well sites. These costs estimates will be critical in order to procure the necessary capital funding for the Cr6 Compliance Plan improvements.

Task Timeline – This task is expected to begin in June 2026 through December 2028.

2.2.3 Procure Capital Funding

As previously stated, the Cr6 Compliance Plan improvements are not included in the current water rate structure. Once detailed cost estimates have been prepared by the OA, the City will need to hire consultant to prepare a Rate Study, which will include several public workshops. Once the Rate Study is approved by City Council, the City shall carry out a rate approval process in compliance with Proposition 218. The City anticipates the process of approving new rates (e.g. development of Rate Study and

Proposition 218 process) will take approximately 1.5 years. Once rate increases are approved, the City will proceed with acquiring the necessary funding, likely through debt financing, to move forward with the identified compliance improvements. The City also plans to aggressively seek grant funding.

Task Timeline – This task is expected to begin in June 2028 through December 2029.

2.2.4 Construction Phase

Once the City secures the necessary loans (and any available grants) to fund these projects, it will begin advertising bid packages in phases to ensure effective project funding, manageable construction schedules, and a positive cash flow balance. In addition, in order to maintain a reliable water supply source to meet the City's demands, only a few wells will be improved per year.

Task Timeline – This task is expected to begin in March 2029 through December 2032.

2.2.5 Operations Implementation Phase

Depending on the type of improvement (treatment vs. non-treatment) the City will have an operations plan developed, which will be implemented immediately following construction and commissioning of the project.

Task Timeline – This task is expected to begin in January 2031 through June 2033.

Appendix A: 2024 Chromium 6 Treatment and Compliance Technical Memorandum Update

May 8, 2025

To: Art Vela, PE, City of Banning

From: Nicole Blute, PhD, PE, Hazen and Sawyer
Stephen Diamond, PE, Hazen and Sawyer
Megan Watt, Hazen and Sawyer
Katelyn Nguyen, Hazen and Sawyer
Chris Portner, CEP, PE, Hazen and Sawyer

Banning – Chromium 6 Treatment and Compliance Technical Memorandum Update

FINAL

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1. Introduction

The California State Water Resources Control Board Division of Drinking Water (SWRCB-DDW) released SWRCB-DDW-21-003, a notice of a proposed new maximum contaminant level (MCL) for hexavalent chromium (Cr6) of 10 micrograms per liter (µg/L) in drinking water in June 2023. The proposed rule is effective as of October 1st 2024, with a two-year Cr6 compliance timeline for systems serving 10,000 connections or greater. The two-year compliance timeline established under the effective Cr6 MCL includes initial Cr6 sampling by Apil 1, 2025 and compliance plans required 90-days after initial sampling for systems that exceedance the Cr6 MCL.

The City of Banning (Banning) has multiple wells with Cr6 concentrations exceeding the MCL. Banning retained Hazen and Sawyer (Hazen) to evaluate treatment options to comply with the MCLs at wells where the Cr6 concentrations exceed the MCL. This memorandum summarizes the results of this evaluation, including water quality data, assessment of treatment options including costs, and next steps for Banning to use wells without exceeding the MCLs. The study aimed to analyze the treatment technology alternatives through cost and non-cost factors such as performance, and to develop a compliance strategy.

1.1 Background

Two previous studies were completed, the Cr6 compliance study update in 2022 and the original evaluation completed in 2016, and the treatment technologies previously determined feasible were further assessed to identify a preferred approach for compliance.

Banning's water system includes a total of twenty-one active groundwater wells, which are operated throughout the year as needed. Among these are three co-owned wells with the Beaumont-Cherry Valley Water District (BCVWD), where the City has rights to half of the capacity, which is accessed through an interconnection near the intersection of Highland Springs Avenue and Sun Lakes Boulevard. The wells range in depth from 1,000 to 1,500 feet. Several of the wells impacted by Cr6 pump water directly into the distribution system including wells C6, C8 (a potential new well), M3, M10, M11, and M12. Meanwhile, Wells C2, C3, C4, and C5 pump into forebay tanks at the respective sites, after which the water is boosted into the distribution system. Additionally, the City has 13 existing reservoirs, including the forebay tanks at the wells C2, C3, C4, and C5, with a total above-ground storage capacity of 19.7 million gallons.

Banning has conducted several studies to evaluate the optimal approach for addressing the Cr6 MCL, including the:

- 2016 Cr6 Compliance Study – initial evaluation of treatment options and costs.
- 2022 Cr6 Compliance Study Update – update to the original compliance study, incorporating treatment technology advancements and refreshing cost information.
- 2024 Cr6 Compliance Study Update – system-wide update to the 2022 Cr6 compliance study providing cost and non-cost analysis of options (this document).

1.2 Approach and Objectives

This technical memorandum (TM) was written in support of Banning to determine a treatment strategy for the SWRCB-DDW Cr6 MCL that is now final. To achieve this goal, the following objectives were undertaken:

- Evaluate options for addressing Cr6 at Banning's sites.
- Develop cost estimates, including capital, operation and maintenance (O&M), and lifecycle costs.

2. Project Definition

This section addresses the project water quality.

2.1 Raw Water Quality

Historical water quality information was reviewed in the 2015 Compliance Study to define treatment requirements, select applicable treatment technologies, and evaluate parameters that affect operational costs and available groundwater well data were compiled to create a water quality database for analysis at that time. More recent water quality data was available and used for this analysis compared to the 2023 Compliance Study Update, which also leverages the existing 2015 water quality data. The 2015 Compliance Study focused on Cr6 and co-occurring constituents such as arsenic, nitrate, sulfate, total dissolved solids (TDS), and volatile organic compounds that could impact treatment decisions. It also evaluated treatment decisions in relation to potential future regulations for emerging constituents, such as 1,4-dioxane, antimony, cobalt, chlorate, molybdenum, nitrosamines, perchlorate, selenium, strontium, and vanadium.

2.1.1 Hexavalent Chromium and Total Chromium

In the 2016 Compliance Study and 2022 Study Update, Cr6 and total chromium (Cr) data were analyzed to identify wells impacted by the draft maximum contaminant level (MCL) for Cr6 and to assess trends in chromium variability over time. Cr6 and Cr measurements were obtained using Environmental Protection Agency methods 218.6 and 200.8, respectively. No Cr6 samples appeared to be statistical outliers in the dataset, therefore treatment decisions were based on the highest observed Cr6 concentrations for conservatism.

Nine of the City's twenty-one wells with Cr concentrations at or near the Cr6 MCL (wells C2, C3, C4, C5, C6, C8, M3, M10, M11). The average total Cr and Cr6 concentrations in City wells are shown in **Figure 2-1,** with error bars representing the maximum and minimum readings.

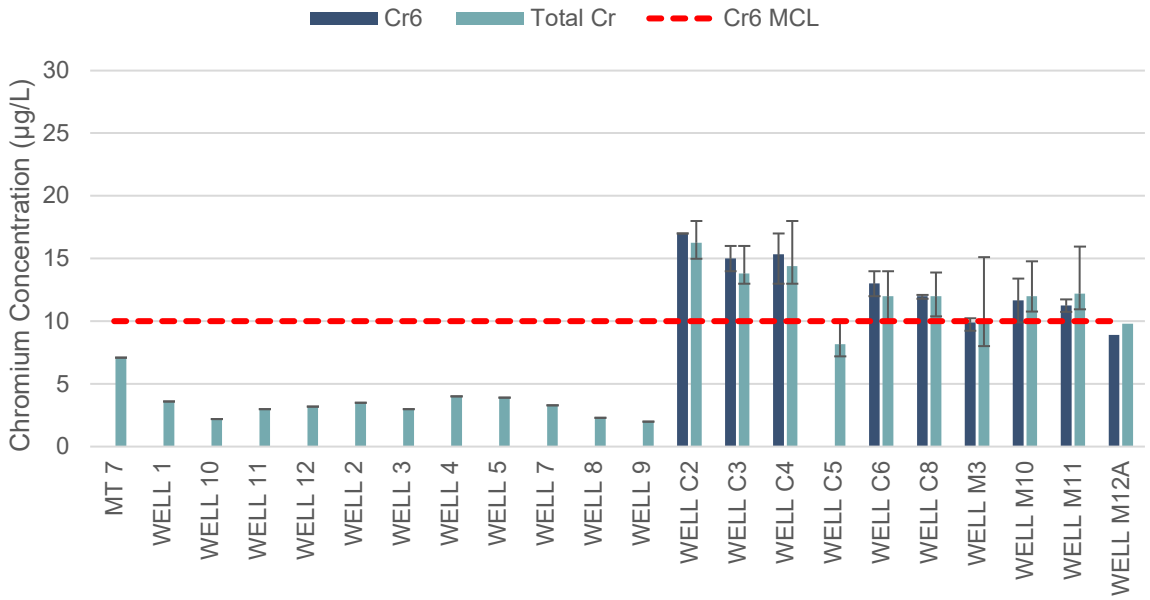


Figure 2-1: Banning Well Concentrations of Cr6 and Total Cr

2.2 Treated Water Quality Goals

Based on a review of raw water quality and Cr6 regulations, the following Cr6 water quality objectives were identified:

- Establish compliance with the Cr6 MCL.
- Wells requiring Cr6 treatment will have a treated Cr6 concentration goal of less than 8.0 µg/L. The target goal is less than the MCL to account for potential fluctuations in the raw water or treated water Cr6 concentration.

2.3 Treatment Flows

A summary of well data including the design capacity and the design Cr6 concentration used in this analysis is presented in **Table 2-1**.

Table 2-1: Design Cr6 Concentrations and Capacities of Tier 1 Wells

Well	Max Cr6 (µg/L)	Well Capacity (gpm)
M10, M11	13	1,400
C2, C4, C8, M3	17	4,700
C3	16	1,100
C5	9.6	900
C6	14	900

3. Technology Advances

Cr6 treatment technologies were assessed with respect to recent advancements in treatment processes and residuals management (including quantity and quality of waste generated and treatment and disposal options). Technologies evaluated included:

- Weak base anion exchange (WBA),
- Strong base anion exchange (SBA), and
- Reduction, coagulation, and filtration/microfiltration (RCF/RCMF).

Each of these treatment processes is characterized by a different approach to Cr6 removal. Key features of each technology along with their advantages and disadvantages were summarized in the 2016 Compliance Study and are not repeated here. The sections that follow briefly summarize the three technologies and discuss process optimization and waste management. Key advancements compared with the 2016 Compliance Study and 2022 update include:

- Horizontal filter vessels for RCF

3.1.1 Strong Base Anion Exchange

In the SBA process, water passes through a resin bed and removes Cr6 by replacing other negatively charged ions (e.g., chloride) on the resin with the Cr6 from the water. Particles are removed using bag or cartridge filters upstream to minimize pressure drop through the resin bed and avoid the need for backwashing. As the ion exchange capacity of the resin is consumed, the Cr6 concentration in the treated water gradually increases over time. Other ions in the water with a charge similar to Cr6, such as sulfate, can compete with Cr6 in the ion exchange process and lessen the Cr6 removal capacity of the resin bed. A process flow schematic depicting the SBA process is provided in **Figure 3-1**.

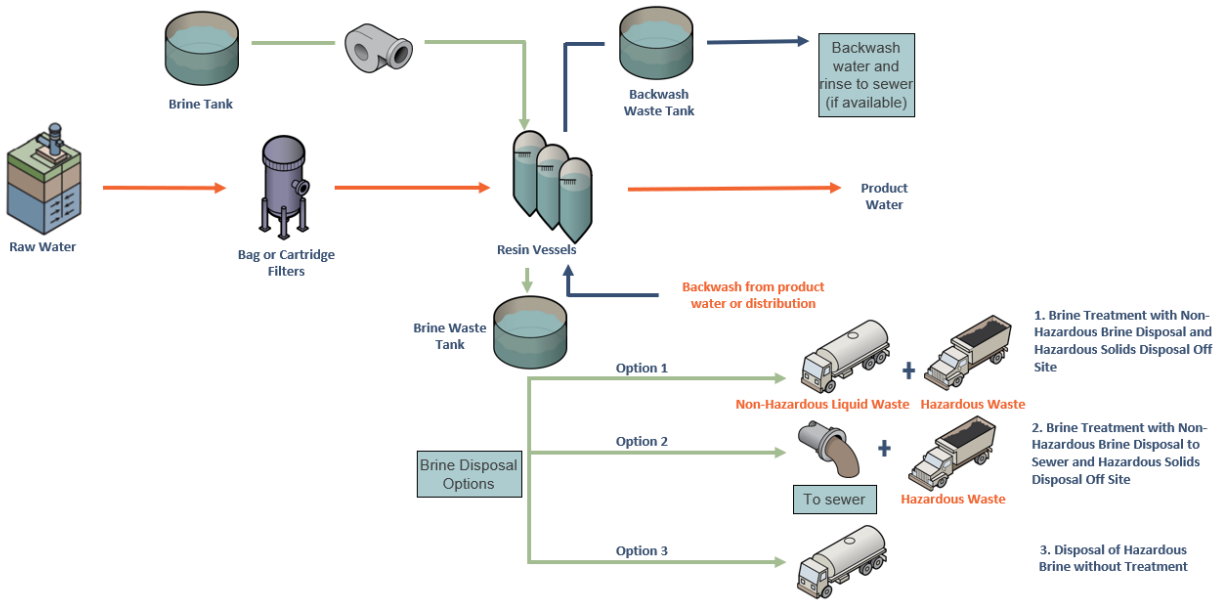


Figure 3-1: SBA Treatment Process Flow Diagram

SBA is regenerated with a salt (brine) solution when the treated Cr6 concentration reaches a maximum acceptable level. Regeneration involves elution of the Cr6 off the resin into the brine, which restores the capacity of the resin for additional Cr6 removal. Pilot testing should be conducted to confirm throughput and resin regeneration procedure effectiveness.

Three different brine management approaches were considered in this analysis:

-
- Brine treatment with disposal of non-hazardous brine offsite (Option 1)
- Brine treatment with disposal of non-hazardous brine into the sewer (Option 2)
- Hauling hazardous brine for offsite treatment and/or disposal (Option 3)

A discussion of these brine management approaches is provided below.

SBA Option 1 - Treatment with disposal off-site, including non-hazardous liquid waste and hazardous solid waste

In Option 1, onsite brine treatment would use ferrous chloride, aeration, and a filter belt press to separate non-hazardous liquid waste from hazardous solid waste. The brine treatment process will vary depending on the concentrations of various constituents (e.g. selenium, uranium) that may be present in Banning's wells. The non-hazardous liquid waste and the hazardous solid waste can be separately hauled offsite for disposal at appropriate facilities. Regeneration steps that result in non-hazardous brine or slow rinse water

can be recycled (2 bed volumes (BV) from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled. Sites without sewer access will need to haul 3 BV of fast rinse water offsite, which is assumed to be non-saline non-hazardous liquid waste. Experience at other utilities has shown that brine treatment can decrease disposal costs compared to hauling hazardous brine for treatment and disposal elsewhere.

Spent brine is characterized according to federal and California regulations for hazardous waste. In addition to the sanitary sewer limits for treated non-hazardous brine disposal, the uranium concentration may not exceed 4.5 mg/L based on the limit set forth by California Code of Regulations Title 17 §30253. Pilot testing would need to be conducted to test brine and determine if uranium concentrations are below this threshold.

Solids generated during brine treatment will require analysis to determine if elevated levels of uranium are present, and whether the uranium content results in waste characterization as a technologically enhanced naturally occurring radioactive material (TENORM) or low-level radioactive waste (LLRW). Solids with greater than or equal to 500 µg uranium per gram of solid (i.e., 0.05%) are classified as LLRW. Solids that have accumulated uranium but are below this value, are considered TENORM. Disposal facilities and permitting requirements vary depending on the waste characterization.

Pilot testing is recommended on the solids generated if Banning is interested in conducting brine treatment. For this evaluation, sites without sewer access were assumed to have non-hazardous brine disposal and non-saline, non-hazardous waste, disposal off-site.

SBA Option 2 – Treatment and disposal of non-hazardous liquid waste to the wastewater treatment plant (WWTP) and hazardous solid waste off-site

In Option 2, brine is treated onsite with ferrous chloride, aeration, and filter belt press to separate non-hazardous liquid waste from hazardous solid waste. Regeneration steps that result in non-hazardous brine or slow rinse water are recycled (2 BV from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled. The non-hazardous saline liquid waste and non-hazardous non-saline liquid waste would be discharged to the sanitary sewer. The hazardous solid waste is hauled offsite for disposal at an appropriate facility. The feasibility of this option would require further analysis and discussions with the WWTP.

To assess the feasibility of discharging brine to the sewer, industrial discharge limits to the WWTP should be further evaluated to determine the maximum concentration limits to ensure Cr6 and As concentrations do not exceed WWTP requirements. Pilot testing may be needed to prove discharge quality for permitting.

Solids generated during brine treatment will require analysis to determine if elevated levels of uranium are present, and whether the uranium content was characterized to determine whether the waste is considered a TENORM or LLRW. Solids with greater than or equal to 500 µg uranium per gram of solid (i.e., 0.05%) are classified as LLRW. Solids that have accumulated uranium but are below this value, are considered TENORM.

SBA Option 3 - Disposal offsite without treatment as hazardous liquid waste

In Option 3, brine is hauled off as-is, requiring treatment and/or disposal as hazardous liquid waste. Regeneration steps that result in non-hazardous brine or rinse water are recycled. Hauling of hazardous brine would require the least amount of infrastructure but presents a risk to Banning for long-term liability or if the contracted company stops accepting the brine.

Hazen has conducted testing indicating the concentrations of constituents in the brine, such as Cr6, make the brine hazardous unless brine treatment is provided. Prior pilot testing results for another agency showed that one of the new resins, PGW6002E (Purolite®, King of Prussia, PA) had approximately 60% greater capacity compared with other resins on the market at only a 3% higher cost, resulting in proportionally less brine generation. On average, brine generation is 0.0125% of treated water flow, but varies based on sulfate concentration. However, piloting of this product would be required to confirm brine production at Banning's wells.

Regeneration steps that result in non-hazardous brine or slow rinse water can be recycled (2 bed volumes (BV) from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled approximately. Sites without sewer access will need to haul offsite 3 BV of fast rinse water, which is assumed to be non-saline non-hazardous liquid waste for disposal offsite.

3.1.2 Reduction, Coagulation, and Filtration/Microfiltration

The RCF process involves reduction of Cr6 to Cr3 followed by removal of particles by filtration, as shown in Equation 1 below.

(1) $$3Fe^{2+} + CrO_4^{2-} + 8H_2O \rightarrow 3\ Fe(OH)_3(s) + Cr(OH)_3(s) + 4H^+$$

As shown in Equation 1, reducing Cr6 to Cr3 converts ferrous iron into ferric iron. Cr3 attaches to ferric hydroxide precipitates that are then removed from the water by granular media or membrane filtration.

An alternative reductant chemical is stannous (tin) that could be used in place of ferrous iron. Since RCF with ferrous is currently the best available technology and use of stannous requires more testing, RCF with ferrous was considered in this comparative analysis. In a preliminary design phase and pilot testing, Banning may wish to consider the alternative coagulant.

Figure 3-2 illustrates a schematic of the RCF treatment process. Components in the RCF process include ferrous iron or stannous addition, a reduction tank or piping that provides time for ferrous iron to reduce Cr6 to Cr3 and coagulate, hypochlorite addition to oxidize the remaining ferrous iron to ferric iron, polymer addition to a rapid mixing tank to enhance floc formation (if granular filters), granular media filtration, and backwash recovery (**Figure 3-2**).

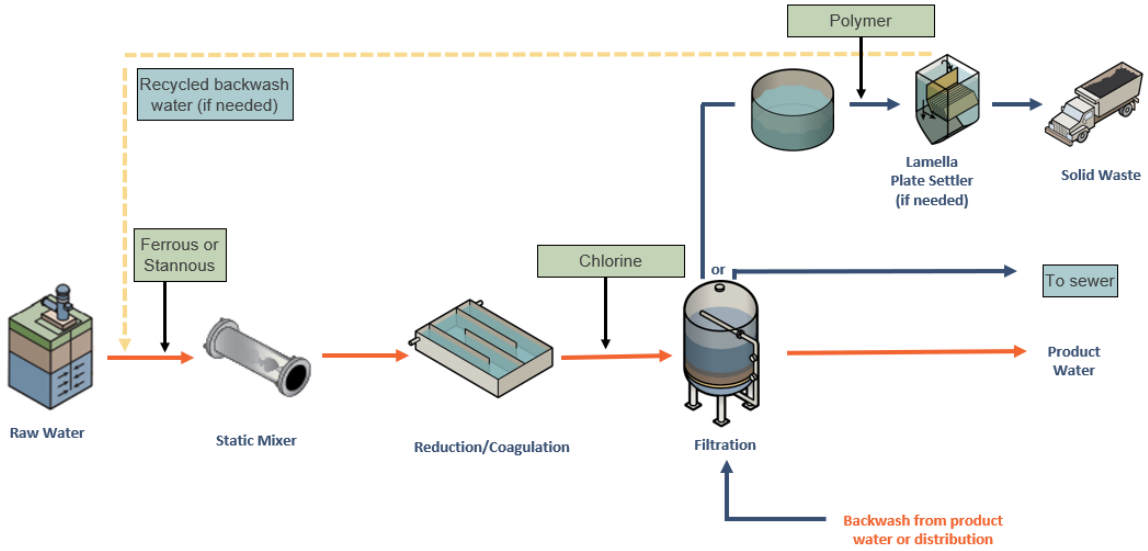


Figure 3-2: RCF Treatment Process Flow Diagram

Instead of granular media filters, microfiltration (MF) could be used – a process termed RCMF. Testing indicates that granular media filters can reliably decrease total chromium to below 3 to 5 µg/L, while MF can decrease total chromium to below the method reporting limit of 1 µg/L. In general, raw water quality (e.g., sulfate) does not affect RCF and RCMF like it affects SBA. Since the proposed draft MCL is 10 µg/L, costs were considered for only RCF because the additional cost of using MF would not provide a regulatory benefit at this time.

3.1.3 Weak Base Anion Exchange

Weak Base Anion (WBA) resin effectively removes Cr6 from water, reducing it to trivalent chromium (Cr3) on the resin's surface. Over time, as the resin's capacity for Cr6 is gradually exhausted, Cr6 concentrations in the treated water begin to increase. When the Cr6 level exceeds the target threshold, the WBA resin is replaced rather than regenerated.

Figure 3-3 shows a schematic of the WBA treatment process. Before the ion exchange, suspended particles are removed from groundwater using bag or cartridge filters to minimize pressure drop in the resin bed and reduce the need for backwashing. WBA resins are pH-sensitive and work most effectively at a pH of approximately 6.0 for Cr6 removal. pH adjustment, typically achieved by adding carbon dioxide (CO_2) or an acid (such as sulfuric or hydrochloric acid), is necessary to reach this range. The required dose of CO_2 or acid depends on the groundwater's alkalinity and initial pH. In this analysis, CO_2 was selected for pH adjustment due to safety considerations associated with sulfuric acid. Banning wells have moderate alkalinity (approximately 130 mg/L as $CaCO_3$), resulting in an estimated required CO_2 dose of approximately 300 mg/L. Chemical expenses for pH adjustment were included in the O&M cost estimates.

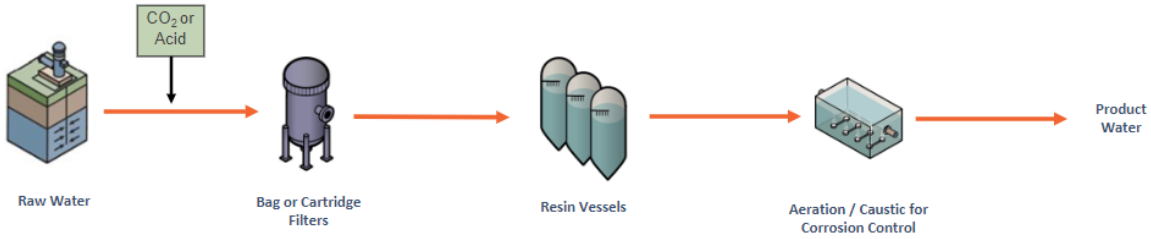


Figure 3-3: WBA Treatment Process Flow Diagram

4. Treatment Evaluation

4.1 Treatment System Conceptual Design

This section describes the conceptual designs and operating parameters that were used to calculate the well treatment system cost estimates for a specific treatment technology. Capital, annual O&M, and total annual costs were estimated for WBA, SBA, and RCF. This section describes the assumptions used to develop cost estimates. Well historical well utilization was used to estimate annual O&M costs for each treatment location and the utilization percentage is presented in **Table 4-1**. It should be noted that O&M costs for SBA are sensitive to the utilization percentage to estimate resin regeneration frequencies.

Table 4-1: Well Utilization for O&M Estimates

Well	Well Capacity (gpm)	Utilization %
M10, M11	1,400	9%
C2, C4, C8, M3	4,700	8%
C3	1,100	27%
C5	900	31%
C6	900	23%

The proposed clustered and wellhead treatment locations and proposed raw water transmission piping is shown in **Figure 4-1**. Individual wellhead treatment would require available footprint at each well site for the equipment associated with the type of selected treatment technology. An analysis of treatment options was completed in the prior Study 2022 and indicated the space constraints at Well C3 and C5. It was noted that Well C5 only has an available footprint of 1,000 ft^2 and would require obtaining nearby land for treatment, while Well C3 does not have available footprint for RCF and WBA, making those treatment technologies infeasible without the acquisition of land.

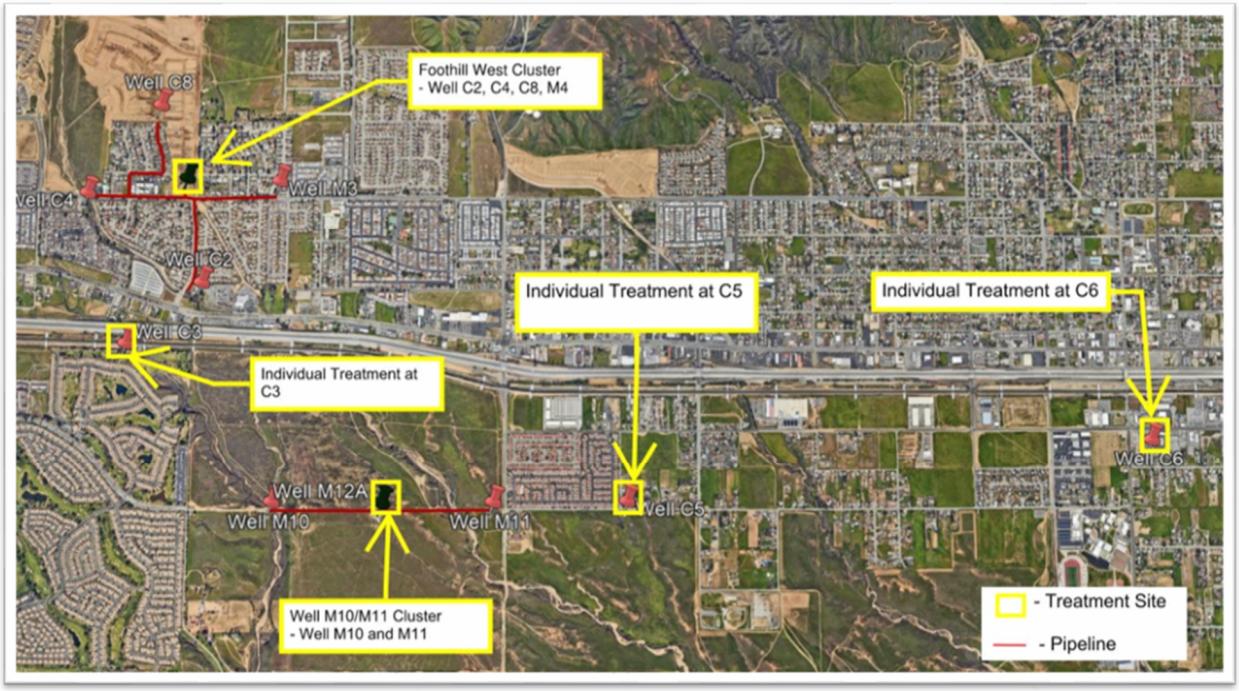


Figure 4-1: Clustered and Individual Wellhead Treatment Locations

4.1.1 SBA

The brine handling strategy employed at an SBA treatment facility impacts the equipment needed at that location. The three SBA brine handling options, SBA Option 1, SBA Option 2, SBA Option 3 are further discussed in **Section 3.1.1**. The assumptions used for estimating SBA treatment system costs are shown in **Table 4-2**.

Table 4-2: SBA Design Criteria

Parameter	Value	Units
Vessel Diameter	10	ft
Resin Volume	368	cf
Vessel Area	78.54	sq ft
Hydraulic Loading Rate (HLR)	15 (maximum)	gpm/ft^2
Empty Bed Contact Time (EBCT)	2.0 – 4.0	min/vessel
Configuration	Parallel (minimum 2)	-
Full-time equivalents for operation (FTE)	1.25	-
Resin life	7	years

Additional assumptions include:

- Bag filters for particle removal, resin regeneration, spent brine treatment process.

- No caustic soda feed system.
- Resin regeneration frequency was based on maximum historical sulfate concentration in raw water, which was derived from full-scale experience showing bed volumes versus sulfate concentrations. Resin regeneration was assumed when the effluent Cr6 concentration reached 6 µg/L.
- The resin regeneration procedure consists of regen (12% brine, 4 BVs total comprised of 3 BVs to be recycled and 1 BV to waste), slow rinse (1 BV, recycled), and fast rinse (3 BVs, all to waste).
    - Hazen is confirming recommended resin regeneration waste volumes with vendors.

For the SBA options, ranges are included in the O&M to represent the sensitivity of cost estimates to key assumptions, including:

- SBA Option 1 - This option includes on-site treatment of hazardous brine using ferrous chloride, aeration, and belt filter presses to convert it into non-hazardous brine suitable for off-site hauling, along with hazardous solids requiring disposal. Costs account for treatment and disposal of both non-hazardous liquid and hazardous solid wastes. The brine treatment process will vary depending on the constituents present and their concentrations (e.g., selenium, uranium), which may be variable depending on the well.
- SBA Option 2 - In this option, hazardous brine undergoes on-site treatment, with non-hazardous liquid waste discharged to a wastewater treatment facility and hazardous solids disposed of off-site. Costs include the treatment and disposal of both non-hazardous liquid and hazardous solids. The feasibility of this option depends on further analysis and coordination with the wastewater treatment facility.
- SBA Option 3 - This option involves hauling hazardous brine directly to a disposal facility as hazardous liquid waste. Costs exclude on-site brine treatment. Any bed volumes in the regeneration processes producing non-hazardous brine are recycled. Rinse water is disposed of as non-hazardous liquid waste.

4.1.2 RCF

For the RCF option, ferrous chloride as a bulk chemical was assumed as the coagulant. As discussed previously, other options (on-site generation or use of stannous chloride) could be considered in preliminary design. The assumptions used for estimating RCF treatment system costs are shown in **Table 4-3**. Sites without adequate sewer capacity assumed recycling the supernatant to the head of the plant and dewatering solids to be disposed of offsite. Site constraints will need to be evaluated further in preliminary design to confirm that placement of equipment is feasible with underground piping and other site features. Residual disposal is further discussed in **Section 4.2**.

Table 4-3: RCF Design Criteria

Parameter	Value		Unit
Vessel Configuration	Vertical	Horizontal	--
Vessel Diameter	12	10	ft
Number of Cells	-	4	4
Reduction Time	2		min
Hydraulic Loading Rate	8		gpm/ft^2
Media	Sand/Anthracite		type
Media Depth	3		ft
Freeboard	1.5		ft
Media Replacement (Attrition)	10%		Annual
Ferrous Chloride Dose	2.0		mg/L (as Fe)
Sodium Hypochlorite Dose	3.5		mg/L
Non-ionic polymer (filter aid)	0.1		mg/L
Backwash Rate	15		gpm/ft^2
Backwash Duration	10		min
Backwash Frequency	12		hours
FTE	1.5		-

4.1.3 WBA

The assumptions used for estimating WBA treatment system costs are shown in **Table 4-4**.

Table 4-4: WBA Design Criteria

Parameter	Value	Unit
Vessel Diameter	12	ft
Hydraulic Loading Rate	8	gpm/ft^2
EBCT	4.0	min/vessel
Configuration	Lead/lag	-
Target pH	6.0	-
Anti-scalant Dose (Polyphosphate)	1.0	mg/L
FTE	1.0	-
Resin Volume	420	cf
Resin	Purolite S106	

4.2 Residual Disposal

Residual disposal for the treatment technologies is a major factor in selection. This section describes the disposal options for SBA, WBA, and RCF and the impact of residuals disposal to the wastewater collection system.

4.2.1 Sewer Capacity Analysis

A sewer capacity analysis was completed to evaluate if backwash flow rates can be accommodated in the system. The sewer capacity was calculated using Kutter's formula (**Figure 4-2**) and depth to diameter (d/D) ratio per ASCE and WEF recommendation.

$$C = \frac{41.65 + \frac{0.00281}{s} + \frac{1.811}{n}}{1 + \frac{n}{\sqrt{R}}\left(41.65 + \frac{0.00281}{s}\right)} \qquad V = C\sqrt{RS}$$

$$Q = CA\sqrt{RS}$$

Where

C = Chezy's resistance coefficient
S = Slope
R = Hydraulic radius
n = Manning's roughness coefficient
A = Area

Figure 4-2: Kutter's Formula - Sewer Capacity

The following coefficients and ratios were used as the basis of the analysis:

- Manning's roughness coefficient (n):
    - Vitrified Clay Pipe: n = 0.013
    - Polyvinyl Chloride Pipe n = 0.007
- Flow depth to diameter ratio:
    - When D > 15", d/D ≤ 75 %
    - When D ≤ 15", d/D ≤ 50%

City land use via the 2016 City of Banning General Plan was used. Each site was reviewed to confirm the sewer connection location and the downstream gravity mains were analyzed until they no longer had adequate capacity or until a connection to a trunk line. Trunk lines are found along Westward Avenue and Portner Street. Table 4-5 summarizes the full flow sewer capacity for each proposed treatment site. However, sewer modeling was not conducted within this study to determine available sewer capacity. Appendix A contains sewer capacity calculations.

Table 4-5: Sewer Accessibility

Plant Name	Sewer Access	Sewer Full Flow Capacity (cfs)
M10, M11	Yes	75.8
C2, C4, C8, M3	Yes	3.3
C3	Yes	1.8
C5	Yes	8.5
C6	Yes	0.7

4.2.2 SBA

Without brine treatment onsite, the brine would need to be transported to a facility for treatment and/or disposal. The treatment of brine onsite to render it non-hazardous could make it feasible to discharge the brine to the sewer if sewer access for brine disposal is available. The advantage of this approach is that it eliminates hauling and disposal of the non-hazardous brine, but the disadvantage is increased salt loading into the sewer and the wastewater treatment plant (WWTP), which can affect the ability to satisfy the TDS limit in the Waste Discharge Requirements (WDR). The current WDR of the City WWTP limits the TDS discharged from that facility to 300 mg/L higher than the domestic water supply. An analysis presented in that WDR noted that the average TDS increase over the domestic water supply was about 220 mg/L from 2011 to 2015. As the previous 2023 Study Update estimates, the cumulative effect of all treatment systems may increase the average TDS to exceed the WDR TDS limit of 300 mg/L, indicating this approach may not be an option that could be implemented at all well treatment locations without revisions to the WDR.

4.2.3 RCF

RCF generates backwash waste that either requires disposal to the sewer or treatment to separate the backwash water from the solids so the water can be recycled to the head of the plant and the solids can be transported offsite for disposal. A conservative estimate was used to determine if the discharge of filter backwash water from RCF would impact the sewer capacity. If the backwash discharge was less than 10% of the total sewer capacity, backwash discharge to sewer was assumed to be potentially feasible. However, if the backwash discharge exceeded 10% then further analysis is recommended to confirm backwash discharge feasibility. Backwash flows from both horizontal and vertical filter vessels were evaluated. **Table 4-6** presents the full flow sewer capacity compared to the discharge rates from backwashing vertical filter vessels and the backwash volume. This analysis indicates discharging attenuated backwash flow via a backwash holding tank would result in the discharge flow being under 10% and therefore assumed to be feasible at a number of sites. **Table 4-7** summarizes the discharge flows for horizontal vessel configuration and backwash volumes.

Table 4-6: RCF Vertical Configuration Backwash Tank Sizing

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
M10, M11	43,529	0.16	0.2%	52.9
C2, C4, C8, M3	191,788	0.71	**21.6%**	37.5
C3	41,129	0.15	8.8%	42.0

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
C5	40,529	0.15	3.6%	39.1
C6	39,929	0.15	**22.2%**	36.1

Table 4-7: RCF Horizontal Configuration Backwash Tank Sizing

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
M10, M11	44,800	0.17	0.2%	51.2
C2, C4, C8, M3	140,000	0.52	**15.8%**	51.5
C3	33,600	0.12	7.1%	51.4
C5	30,800	0.11	3.3%	51.8
C6	15,558	0.10	**15.1%**	51.1

Sites with backwash discharge exceeding 10% of the sewer capacity were bolded in **Table 4-6** and **Table 4-7** above and were initially flagged as requiring further analysis to determine the current sewer usage and available capacity. After discussions with Banning, it was noted that sewer at Well C6 does not have high usage and therefore may be able accommodate discharge flows from Well C6. However, further analysis is recommended at Foothill Cluster (C2, C4, C8, M3) to confirm the available capacity accounting for demands from other sources.

4.2.4 WBA

WBA resin will accumulate uranium, and the disposal will vary depending on the concentration of that element. Spent resin is expected to be a hazardous waste due to a high Cr concentration above the California Total Threshold Limit Concentration (TTLC), as experienced at the Glendale, CA Cr6 treatment facility. Due to the removal and concentration of naturally occurring uranium from source waters, the waste is likely to be a technologically enhanced naturally occurring radioactive material (TENORM) waste and may be a low-level radioactive waste (LLRW) that requires special disposal. The impact is additional cost and permitting complexity.

5. Cost Estimating

The ranges of costs developed reflect the accuracy of estimates at this phase of planning and are consistent with Association for the Advancement of Cost Engineering (AACE) Class 4 costs with an accuracy range of -30% to +50%. No design contingency was added to the estimate based on how the cost estimate was developed. Total annual costs are presented as the sum of annual O&M and capital debt service based on a 30-year lifecycle and assumed State Revolving Fund loan rate of 2%. Cost estimate details are included in **Appendix B**.

Cost estimates summarized in **Table 5-1** are limited to sites that do not currently have treatment. The costs indicate that the ranges of capital, O&M, and annualized costs overlap within the accuracy range of the estimates.

Table 5-1: Capital, O&M and Total Annual Cost Estimates of Different Treatment Strategies

Well Name	Treatment Strategy Cost Estimates ($ Million)					
	WBA	SBA Option 1	SBA Option 2	SBA Option 3	RCF (H)	RCF (V)
M10, M11	12.6	12.6	11.2	9.4	7.1	8.5
C2, C4, C8, M3	18.4	17.7	16.2	13.9	13.5	17.8
C3	8.1	8.7	8.7	6.4	4.3	6.3
C5	8.1	8.7	8.7	6.4	4.2	6.3
C6	8.1	8.7	8.7	6.4	4.0	6.3
Total Project Capital Costs (Sum of capital costs for each site)	55.2	56.4	53.6	42.6	33.2	45.2
Total Project Capital Costs Accuracy Range (-30 to +50%)	38.7 - 82.9	39.5 - 84.7	37.5 - 80.3	29.8 - 63.9	23.2 - 49.7	31.6 - 67.8
Total Project Annual O&M Costs ($M/Year): Estimate	2.0	1.6	1.5	1.6	1.8	1.8
Total Project Annual O&M Costs (Accuracy Range -30 to +50%, $M/Year)	1.4 – 3	1.1 - 2.4	1.1 - 2.3	1.1 - 2.4	1.3 - 2.7	1.3 - 2.7
Total Project Annual Cost (Annualized Capital + Annual O&M) ($M/Year)	4.7	4.5	4.3	3.8	3.5	4.1
Total Project Annual Costs (Annualized Capital + Annual O&M Costs over Accuracy Range of -30 to +50%, $M/Year)	3.3 - 7.1	3.1 - 6.7	3 - 6.4	2.6 - 5.7	2.4 - 5.2	2.9 - 6.2

General Notes: Values in the table are rounded to one decimal place. V = Vertical pressure vessels; H = Horizontal pressure vessels.

6. Technology Screening

Due to the overlap in technology costs observed in the 2022 Study Update, Hazen and Sawyer evaluated non-monetary factors that factor into selection of treatment technology. Total annual cost estimates and non-cost ranking criteria were developed to compare technologies that met Banning criteria to be considered for implementation.

Treatment options for Cr6 removal were first screened for critical flaws and the remaining options were then assessed using non-cost criteria. Treatment options were scored on a scale from 1 (least favorable) to 10 (most favorable) across criteria. Decision-making criteria are described below and scoring explanations are provided in **Table 6-1.**

Reliability and Resilience to Changing Water Quality – This criterion evaluates the treatment technology's resilience to fluctuations in water quality, change in treatment goals long term performance, and impact from competing constituents.

O&M Complexity – This criterion evaluates the ease of operation and the magnitude of maintenance for a unit process.

Water Loss – This criterion evaluates the amount of water loss associated with the treatment technology (e.g., regeneration waste or backwash water).

Residual Handling – This criterion indicates the complexity of disposal of liquid and solid waste and evaluates whether the waste is hazardous.

Environmental and Community Impacts – This criterion scores the ability of the selected treatment technology process to obtain permits and achieve community acceptance.

Table 6-1: Explanations of Criteria Scoring Values

Category	Criteria	Definition	High Score Definition	Low Score Definition
Reliability and Resilience	Reliability to Meet Cr6 Treatment Goal	Treatment reliability	Treatment technology is not limited to reliability or dependency on vendors	Relatively low number of vendors offering treatment technology approach or residual disposal solutions
	System resilience to change	Ability to handle fluctuations in water quality or change in the treatment goal without significant operational changes	Yes, without additional operational cost	No, operational changes and higher costs would be realized
	Impact from competing constituents	Interfering constituents (i.e., sulfate, silica, iron, manganese)	High selectivity, primary removal of Cr(VI) only	Interfering constituents decreasing Cr(VI) removal efficiency
O&M Complexity	Equipment complexity	Chemical feed system requirements and the need for constant monitoring. Multiple components require frequent maintenance.	Very few feed systems requiring little monitoring/ maintenance	Multiple chemical feeds, constant monitoring/maintenance
	Chemical deliveries	Frequency of chemical deliveries	Less frequent	More frequent
	Number of full-time employees needed (FTEs)	The number of staff required to maintain operation and the need for operator attention.	Low-level staffing requirement	High-level staffing requirement
Water Loss		Water loss to waste associated from process	Little to no water loss	High water loss
Residuals Handling	Complexity of Liquid Waste Disposal	How complicated is disposal of liquid waste?	Not difficult	Difficult
	Offsite Disposal of Solid Waste	How frequent are truck trips to dispose of waste offsite? Is solid waste hazardous?	Less frequent and/or non-hazardous	More frequent and/or hazardous
Environmental / Community Impacts	Ability to obtain environmental permits	--	Low complexity to obtain permits	High complexity to obtain permits
	Community acceptance	--	Low Community Acceptance	High Community Acceptance

Non-cost criteria weightings were developed in consultation with Banning, and Hazen's multi-criteria decision analysis tool used these criteria and weightings as inputs to compare alternative technologies (**Table 6-2**). The scores assigned for each category were scaled based on the weightings to provide a total score for each technology out of a maximum of 100. The technologies included in this analysis were SBA Option 1, SBA Option 2, SBA Option 3, RCF and WBA.

Table 6-2: Weightings of Non-Cost Evaluation Criteria

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	30%	Reliability of Long-Term Performance	40%	1 – 10
		System Resilience to Change	30%	1 – 10
		Impact from Competing Constituents	30%	1 – 10
O&M	20%	Equipment Complexity	40%	1 – 10
		Chemical Deliveries	50%	1 – 10
		Number of FTE	10%	1 – 10
Water Loss	5%	Water Loss	100%	1 – 10
Residuals Handling	30%	Disposal of Liquid Waste	80%	1 – 10
		Disposal of Solid Waste	20%	1 – 10
Environmental / Community	15%	Ability to Obtain Environmental Permits	50%	1 – 10
		Community Acceptance	50%	1 – 10
Cost	20%	Total Project Annual Cost	100%	1 – 10

6.1 Screening Results

A summary the unweighted scores of the technologies for each non-cost criterion are shown in **Table 6-3.**

Key differentiating factors include:

- SBA has a good history of use, but all brine handling options include either hazardous liquid or hazardous solids.
- RCF is ranked the highest in terms of reliability and resilience, and residual handling, making RCF the favorable option for sites with high sulfate concentrations. Additionally, RCF has the highest community acceptance score due to less frequent truck trips, for chemicals and/or residual hauling.
- WBA has a relatively low equipment complexity. However, community acceptance is low due to noise of CO_2 fills, and disposal of hazardous, LLRW spent resin is a consideration with this technology.

Table 6-3: Unweighted Non-Cost Scores by Treatment Technology

Category	Criteria	SBA Option 1	SBA Option 2	SBA Option 3	WBA	RCF
Reliability & Resiliency	Reliability of Long-Term Performance	10	10	10	10	10
	System Resilience to Change	8	8	8	10	10
	Impact from Competing Constituents	4	4	4	6	10
O&M	Equipment Complexity	4	4	6	9	8
	Chemical Deliveries	8	8	9	8	6
	Number of FTE	8	8	8	9	7
Water Loss	Water Loss	8	8	8	8	6
Residuals Handling	Redundancy of Liquid Waste Disposal	2	10	2	8	10
	Disposal of Solid Waste	4	4	10	6	10
Environmental / Community	Ability to Obtain Environmental Permits	6	6	6	6	6
	Community Acceptance	4	4	4	2	8

Total annual costs were scored on a site-specific basis to determine the treatment technology ranking for each location. The non-weighted scoring for the total annual project cost is presented in **Table 6-4**.

Table 6-4: Unweighted Total Project Annual Cost Scores by Treatment Technology

Category	RCF	WBA	SBA Option 1	SBA Option 2	SBA Option 3
M10, M11	10	8	7	9	10
C2, C4, C8, M3	10	6	8	9	9
C3	10	8	9	9	10
C5	10	8	9	9	10
C6	10	8	8	8	9

Additionally, a sensitivity analysis was conducted to evaluate the impact of the cost vs. non-cost criteria. In sensitivity analysis 1, the cost weighting was increased to 35% while the non-cost category weightings were decreased proportionally. In sensitivity analysis 2, the cost weightings were increased to 50% and the non-cost category weightings were proportionally decreased. Treatment alternative rankings for each location are presented in **Table 6-5**, with 1 as the highest ranking and 5 as the lowest ranking. RCF is ranked as the highest treatment alternative at all locations and in both sensitivity analysis 1 and 2. RCF is

viewed as the preferred treatment technology to achieve Banning's goals. The Hazen converge results for each site are presented in **Appendix C**.

Table 6-5: Hazen Converge and Sensitivity Analysis Ranking

Category	Criteria	RCF	WBA	SBA Option 1	SBA Option 2	SBA Option 3
M10, M11	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
C2, C4, C8, M3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4
C3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
C5	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	4	2
C6	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4

7. Conclusions

The best available technologies (BATs) evaluated for the City wells included WBA, SBA, and RCF. Technologies were assessed based on lifecycle costs and operability considerations (chemical consumption, residuals waste generation, and staffing requirements). While the accuracy range of lifecycle costs overlap for each of the alternatives, it was found that the RCF with horizontal filter configuration located at clustered treatment facilities and individual sites was the lowest point estimate lifecycle cost compared with WBA and SBA. As the previous study indicated, there is not enough available footprint to house RCF and WBA equipment at Wells C3 and C5, making those treatment technologies infeasible at those locations without the acquisition of additional land.

RCF has the lowest annualized lifecycle costs of all treatment strategies, although there is considerable overlap between the lifecycle costs of the other technologies. WBA and SBA Option 1 had the highest capital cost and WBA has the highest O&M costs. SBA with onsite brine treatment had the lowest O&M costs, but had a higher lifecycle cost than RCF with either vertical or horizontal vessel configuration and SBA with no brine treatment. Due to the overlap in technology costs, Hazen and Sawyer evaluated non-monetary factors that factor into selection of treatment technology, as outlined in **Section 6** and **6.1**. Total

annual cost estimates and non-cost ranking criteria were developed to compare technologies and RCF ranked as the preferred treatment technology when considering cost and non-cost factors. This study focused on evaluating BATs (RCF, SBA, WBA) for the City wells and non-treatment solutions were not evaluated, further assessment is required to determine the potential for non-treatment solutions.

7.1 Next Steps

This study has developed a foundation for future work considerations as the City continues down the path of project implementation. Next steps for the City before, or during, preliminary design include:

- Further analysis of sewer disposal at C2, C4, C8, M3 to confirm available sewer capacity.
- Confirm if brine can be sent to the wastewater reclamation facility.
- Further assessment of site layouts for Wells C3 and C5, which may require the purchase of additional land.
- Consider pilot unit options to train operation staff in advance of design and/or startup.

7.1.1 Piloting Options

Banning is interested in acquiring a pilot system to provide training on the equipment for operators and optimize treatment design, as part of this study pilot system options were evaluated. The pilot configuration is intended to provide two minutes of reduction time for the ferrous chloride, multiple filter columns to evaluate various filter medias such as sand/anthracite, GreensandPlus, and pyrolusite, and chemical tanks for ferrous chloride, sodium hypochlorite, and polymer. Quotes for pilot systems were obtained from vendors and summarized in **Table 7-1**.

Table 7-1: RCF Pilot Quotations

Category	Purchase					Lease
	Skid Mounted		Container/Trailer Mounted			Trailer Mounted
	Intuitech[1]	WQTS	Intuitech[1]	Filtronics[1]	Tonka	Tonka[1]
Cost	$242,000	$325,000	$410,000	$85,000	$107,500	$32,500 (first week)
Additional Add-on	Turbidity Meters (Add $22,000)	-- (fully customized system)	Turbidity Meters (Add $22,000)	Additional Customization Available	Additional Tonka Visits (Add $7,000 per)	Additional Week (Add $2,500 per) Additional Tonka Visits (Add $7,000 per)
Size	12.2' L x 4.2' W x 10.2' H	10' H x 10' L x 2.83' W[2]	20' Enclosure	14' trailer	20' trailer	20' trailer
Lead Time	6-7 months	6-7 months	6-7 months	2 – 3 months	3 months	1 – 1.5 months

[1] Quote received is for a standard RCF pilot system, additional customization resulting in price change

[2] Dimensions for the skid do not include additional chemical tanks and backwash tank

Intuitech offers skid-mounted or containerized pilot systems, with the containerized option featuring air conditioning. The pilot system is fully automated with a SCADA system, enabling unmanned operation and offering optional turbidity meters and are available for purchase. WQTS provides skid-mounted pilot systems equipped with a fully automated SCADA system and a data logger. The WQTS systems include advanced features like pressure sensors, temperature sensors, turbidity meters, flow meters, and flow control valves. WQTS also allocates time for setup and training to ensure smooth pilot operation, and their systems are available for purchase. Filtronics delivers trailer-mounted pilot systems with automated filtration and semi-automatic electric valves, available for purchase. Tonka offers a trailer-mounted pilot system that is more manual but can be customized to meet specific needs. Tonka systems are available for lease or purchase. Specific quotation details for each pilot system can be found in **Appendix D.**

Appendix A: Sewer Capacity Analysis

Sewer Capacity Analysis

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Background

- 5 treatment sites
  - Foothill West Cluster (Wells C2, C4, C8, M3)
  - Well M10 + M11 Cluster
  - Well C3 Individual Treatment
  - Well C5 Individual Treatment
  - Well C6 Individual Treatment
- Treatment Technology: RCF
- Backwash Design Parameters:
  - 15 gpm/ft²
  - Duration 10 mins
  - Media: Sand/Anthracite
  - Backwash estimated every 12 hours
  - Conservatively assumed no backwash to be recycled
  - Iron concentration to sewer was calculated as a function of the Ferrous dose
- Two potential vessel arrangements
  - Horizontal Filter Vessels
    - *4 cells per vessel*
  - Vertical Filter Vessels



- Assumptions
  - Vertical
    - *Backwash volume is calculated assuming all duty vessels to be backwashed*
    - *Backwash volume for 12-hour period*
    - *Backwash waste to be discharged within 10 hours*
  - Horizontal
    - *Backwash volume is calculated assuming 2 out of 4 cells to be backwashed per vessel within a 6-hour period*
    - *Backwash waste to be discharged within 5 hours.*

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Sewer Capacity Analysis Calculations

- Calculated design capacity using Kutter's Formula & d/D ratio
- Manning's roughness coefficient (n):
  - **Vitrified Clay Pipe: n=0.013**
  - **Polyvinyl Chloride Pipe: n=0.007**
- Flow depth to diameter ratio (d/D) per ASCE and WEF recommendations
  - **When D > 15", d/D ≤ 75 %**
  - **When D ≤ 15", d/D ≤ 50%**
- City land use via 2016 City of Banning General Plan
- Analyze downstream until gravity main does not have adequate capacity or until it connects into trunk line
  - **Trunk lines are along Westward Avenue and Porter Street**
- Used a conservative estimate to determine if the discharge from RCF would impact sewer capacity.
  - **If the Discharge/Sewer Capacity was under 10%, backwash discharge was assumed to be feasible**

Kutter's Formula

$$C = \frac{41.65 + \frac{0.00281}{s} + \frac{1.811}{n}}{1 + \frac{n}{\sqrt{R}}\left(41.65 + \frac{0.00281}{s}\right)}$$

$V = C\sqrt{RS}$

$Q = CA\sqrt{RS}$

Where

C = Chezy's resistance coefficient
S = Slope
R = Hydraulic radius
n = Manning's roughness coefficient
A = Area

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Foothill West Cluster (Wells C2, C4, C8, M3)

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.71 cfs*
    - *Sewer Capacity: 3.30 cfs*
    - *Discharge flow from backwash **exceeds 10%** of Highland Home Rd / Wilson St Sewer Capacity (21.59% Discharge/Capacity) – **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
  - **Horizontal Configuration**
    - *Discharge flow: 0.52 cfs*
    - *Sewer Capacity: 3.30 cfs*
    - *Discharge flow from backwash **exceeds 10%** of Highland Home Rd / Wilson St Sewer Capacity (15.76% Discharge/Capacity) – **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
- Potential Solutions (if required):
  - **Treating wash water and recycling supernatant to head of plant**
    - *Increase capital and O&M cost for dewatering equipment and sludge disposal (haz.)*
  - **Individual RCF treatment instead of clustered treatment**
    - *Transmission pipe estimated capital cost $4 M*
    - *Individual wellhead RCF treatment estimate ($4 M - $8M) for depending on vessel configuration for design flows 1,000 – 1,600 gpm*
  - **Alternate Treatment Technology (WBA or SBA)**



- Conclusion:
  - **Flows exceed the sewer capacity screening criteria used; however, further evaluation is required to confirm if discharging to sewer at Highland Home Rd / Wilson St. is feasible.**

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Foothill West Cluster (Wells C2, C4, C8, M3) - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**Foothill West Cluster**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	191,788
Backwash flow rate	gpm	320
	cfs	0.71
Iron (as Fe) to Sewer from Ferrous	mg/L	37.5
Horizontal Configuration		
Parameter	**Units**	**Foothill West Cluster**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	140,000
Backwash flow rate	gpm	233
	cfs	0.52
Iron (as Fe) to Sewer Ferrous	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Highland Home Rd/ Wilson St	Foothill West Cluster Treatment Site	218	188	15	0.0024	3.30	-	0.71	21.59%

Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Highland Home Rd/ Wilson St	Foothill West Cluster Treatment Site	218	188	15	0.0024	3.30	-	0.52	15.76%

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M10 & M11 Cluster

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.16 cfs*
    - *Sewer Capacity: 75.84 cfs*
    - *Discharge flow from backwash is under 10% of W Westward Ave Sewer Capacity (0.21% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.17 cfs*
    - *Sewer Capacity: 75.84 cfs*
    - *Discharge flow from backwash is **under 10%** of W Westward Ave Sewer Capacity (0.22% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, based on the information provided**



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M10 & M11 Cluster - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**M10 and M11 Cluster**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	43,529
Backwash flow rate	gpm	73
	cfs	**0.16**
Iron (as Fe) to Sewer from Ferrous	mg/L	52.9
Horizontal Configuration		
Parameter	**Units**	**M10 and M11 Cluster**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	44,800
Backwash flow rate	gpm	75
	cfs	**0.17**
Iron (as Fe) to Sewer from Ferrous	mg/L	51.4

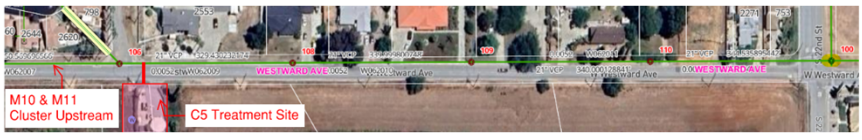
Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well M10 and M11 Cluster Treatment Site	104	107	21	0.4080	-	75.84	0.16	0.21%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well M10 and M11 Cluster Treatment Site	104	107	21	0.4080	-	75.84	0.17	0.22%

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Well C5

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15 cfs*
    - *Sewer Capacity: 8.54 cfs*
    - *Discharge flow from backwash is under 10% of W Westward Ave Sewer Capacity (3.66% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.11 cfs*
    - *Sewer Capacity: 8.54 cfs*
    - *Discharge flow from backwash is **under 10%** of W Westward Ave Sewer Capacity (3.29% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, based on the information provided**



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Well C5 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**Well C5**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	40,529
Backwash flow rate	gpm	68
	cfs	**0.15**
Iron (as Fe) to Sewer from Ferrous	mg/L	39.1
Horizontal Configuration		
Parameter	**Units**	**Well C5**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	30,800
Backwash flow rate	gpm	51
	cfs	**0.11**
Iron (as Fe) to Sewer from Ferrous	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well C5 Individual Treatment Site	106	108	21	0.0052	-	8.54	0.15	3.66%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well C5 Individual Treatment Site	106	108	21	0.0052	-	8.54	0.11	3.29%

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Well C3

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15 cfs*
    - *Sewer Capacity: 1.75 cfs*
    - *Discharge flow from backwash is **under 10%** of Brooklawn Dr Sewer Capacity (8.75% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.12 cfs*
    - *Sewer Capacity: 1.75 cfs*
    - *Discharge flow from backwash is **under 10%** of Brooklawn Dr Sewer Capacity (7.14% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, given the information provided**



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Well C3 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**C3**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	41,129
Backwash flow rate	gpm	69
	cfs	**0.15**
Iron (as Fe) to Sewer	mg/L	42.0
Horizontal Configuration		
Parameter	**Units**	**C3**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	33,600
Backwash flow rate	gpm	56
	cfs	**0.12**
Iron (as Fe) to Sewer	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Brooklawn Dr	Well C3 Individual Treatment Site	134	133	8	0.0196	1.75	-	0.15	8.75%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Brooklawn Dr	Well C3 Individual Treatment Site	134	133	8	0.0196	1.75	-	0.12	7.14%

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Well C6

- Lincoln St Sewer Information – **Insufficient**
  - **Hand drawn records that don't include elevation**
    - *Only pipe segments and lengths*
    - *Assume backwash volume will be sent to gravity main on Barbour St instead*
- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15cfs*
    - *Sewer Capacity: 8.54cfs*
    - *Discharge flow from backwash **exceeds 10%** of Barbour St Sewer Capacity (22.24% Discharge/Capacity) - **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
  - **Horizontal Configuration**
    - *Discharge flow: 0.10cfs*
    - *Sewer Capacity: 8.54cfs*
    - *Discharge flow from backwash **exceeds 10%** of Barbour St Sewer Capacity (15.14% Discharge/Capacity) - **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
- Conclusion:
  - **Flows exceed the sewer capacity screening criteria used; however, further evaluation is required to confirm if discharging to sewer at Lincoln St and Barbour St is feasible.**



- Potential Solutions (if required):
  - **Treating wash water and recycling supernatant to head of plant**
    - *Increase capital and O&M cost for dewatering equipment and hazardous solids disposal*
  - **Alternate Treatment Technology (WBA, or SBA)**

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Well C6 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**C6**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	39,929
Backwash flow rate	gpm	67
	cfs	**0.15**
Iron (as Fe) to Sewer	mg/L	36.1

Horizontal Configuration		
Parameter	**Units**	**C6**
Backwash duration	min	300
Backwash volume (for 2 out of 4 cells per vessel)	gal	15,558
Backwash flow rate	gpm	47
	cfs	**0.10**
Iron (as Fe) to Sewer	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis

Street Name	Site Description	Segment		Pipe		Design capacity sewer (cfs)		Calculated Discharge Flow (cfs)	% Full (Cumulative Flow/Capacity)
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	1/2 Full (≤ 15")	3/4 Full (> 15")		
Barbour St	Well C6 Treatment Site	101	102	8	0.0154	0.69	-	0.15	22.24%

Horizontal Configuration Sewer Capacity Analysis

Street Name	Site Description	Segment		Pipe		Design capacity sewer (cfs)		Calculated Discharge Flow (cfs)	% Full (Cumulative Flow/Capacity)
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	1/2 Full (≤ 15")	3/4 Full (> 15")		
Barbour St	Well C6 Treatment Site	101	102	8	0.0154	0.69	-	0.10	15.14%

Appendix B: Cost Estimates

WBA Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,577	$ 280,543	$ 171,500	$ 171,500	$ 171,500
WBA	$ 2,486,824	$ 5,194,763	$ 2,443,383	$ 2,443,383	$ 2,443,383
Carbon Dioxide	$ 958,462	$ 972,863	$ 939,402	$ 939,402	$ 939,402
Chemical Dosing	$ 96,567	$ 96,572	$ 96,565	$ 96,565	$ 96,565
Site Work	$ 266,020	$ 414,088	$ 258,174	$ 258,174	$ 258,174
Yard Piping	$ 560,703	$ 872,794	$ 544,169	$ 544,169	$ 544,169
Electrical and Controls	$ 1,292,432	$ 2,011,805	$ 1,254,319	$ 1,254,319	$ 1,254,319
Booster Pump	$ 183,565	$ 183,573	$ 183,560	$ 183,560	$ 183,560
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 8,191,000	$ 14,117,000	$ 6,231,000	$ 6,231,000	$ 6,231,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,457,300	$ 4,235,100	$ 1,869,300	$ 1,869,300	$ 1,869,300
Probable Project Cost (rounded):	$ 10,648,000	$ 18,352,000	$ 8,100,000	$ 8,100,000	$ 8,100,000
Annual O&M ($/Year)	$ 332,000	$ 609,000	$ 378,000	$ 381,000	$ 320,000
Annualized Capital and O&M ($M/Year)	$ 0.88	$ 1.55	$ 0.79	$ 0.79	$ 0.73

SBA w/ On-site Brine Treatment and Off-site Disposal (Hauling) Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
On-Site Brine Treatment	$ 2,910,000	$ 2,928,000	$ 2,863,000	$ 2,863,000	$ 2,863,000
Offsite Brine Disposal	$ 1,103,000	$ 1,103,000			
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 9,689,000	$ 13,601,000	$ 6,707,000	$ 6,707,000	$ 6,707,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,906,700	$ 4,080,300	$ 2,012,100	$ 2,012,100	$ 2,012,100
Probable Project Cost (rounded):	**$ 12,596,000**	**$ 17,681,000**	**$ 8,719,000**	**$ 8,719,000**	**$ 8,719,000**
Annual O&M ($/Year)	**$ 313,000**	**$ 406,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.96**	**$ 1.31**	**$ 0.74**	**$ 0.74**	**$ 0.75**

SBA w/ On-site Brine Treatment and Off-site Disposal to Sewer Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
On-Site Brine Treatment	$ 2,910,000	$ 2,928,000	$ 2,863,000	$ 2,863,000	$ 2,863,000
Offsite Brine Disposal	$ 1,103,000	$ 1,103,000			
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 9,689,000	$ 13,601,000	$ 6,707,000	$ 6,707,000	$ 6,707,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,906,700	$ 4,080,300	$ 2,012,100	$ 2,012,100	$ 2,012,100
Probable Project Cost (rounded):	**$ 12,596,000**	**$ 17,681,000**	**$ 8,719,000**	**$ 8,719,000**	**$ 8,719,000**
Annual O&M ($/Year)	**$ 313,000**	**$ 406,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.96**	**$ 1.31**	**$ 0.74**	**$ 0.74**	**$ 0.75**

SBA w/ off-site Disposal No Treatment Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
Off-site Brine Disposal	$ 1,103,000	$ 1,103,000	$ 1,103,000	$ 1,103,000	$ 1,103,000
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 940,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 7,239,000	$ 10,673,000	$ 4,947,000	$ 4,947,000	$ 4,947,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,171,700	$ 3,201,900	$ 1,484,100	$ 1,484,100	$ 1,484,100
Probable Project Cost (rounded):	**$ 9,411,000**	**$ 13,875,000**	**$ 6,431,000**	**$ 6,431,000**	**$ 6,431,000**
Annual O&M ($/Year)	**$ 310,000**	**$ 407,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.79**	**$ 1.11**	**$ 0.62**	**$ 0.62**	**$ 0.63**

RCF Horizontal Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
RCF	$ 1,909,279	$ 4,012,215	$ 1,570,381	$ 1,496,977	$ 1,418,171
Chemical Dosing	$ 193,192	$ 193,192	$ 193,192	$ 193,192	$ 193,192
Backwash	$ 598,445	$ 856,526	$ 563,862	$ 563,862	$ 552,950
Site Work	$ 145,718	$ 272,917	$ 125,596	$ 121,641	$ 116,808
Yard Piping	$ 307,136	$ 575,242	$ 264,725	$ 256,390	$ 246,202
Electrical and Controls	$ 707,954	$ 1,325,942	$ 610,197	$ 590,984	$ 567,501
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Probable Construction Cost (rounded):	$ 5,474,000	$ 10,386,000	$ 3,328,000	$ 3,223,000	$ 3,095,000
Engineering, Construction Management, Legal, Administration (30%)	$ 1,642,200	$ 3,115,800	$ 998,400	$ 966,900	$ 928,500
Probable Project Cost (rounded):	**$ 7,116,000**	**$ 13,502,000**	**$ 4,326,000**	**$ 4,190,000**	**$ 4,024,000**
Annual O&M ($M/Year)	**$ 327,000**	**$ 426,000**	**$ 361,000**	**$ 351,000**	**$ 331,000**
Annualized Capital and O&M ($M/Year)	**$ 0.69**	**$ 1.11**	**$ 0.58**	**$ 0.56**	**$ 0.54**

RCF Vertical Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
RCF	$ 2,660,620	$ 6,127,074	$ 2,660,620	$ 2,660,620	$ 2,660,620
Chemical Dosing	$ 193,192	$ 193,192	$ 193,192	$ 193,192	$ 193,192
Backwash	$ 567,441	$ 1,075,721	$ 537,945	$ 537,945	$ 537,945
Site Work	$ 184,526	$ 398,664	$ 182,936	$ 182,936	$ 182,936
Yard Piping	$ 388,934	$ 840,285	$ 385,584	$ 385,584	$ 385,584
Electrical and Controls	$ 896,500	$ 1,936,872	$ 888,780	$ 888,780	$ 888,780
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Probable Construction Cost (rounded):	**$ 6,503,000**	**$ 13,722,000**	**$ 4,849,000**	**$ 4,849,000**	**$ 4,849,000**
Engineering, Construction Management, Legal, Administration (30%)	**$ 1,950,900**	**$ 4,116,600**	**$ 1,454,700**	**$ 1,454,700**	**$ 1,454,700**
Probable Project Cost (rounded):	**$ 8,454,000**	**$ 17,839,000**	**$ 6,304,000**	**$ 6,304,000**	**$ 6,304,000**
Annual O&M ($M/Year)	$ 327,000	$ 426,000	$ 361,000	$ 351,000	$ 331,000
Annualized Capital and O&M ($M/Year)	**$ 0.76**	**$ 1.34**	**$ 0.68**	**$ 0.67**	**$ 0.65**

Appendix C: Hazen Converge Analysis

Chromium 6 Treatment and Compliance Technical Memo Updates

Task 3 – Technology Selection
July 31, 2024



Proud History
Prosperous Tomorrow

Hazen

1

Treatment Alternatives

- Weak Base Anion Exchange (WBA)
- Strong Base Anion Exchange (SBA) Option 1 – Brine Treatment, Offsite Non-Hazardous Disposal
- SBA Option 2 – Brine Treatment, Sewer Disposal
- SBA Option 3 – No Brine Treatment, Offsite Hazardous Disposal
- Reduction Coagulation Filtration (RCF)

2

Hazen Converge Results

3

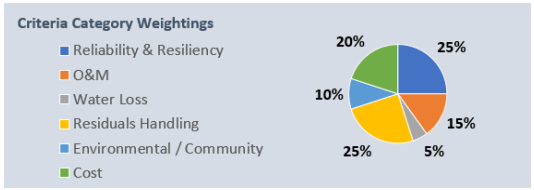
Hazen Converge Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	25%	Reliability to Meet Cr6 Treatment Goal	40%	1 - 10
		System Resilience to Change	30%	1 - 10
		Impact from Competing Constituents	30%	1 - 10
O&M	15%	Equipment Complexity	40%	1 - 10
		Chemical Deliveries	50%	1 - 10
		Number of FTE	10%	1 - 10
Water Loss	5%	Water Loss	100%	1 - 10
Residuals Handling	25%	Disposal of Liquid Waste	80%	1 - 10
		Disposal of Solid Waste	20%	1 - 10
Environmental / Community	10%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	20%	Annualized Lifecycle Cost	100%	1 - 10

4

Foothill West Cluster

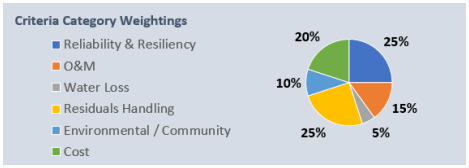




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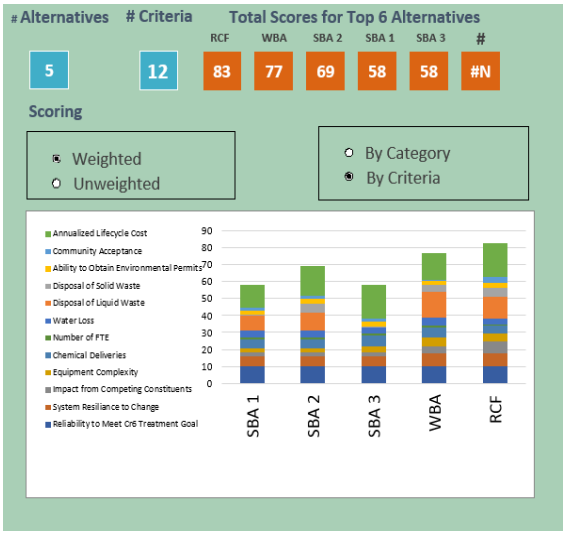
M10 & M11 Cluster

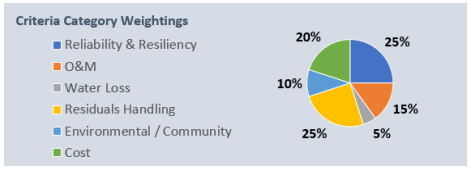




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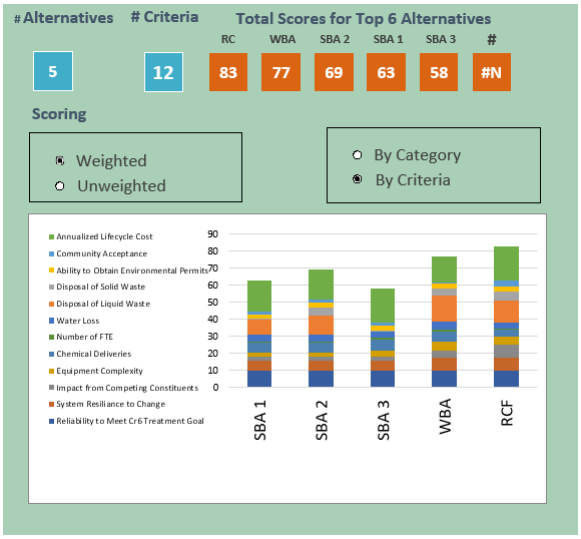
Well C3

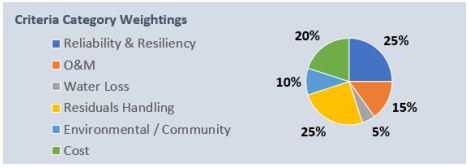




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Well C5

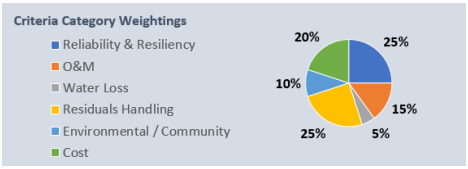




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Well C6





Hazen 9

9

Sensitivity Analysis Rev #1

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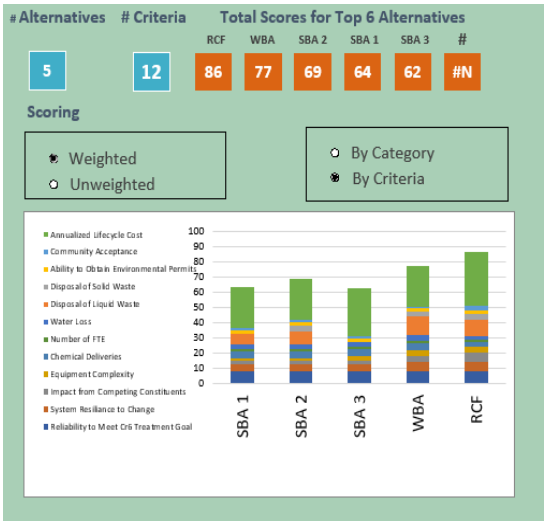
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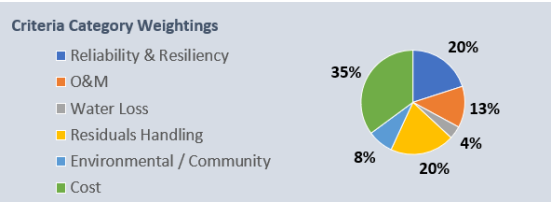
Sensitivity Analysis #1 Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	22%	Reliability to Meet Cr6 Treatment Goal	40%	1 - 10
		System Resilience to Change	30%	1 - 10
		Impact from Competing Constituents	30%	1 - 10
O&M	13%	Equipment Complexity	38%	1 - 10
		Chemical Deliveries	47%	1 - 10
		Number of FTE	16%	1 - 10
Water Loss	4%	Water Loss	100%	1 - 10
Residuals Handling	20%	Disposal of Liquid Waste	80%	1 - 10
		Disposal of Solid Waste	20%	1 - 10
Environmental / Community	8%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	35%	Annualized Lifecycle Cost	100%	1 - 10

11

Foothill West Cluster

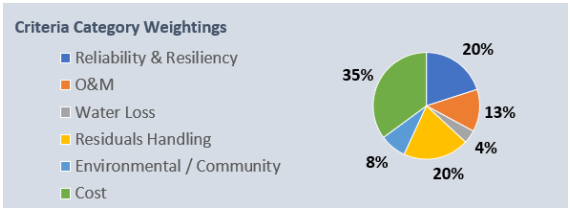




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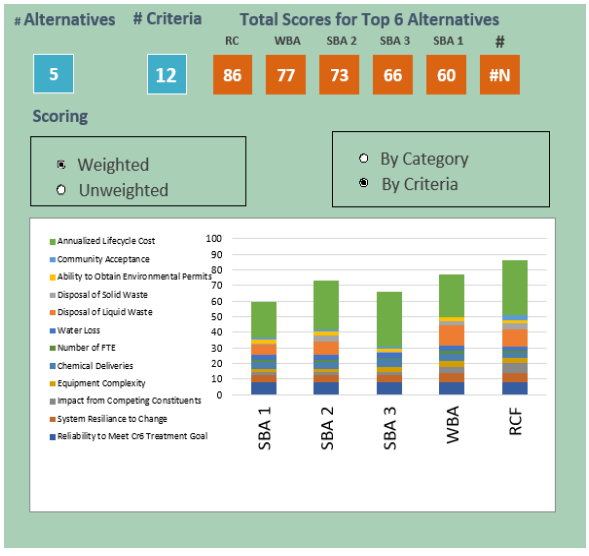
M10 & M11 Cluster

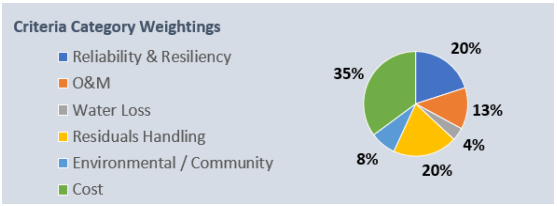




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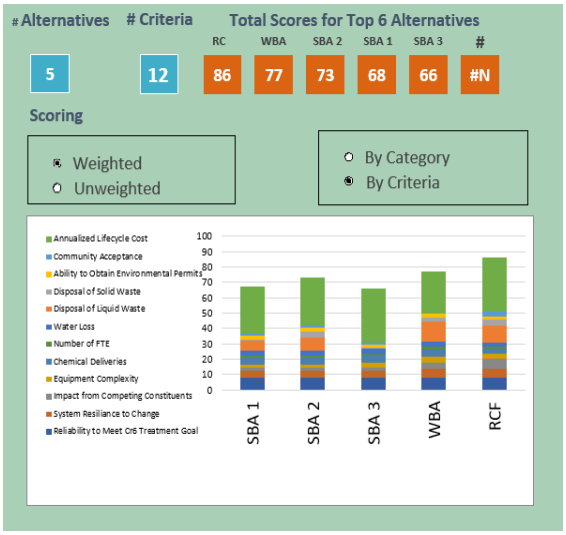
Well C3

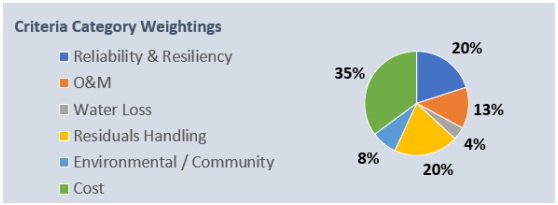




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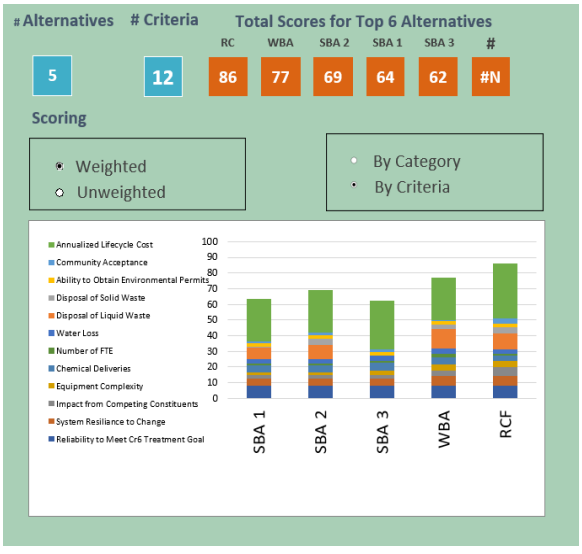
Well C5

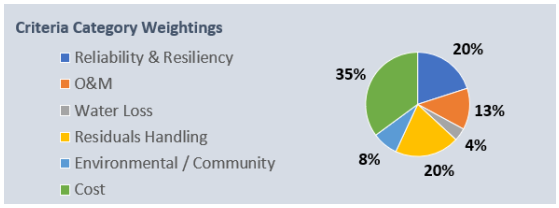




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Well C6





16

Sensitivity Analysis Rev #2

17

17

Sensitivity Analysis #2 Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	14%	Reliability to Meet Cr6 Treatment Goal	43%	1 - 10
		System Resilience to Change	29%	1 - 10
		Impact from Competing Constituents	29%	1 - 10
O&M	10%	Equipment Complexity	60%	1 - 10
		Chemical Deliveries	30%	1 - 10
		Number of FTE	10%	1 - 10
Water Loss	4%	Water Loss	100%	1 - 10
Residuals Handling	14%	Disposal of Liquid Waste	57%	1 - 10
		Disposal of Solid Waste	43%	1 - 10
Environmental / Community	8%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	50%	Annualized Lifecycle Cost	100%	1 - 10

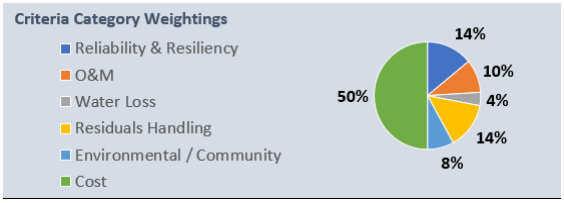
Hazen

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18

Foothill West Cluster

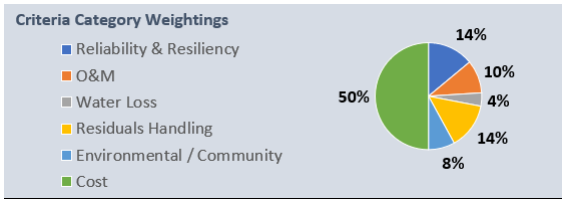




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M10 & M11 Cluster

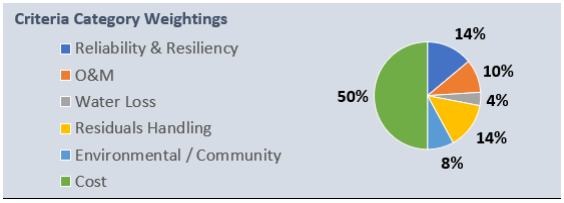




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Well C3

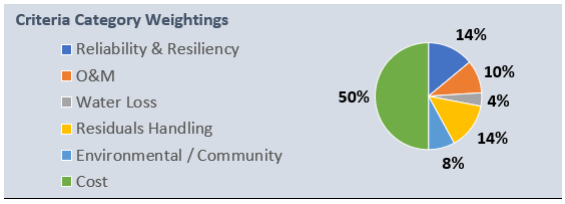




21

Well C5

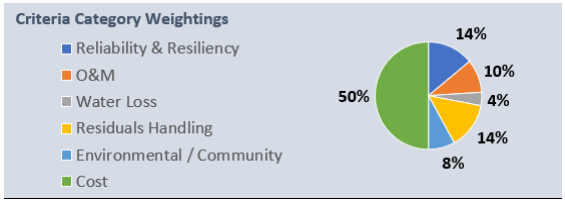




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Well C6





Hazen 23

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Sensitivity Analysis Summary

Location	Ranking Results	Treatment Alternative Ranking				
		RCF	WBA	SBA 1	SBA 2	SBA 3
Foothill West Cluster	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4
M10 & M11 Cluster	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
Well C3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
Well C5	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	4	2
Well C6	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4

- *Rankings are assigned as 1 is the highest ranking and 5 is the lowest ranking*

Hazen 24

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Cost Estimates

25

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Capital, O&M, Lifecycle Cost Estimates

Treatment Strategy	Capital Costs ($M)					Total Project Capital Costs ($M)	Annual O&M ($M/Year)	Annual Lifecycle Cost ($M/Year)
	Foothill West Cluster	M10 & M11 Cluster	Well C3	Well C5	Well C6			
SBA Option 1 (Brine Treatment Offsite Disposal)	16.1	13.4	5.0	5.0	5.0	31.2 to 66.8	1.1 to 2.4	2.7 to 5.8
SBA Option 2 (Brine Treatment Sewer Disposal)	14.7	12.0	5.0	5.0	5.0	29.2 to 62.5	1.1 to 2.3	2.6 to 5.5
SBA Option 3 (No Brine Treatment)	12.6	10.5	5.0	5.0	5.0	26.7 to 57.1	1.1 to 2.4	2.5 to 5.3
WBA	17.1	11.7	8.1	8.1	8.1	37.2 to 79.7	1.4 to 3.0	3.3 to 7.1
RCF	14.8	10.7	7.3	7.3	7.3	33.2 to 71.2	1.3 to 2.8	3.0 to 6.4

Hazen

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O&M Cost Assumptions

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O&M Cost Assumptions

Name	Units	Cost	Treatment Technology
Electricity	($/kWh)	$ 0.16	RCF, WBA, SBA Option 1, 2, and 3
Labor Annual Salary	($/yr)	$ 151,551.04	RCF, WBA, SBA Option 1, 2, and 3
Sewer Discharge	($/cf)	$ 3.15	RCF, WBA, SBA Option 1, 2, and 3
Sewer Quarterly Fee	($/DEU/month)	$ 945	RCF, WBA, SBA Option 1, 2, and 3
5% Ferrous Chloride	($/gal)	$ 2.50	SBA Option 1 and 2
Salt	($/ton)	$ 147.59	SBA Option 1, 2, and 3
Polymer	($/gal)	$ 32.56	RCF, SBA Option 1 and 2

Hazen

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Questions

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Question

- How does Banning intend on operating the wells/facilities; for compliance and to meet water demands?

Hazen

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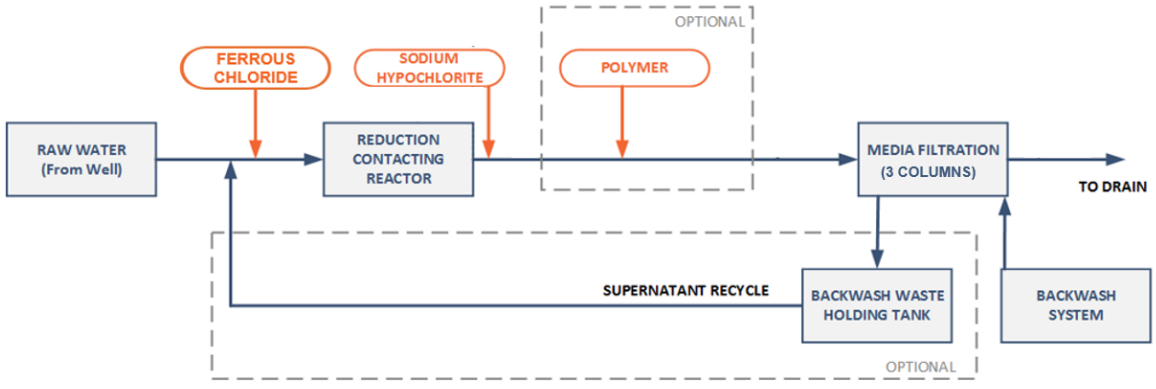
Appendix D: RCF Pilot Options

RCF Piloting Options

2

2

Potential RCF Pilot PFD



3

Pilot Configuration





Chemicals:
- Ferrous chloride
- Hypochlorite
- Polymer

Reduction Time:
- 2 minutes

Filter Media:
- Anthracite/sand
- GreensandPlus
- Pyrolusite

Hazen

4

RCF Pilot Vendors

- **Intuitech**
  - Skid Mounted or Containerized Pilot System
    - Containerized system has AC
  - Fully automated with SCADA System, ability to operate pilot unmanned
    - Includes option for turbidity meters
  - Pilot for Purchase
- **WQTS**
  - Skid mounted pilot system
  - Fully automated SCADA system with data logger
    - Includes pressure sensors, temperature sensors, turbidity meters, flow meters and flow control valves
  - Includes allocated time for setup and training for pilot operation
  - Pilot for Purchase
- **Filtronics**
  - Trailer Mounted Pilot System
  - Automated filtration system with semi-automatic electric valves
  - Pilot for Purchase
- **Tonka**
  - Trailer Mounted System
  - More manual system quoted, but the pilot can be further customized.
  - Pilot for Lease or Purchase
- **Culligan**
  - Pilot for Purchase
    - Pending quotation for purchase
- **Pureflow**
  - Pilot for Lease

Hazen 5

5

Configuration Options

- **Skid Mounted**
  - Cost Range[1] (Purchase): $242,000 - $400,000
- **Enclosure Cost**
  - Cost estimate for enclosure/trailer only
  - Trailer: $116,000
  - Enclosure: $132,000
- **Container/Trailer Mounted Pilot**
  - Cost Range (Purchase): $85,000 - $443,000
  - Lease Cost[2]: $32,000
- **Chemical/Media Cost**
  - Estimated Chemical Cost: $400/month
  - Estimated Media Cost: ($1,500)

[1]Intuitech quote with and without turbidity meters
[2]Cost includes 1 week of pilot rental with the vendor onsite for three (3) days allotted for set-up, tear-down, data collection, or etc.

6

RCF Pilot Estimates

Category	Purchase					Lease
	Skid Mounted		Container/Trailer Mounted			Trailer Mounted
	Intuitech[1]	WQTS	Intuitech[1]	Filtronics[1]	Tonka	Tonka[1]
Cost	$242,000	$325,000	$410,000	$85,000	$107,500	$32,500 (first week)
Additional Add-on	Turbidity Meters (Add $22,000)	-- (fully customized system)	Turbidity Meters (Add $22,000)	Additional Customization Available	Additional Tonka Visits (Add $7,000 per)	Additional Week (Add $2,500 per) Additional Tonka Visits (Add $7,000 per)
Size	12.2' L x 4.2' W x 10.2' H	10' H x 10' L x 2.83' W[2]	20' Enclosure	14' trailer	20' trailer	20' trailer
Lead Time	6-7 months	6-7 months	6-7 months	2 – 3 months	3 months	1 – 1.5 months

[1] *Quote received is for a standard RCF pilot system, additional customization resulting in price change*
[2] *Dimensions for the skid do not include additional chemical tanks and backwash tank*

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Intuitech Pilot Details

8

8

Intuitech RCF Pilot

DESCRIPTION	PART NUMBER	COST
GRANULAR MEDIA FILTRATION PILOT PLANT[1]	F40610-SAP-41PC-4TU-4CF	$243,459
GRANULAR MEDIA FILTRATION PILOT PLANT	F40610-SAP-41PC-0TU-4CF	$221,707
PILOT MODULE ENCLOSURE	E201112-2ED-1SD-1PS-HVAC-SVN-FWS	$168,042
PILOT MODULE ENCLOSURE	E401112-2ED-1SD-1PS-HVAC-SVN-4LAB-FWS	$179,504
STARTUP - 1 DAYS		$5,633
SHIPPING (EST)		$14,145
TAX		TBD

[1] *Includes Turbidity Meters*







Quotation Details:

- Enclosure (Options)
  - **Plug and play ready for operation,** treatment modules will be prewired and pre-plumbed at the factory.
  - Allow for single electrical connection with NEMA 4x panel and exterior electric disconnect panel
  - Wall mount **HVAC unit**, **AC**, and **heater** included
  - **Optional laboratory module** included cabinets, chemically resistant countertops, outlets, sink and water
    - 20' Enclosure (Option)
    - 40' Enclosure (Option)
- **Turbidity Meters**
  - With or without turbidity meters
- **First column** can be configured as a reaction vessel feeding into the three columns

- Quotation does not include chemicals or media but does include equipment such as chemical tanks, pumps, etc.
- Approximately **6-7 months lead time**

Hazen

9

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Intuitech Pilot Additional Details



Example Specification

Maximum Total Flow Rate	5.2 gpm (19.7 L/min)
Filters	4 @ 6 x 112 inch (152 x 2,840 mm)
Maximum Media Depth	72 inch (183 cm)
Media Retention Size	> 0.0059 inch (149 µm)
Filtration Rate	1.3…6.6 gpm/sf (3.2…16.1 m/h)
Backwash Rate	5.1…51.0 gpm/sf (12.4…124.7 m/h)
Backwash Tank Volume	150 gal (568 L)
Air Scour Rate	2.6…9.2 scfm/sf (46.6…164.9 m/h)
Maximum Headloss	25 feet (7.6 m)
Chemical Feed Systems	4
Chemical Feed Rate	0.03…57 mL/min
Chemical Tank Volume	4 gallon (15.1 L)
Dimensions	146 inch (3.71 m) L x 50 inch (1.27 m) W x 122.5 inch (3.11 m) H
Dry Weight	2,700 lbs. (1,315 kg)
Operating Weight	4,200 lbs. (1,905 kg)
Electrical Requirements	1 Phase, 18.8 A @ 120 VAC or 1 Phase, 9.4A @ 240 VAC, 50/60Hz
Monitored Parameters	Flow Rate, Headloss, Effluent Turbidity, and Column Level for each filter, Chemical Dosage, Chemical Flow, and Chemical Tank Level for each feed system, Air Scour Flow, Backwash Flow, Backwash Tank Level, Spare Analog Signals (3 qty.)

- ✓ Independent filters with automatic flow control
- ✓ Chemical feed systems configurable for flow-pacing, closed-loop PID, or trim control
- ✓ Chemical feed pump configurable as a composite sampler
- ✓ Shared backwash and air scour system
- ✓ Piping for two separate influent water sources
- ✓ Influent piping weirs eliminate need for feed tanks
- ✓ Parallel or series operation
- ✓ Backwash initiated by operator in manual mode, or by run-time, run-volume, headloss, or effluent turbidity in auto mode
- ✓ Configurable backwash procedure for each filter including drain down, air scour, concurrent wash, and multiple backwash steps
- ✓ Seven ports in each filter for sampling water or media
- ✓ All equipment integrated onto one skid for plug-and-play operation
- ✓ Designed for automatic un-manned operation
- ✓ Monitored and controlled remotely via wireless cellular connection
- ✓ Data logging to formatted text file for importing into spreadsheet and charting applications
- ✓ Historical and real-time trending visualization tool
- ✓ Alarm notification via email or text messaging
- ✓ IoT network provides exceptional diagnostic information

Hazen 10

10

Filtronics Pilot Details

11

11

Filtronics RCF Pilot

Quotation Details:

- Purchase Cost: $85,000
- Enclosure
  - Double-axle 14' trailer (right)
- Fully Automated filtration system with semi-automatic electric valves
- Standard quotation, depending on specifications, the final purchase cost could go up or down.
- Lead time is approximately 6 – 8 weeks for the trailer and an additional 2 – 4 weeks for filtration system assembly
  - Turnaround time is based on the availability of the trailer.



Hazen 12

12

WQTS Pilot Details

13

13

WQTS RCF Pilot

Quotation Details:

- **General**
  - **Number of Pre-Contactor Columns:** 1 column
  - **Contactor Column Diameter:** 6 inches
  - **Contactor Column Height:** 60 inches
  - **Contactor Column Volume:** 9.7 gallons 2.0 min. HRT with 3 filters at 8 gpm/sf
  - **Number of Filters:** 3 columns
  - **Filter Column Diameter:** 6 inches
  - **Filter Column Internal Height:** 92 inches
  - **Max Media Depth:** 60 inches
  - **Filter Loading Rate Range:** 1.5-13 gpm/sf
  - **Filter Flow Range:** 0.3-2.6 gpm
  - **Back Wash Air Scour Rate Range:** 1 - 5 scfm/sf
  - **Air Scour Flow Range:** 0.2 - 1.0 scfm (5.6 - 21.8 slpm)
  - **Backwash Loading Rate Range:** 2.5-45 gpm/sf
  - **Backwash Flow Range:** 0.5-9 gpm
  - **Number of Pre-Contactor/Filter Chemical Pumps:** 5 pumps 2 for Pre-Contactor and 1 per Filter
  - **Feed Range:** 0.035 - 69 mL/min
  - **Number of Chemical Day Tanks:** 5 tanks
  - **Capacity of Chemical Day Tanks:** 7 gallons
  - **Number of Clearwell/Backwash Supply Tanks:** 1 tank
  - **Clearwell/Backwash Tank Volume:** 200 gallon
- **Physical**
  - **Assembled Dimensions:** 120"H x 120"W x 34"D
- **Electrical**
  - **Phase: 1**
  - **Frequency:** 60 Hz
  - **Voltage:** 120 VAC
  - **Current:** 20 amp max
- **Instrumentation**
  - **Pressure Sensors:** 4 Transducer Pre-contacor/1 per Filter column*
  - **Temperature Sensor:** 2 Transducer Inlfuent/Clearwell*
  - **Turbidimeter:** 3 online analyzers 1 per column*
  - **Clearwell Tank Pressure Sensor:** 1 Transducer Tank volume*
  - **Backwash Mag Flow Meter:** 1 meter
  - **Flow Conrol Valve/ Mag Meter**: 3 meter/flow control Filter Flow rate*
  - **Mass Flow Controller:** 1 controller
  - **Electrical requirement:** 120VAC/1PH/60HZ, 20 AMP

Note: Chemical supply and backwash tank(s) not accounted for in pilot footprint.

- Typical 7 gallon chemical tank 12"(W) x 12" (D) x 12" (H)
- Typical 200 gallon backwash supply/clearwell tank 34"(Dia.) x 56" (H)

Hazen

14

14

Tonka Pilot Details (Lease)

15

15

Tonka RCF Pilot (Lease)

Quotation Details:

- Lease Cost: $32,500
  - Standard quotation, depending on specifications, the final cost could go up or down.
  - Including pilot for 1 week, with a technician onsite to set up equipment and train on-site personnel on operation.
  - Tonka engineer will be available for the duration of the pilot for questions and consultation
  - Add-ons:
    - Additional trips for Tonka support: $7,000.00 per trip
    - Additional time for pilot equipment rental $2,500.00 per week
- Pilot Specifics
  - 20’ trailer with 120V, 30A connection to power the pilot equipment
    - Miscellaneous equipment consisting of flexible tubes, valves, fittings, and other necessary appurtenances to provide a fully operable system.
    - Fully Automated filtration system with semi-automatic electric valves
  - Three (3) 8” diameter media filtration columns (GreensandPlus™, pyrolusite, and sand/anthracite)
    - Columns will have valve manifold to accommodate all modes of service and backwash and will include a loss of head gauge and sample taps.
  - Filtration assembly is approx. 4’ x 8’ and height of approximately 8’ and requires a continuous flow.
    - The filter column is intended to be operated at 8 gpm/sft
  - (Optional) Detention basin(s) with multiple outlet ports to calibrate the desired amount of reduction time
- Delivery is approximately 4 – 6 weeks after PO.

May 8, 2025

To: Art Vela, PE, City of Banning

From: Nicole Blute, PhD, PE, Hazen and Sawyer
Stephen Diamond, PE, Hazen and Sawyer
Megan Watt, Hazen and Sawyer
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Chris Portner, CEP, PE, Hazen and Sawyer

Banning – Chromium 6 Treatment and Compliance Technical Memorandum Update

FINAL

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1. Introduction

The California State Water Resources Control Board Division of Drinking Water (SWRCB-DDW) released SWRCB-DDW-21-003, a notice of a proposed new maximum contaminant level (MCL) for hexavalent chromium (Cr6) of 10 micrograms per liter (µg/L) in drinking water in June 2023. The proposed rule is effective as of October 1st 2024, with a two-year Cr6 compliance timeline for systems serving 10,000 connections or greater. The two-year compliance timeline established under the effective Cr6 MCL includes initial Cr6 sampling by Apil 1, 2025 and compliance plans required 90-days after initial sampling for systems that exceedance the Cr6 MCL.

The City of Banning (Banning) has multiple wells with Cr6 concentrations exceeding the MCL. Banning retained Hazen and Sawyer (Hazen) to evaluate treatment options to comply with the MCLs at wells where the Cr6 concentrations exceed the MCL. This memorandum summarizes the results of this evaluation, including water quality data, assessment of treatment options including costs, and next steps for Banning to use wells without exceeding the MCLs. The study aimed to analyze the treatment technology alternatives through cost and non-cost factors such as performance, and to develop a compliance strategy.

1.1 Background

Two previous studies were completed, the Cr6 compliance study update in 2022 and the original evaluation completed in 2016, and the treatment technologies previously determined feasible were further assessed to identify a preferred approach for compliance.

Banning's water system includes a total of twenty-one active groundwater wells, which are operated throughout the year as needed. Among these are three co-owned wells with the Beaumont-Cherry Valley Water District (BCVWD), where the City has rights to half of the capacity, which is accessed through an interconnection near the intersection of Highland Springs Avenue and Sun Lakes Boulevard. The wells range in depth from 1,000 to 1,500 feet. Several of the wells impacted by Cr6 pump water directly into the distribution system including wells C6, C8 (a potential new well), M3, M10, M11, and M12. Meanwhile, Wells C2, C3, C4, and C5 pump into forebay tanks at the respective sites, after which the water is boosted into the distribution system. Additionally, the City has 13 existing reservoirs, including the forebay tanks at the wells C2, C3, C4, and C5, with a total above-ground storage capacity of 19.7 million gallons.

Banning has conducted several studies to evaluate the optimal approach for addressing the Cr6 MCL, including the:

- 2016 Cr6 Compliance Study – initial evaluation of treatment options and costs.
- 2022 Cr6 Compliance Study Update – update to the original compliance study, incorporating treatment technology advancements and refreshing cost information.
- 2024 Cr6 Compliance Study Update – system-wide update to the 2022 Cr6 compliance study providing cost and non-cost analysis of options (this document).

1.2 Approach and Objectives

This technical memorandum (TM) was written in support of Banning to determine a treatment strategy for the SWRCB-DDW Cr6 MCL that is now final. To achieve this goal, the following objectives were undertaken:

- Evaluate options for addressing Cr6 at Banning's sites.
- Develop cost estimates, including capital, operation and maintenance (O&M), and lifecycle costs.

2. Project Definition

This section addresses the project water quality.

2.1 Raw Water Quality

Historical water quality information was reviewed in the 2015 Compliance Study to define treatment requirements, select applicable treatment technologies, and evaluate parameters that affect operational costs and available groundwater well data were compiled to create a water quality database for analysis at that time. More recent water quality data was available and used for this analysis compared to the 2023 Compliance Study Update, which also leverages the existing 2015 water quality data. The 2015 Compliance Study focused on Cr6 and co-occurring constituents such as arsenic, nitrate, sulfate, total dissolved solids (TDS), and volatile organic compounds that could impact treatment decisions. It also evaluated treatment decisions in relation to potential future regulations for emerging constituents, such as 1,4-dioxane, antimony, cobalt, chlorate, molybdenum, nitrosamines, perchlorate, selenium, strontium, and vanadium.

2.1.1 Hexavalent Chromium and Total Chromium

In the 2016 Compliance Study and 2022 Study Update, Cr6 and total chromium (Cr) data were analyzed to identify wells impacted by the draft maximum contaminant level (MCL) for Cr6 and to assess trends in chromium variability over time. Cr6 and Cr measurements were obtained using Environmental Protection Agency methods 218.6 and 200.8, respectively. No Cr6 samples appeared to be statistical outliers in the dataset, therefore treatment decisions were based on the highest observed Cr6 concentrations for conservatism.

Nine of the City's twenty-one wells with Cr concentrations at or near the Cr6 MCL (wells C2, C3, C4, C5, C6, C8, M3, M10, M11). The average total Cr and Cr6 concentrations in City wells are shown in **Figure 2-1,** with error bars representing the maximum and minimum readings.

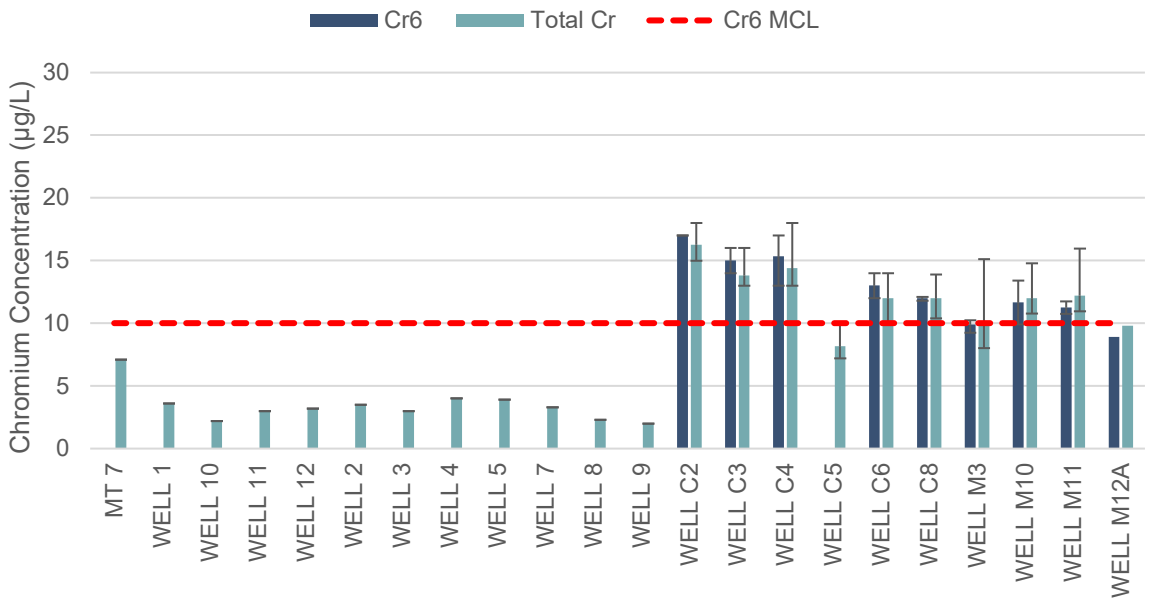


Figure 2-1: Banning Well Concentrations of Cr6 and Total Cr

2.2 Treated Water Quality Goals

Based on a review of raw water quality and Cr6 regulations, the following Cr6 water quality objectives were identified:

- Establish compliance with the Cr6 MCL.
- Wells requiring Cr6 treatment will have a treated Cr6 concentration goal of less than 8.0 µg/L. The target goal is less than the MCL to account for potential fluctuations in the raw water or treated water Cr6 concentration.

2.3 Treatment Flows

A summary of well data including the design capacity and the design Cr6 concentration used in this analysis is presented in **Table 2-1**.

Table 2-1: Design Cr6 Concentrations and Capacities of Tier 1 Wells

Well	Max Cr6 (µg/L)	Well Capacity (gpm)
M10, M11	13	1,400
C2, C4, C8, M3	17	4,700
C3	16	1,100
C5	9.6	900
C6	14	900

3. Technology Advances

Cr6 treatment technologies were assessed with respect to recent advancements in treatment processes and residuals management (including quantity and quality of waste generated and treatment and disposal options). Technologies evaluated included:

- Weak base anion exchange (WBA),
- Strong base anion exchange (SBA), and
- Reduction, coagulation, and filtration/microfiltration (RCF/RCMF).

Each of these treatment processes is characterized by a different approach to Cr6 removal. Key features of each technology along with their advantages and disadvantages were summarized in the 2016 Compliance Study and are not repeated here. The sections that follow briefly summarize the three technologies and discuss process optimization and waste management. Key advancements compared with the 2016 Compliance Study and 2022 update include:

- Horizontal filter vessels for RCF

3.1.1 Strong Base Anion Exchange

In the SBA process, water passes through a resin bed and removes Cr6 by replacing other negatively charged ions (e.g., chloride) on the resin with the Cr6 from the water. Particles are removed using bag or cartridge filters upstream to minimize pressure drop through the resin bed and avoid the need for backwashing. As the ion exchange capacity of the resin is consumed, the Cr6 concentration in the treated water gradually increases over time. Other ions in the water with a charge similar to Cr6, such as sulfate, can compete with Cr6 in the ion exchange process and lessen the Cr6 removal capacity of the resin bed. A process flow schematic depicting the SBA process is provided in **Figure 3-1**.

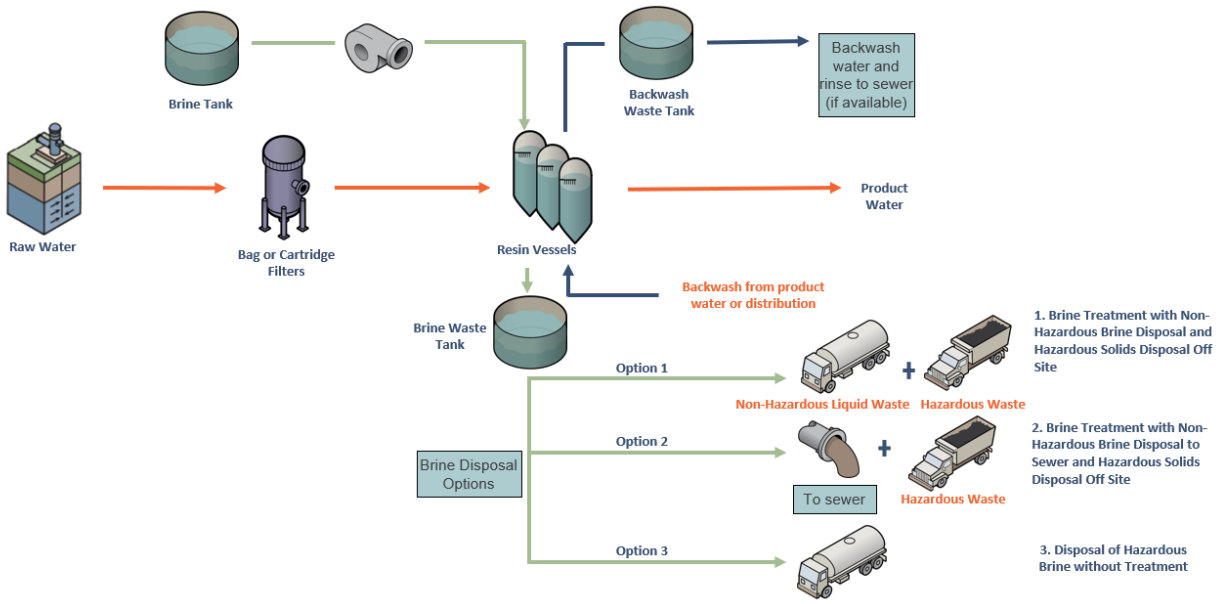


Figure 3-1: SBA Treatment Process Flow Diagram

SBA is regenerated with a salt (brine) solution when the treated Cr6 concentration reaches a maximum acceptable level. Regeneration involves elution of the Cr6 off the resin into the brine, which restores the capacity of the resin for additional Cr6 removal. Pilot testing should be conducted to confirm throughput and resin regeneration procedure effectiveness.

Three different brine management approaches were considered in this analysis:

-
- Brine treatment with disposal of non-hazardous brine offsite (Option 1)
- Brine treatment with disposal of non-hazardous brine into the sewer (Option 2)
- Hauling hazardous brine for offsite treatment and/or disposal (Option 3)

A discussion of these brine management approaches is provided below.

SBA Option 1 - Treatment with disposal off-site, including non-hazardous liquid waste and hazardous solid waste

In Option 1, onsite brine treatment would use ferrous chloride, aeration, and a filter belt press to separate non-hazardous liquid waste from hazardous solid waste. The brine treatment process will vary depending on the concentrations of various constituents (e.g. selenium, uranium) that may be present in Banning's wells. The non-hazardous liquid waste and the hazardous solid waste can be separately hauled offsite for disposal at appropriate facilities. Regeneration steps that result in non-hazardous brine or slow rinse water

can be recycled (2 bed volumes (BV) from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled. Sites without sewer access will need to haul 3 BV of fast rinse water offsite, which is assumed to be non-saline non-hazardous liquid waste. Experience at other utilities has shown that brine treatment can decrease disposal costs compared to hauling hazardous brine for treatment and disposal elsewhere.

Spent brine is characterized according to federal and California regulations for hazardous waste. In addition to the sanitary sewer limits for treated non-hazardous brine disposal, the uranium concentration may not exceed 4.5 mg/L based on the limit set forth by California Code of Regulations Title 17 §30253. Pilot testing would need to be conducted to test brine and determine if uranium concentrations are below this threshold.

Solids generated during brine treatment will require analysis to determine if elevated levels of uranium are present, and whether the uranium content results in waste characterization as a technologically enhanced naturally occurring radioactive material (TENORM) or low-level radioactive waste (LLRW). Solids with greater than or equal to 500 µg uranium per gram of solid (i.e., 0.05%) are classified as LLRW. Solids that have accumulated uranium but are below this value, are considered TENORM. Disposal facilities and permitting requirements vary depending on the waste characterization.

Pilot testing is recommended on the solids generated if Banning is interested in conducting brine treatment. For this evaluation, sites without sewer access were assumed to have non-hazardous brine disposal and non-saline, non-hazardous waste, disposal off-site.

SBA Option 2 – Treatment and disposal of non-hazardous liquid waste to the wastewater treatment plant (WWTP) and hazardous solid waste off-site

In Option 2, brine is treated onsite with ferrous chloride, aeration, and filter belt press to separate non-hazardous liquid waste from hazardous solid waste. Regeneration steps that result in non-hazardous brine or slow rinse water are recycled (2 BV from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled. The non-hazardous saline liquid waste and non-hazardous non-saline liquid waste would be discharged to the sanitary sewer. The hazardous solid waste is hauled offsite for disposal at an appropriate facility. The feasibility of this option would require further analysis and discussions with the WWTP.

To assess the feasibility of discharging brine to the sewer, industrial discharge limits to the WWTP should be further evaluated to determine the maximum concentration limits to ensure Cr6 and As concentrations do not exceed WWTP requirements. Pilot testing may be needed to prove discharge quality for permitting.

Solids generated during brine treatment will require analysis to determine if elevated levels of uranium are present, and whether the uranium content was characterized to determine whether the waste is considered a TENORM or LLRW. Solids with greater than or equal to 500 µg uranium per gram of solid (i.e., 0.05%) are classified as LLRW. Solids that have accumulated uranium but are below this value, are considered TENORM.

SBA Option 3 - Disposal offsite without treatment as hazardous liquid waste

In Option 3, brine is hauled off as-is, requiring treatment and/or disposal as hazardous liquid waste. Regeneration steps that result in non-hazardous brine or rinse water are recycled. Hauling of hazardous brine would require the least amount of infrastructure but presents a risk to Banning for long-term liability or if the contracted company stops accepting the brine.

Hazen has conducted testing indicating the concentrations of constituents in the brine, such as Cr6, make the brine hazardous unless brine treatment is provided. Prior pilot testing results for another agency showed that one of the new resins, PGW6002E (Purolite®, King of Prussia, PA) had approximately 60% greater capacity compared with other resins on the market at only a 3% higher cost, resulting in proportionally less brine generation. On average, brine generation is 0.0125% of treated water flow, but varies based on sulfate concentration. However, piloting of this product would be required to confirm brine production at Banning's wells.

Regeneration steps that result in non-hazardous brine or slow rinse water can be recycled (2 bed volumes (BV) from the brine regeneration and 1 BV from the slow rinse). The first BV from the brine regeneration process yields non-saline water to be recycled approximately. Sites without sewer access will need to haul offsite 3 BV of fast rinse water, which is assumed to be non-saline non-hazardous liquid waste for disposal offsite.

3.1.2 Reduction, Coagulation, and Filtration/Microfiltration

The RCF process involves reduction of Cr6 to Cr3 followed by removal of particles by filtration, as shown in Equation 1 below.

(1) $$3Fe^{2+} + CrO_4^{2-} + 8H_2O \rightarrow 3\ Fe(OH)_3(s) + Cr(OH)_3(s) + 4H^+$$

As shown in Equation 1, reducing Cr6 to Cr3 converts ferrous iron into ferric iron. Cr3 attaches to ferric hydroxide precipitates that are then removed from the water by granular media or membrane filtration.

An alternative reductant chemical is stannous (tin) that could be used in place of ferrous iron. Since RCF with ferrous is currently the best available technology and use of stannous requires more testing, RCF with ferrous was considered in this comparative analysis. In a preliminary design phase and pilot testing, Banning may wish to consider the alternative coagulant.

Figure 3-2 illustrates a schematic of the RCF treatment process. Components in the RCF process include ferrous iron or stannous addition, a reduction tank or piping that provides time for ferrous iron to reduce Cr6 to Cr3 and coagulate, hypochlorite addition to oxidize the remaining ferrous iron to ferric iron, polymer addition to a rapid mixing tank to enhance floc formation (if granular filters), granular media filtration, and backwash recovery (**Figure 3-2**).

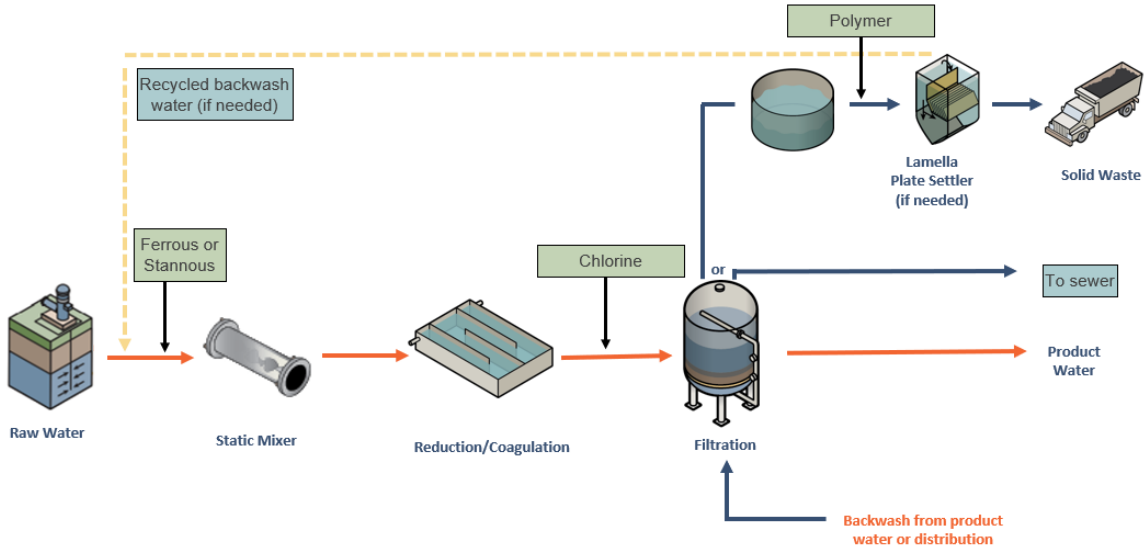


Figure 3-2: RCF Treatment Process Flow Diagram

Instead of granular media filters, microfiltration (MF) could be used – a process termed RCMF. Testing indicates that granular media filters can reliably decrease total chromium to below 3 to 5 µg/L, while MF can decrease total chromium to below the method reporting limit of 1 µg/L. In general, raw water quality (e.g., sulfate) does not affect RCF and RCMF like it affects SBA. Since the proposed draft MCL is 10 µg/L, costs were considered for only RCF because the additional cost of using MF would not provide a regulatory benefit at this time.

3.1.3 Weak Base Anion Exchange

Weak Base Anion (WBA) resin effectively removes Cr6 from water, reducing it to trivalent chromium (Cr3) on the resin's surface. Over time, as the resin's capacity for Cr6 is gradually exhausted, Cr6 concentrations in the treated water begin to increase. When the Cr6 level exceeds the target threshold, the WBA resin is replaced rather than regenerated.

Figure 3-3 shows a schematic of the WBA treatment process. Before the ion exchange, suspended particles are removed from groundwater using bag or cartridge filters to minimize pressure drop in the resin bed and reduce the need for backwashing. WBA resins are pH-sensitive and work most effectively at a pH of approximately 6.0 for Cr6 removal. pH adjustment, typically achieved by adding carbon dioxide (CO_2) or an acid (such as sulfuric or hydrochloric acid), is necessary to reach this range. The required dose of CO_2 or acid depends on the groundwater's alkalinity and initial pH. In this analysis, CO_2 was selected for pH adjustment due to safety considerations associated with sulfuric acid. Banning wells have moderate alkalinity (approximately 130 mg/L as $CaCO_3$), resulting in an estimated required CO_2 dose of approximately 300 mg/L. Chemical expenses for pH adjustment were included in the O&M cost estimates.

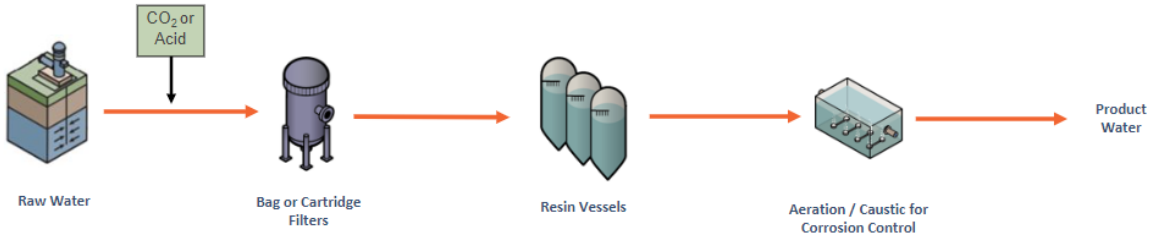


Figure 3-3: WBA Treatment Process Flow Diagram

4. Treatment Evaluation

4.1 Treatment System Conceptual Design

This section describes the conceptual designs and operating parameters that were used to calculate the well treatment system cost estimates for a specific treatment technology. Capital, annual O&M, and total annual costs were estimated for WBA, SBA, and RCF. This section describes the assumptions used to develop cost estimates. Well historical well utilization was used to estimate annual O&M costs for each treatment location and the utilization percentage is presented in **Table 4-1**. It should be noted that O&M costs for SBA are sensitive to the utilization percentage to estimate resin regeneration frequencies.

Table 4-1: Well Utilization for O&M Estimates

Well	Well Capacity (gpm)	Utilization %
M10, M11	1,400	9%
C2, C4, C8, M3	4,700	8%
C3	1,100	27%
C5	900	31%
C6	900	23%

The proposed clustered and wellhead treatment locations and proposed raw water transmission piping is shown in **Figure 4-1**. Individual wellhead treatment would require available footprint at each well site for the equipment associated with the type of selected treatment technology. An analysis of treatment options was completed in the prior Study 2022 and indicated the space constraints at Well C3 and C5. It was noted that Well C5 only has an available footprint of 1,000 ft^2 and would require obtaining nearby land for treatment, while Well C3 does not have available footprint for RCF and WBA, making those treatment technologies infeasible without the acquisition of land.

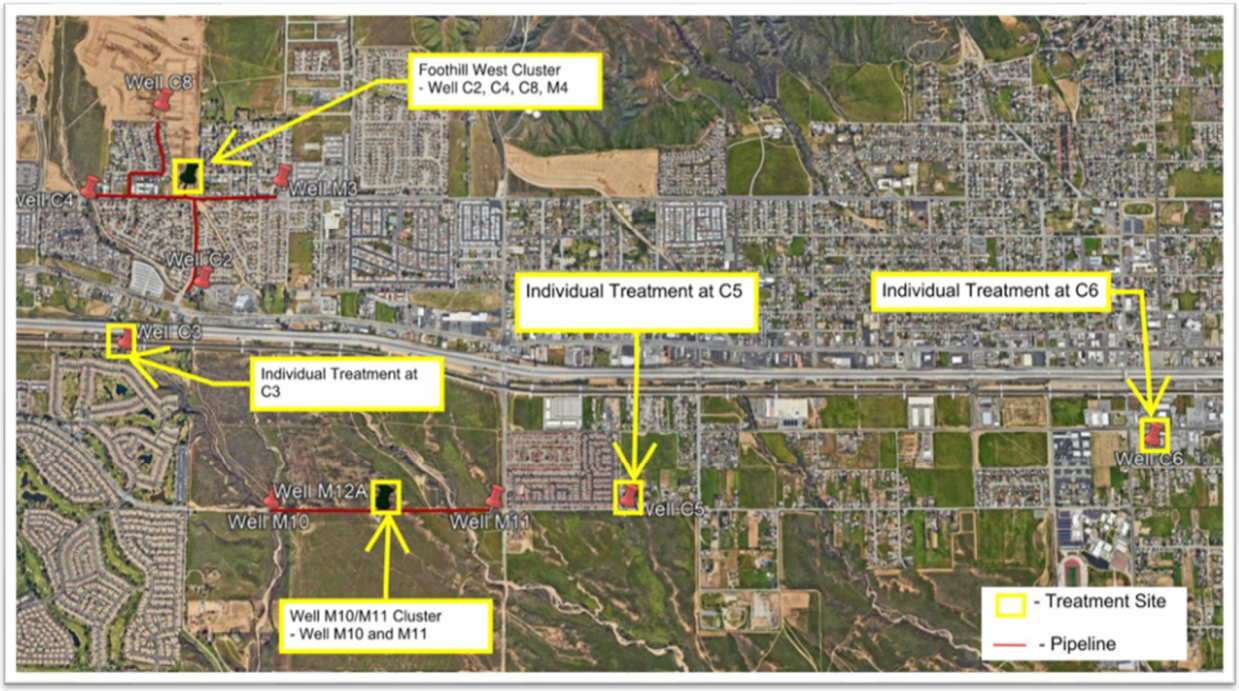


Figure 4-1: Clustered and Individual Wellhead Treatment Locations

4.1.1 SBA

The brine handling strategy employed at an SBA treatment facility impacts the equipment needed at that location. The three SBA brine handling options, SBA Option 1, SBA Option 2, SBA Option 3 are further discussed in **Section 3.1.1**. The assumptions used for estimating SBA treatment system costs are shown in **Table 4-2**.

Table 4-2: SBA Design Criteria

Parameter	Value	Units
Vessel Diameter	10	ft
Resin Volume	368	cf
Vessel Area	78.54	sq ft
Hydraulic Loading Rate (HLR)	15 (maximum)	gpm/ft^2
Empty Bed Contact Time (EBCT)	2.0 – 4.0	min/vessel
Configuration	Parallel (minimum 2)	-
Full-time equivalents for operation (FTE)	1.25	-
Resin life	7	years

Additional assumptions include:

- Bag filters for particle removal, resin regeneration, spent brine treatment process.

- No caustic soda feed system.
- Resin regeneration frequency was based on maximum historical sulfate concentration in raw water, which was derived from full-scale experience showing bed volumes versus sulfate concentrations. Resin regeneration was assumed when the effluent Cr6 concentration reached 6 µg/L.
- The resin regeneration procedure consists of regen (12% brine, 4 BVs total comprised of 3 BVs to be recycled and 1 BV to waste), slow rinse (1 BV, recycled), and fast rinse (3 BVs, all to waste).
    - Hazen is confirming recommended resin regeneration waste volumes with vendors.

For the SBA options, ranges are included in the O&M to represent the sensitivity of cost estimates to key assumptions, including:

- SBA Option 1 - This option includes on-site treatment of hazardous brine using ferrous chloride, aeration, and belt filter presses to convert it into non-hazardous brine suitable for off-site hauling, along with hazardous solids requiring disposal. Costs account for treatment and disposal of both non-hazardous liquid and hazardous solid wastes. The brine treatment process will vary depending on the constituents present and their concentrations (e.g., selenium, uranium), which may be variable depending on the well.
- SBA Option 2 - In this option, hazardous brine undergoes on-site treatment, with non-hazardous liquid waste discharged to a wastewater treatment facility and hazardous solids disposed of off-site. Costs include the treatment and disposal of both non-hazardous liquid and hazardous solids. The feasibility of this option depends on further analysis and coordination with the wastewater treatment facility.
- SBA Option 3 - This option involves hauling hazardous brine directly to a disposal facility as hazardous liquid waste. Costs exclude on-site brine treatment. Any bed volumes in the regeneration processes producing non-hazardous brine are recycled. Rinse water is disposed of as non-hazardous liquid waste.

4.1.2 RCF

For the RCF option, ferrous chloride as a bulk chemical was assumed as the coagulant. As discussed previously, other options (on-site generation or use of stannous chloride) could be considered in preliminary design. The assumptions used for estimating RCF treatment system costs are shown in **Table 4-3**. Sites without adequate sewer capacity assumed recycling the supernatant to the head of the plant and dewatering solids to be disposed of offsite. Site constraints will need to be evaluated further in preliminary design to confirm that placement of equipment is feasible with underground piping and other site features. Residual disposal is further discussed in **Section 4.2**.

Table 4-3: RCF Design Criteria

Parameter	Value		Unit
Vessel Configuration	Vertical	Horizontal	--
Vessel Diameter	12	10	ft
Number of Cells	-	4	4
Reduction Time	2		min
Hydraulic Loading Rate	8		gpm/ft^2
Media	Sand/Anthracite		type
Media Depth	3		ft
Freeboard	1.5		ft
Media Replacement (Attrition)	10%		Annual
Ferrous Chloride Dose	2.0		mg/L (as Fe)
Sodium Hypochlorite Dose	3.5		mg/L
Non-ionic polymer (filter aid)	0.1		mg/L
Backwash Rate	15		gpm/ft^2
Backwash Duration	10		min
Backwash Frequency	12		hours
FTE	1.5		-

4.1.3 WBA

The assumptions used for estimating WBA treatment system costs are shown in **Table 4-4**.

Table 4-4: WBA Design Criteria

Parameter	Value	Unit
Vessel Diameter	12	ft
Hydraulic Loading Rate	8	gpm/ft^2
EBCT	4.0	min/vessel
Configuration	Lead/lag	-
Target pH	6.0	-
Anti-scalant Dose (Polyphosphate)	1.0	mg/L
FTE	1.0	-
Resin Volume	420	cf
Resin	Purolite S106	

4.2 Residual Disposal

Residual disposal for the treatment technologies is a major factor in selection. This section describes the disposal options for SBA, WBA, and RCF and the impact of residuals disposal to the wastewater collection system.

4.2.1 Sewer Capacity Analysis

A sewer capacity analysis was completed to evaluate if backwash flow rates can be accommodated in the system. The sewer capacity was calculated using Kutter's formula (**Figure 4-2**) and depth to diameter (d/D) ratio per ASCE and WEF recommendation.

$$C = \frac{41.65 + \frac{0.00281}{s} + \frac{1.811}{n}}{1 + \frac{n}{\sqrt{R}}\left(41.65 + \frac{0.00281}{s}\right)} \qquad V = C\sqrt{RS}$$

$$Q = CA\sqrt{RS}$$

Where

C = Chezy's resistance coefficient
S = Slope
R = Hydraulic radius
n = Manning's roughness coefficient
A = Area

Figure 4-2: Kutter's Formula - Sewer Capacity

The following coefficients and ratios were used as the basis of the analysis:

- Manning's roughness coefficient (n):
    - Vitrified Clay Pipe: n = 0.013
    - Polyvinyl Chloride Pipe n = 0.007
- Flow depth to diameter ratio:
    - When D > 15", d/D ≤ 75 %
    - When D ≤ 15", d/D ≤ 50%

City land use via the 2016 City of Banning General Plan was used. Each site was reviewed to confirm the sewer connection location and the downstream gravity mains were analyzed until they no longer had adequate capacity or until a connection to a trunk line. Trunk lines are found along Westward Avenue and Portner Street. Table 4-5 summarizes the full flow sewer capacity for each proposed treatment site. However, sewer modeling was not conducted within this study to determine available sewer capacity. Appendix A contains sewer capacity calculations.

Table 4-5: Sewer Accessibility

Plant Name	Sewer Access	Sewer Full Flow Capacity (cfs)
M10, M11	Yes	75.8
C2, C4, C8, M3	Yes	3.3
C3	Yes	1.8
C5	Yes	8.5
C6	Yes	0.7

4.2.2 SBA

Without brine treatment onsite, the brine would need to be transported to a facility for treatment and/or disposal. The treatment of brine onsite to render it non-hazardous could make it feasible to discharge the brine to the sewer if sewer access for brine disposal is available. The advantage of this approach is that it eliminates hauling and disposal of the non-hazardous brine, but the disadvantage is increased salt loading into the sewer and the wastewater treatment plant (WWTP), which can affect the ability to satisfy the TDS limit in the Waste Discharge Requirements (WDR). The current WDR of the City WWTP limits the TDS discharged from that facility to 300 mg/L higher than the domestic water supply. An analysis presented in that WDR noted that the average TDS increase over the domestic water supply was about 220 mg/L from 2011 to 2015. As the previous 2023 Study Update estimates, the cumulative effect of all treatment systems may increase the average TDS to exceed the WDR TDS limit of 300 mg/L, indicating this approach may not be an option that could be implemented at all well treatment locations without revisions to the WDR.

4.2.3 RCF

RCF generates backwash waste that either requires disposal to the sewer or treatment to separate the backwash water from the solids so the water can be recycled to the head of the plant and the solids can be transported offsite for disposal. A conservative estimate was used to determine if the discharge of filter backwash water from RCF would impact the sewer capacity. If the backwash discharge was less than 10% of the total sewer capacity, backwash discharge to sewer was assumed to be potentially feasible. However, if the backwash discharge exceeded 10% then further analysis is recommended to confirm backwash discharge feasibility. Backwash flows from both horizontal and vertical filter vessels were evaluated. **Table 4-6** presents the full flow sewer capacity compared to the discharge rates from backwashing vertical filter vessels and the backwash volume. This analysis indicates discharging attenuated backwash flow via a backwash holding tank would result in the discharge flow being under 10% and therefore assumed to be feasible at a number of sites. **Table 4-7** summarizes the discharge flows for horizontal vessel configuration and backwash volumes.

Table 4-6: RCF Vertical Configuration Backwash Tank Sizing

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
M10, M11	43,529	0.16	0.2%	52.9
C2, C4, C8, M3	191,788	0.71	**21.6%**	37.5
C3	41,129	0.15	8.8%	42.0

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
C5	40,529	0.15	3.6%	39.1
C6	39,929	0.15	**22.2%**	36.1

Table 4-7: RCF Horizontal Configuration Backwash Tank Sizing

Plant	Backwash Volume (gallons)	Peak Backwash Flow for Sewer Discharge (cfs)	Percent of Sewer Capacity	Iron (as Fe) to Sewer (mg/L)
M10, M11	44,800	0.17	0.2%	51.2
C2, C4, C8, M3	140,000	0.52	**15.8%**	51.5
C3	33,600	0.12	7.1%	51.4
C5	30,800	0.11	3.3%	51.8
C6	15,558	0.10	**15.1%**	51.1

Sites with backwash discharge exceeding 10% of the sewer capacity were bolded in **Table 4-6** and **Table 4-7** above and were initially flagged as requiring further analysis to determine the current sewer usage and available capacity. After discussions with Banning, it was noted that sewer at Well C6 does not have high usage and therefore may be able accommodate discharge flows from Well C6. However, further analysis is recommended at Foothill Cluster (C2, C4, C8, M3) to confirm the available capacity accounting for demands from other sources.

4.2.4 WBA

WBA resin will accumulate uranium, and the disposal will vary depending on the concentration of that element. Spent resin is expected to be a hazardous waste due to a high Cr concentration above the California Total Threshold Limit Concentration (TTLC), as experienced at the Glendale, CA Cr6 treatment facility. Due to the removal and concentration of naturally occurring uranium from source waters, the waste is likely to be a technologically enhanced naturally occurring radioactive material (TENORM) waste and may be a low-level radioactive waste (LLRW) that requires special disposal. The impact is additional cost and permitting complexity.

5. Cost Estimating

The ranges of costs developed reflect the accuracy of estimates at this phase of planning and are consistent with Association for the Advancement of Cost Engineering (AACE) Class 4 costs with an accuracy range of -30% to +50%. No design contingency was added to the estimate based on how the cost estimate was developed. Total annual costs are presented as the sum of annual O&M and capital debt service based on a 30-year lifecycle and assumed State Revolving Fund loan rate of 2%. Cost estimate details are included in **Appendix B**.

Cost estimates summarized in **Table 5-1** are limited to sites that do not currently have treatment. The costs indicate that the ranges of capital, O&M, and annualized costs overlap within the accuracy range of the estimates.

Table 5-1: Capital, O&M and Total Annual Cost Estimates of Different Treatment Strategies

Well Name	Treatment Strategy Cost Estimates ($ Million)					
	WBA	SBA Option 1	SBA Option 2	SBA Option 3	RCF (H)	RCF (V)
M10, M11	12.6	12.6	11.2	9.4	7.1	8.5
C2, C4, C8, M3	18.4	17.7	16.2	13.9	13.5	17.8
C3	8.1	8.7	8.7	6.4	4.3	6.3
C5	8.1	8.7	8.7	6.4	4.2	6.3
C6	8.1	8.7	8.7	6.4	4.0	6.3
Total Project Capital Costs (Sum of capital costs for each site)	55.2	56.4	53.6	42.6	33.2	45.2
Total Project Capital Costs Accuracy Range (-30 to +50%)	38.7 - 82.9	39.5 - 84.7	37.5 - 80.3	29.8 - 63.9	23.2 - 49.7	31.6 - 67.8
Total Project Annual O&M Costs ($M/Year): Estimate	2.0	1.6	1.5	1.6	1.8	1.8
Total Project Annual O&M Costs (Accuracy Range -30 to +50%, $M/Year)	1.4 – 3	1.1 - 2.4	1.1 - 2.3	1.1 - 2.4	1.3 - 2.7	1.3 - 2.7
Total Project Annual Cost (Annualized Capital + Annual O&M) ($M/Year)	4.7	4.5	4.3	3.8	3.5	4.1
Total Project Annual Costs (Annualized Capital + Annual O&M Costs over Accuracy Range of -30 to +50%, $M/Year)	3.3 - 7.1	3.1 - 6.7	3 - 6.4	2.6 - 5.7	2.4 - 5.2	2.9 - 6.2

General Notes: Values in the table are rounded to one decimal place. V = Vertical pressure vessels; H = Horizontal pressure vessels.

6. Technology Screening

Due to the overlap in technology costs observed in the 2022 Study Update, Hazen and Sawyer evaluated non-monetary factors that factor into selection of treatment technology. Total annual cost estimates and non-cost ranking criteria were developed to compare technologies that met Banning criteria to be considered for implementation.

Treatment options for Cr6 removal were first screened for critical flaws and the remaining options were then assessed using non-cost criteria. Treatment options were scored on a scale from 1 (least favorable) to 10 (most favorable) across criteria. Decision-making criteria are described below and scoring explanations are provided in **Table 6-1.**

Reliability and Resilience to Changing Water Quality – This criterion evaluates the treatment technology's resilience to fluctuations in water quality, change in treatment goals long term performance, and impact from competing constituents.

O&M Complexity – This criterion evaluates the ease of operation and the magnitude of maintenance for a unit process.

Water Loss – This criterion evaluates the amount of water loss associated with the treatment technology (e.g., regeneration waste or backwash water).

Residual Handling – This criterion indicates the complexity of disposal of liquid and solid waste and evaluates whether the waste is hazardous.

Environmental and Community Impacts – This criterion scores the ability of the selected treatment technology process to obtain permits and achieve community acceptance.

Table 6-1: Explanations of Criteria Scoring Values

Category	Criteria	Definition	High Score Definition	Low Score Definition
Reliability and Resilience	Reliability to Meet Cr6 Treatment Goal	Treatment reliability	Treatment technology is not limited to reliability or dependency on vendors	Relatively low number of vendors offering treatment technology approach or residual disposal solutions
	System resilience to change	Ability to handle fluctuations in water quality or change in the treatment goal without significant operational changes	Yes, without additional operational cost	No, operational changes and higher costs would be realized
	Impact from competing constituents	Interfering constituents (i.e., sulfate, silica, iron, manganese)	High selectivity, primary removal of Cr(VI) only	Interfering constituents decreasing Cr(VI) removal efficiency
O&M Complexity	Equipment complexity	Chemical feed system requirements and the need for constant monitoring. Multiple components require frequent maintenance.	Very few feed systems requiring little monitoring/ maintenance	Multiple chemical feeds, constant monitoring/maintenance
	Chemical deliveries	Frequency of chemical deliveries	Less frequent	More frequent
	Number of full-time employees needed (FTEs)	The number of staff required to maintain operation and the need for operator attention.	Low-level staffing requirement	High-level staffing requirement
Water Loss		Water loss to waste associated from process	Little to no water loss	High water loss
Residuals Handling	Complexity of Liquid Waste Disposal	How complicated is disposal of liquid waste?	Not difficult	Difficult
	Offsite Disposal of Solid Waste	How frequent are truck trips to dispose of waste offsite? Is solid waste hazardous?	Less frequent and/or non-hazardous	More frequent and/or hazardous
Environmental / Community Impacts	Ability to obtain environmental permits	--	Low complexity to obtain permits	High complexity to obtain permits
	Community acceptance	--	Low Community Acceptance	High Community Acceptance

Non-cost criteria weightings were developed in consultation with Banning, and Hazen's multi-criteria decision analysis tool used these criteria and weightings as inputs to compare alternative technologies (**Table 6-2**). The scores assigned for each category were scaled based on the weightings to provide a total score for each technology out of a maximum of 100. The technologies included in this analysis were SBA Option 1, SBA Option 2, SBA Option 3, RCF and WBA.

Table 6-2: Weightings of Non-Cost Evaluation Criteria

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	30%	Reliability of Long-Term Performance	40%	1 – 10
		System Resilience to Change	30%	1 – 10
		Impact from Competing Constituents	30%	1 – 10
O&M	20%	Equipment Complexity	40%	1 – 10
		Chemical Deliveries	50%	1 – 10
		Number of FTE	10%	1 – 10
Water Loss	5%	Water Loss	100%	1 – 10
Residuals Handling	30%	Disposal of Liquid Waste	80%	1 – 10
		Disposal of Solid Waste	20%	1 – 10
Environmental / Community	15%	Ability to Obtain Environmental Permits	50%	1 – 10
		Community Acceptance	50%	1 – 10
Cost	20%	Total Project Annual Cost	100%	1 – 10

6.1 Screening Results

A summary the unweighted scores of the technologies for each non-cost criterion are shown in **Table 6-3.**

Key differentiating factors include:

- SBA has a good history of use, but all brine handling options include either hazardous liquid or hazardous solids.
- RCF is ranked the highest in terms of reliability and resilience, and residual handling, making RCF the favorable option for sites with high sulfate concentrations. Additionally, RCF has the highest community acceptance score due to less frequent truck trips, for chemicals and/or residual hauling.
- WBA has a relatively low equipment complexity. However, community acceptance is low due to noise of CO_2 fills, and disposal of hazardous, LLRW spent resin is a consideration with this technology.

Table 6-3: Unweighted Non-Cost Scores by Treatment Technology

Category	Criteria	SBA Option 1	SBA Option 2	SBA Option 3	WBA	RCF
Reliability & Resiliency	Reliability of Long-Term Performance	10	10	10	10	10
	System Resilience to Change	8	8	8	10	10
	Impact from Competing Constituents	4	4	4	6	10
O&M	Equipment Complexity	4	4	6	9	8
	Chemical Deliveries	8	8	9	8	6
	Number of FTE	8	8	8	9	7
Water Loss	Water Loss	8	8	8	8	6
Residuals Handling	Redundancy of Liquid Waste Disposal	2	10	2	8	10
	Disposal of Solid Waste	4	4	10	6	10
Environmental / Community	Ability to Obtain Environmental Permits	6	6	6	6	6
	Community Acceptance	4	4	4	2	8

Total annual costs were scored on a site-specific basis to determine the treatment technology ranking for each location. The non-weighted scoring for the total annual project cost is presented in **Table 6-4**.

Table 6-4: Unweighted Total Project Annual Cost Scores by Treatment Technology

Category	RCF	WBA	SBA Option 1	SBA Option 2	SBA Option 3
M10, M11	10	8	7	9	10
C2, C4, C8, M3	10	6	8	9	9
C3	10	8	9	9	10
C5	10	8	9	9	10
C6	10	8	8	8	9

Additionally, a sensitivity analysis was conducted to evaluate the impact of the cost vs. non-cost criteria. In sensitivity analysis 1, the cost weighting was increased to 35% while the non-cost category weightings were decreased proportionally. In sensitivity analysis 2, the cost weightings were increased to 50% and the non-cost category weightings were proportionally decreased. Treatment alternative rankings for each location are presented in **Table 6-5**, with 1 as the highest ranking and 5 as the lowest ranking. RCF is ranked as the highest treatment alternative at all locations and in both sensitivity analysis 1 and 2. RCF is

viewed as the preferred treatment technology to achieve Banning's goals. The Hazen converge results for each site are presented in **Appendix C**.

Table 6-5: Hazen Converge and Sensitivity Analysis Ranking

Category	Criteria	RCF	WBA	SBA Option 1	SBA Option 2	SBA Option 3
M10, M11	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
C2, C4, C8, M3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4
C3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
C5	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	4	2
C6	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4

7. Conclusions

The best available technologies (BATs) evaluated for the City wells included WBA, SBA, and RCF. Technologies were assessed based on lifecycle costs and operability considerations (chemical consumption, residuals waste generation, and staffing requirements). While the accuracy range of lifecycle costs overlap for each of the alternatives, it was found that the RCF with horizontal filter configuration located at clustered treatment facilities and individual sites was the lowest point estimate lifecycle cost compared with WBA and SBA. As the previous study indicated, there is not enough available footprint to house RCF and WBA equipment at Wells C3 and C5, making those treatment technologies infeasible at those locations without the acquisition of additional land.

RCF has the lowest annualized lifecycle costs of all treatment strategies, although there is considerable overlap between the lifecycle costs of the other technologies. WBA and SBA Option 1 had the highest capital cost and WBA has the highest O&M costs. SBA with onsite brine treatment had the lowest O&M costs, but had a higher lifecycle cost than RCF with either vertical or horizontal vessel configuration and SBA with no brine treatment. Due to the overlap in technology costs, Hazen and Sawyer evaluated non-monetary factors that factor into selection of treatment technology, as outlined in **Section 6** and **6.1**. Total

annual cost estimates and non-cost ranking criteria were developed to compare technologies and RCF ranked as the preferred treatment technology when considering cost and non-cost factors. This study focused on evaluating BATs (RCF, SBA, WBA) for the City wells and non-treatment solutions were not evaluated, further assessment is required to determine the potential for non-treatment solutions.

7.1 Next Steps

This study has developed a foundation for future work considerations as the City continues down the path of project implementation. Next steps for the City before, or during, preliminary design include:

- Further analysis of sewer disposal at C2, C4, C8, M3 to confirm available sewer capacity.
- Confirm if brine can be sent to the wastewater reclamation facility.
- Further assessment of site layouts for Wells C3 and C5, which may require the purchase of additional land.
- Consider pilot unit options to train operation staff in advance of design and/or startup.

7.1.1 Piloting Options

Banning is interested in acquiring a pilot system to provide training on the equipment for operators and optimize treatment design, as part of this study pilot system options were evaluated. The pilot configuration is intended to provide two minutes of reduction time for the ferrous chloride, multiple filter columns to evaluate various filter medias such as sand/anthracite, GreensandPlus, and pyrolusite, and chemical tanks for ferrous chloride, sodium hypochlorite, and polymer. Quotes for pilot systems were obtained from vendors and summarized in **Table 7-1**.

Table 7-1: RCF Pilot Quotations

Category	Purchase					Lease
	Skid Mounted		Container/Trailer Mounted			Trailer Mounted
	Intuitech[1]	WQTS	Intuitech[1]	Filtronics[1]	Tonka	Tonka[1]
Cost	$242,000	$325,000	$410,000	$85,000	$107,500	$32,500 (first week)
Additional Add-on	Turbidity Meters (Add $22,000)	-- (fully customized system)	Turbidity Meters (Add $22,000)	Additional Customization Available	Additional Tonka Visits (Add $7,000 per)	Additional Week (Add $2,500 per) Additional Tonka Visits (Add $7,000 per)
Size	12.2' L x 4.2' W x 10.2' H	10' H x 10' L x 2.83' W[2]	20' Enclosure	14' trailer	20' trailer	20' trailer
Lead Time	6-7 months	6-7 months	6-7 months	2 – 3 months	3 months	1 – 1.5 months

[1] Quote received is for a standard RCF pilot system, additional customization resulting in price change

[2] Dimensions for the skid do not include additional chemical tanks and backwash tank

Intuitech offers skid-mounted or containerized pilot systems, with the containerized option featuring air conditioning. The pilot system is fully automated with a SCADA system, enabling unmanned operation and offering optional turbidity meters and are available for purchase. WQTS provides skid-mounted pilot systems equipped with a fully automated SCADA system and a data logger. The WQTS systems include advanced features like pressure sensors, temperature sensors, turbidity meters, flow meters, and flow control valves. WQTS also allocates time for setup and training to ensure smooth pilot operation, and their systems are available for purchase. Filtronics delivers trailer-mounted pilot systems with automated filtration and semi-automatic electric valves, available for purchase. Tonka offers a trailer-mounted pilot system that is more manual but can be customized to meet specific needs. Tonka systems are available for lease or purchase. Specific quotation details for each pilot system can be found in **Appendix D.**

Appendix A: Sewer Capacity Analysis

Sewer Capacity Analysis

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Background

- 5 treatment sites
  - Foothill West Cluster (Wells C2, C4, C8, M3)
  - Well M10 + M11 Cluster
  - Well C3 Individual Treatment
  - Well C5 Individual Treatment
  - Well C6 Individual Treatment
- Treatment Technology: RCF
- Backwash Design Parameters:
  - 15 gpm/ft²
  - Duration 10 mins
  - Media: Sand/Anthracite
  - Backwash estimated every 12 hours
  - Conservatively assumed no backwash to be recycled
  - Iron concentration to sewer was calculated as a function of the Ferrous dose
- Two potential vessel arrangements
  - Horizontal Filter Vessels
    - *4 cells per vessel*
  - Vertical Filter Vessels



- Assumptions
  - Vertical
    - *Backwash volume is calculated assuming all duty vessels to be backwashed*
    - *Backwash volume for 12-hour period*
    - *Backwash waste to be discharged within 10 hours*
  - Horizontal
    - *Backwash volume is calculated assuming 2 out of 4 cells to be backwashed per vessel within a 6-hour period*
    - *Backwash waste to be discharged within 5 hours.*

Hazen

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Sewer Capacity Analysis Calculations

- Calculated design capacity using Kutter's Formula & d/D ratio
- Manning's roughness coefficient (n):
  - **Vitrified Clay Pipe: n=0.013**
  - **Polyvinyl Chloride Pipe: n=0.007**
- Flow depth to diameter ratio (d/D) per ASCE and WEF recommendations
  - **When D > 15", d/D ≤ 75 %**
  - **When D ≤ 15", d/D ≤ 50%**
- City land use via 2016 City of Banning General Plan
- Analyze downstream until gravity main does not have adequate capacity or until it connects into trunk line
  - **Trunk lines are along Westward Avenue and Porter Street**
- Used a conservative estimate to determine if the discharge from RCF would impact sewer capacity.
  - **If the Discharge/Sewer Capacity was under 10%, backwash discharge was assumed to be feasible**

Kutter's Formula

$$C = \frac{41.65 + \frac{0.00281}{s} + \frac{1.811}{n}}{1 + \frac{n}{\sqrt{R}}\left(41.65 + \frac{0.00281}{s}\right)}$$

$V = C\sqrt{RS}$

$Q = CA\sqrt{RS}$

Where

C = Chezy's resistance coefficient
S = Slope
R = Hydraulic radius
n = Manning's roughness coefficient
A = Area

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Foothill West Cluster (Wells C2, C4, C8, M3)

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.71 cfs*
    - *Sewer Capacity: 3.30 cfs*
    - *Discharge flow from backwash **exceeds 10%** of Highland Home Rd / Wilson St Sewer Capacity (21.59% Discharge/Capacity) – **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
  - **Horizontal Configuration**
    - *Discharge flow: 0.52 cfs*
    - *Sewer Capacity: 3.30 cfs*
    - *Discharge flow from backwash **exceeds 10%** of Highland Home Rd / Wilson St Sewer Capacity (15.76% Discharge/Capacity) – **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
- Potential Solutions (if required):
  - **Treating wash water and recycling supernatant to head of plant**
    - *Increase capital and O&M cost for dewatering equipment and sludge disposal (haz.)*
  - **Individual RCF treatment instead of clustered treatment**
    - *Transmission pipe estimated capital cost $4 M*
    - *Individual wellhead RCF treatment estimate ($4 M - $8M) for depending on vessel configuration for design flows 1,000 – 1,600 gpm*
  - **Alternate Treatment Technology (WBA or SBA)**



- Conclusion:
  - **Flows exceed the sewer capacity screening criteria used; however, further evaluation is required to confirm if discharging to sewer at Highland Home Rd / Wilson St. is feasible.**

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Foothill West Cluster (Wells C2, C4, C8, M3) - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**Foothill West Cluster**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	191,788
Backwash flow rate	gpm	320
	cfs	0.71
Iron (as Fe) to Sewer from Ferrous	mg/L	37.5
Horizontal Configuration		
Parameter	**Units**	**Foothill West Cluster**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	140,000
Backwash flow rate	gpm	233
	cfs	0.52
Iron (as Fe) to Sewer Ferrous	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Highland Home Rd/ Wilson St	Foothill West Cluster Treatment Site	218	188	15	0.0024	3.30	-	0.71	21.59%

Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Highland Home Rd/ Wilson St	Foothill West Cluster Treatment Site	218	188	15	0.0024	3.30	-	0.52	15.76%

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M10 & M11 Cluster

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.16 cfs*
    - *Sewer Capacity: 75.84 cfs*
    - *Discharge flow from backwash is under 10% of W Westward Ave Sewer Capacity (0.21% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.17 cfs*
    - *Sewer Capacity: 75.84 cfs*
    - *Discharge flow from backwash is **under 10%** of W Westward Ave Sewer Capacity (0.22% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, based on the information provided**



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M10 & M11 Cluster - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**M10 and M11 Cluster**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	43,529
Backwash flow rate	gpm	73
	cfs	**0.16**
Iron (as Fe) to Sewer from Ferrous	mg/L	52.9
Horizontal Configuration		
Parameter	**Units**	**M10 and M11 Cluster**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	44,800
Backwash flow rate	gpm	75
	cfs	**0.17**
Iron (as Fe) to Sewer from Ferrous	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well M10 and M11 Cluster Treatment Site	104	107	21	0.4080	-	75.84	0.16	0.21%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well M10 and M11 Cluster Treatment Site	104	107	21	0.4080	-	75.84	0.17	0.22%

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Well C5

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15 cfs*
    - *Sewer Capacity: 8.54 cfs*
    - *Discharge flow from backwash is under 10% of W Westward Ave Sewer Capacity (3.66% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.11 cfs*
    - *Sewer Capacity: 8.54 cfs*
    - *Discharge flow from backwash is **under 10%** of W Westward Ave Sewer Capacity (3.29% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, based on the information provided**



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Well C5 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**Well C5**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	40,529
Backwash flow rate	gpm	68
	cfs	**0.15**
Iron (as Fe) to Sewer from Ferrous	mg/L	39.1
Horizontal Configuration		
Parameter	**Units**	**Well C5**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	30,800
Backwash flow rate	gpm	51
	cfs	**0.11**
Iron (as Fe) to Sewer from Ferrous	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well C5 Individual Treatment Site	106	108	21	0.0052	-	8.54	0.15	3.66%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
W Westward Ave	Well C5 Individual Treatment Site	106	108	21	0.0052	-	8.54	0.11	3.29%

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Well C3

- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15 cfs*
    - *Sewer Capacity: 1.75 cfs*
    - *Discharge flow from backwash is **under 10%** of Brooklawn Dr Sewer Capacity (8.75% Discharge/Capacity)*
  - **Horizontal Configuration**
    - *Discharge flow: 0.12 cfs*
    - *Sewer Capacity: 1.75 cfs*
    - *Discharge flow from backwash is **under 10%** of Brooklawn Dr Sewer Capacity (7.14% Discharge/Capacity)*
- Conclusion:
  - **Discharge rates to sewer from vertical or horizontal filter vessel configurations do not appear to present an issue for the available sewer capacity, given the information provided**



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Well C3 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**C3**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	41,129
Backwash flow rate	gpm	69
	cfs	**0.15**
Iron (as Fe) to Sewer	mg/L	42.0
Horizontal Configuration		
Parameter	**Units**	**C3**
Backwash duration	min	600
Backwash volume (for 2 out of 4 cells per vessel)	gal	33,600
Backwash flow rate	gpm	56
	cfs	**0.12**
Iron (as Fe) to Sewer	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Brooklawn Dr	Well C3 Individual Treatment Site	134	133	8	0.0196	1.75	-	0.15	8.75%
Horizontal Configuration Sewer Capacity Analysis									
Street Name	**Site Description**	**Segment**		**Pipe**		**Design capacity sewer (cfs)**		**Calculated Discharge Flow (cfs)**	**% Full (Cumulative Flow/Capacity)**
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	**1/2 Full (≤ 15")**	**3/4 Full (> 15")**		
Brooklawn Dr	Well C3 Individual Treatment Site	134	133	8	0.0196	1.75	-	0.12	7.14%

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Well C6

- Lincoln St Sewer Information – **Insufficient**
  - **Hand drawn records that don't include elevation**
    - *Only pipe segments and lengths*
    - *Assume backwash volume will be sent to gravity main on Barbour St instead*
- Sewer Capacity Analysis Findings:
  - **Vertical Configuration**
    - *Discharge flow: 0.15cfs*
    - *Sewer Capacity: 8.54cfs*
    - *Discharge flow from backwash **exceeds 10%** of Barbour St Sewer Capacity (22.24% Discharge/Capacity) - **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
  - **Horizontal Configuration**
    - *Discharge flow: 0.10cfs*
    - *Sewer Capacity: 8.54cfs*
    - *Discharge flow from backwash **exceeds 10%** of Barbour St Sewer Capacity (15.14% Discharge/Capacity) - **Further Sewer Analysis Required to determine available sewer capacity/other sewer flows.***
- Conclusion:
  - **Flows exceed the sewer capacity screening criteria used; however, further evaluation is required to confirm if discharging to sewer at Lincoln St and Barbour St is feasible.**



- Potential Solutions (if required):
  - **Treating wash water and recycling supernatant to head of plant**
    - *Increase capital and O&M cost for dewatering equipment and hazardous solids disposal*
  - **Alternate Treatment Technology (WBA, or SBA)**

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Well C6 - Calculations

Backwash Discharge Calculations

Vertical Configuration		
Parameter	**Units**	**C6**
Backwash duration	min	600
Backwash volume (for all duty vessels)	gal	39,929
Backwash flow rate	gpm	67
	cfs	**0.15**
Iron (as Fe) to Sewer	mg/L	36.1

Horizontal Configuration		
Parameter	**Units**	**C6**
Backwash duration	min	300
Backwash volume (for 2 out of 4 cells per vessel)	gal	15,558
Backwash flow rate	gpm	47
	cfs	**0.10**
Iron (as Fe) to Sewer	mg/L	51.4

Sewer Capacity Calculations

Vertical Configuration Sewer Capacity Analysis

Street Name	Site Description	Segment		Pipe		Design capacity sewer (cfs)		Calculated Discharge Flow (cfs)	% Full (Cumulative Flow/Capacity)
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	1/2 Full (≤ 15")	3/4 Full (> 15")		
Barbour St	Well C6 Treatment Site	101	102	8	0.0154	0.69	-	0.15	22.24%

Horizontal Configuration Sewer Capacity Analysis

Street Name	Site Description	Segment		Pipe		Design capacity sewer (cfs)		Calculated Discharge Flow (cfs)	% Full (Cumulative Flow/Capacity)
		US M.H. #	DS M.H. #	Nominal Diameter (in.)	*Slope	1/2 Full (≤ 15")	3/4 Full (> 15")		
Barbour St	Well C6 Treatment Site	101	102	8	0.0154	0.69	-	0.10	15.14%

Appendix B: Cost Estimates

WBA Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,577	$ 280,543	$ 171,500	$ 171,500	$ 171,500
WBA	$ 2,486,824	$ 5,194,763	$ 2,443,383	$ 2,443,383	$ 2,443,383
Carbon Dioxide	$ 958,462	$ 972,863	$ 939,402	$ 939,402	$ 939,402
Chemical Dosing	$ 96,567	$ 96,572	$ 96,565	$ 96,565	$ 96,565
Site Work	$ 266,020	$ 414,088	$ 258,174	$ 258,174	$ 258,174
Yard Piping	$ 560,703	$ 872,794	$ 544,169	$ 544,169	$ 544,169
Electrical and Controls	$ 1,292,432	$ 2,011,805	$ 1,254,319	$ 1,254,319	$ 1,254,319
Booster Pump	$ 183,565	$ 183,573	$ 183,560	$ 183,560	$ 183,560
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 8,191,000	$ 14,117,000	$ 6,231,000	$ 6,231,000	$ 6,231,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,457,300	$ 4,235,100	$ 1,869,300	$ 1,869,300	$ 1,869,300
Probable Project Cost (rounded):	$ 10,648,000	$ 18,352,000	$ 8,100,000	$ 8,100,000	$ 8,100,000
Annual O&M ($/Year)	$ 332,000	$ 609,000	$ 378,000	$ 381,000	$ 320,000
Annualized Capital and O&M ($M/Year)	$ 0.88	$ 1.55	$ 0.79	$ 0.79	$ 0.73

SBA w/ On-site Brine Treatment and Off-site Disposal (Hauling) Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
On-Site Brine Treatment	$ 2,910,000	$ 2,928,000	$ 2,863,000	$ 2,863,000	$ 2,863,000
Offsite Brine Disposal	$ 1,103,000	$ 1,103,000			
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 9,689,000	$ 13,601,000	$ 6,707,000	$ 6,707,000	$ 6,707,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,906,700	$ 4,080,300	$ 2,012,100	$ 2,012,100	$ 2,012,100
Probable Project Cost (rounded):	**$ 12,596,000**	**$ 17,681,000**	**$ 8,719,000**	**$ 8,719,000**	**$ 8,719,000**
Annual O&M ($/Year)	**$ 313,000**	**$ 406,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.96**	**$ 1.31**	**$ 0.74**	**$ 0.74**	**$ 0.75**

SBA w/ On-site Brine Treatment and Off-site Disposal to Sewer Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
On-Site Brine Treatment	$ 2,910,000	$ 2,928,000	$ 2,863,000	$ 2,863,000	$ 2,863,000
Offsite Brine Disposal	$ 1,103,000	$ 1,103,000			
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 480,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 9,689,000	$ 13,601,000	$ 6,707,000	$ 6,707,000	$ 6,707,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,906,700	$ 4,080,300	$ 2,012,100	$ 2,012,100	$ 2,012,100
Probable Project Cost (rounded):	**$ 12,596,000**	**$ 17,681,000**	**$ 8,719,000**	**$ 8,719,000**	**$ 8,719,000**
Annual O&M ($/Year)	**$ 313,000**	**$ 406,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.96**	**$ 1.31**	**$ 0.74**	**$ 0.74**	**$ 0.75**

SBA w/ off-site Disposal No Treatment Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
Bag Filter	$ 254,654	$ 280,579	$ 171,566	$ 171,566	$ 171,566
SBA	$ 2,069,515	$ 3,370,199	$ 2,096,560	$ 2,096,560	$ 2,096,560
Site Work	$ 135,107	$ 206,577	$ 132,088	$ 132,088	$ 132,088
Yard Piping	$ 284,773	$ 435,412	$ 278,410	$ 278,410	$ 278,410
Electrical and Controls	$ 656,406	$ 1,003,636	$ 641,739	$ 641,739	$ 641,739
Booster Pump	$ 183,619	$ 183,596	$ 183,631	$ 183,631	$ 183,631
Off-site Brine Disposal	$ 1,103,000	$ 1,103,000	$ 1,103,000	$ 1,103,000	$ 1,103,000
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Initial Fill	$ 940,000	$ 940,000	$ 340,000	$ 340,000	$ 340,000
Probable Construction Cost (rounded):	$ 7,239,000	$ 10,673,000	$ 4,947,000	$ 4,947,000	$ 4,947,000
Engineering, Construction Management, Legal, Administration (30%)	$ 2,171,700	$ 3,201,900	$ 1,484,100	$ 1,484,100	$ 1,484,100
Probable Project Cost (rounded):	**$ 9,411,000**	**$ 13,875,000**	**$ 6,431,000**	**$ 6,431,000**	**$ 6,431,000**
Annual O&M ($/Year)	**$ 310,000**	**$ 407,000**	**$ 294,000**	**$ 295,000**	**$ 302,000**
Annualized Capital and O&M ($M/Year)	**$ 0.79**	**$ 1.11**	**$ 0.62**	**$ 0.62**	**$ 0.63**

RCF Horizontal Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
RCF	$ 1,909,279	$ 4,012,215	$ 1,570,381	$ 1,496,977	$ 1,418,171
Chemical Dosing	$ 193,192	$ 193,192	$ 193,192	$ 193,192	$ 193,192
Backwash	$ 598,445	$ 856,526	$ 563,862	$ 563,862	$ 552,950
Site Work	$ 145,718	$ 272,917	$ 125,596	$ 121,641	$ 116,808
Yard Piping	$ 307,136	$ 575,242	$ 264,725	$ 256,390	$ 246,202
Electrical and Controls	$ 707,954	$ 1,325,942	$ 610,197	$ 590,984	$ 567,501
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Probable Construction Cost (rounded):	$ 5,474,000	$ 10,386,000	$ 3,328,000	$ 3,223,000	$ 3,095,000
Engineering, Construction Management, Legal, Administration (30%)	$ 1,642,200	$ 3,115,800	$ 998,400	$ 966,900	$ 928,500
Probable Project Cost (rounded):	**$ 7,116,000**	**$ 13,502,000**	**$ 4,326,000**	**$ 4,190,000**	**$ 4,024,000**
Annual O&M ($M/Year)	**$ 327,000**	**$ 426,000**	**$ 361,000**	**$ 351,000**	**$ 331,000**
Annualized Capital and O&M ($M/Year)	**$ 0.69**	**$ 1.11**	**$ 0.58**	**$ 0.56**	**$ 0.54**

RCF Vertical Cost Estimate Details

Description	M10 & M11 Cluster	Foothill West Cluster	Well C3	Well C5	Well C6
RCF	$ 2,660,620	$ 6,127,074	$ 2,660,620	$ 2,660,620	$ 2,660,620
Chemical Dosing	$ 193,192	$ 193,192	$ 193,192	$ 193,192	$ 193,192
Backwash	$ 567,441	$ 1,075,721	$ 537,945	$ 537,945	$ 537,945
Site Work	$ 184,526	$ 398,664	$ 182,936	$ 182,936	$ 182,936
Yard Piping	$ 388,934	$ 840,285	$ 385,584	$ 385,584	$ 385,584
Electrical and Controls	$ 896,500	$ 1,936,872	$ 888,780	$ 888,780	$ 888,780
M12 Transmission Pipe	$ 1,612,000				
Foothill Transmission Pipe		$ 3,150,000			
Probable Construction Cost (rounded):	**$ 6,503,000**	**$ 13,722,000**	**$ 4,849,000**	**$ 4,849,000**	**$ 4,849,000**
Engineering, Construction Management, Legal, Administration (30%)	**$ 1,950,900**	**$ 4,116,600**	**$ 1,454,700**	**$ 1,454,700**	**$ 1,454,700**
Probable Project Cost (rounded):	**$ 8,454,000**	**$ 17,839,000**	**$ 6,304,000**	**$ 6,304,000**	**$ 6,304,000**
Annual O&M ($M/Year)	$ 327,000	$ 426,000	$ 361,000	$ 351,000	$ 331,000
Annualized Capital and O&M ($M/Year)	**$ 0.76**	**$ 1.34**	**$ 0.68**	**$ 0.67**	**$ 0.65**

Appendix C: Hazen Converge Analysis

Chromium 6 Treatment and Compliance Technical Memo Updates

Task 3 – Technology Selection
July 31, 2024



Proud History
Prosperous Tomorrow

Hazen

1

Treatment Alternatives

- Weak Base Anion Exchange (WBA)
- Strong Base Anion Exchange (SBA) Option 1 – Brine Treatment, Offsite Non-Hazardous Disposal
- SBA Option 2 – Brine Treatment, Sewer Disposal
- SBA Option 3 – No Brine Treatment, Offsite Hazardous Disposal
- Reduction Coagulation Filtration (RCF)

2

Hazen Converge Results

3

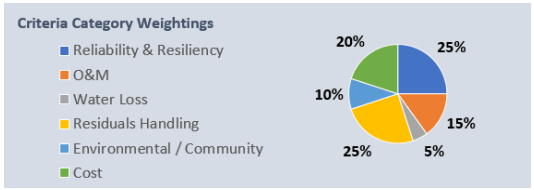
Hazen Converge Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	25%	Reliability to Meet Cr6 Treatment Goal	40%	1 - 10
		System Resilience to Change	30%	1 - 10
		Impact from Competing Constituents	30%	1 - 10
O&M	15%	Equipment Complexity	40%	1 - 10
		Chemical Deliveries	50%	1 - 10
		Number of FTE	10%	1 - 10
Water Loss	5%	Water Loss	100%	1 - 10
Residuals Handling	25%	Disposal of Liquid Waste	80%	1 - 10
		Disposal of Solid Waste	20%	1 - 10
Environmental / Community	10%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	20%	Annualized Lifecycle Cost	100%	1 - 10

4

Foothill West Cluster

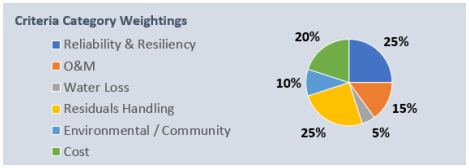




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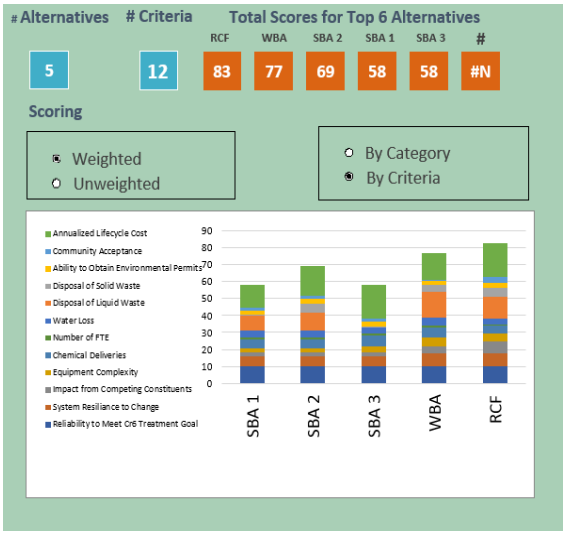
M10 & M11 Cluster

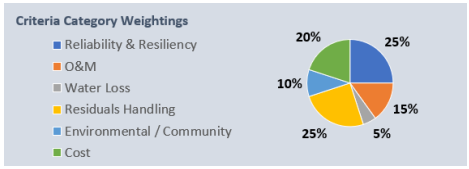




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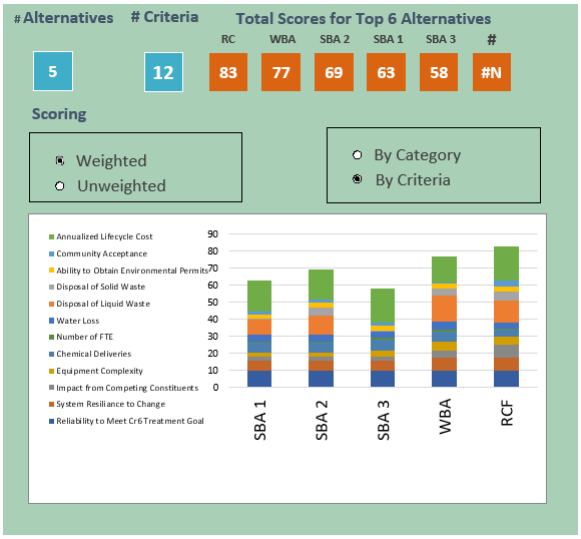
Well C3

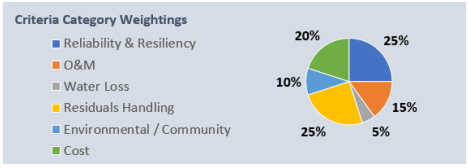




7

Well C5

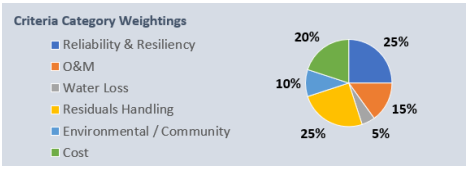




8

Well C6





9

Sensitivity Analysis Rev #1

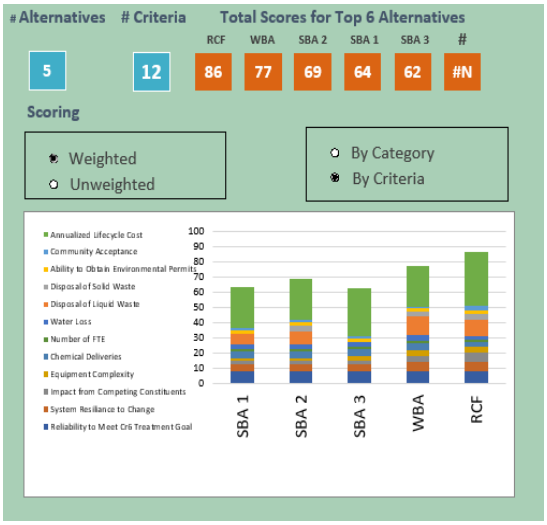
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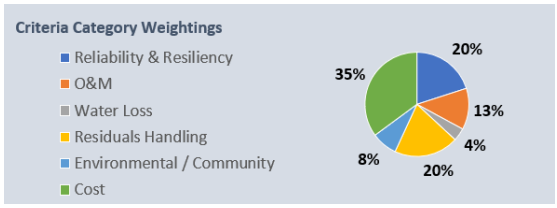
Sensitivity Analysis #1 Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	22%	Reliability to Meet Cr6 Treatment Goal	40%	1 - 10
		System Resilience to Change	30%	1 - 10
		Impact from Competing Constituents	30%	1 - 10
O&M	13%	Equipment Complexity	38%	1 - 10
		Chemical Deliveries	47%	1 - 10
		Number of FTE	16%	1 - 10
Water Loss	4%	Water Loss	100%	1 - 10
Residuals Handling	20%	Disposal of Liquid Waste	80%	1 - 10
		Disposal of Solid Waste	20%	1 - 10
Environmental / Community	8%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	35%	Annualized Lifecycle Cost	100%	1 - 10

11

Foothill West Cluster

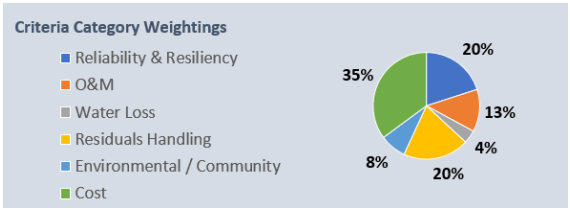




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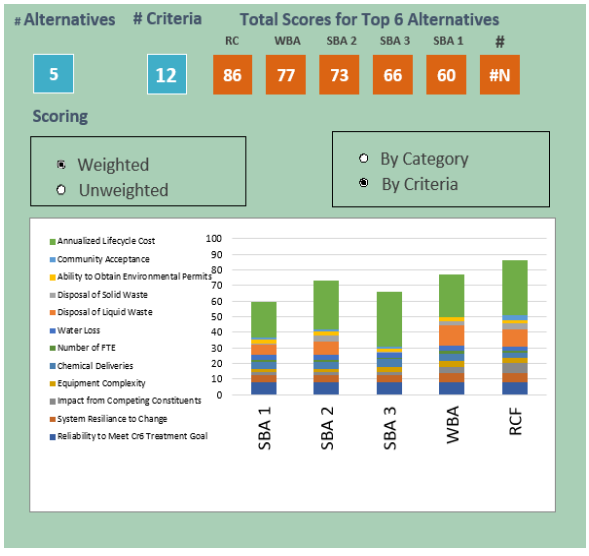
M10 & M11 Cluster

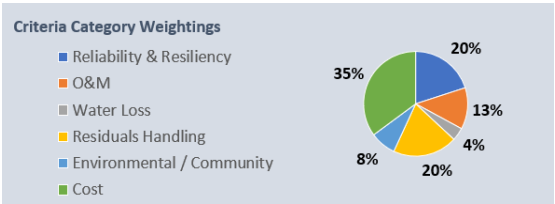




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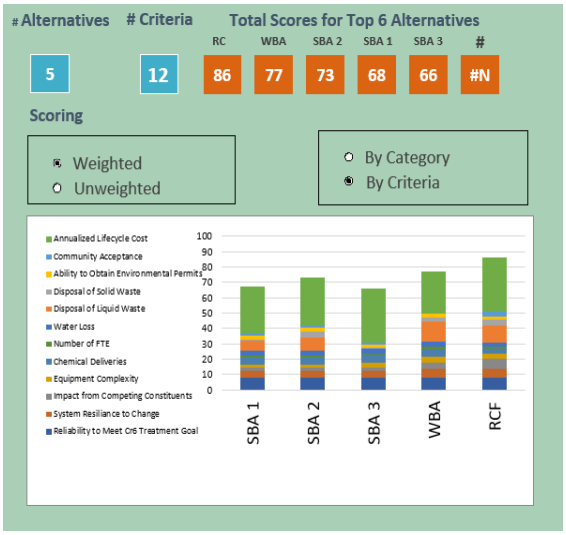
Well C3

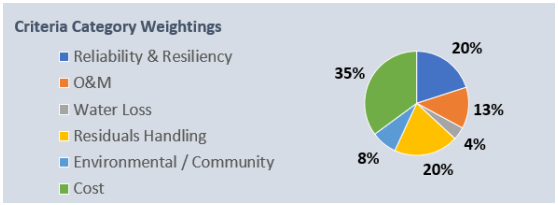




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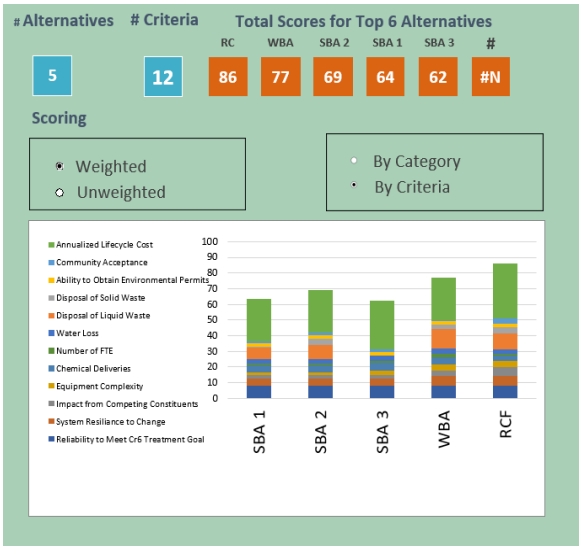
Well C5

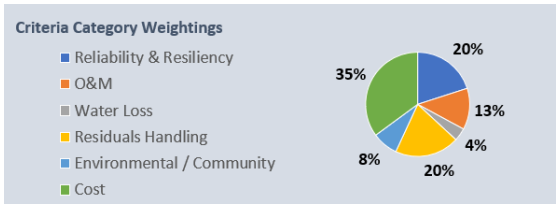




15

Well C6





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Sensitivity Analysis Rev #2

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Sensitivity Analysis #2 Weightings

Category	Category Weight	Criteria	Criteria Weight in Category	Ranking (Low to High)
Reliability & Resiliency	14%	Reliability to Meet Cr6 Treatment Goal	43%	1 - 10
		System Resilience to Change	29%	1 - 10
		Impact from Competing Constituents	29%	1 - 10
O&M	10%	Equipment Complexity	60%	1 - 10
		Chemical Deliveries	30%	1 - 10
		Number of FTE	10%	1 - 10
Water Loss	4%	Water Loss	100%	1 - 10
Residuals Handling	14%	Disposal of Liquid Waste	57%	1 - 10
		Disposal of Solid Waste	43%	1 - 10
Environmental / Community	8%	Ability to Obtain Environmental Permits	50%	1 - 10
		Community Acceptance	50%	1 - 10
Cost	50%	Annualized Lifecycle Cost	100%	1 - 10

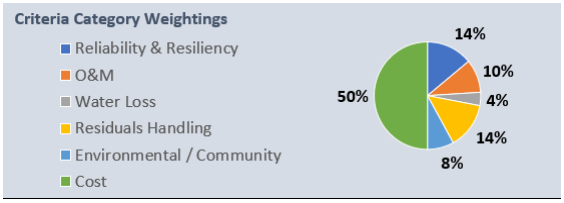
Hazen

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18

Foothill West Cluster

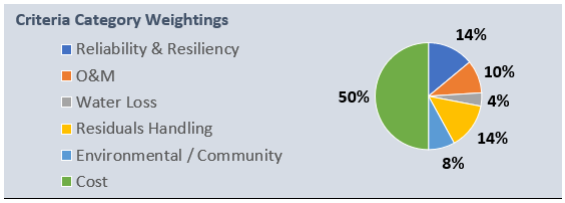




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M10 & M11 Cluster

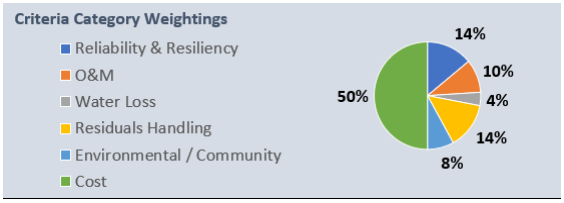




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Well C3

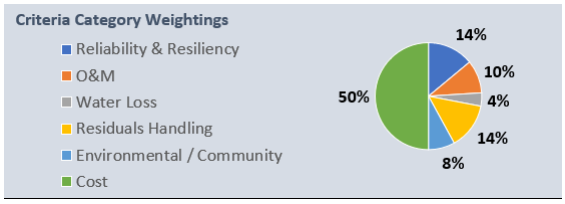




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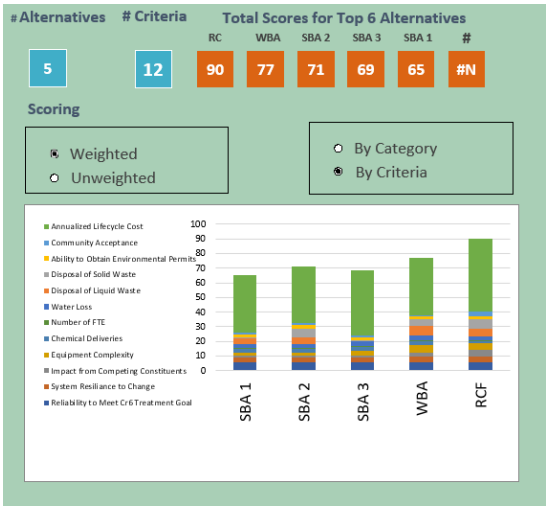
Well C5

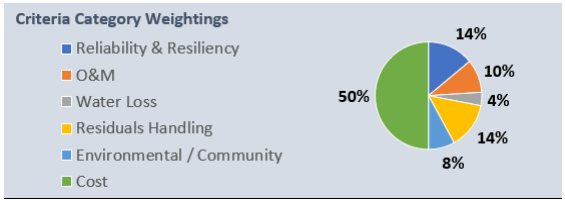




22

Well C6





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Sensitivity Analysis Summary

Location	Ranking Results	Treatment Alternative Ranking				
		RCF	WBA	SBA 1	SBA 2	SBA 3
Foothill West Cluster	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4
M10 & M11 Cluster	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
Well C3	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	2	4
Well C5	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	3	5	4	2
Well C6	Hazen Converge	1	2	4	3	5
	Sensitivity Analysis #1	1	2	4	3	5
	Sensitivity Analysis #2	1	2	5	3	4

- *Rankings are assigned as 1 is the highest ranking and 5 is the lowest ranking*

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Cost Estimates

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Capital, O&M, Lifecycle Cost Estimates

Treatment Strategy	Capital Costs ($M)					Total Project Capital Costs ($M)	Annual O&M ($M/Year)	Annual Lifecycle Cost ($M/Year)
	Foothill West Cluster	M10 & M11 Cluster	Well C3	Well C5	Well C6			
SBA Option 1 (Brine Treatment Offsite Disposal)	16.1	13.4	5.0	5.0	5.0	31.2 to 66.8	1.1 to 2.4	2.7 to 5.8
SBA Option 2 (Brine Treatment Sewer Disposal)	14.7	12.0	5.0	5.0	5.0	29.2 to 62.5	1.1 to 2.3	2.6 to 5.5
SBA Option 3 (No Brine Treatment)	12.6	10.5	5.0	5.0	5.0	26.7 to 57.1	1.1 to 2.4	2.5 to 5.3
WBA	17.1	11.7	8.1	8.1	8.1	37.2 to 79.7	1.4 to 3.0	3.3 to 7.1
RCF	14.8	10.7	7.3	7.3	7.3	33.2 to 71.2	1.3 to 2.8	3.0 to 6.4

Hazen

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O&M Cost Assumptions

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O&M Cost Assumptions

Name	Units	Cost	Treatment Technology
Electricity	($/kWh)	$ 0.16	RCF, WBA, SBA Option 1, 2, and 3
Labor Annual Salary	($/yr)	$ 151,551.04	RCF, WBA, SBA Option 1, 2, and 3
Sewer Discharge	($/cf)	$ 3.15	RCF, WBA, SBA Option 1, 2, and 3
Sewer Quarterly Fee	($/DEU/month)	$ 945	RCF, WBA, SBA Option 1, 2, and 3
5% Ferrous Chloride	($/gal)	$ 2.50	SBA Option 1 and 2
Salt	($/ton)	$ 147.59	SBA Option 1, 2, and 3
Polymer	($/gal)	$ 32.56	RCF, SBA Option 1 and 2

Hazen

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Questions

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Question

- How does Banning intend on operating the wells/facilities; for compliance and to meet water demands?

Hazen

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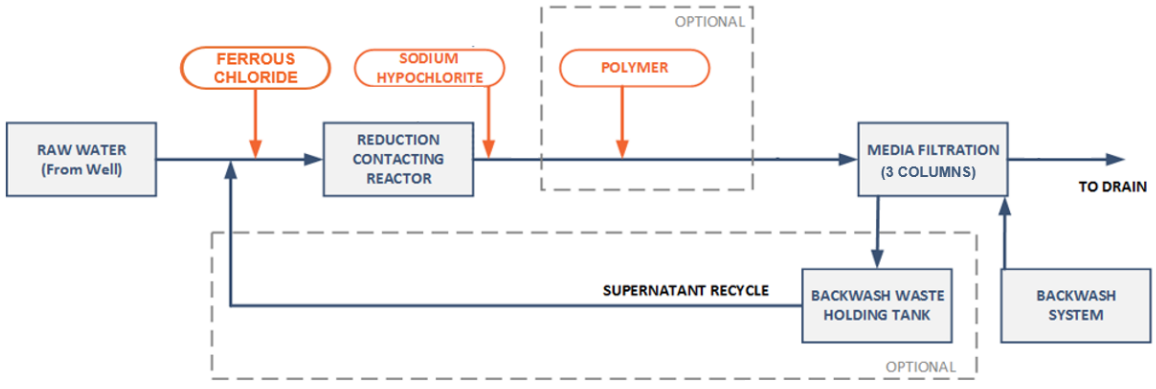
Appendix D: RCF Pilot Options

RCF Piloting Options

2

2

Potential RCF Pilot PFD



3

Pilot Configuration





Chemicals:
- Ferrous chloride
- Hypochlorite
- Polymer

Reduction Time:
- 2 minutes

Filter Media:
- Anthracite/sand
- GreensandPlus
- Pyrolusite

Hazen

4

RCF Pilot Vendors

- **Intuitech**
  - Skid Mounted or Containerized Pilot System
    - Containerized system has AC
  - Fully automated with SCADA System, ability to operate pilot unmanned
    - Includes option for turbidity meters
  - Pilot for Purchase
- **WQTS**
  - Skid mounted pilot system
  - Fully automated SCADA system with data logger
    - Includes pressure sensors, temperature sensors, turbidity meters, flow meters and flow control valves
  - Includes allocated time for setup and training for pilot operation
  - Pilot for Purchase
- **Filtronics**
  - Trailer Mounted Pilot System
  - Automated filtration system with semi-automatic electric valves
  - Pilot for Purchase
- **Tonka**
  - Trailer Mounted System
  - More manual system quoted, but the pilot can be further customized.
  - Pilot for Lease or Purchase
- **Culligan**
  - Pilot for Purchase
    - Pending quotation for purchase
- **Pureflow**
  - Pilot for Lease

Hazen 5

5

Configuration Options

- **Skid Mounted**
  - Cost Range[1] (Purchase): $242,000 - $400,000
- **Enclosure Cost**
  - Cost estimate for enclosure/trailer only
  - Trailer: $116,000
  - Enclosure: $132,000
- **Container/Trailer Mounted Pilot**
  - Cost Range (Purchase): $85,000 - $443,000
  - Lease Cost[2]: $32,000
- **Chemical/Media Cost**
  - Estimated Chemical Cost: $400/month
  - Estimated Media Cost: ($1,500)

[1]Intuitech quote with and without turbidity meters
[2]Cost includes 1 week of pilot rental with the vendor onsite for three (3) days allotted for set-up, tear-down, data collection, or etc.

Hazen 6

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RCF Pilot Estimates

Category	Purchase					Lease
	Skid Mounted		Container/Trailer Mounted			Trailer Mounted
	Intuitech[1]	WQTS	Intuitech[1]	Filtronics[1]	Tonka	Tonka[1]
Cost	$242,000	$325,000	$410,000	$85,000	$107,500	$32,500 (first week)
Additional Add-on	Turbidity Meters (Add $22,000)	-- (fully customized system)	Turbidity Meters (Add $22,000)	Additional Customization Available	Additional Tonka Visits (Add $7,000 per)	Additional Week (Add $2,500 per) Additional Tonka Visits (Add $7,000 per)
Size	12.2' L x 4.2' W x 10.2' H	10' H x 10' L x 2.83' W[2]	20' Enclosure	14' trailer	20' trailer	20' trailer
Lead Time	6-7 months	6-7 months	6-7 months	2 – 3 months	3 months	1 – 1.5 months

[1] *Quote received is for a standard RCF pilot system, additional customization resulting in price change*
[2] *Dimensions for the skid do not include additional chemical tanks and backwash tank*

Hazen 7

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Intuitech Pilot Details

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Intuitech RCF Pilot

DESCRIPTION	PART NUMBER	COST
GRANULAR MEDIA FILTRATION PILOT PLANT[1]	F40610-SAP-41PC-4TU-4CF	$243,459
GRANULAR MEDIA FILTRATION PILOT PLANT	F40610-SAP-41PC-0TU-4CF	$221,707
PILOT MODULE ENCLOSURE	E201112-2ED-1SD-1PS-HVAC-SVN-FWS	$168,042
PILOT MODULE ENCLOSURE	E401112-2ED-1SD-1PS-HVAC-SVN-4LAB-FWS	$179,504
STARTUP - 1 DAYS		$5,633
SHIPPING (EST)		$14,145
TAX		TBD

[1] *Includes Turbidity Meters*







Quotation Details:

- Enclosure (Options)
  - **Plug and play ready for operation,** treatment modules will be prewired and pre-plumbed at the factory.
  - Allow for single electrical connection with NEMA 4x panel and exterior electric disconnect panel
  - Wall mount **HVAC unit**, **AC**, and **heater** included
  - **Optional laboratory module** included cabinets, chemically resistant countertops, outlets, sink and water
    - 20' Enclosure (Option)
    - 40' Enclosure (Option)
- **Turbidity Meters**
  - With or without turbidity meters
- **First column** can be configured as a reaction vessel feeding into the three columns

- Quotation does not include chemicals or media but does include equipment such as chemical tanks, pumps, etc.
- Approximately **6-7 months lead time**

Hazen

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Intuitech Pilot Additional Details



Example Specification

Maximum Total Flow Rate	5.2 gpm (19.7 L/min)
Filters	4 @ 6 x 112 inch (152 x 2,840 mm)
Maximum Media Depth	72 inch (183 cm)
Media Retention Size	> 0.0059 inch (149 µm)
Filtration Rate	1.3…6.6 gpm/sf (3.2…16.1 m/h)
Backwash Rate	5.1…51.0 gpm/sf (12.4…124.7 m/h)
Backwash Tank Volume	150 gal (568 L)
Air Scour Rate	2.6…9.2 scfm/sf (46.6…164.9 m/h)
Maximum Headloss	25 feet (7.6 m)
Chemical Feed Systems	4
Chemical Feed Rate	0.03…57 mL/min
Chemical Tank Volume	4 gallon (15.1 L)
Dimensions	146 inch (3.71 m) L x 50 inch (1.27 m) W x 122.5 inch (3.11 m) H
Dry Weight	2,700 lbs. (1,315 kg)
Operating Weight	4,200 lbs. (1,905 kg)
Electrical Requirements	1 Phase, 18.8 A @ 120 VAC or 1 Phase, 9.4A @ 240 VAC, 50/60Hz
Monitored Parameters	Flow Rate, Headloss, Effluent Turbidity, and Column Level for each filter, Chemical Dosage, Chemical Flow, and Chemical Tank Level for each feed system, Air Scour Flow, Backwash Flow, Backwash Tank Level, Spare Analog Signals (3 qty.)

- ✓ Independent filters with automatic flow control
- ✓ Chemical feed systems configurable for flow-pacing, closed-loop PID, or trim control
- ✓ Chemical feed pump configurable as a composite sampler
- ✓ Shared backwash and air scour system
- ✓ Piping for two separate influent water sources
- ✓ Influent piping weirs eliminate need for feed tanks
- ✓ Parallel or series operation
- ✓ Backwash initiated by operator in manual mode, or by run-time, run-volume, headloss, or effluent turbidity in auto mode
- ✓ Configurable backwash procedure for each filter including drain down, air scour, concurrent wash, and multiple backwash steps
- ✓ Seven ports in each filter for sampling water or media
- ✓ All equipment integrated onto one skid for plug-and-play operation
- ✓ Designed for automatic un-manned operation
- ✓ Monitored and controlled remotely via wireless cellular connection
- ✓ Data logging to formatted text file for importing into spreadsheet and charting applications
- ✓ Historical and real-time trending visualization tool
- ✓ Alarm notification via email or text messaging
- ✓ IoT network provides exceptional diagnostic information

10

Filtronics Pilot Details

11

Filtronics RCF Pilot

Quotation Details:

- Purchase Cost: $85,000
- Enclosure
  - Double-axle 14' trailer (right)
- Fully Automated filtration system with semi-automatic electric valves
- Standard quotation, depending on specifications, the final purchase cost could go up or down.
- Lead time is approximately 6 – 8 weeks for the trailer and an additional 2 – 4 weeks for filtration system assembly
  - Turnaround time is based on the availability of the trailer.



Hazen 12

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WQTS Pilot Details

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WQTS RCF Pilot

Quotation Details:

- **General**
  - **Number of Pre-Contactor Columns:** 1 column
  - **Contactor Column Diameter:** 6 inches
  - **Contactor Column Height:** 60 inches
  - **Contactor Column Volume:** 9.7 gallons 2.0 min. HRT with 3 filters at 8 gpm/sf
  - **Number of Filters:** 3 columns
  - **Filter Column Diameter:** 6 inches
  - **Filter Column Internal Height:** 92 inches
  - **Max Media Depth:** 60 inches
  - **Filter Loading Rate Range:** 1.5-13 gpm/sf
  - **Filter Flow Range:** 0.3-2.6 gpm
  - **Back Wash Air Scour Rate Range:** 1 - 5 scfm/sf
  - **Air Scour Flow Range:** 0.2 - 1.0 scfm (5.6 - 21.8 slpm)
  - **Backwash Loading Rate Range:** 2.5-45 gpm/sf
  - **Backwash Flow Range:** 0.5-9 gpm
  - **Number of Pre-Contactor/Filter Chemical Pumps:** 5 pumps 2 for Pre-Contactor and 1 per Filter
  - **Feed Range:** 0.035 - 69 mL/min
  - **Number of Chemical Day Tanks:** 5 tanks
  - **Capacity of Chemical Day Tanks:** 7 gallons
  - **Number of Clearwell/Backwash Supply Tanks:** 1 tank
  - **Clearwell/Backwash Tank Volume:** 200 gallon
- **Physical**
  - **Assembled Dimensions:** 120"H x 120"W x 34"D
- **Electrical**
  - **Phase: 1**
  - **Frequency:** 60 Hz
  - **Voltage:** 120 VAC
  - **Current:** 20 amp max
- **Instrumentation**
  - **Pressure Sensors:** 4 Transducer Pre-contacor/1 per Filter column*
  - **Temperature Sensor:** 2 Transducer Inlfuent/Clearwell*
  - **Turbidimeter:** 3 online analyzers 1 per column*
  - **Clearwell Tank Pressure Sensor:** 1 Transducer Tank volume*
  - **Backwash Mag Flow Meter:** 1 meter
  - **Flow Conrol Valve/ Mag Meter**: 3 meter/flow control Filter Flow rate*
  - **Mass Flow Controller:** 1 controller
  - **Electrical requirement:** 120VAC/1PH/60HZ, 20 AMP

Note: Chemical supply and backwash tank(s) not accounted for in pilot footprint.

- Typical 7 gallon chemical tank 12"(W) x 12" (D) x 12" (H)
- Typical 200 gallon backwash supply/clearwell tank 34"(Dia.) x 56" (H)

Hazen

14

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Tonka Pilot Details (Lease)

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Tonka RCF Pilot (Lease)

Quotation Details:

- Lease Cost: $32,500
  - Standard quotation, depending on specifications, the final cost could go up or down.
  - Including pilot for 1 week, with a technician onsite to set up equipment and train on-site personnel on operation.
  - Tonka engineer will be available for the duration of the pilot for questions and consultation
  - Add-ons:
    - Additional trips for Tonka support: $7,000.00 per trip
    - Additional time for pilot equipment rental $2,500.00 per week
- Pilot Specifics
  - 20’ trailer with 120V, 30A connection to power the pilot equipment
    - Miscellaneous equipment consisting of flexible tubes, valves, fittings, and other necessary appurtenances to provide a fully operable system.
    - Fully Automated filtration system with semi-automatic electric valves
  - Three (3) 8” diameter media filtration columns (GreensandPlus™, pyrolusite, and sand/anthracite)
    - Columns will have valve manifold to accommodate all modes of service and backwash and will include a loss of head gauge and sample taps.
  - Filtration assembly is approx. 4’ x 8’ and height of approximately 8’ and requires a continuous flow.
    - The filter column is intended to be operated at 8 gpm/sft
  - (Optional) Detention basin(s) with multiple outlet ports to calibrate the desired amount of reduction time
- Delivery is approximately 4 – 6 weeks after PO.

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Brandon Robinson, Electrical Engineering Supervisor**
Art Vela, Director of Public Works

MEETING DATE: **July 8, 2025**

SUBJECT: **Accepting a Quitclaim of Existing City Easements Related to the Improvement of Tract Map No. 37389-6, PA 9A Within the Atwell Specific Plan**

RECOMMENDATION:

Staff recommends that the City Council accept a quitclaim of existing easements from Tri Pointe Homes for electric utility purposes for Tract Map No. 37389-6, PA 9A within the Atwell development for the maintenance of the City-owned electric distribution system.

BACKGROUND:

The recommended action would quitclaim portions of easements for electric utility purposes that was originally recorded February 4, 1960 for the Highland Estates tract map and included with Atwell Final Map 37389-6, PA 6A. The existing electric facilities were adjusted with the Lot Line Adjustment between Tri-Pointe Homes and the existing homeowners within Highland Estates per an agreement between the parties and the City of Banning's Electric Utility. The portion of easement to be quitclaimed provides no benefit to the City of Banning across private properties within the Highland Estates and the Atwell development, and would not cause any harm to the City of Banning to quitclaim the portion of the easement.

JUSTIFICATION:

City Council action on this item is necessary in order for Tri Pointe Homes to comply with the conditions of approval for Tract Map No. 37389-6, and for the construction of the subdivision without hinderances or obstruction caused by electric utility facilities.

FISCAL IMPACT:

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

ALTERNATIVES:

Do not accept the quitclaim and provide alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. QUITCLAIM DEED_Tract 37389-6 PA 9A.doc
2. Quitclaim Easement Legal & Boundary 37389-_PA 9A.pdf

Escrow No.
Loan No.

Recording Requested by:

City of Banning
P.O. Box 998
Banning, CA 92220

NO RECORDING FEE PER SECTION 6103 OF THE GOVERNMENT CODE

SPACE ABOVE THIS LINE FOR RECORDERS USE

APN: 408-570-049, 055

DOCUMENTARY TRANSFER TAX $.....
Computed on the consideration or value of property conveyed: OR
Computed on the consideration or value less liens or encumbrances remaining at time of sale

_____
Signature of Declarant or Agent determining tax - Firm Name

QUITCLAIM DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, *THE CITY OF BANNING*, a public body corporate and politic ("Grantee"), does hereby remise, release and forever quitclaim to: ***TRI POINTE HOMES IE-SD, INC.*** a California Corporation portions of a Grant of Easement for electric maintenance purpose, on the real property in the City of Banning, County of Riverside, State of California, and described in Exhibit A, Legal Description and Exhibit B, Boundary Survey attached hereto and a made a part hereof (the "Property").

Dated: _____

_____
Sheri Flynn, Mayor
City of Banning

Vickie Sellers, City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
SBEMP

State of California
County of Riverside }

On _____ (date), before me, **S. Caroline Patton, 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)

State of California
County of Riverside }

On _____ (date), before me, **S. Caroline Patton, 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)

EXHIBIT "A"
EASEMENT QUITCLAIM
A.P.N. 408-570-055
LEGAL DESCRIPTION

BEING A PORTION OF THE LAND DESCRIBED IN A GRANT OF EASEMENT RECORDED FEBRUARY 4, 1960, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN ON INSTRUMENT NO. 9894, ATTACHED HERETO, LYING WITHIN LOTS 19, 20, 25, 26, 30, 31 AND 32 OF TRACT NO. 37389-6, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS FILED IN MAP BOOK 500, PAGES 37 THROUGH 44, INCLUSIVE, ALL OF OFFICIAL RECORDS OF SAID COUNTY.

PREPARED UNDER THE SUPERVISION OF:



6-6-25

DARYL J. CHRISTIAN, PLS 8554 DATE

IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

SHEET 3 OF 8 SHEETS

TRACT NO. 37389-6

BEING A SUBDIVISION OF A PORTION OF REMAINDER LOT 2, OF TRACT NO. 37389-1 AS SHOWN BY MAP ON FILE IN BOOK 485, PAGES 68 THROUGH 75, INCLUSIVE, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, LYING WITHIN SECTION 1, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN.

DARYL J. CHRISTIAN, L.S. 8554 MDS CONSULTING DECEMBER, 2024

SCALE: 1" = 100'

100 50 0 100 200 300

GRAPHIC SCALE

BOUNDARY SURVEY

CURVE DATA			
#	DELTA	RADIUS	LENGTH
C1	(02°41'25"	772.00'	36.25' R1)
C2	(03°55'36"	772.00'	52.91' R2)
C3	(05°10'17"	828.00'	74.73' R2)
C4	(13°53'18"	272.00'	65.93' R3)
C5	(00°19'57"	800.00'	4.64' R3)
C6	(17°41'47"	272.00'	84.01' R3)
C7	(20°07'43"	100.00'	35.13' R1)
C8	(90°30'21"	66.00'	104.26' R1)
C9	(10°17'49"	100.00	17.97' R1)

COURSE DATA			COURSE DATA		
#	BEARING	DISTANCE	#	BEARING	DISTANCE
L1	(N 29°55'04" W	63.38' R1)	L19	(N 76°44'45" E	28.00' R3)
L2	(N 77°33'53" E RAD	101.00' R1)	L20	(N 76°24'48" E	28.00' R3)
L3	(N 74°52'28" E RAD	99.76' R1)	L21	(N 29°57'05" E	20.67' R3)
L4	(N 70°56'52" E	56.00' R2)	L22	(N 73°29'22" E	34.38' R3)
L5	(N 62°35'25" W	20.67' R2)	L23	(N 88°48'51" W	14.00' R3)
L6	(N 16°07'42" W	56.00' R2)	L24	(N 01°28'15" E	60.00' R1)
L7	(N 30°20'00" E	20.67' R2)	L25	(N 88°30'49" E	25.00' R1)
L8	(N 42°59'00" E	54.77' R2)	L26	(N 88°30'49" E	86.33' R1)
L9	(N 71°51'17" E	52.57' R2)	L27	(N 88°31'39" W	109.66' R1)
L10	(N 67°34'33" E	52.75' R2)	L28	(N 88°31'11" W	10.00' R1)
L11	(N 63°17'16" E	52.75' R2)	L29	(N 00°13'14" E	20.00' R1)
L12	(N 59°53'58" E	49.07' R2)	L30	(N 01°28'49" E	111.38' R1)
L13	(N 79°27'25" E	87.62' R2)	L31	N 67°29'37" E	40.99'
L14	(N 06°09'41" W	42.84' R2)		(N 67°29'58" E	40.99' R1)
L15	(N 30°23'56" W RAD	67.70' R2)	L32	(N 22°00'02" W	40.99' R1)
L16	(N 59°36'04" E	7.72' R3)	L33	(N 32°17'51" W	34.30' R1)
L17	(N 73°29'22" E	45.77' R3)	L34	(N 57°42'09" E	103.00' R1)
L18	(N 59°52'56" W	21.81' R3)	L35	(N 88°31'11" W	25.77' R1)

SURVEYOR'S NOTES

- ● — INDICATES FOUND 1" I.P.. L.S. 8554, FLUSH. TO BE SET PER R1–TRACT NO. 37389–1, M.B 485/68–75, R2–TRACT NO. 37389–5 M.B. 485/95–103, OR R3–TRACT NO. 37389–4, M.B. 500/31-36 AS SHOWN.
- ⊙ — INDICATES FOUND SPK. & WASHER, LS 8554, FLUSH, PER (R1), (R2) OR (R3), UNLESS OTHERWISE NOTED.

1" IRON PIPE, TAGGED L.S. 8554 FLUSH IN DIRT OR SPIKE & WASHER, STAMPED L.S. 8554 FLUSH IN ASPHALT, OR LEAD, TACK AND TAG, L.S. 8554, FLUSH IN CONCRETE OR TOP OF WALL, TO BE SET AT ALL REAR LOT CORNERS, CENTERLINE INTERSECTIONS, AND POINTS OF CONTROL, UNLESS OTHERWISE NOTED.

NAIL AND TAG, LS 8554 TO BE SET IN TOP OF CURB AT THE PROLONGATION OF SIDE LOT LINES IN LIEU OF FRONT LOT CORNERS, UNLESS OTHERWISE NOTED.

(R1) – INDICATES REC. & MEAS. DATA PER TRACT NO. 37389–1, M.B. 485/68–75
(R2) – INDICATES REC. & MEAS. DATA PER TRACT NO. 37389–4, M.B. 500/31-36
(R3) – INDICATES REC. & MEAS. DATA PER TRACT NO. 37389–5, M.B. 485/95–103
(R4) – INDICATES REC. & MEAS. DATA PER TRACT NO. 35966, M.B. 473/94–107

THIS TRACT MAP CONTAINS 84 NUMBERED LOTS AND 8 LETTERED LOTS.

THIS TRACT MAP CONTAINS 18.69 ACRES GROSS.

TRACT No. 37389-5
M.B. 485/95-103

TRACT No. 37389-4
M.B. 500/31-36

PLUMWOOD LANE

LARKSPUR ROAD

GILMAN STREET

KING STREET

HIGHLAND ESTATES
M.B. 38/80-81

HOFFER STREET

APEX STREET

WILSON STREET

ACC. AS S'LY BDRY., TR. 37389-5, M.B. 485/95-103.

ACC. AS S'LY BDRY., TR. 37389-4, M.B. 500/31-36

ACC. AS E'LY BDRY., TR. 37389-1, M.B. 485/68-75.

ACC. AS W'LY BDRY., TR. 37389-1, M.B. 485/68-75.

ACC. AS S'LY TR. BDRY., TR. 37389-1, M.B. 485/68-75.

FD. 3/4" I.P., NO TAG DN. 1.0' PER M.B. 429/84-103

FD. N&T LS 4547, FLUSH IN SIDEWALK, PER M.B. 429/84-103

FD. 1" I.P. LS 4547, DN. 0.5', PER M.B. 429/84-103

FD. 1" I.P. LS 4547, FLUSH, PER M.B. 429/84-103

FD. 1" I.P. LS 4547, DN. 0.3' PER M.B. 429/84-103

FD. 1" I.P. LS 4547, DN. 1.0' PER M.B. 429/84-103

FD. SPK.&W., LS 8554, FLUSH, ACC. AS ℄ INT. PER M.B. 485/68-75. & C.R. 240443.

FD. 2 1/2" BRASS DISK. MARKED AS SHOWN, IN 1" I.P., FLUSH, ACC. AS S. 1/4 COR., SEC. 1, T.3S., R.1W. PER C.R. 240443.

LS8554 1 12 T3S R1W

SEE DETAIL "A" ABOVE

DETAIL "A"
N.T.S.

℄ WILSON STREET

℄ APEX STREET

1/4 SECTION LINE

(N 88°31'11" W 2661.00')

(N 88°31'11" W 2677.03')

TRACT No. 37389-1
M.B. 485/68-75
LOT H

BASIS OF BEARINGS SEE SHEET 2 EASEMENT NOTES SEE SHEET 2

I:\89408\MAPPING\TR 37389-6 MAP SHTS 1-16-2025

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**David Newell, Community Development Director** **David Newell, Community Development Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Second Reading and Adoption of Ordinance 1610, Adopting the Fire Hazard Severity Zones within the City of Banning Based on Maps Provided by the California Department of Forestry and Fire Protection by Amending the Banning Municipal Code Section 8.16.020 and Chapter 15.28**

RECOMMENDATION:

Waive the second reading of the text in its entirety, read by title only, and adopt Ordinance 1610:

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE FIRE HAZARD SEVERITY ZONES WITHIN THE CITY OF BANNING BASED ON MAPS PROVIDED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION BY AMENDING THE BANNING MUNICIPAL CODE SECTION 8.16.020 AND CHAPTER 15.28

BACKGROUND:

On June 24, 2025, the City Council held a public hearing on an ordinance (Ordinance 1610) adopting the Fire Hazard Severity Zones (FHSZ) within the City of Banning, as required by Section 51179 of the California Government Code. The ordinance proposes repealing Chapter 15.28, Fire Districts, and amending Chapter 8.16, Fire Protection Code. Chapter 15.28 of Title 15 (Buildings and Construction) includes old references that are no longer applicable and therefore requires repealing this Section. Chapter 8.16 is proposed to be amended by identifying the FHSZ Map received on March 24, 2025, as the City's adopted map within the paragraph referenced as Chapter 49 of Section 8.16.020. After closing the public hearing, the City Council voted 5-0 to introduce by title only Ordinance 1610.

Because there were no changes directed by Council when first introduced, the second reading of Ordinance 1610 is the same as first reading. If the Council adopts the ordinance, it would go into effect 30 days thereafter.

JUSTIFICATION:

The designation of Fire Hazard Severity Zones (FHSZ) under Government Code section 51178 requires local agencies to engage in a transparent and participatory process to ensure that affected communities have access to updated wildfire hazard information. The updated Fire Hazard Severity Zones (FHSZ) maps were released on March 24, 2025, triggering the requirement for local agencies to make this information available for public review and comment within 30 days of receipt. In compliance with this requirement, the map was posted on the City of Banning's website for public access and review on April 2, 2025. The City also held an informational workshop with the City Council on April 22, 2025.

Under Government Code Section 51179, cities and other local agencies are required to adopt the State's Fire Hazard Severity Zones (FHSZ) Map recommendation for Local Responsibility Areas (LRA's) within 120 days of receiving them. Government Code section 51179(b)(3) prohibits any local agency from decreasing the severity of the zones as identified by the State Fire Marshal for any area within the jurisdiction.

FISCAL IMPACT:

There is no fiscal impact on the City of Banning.

ALTERNATIVES:

Do not conduct the second reading of Ordinance 1610 and provide alternative direction to staff. However, it is important to note that the City's adoption of the updated Local Responsibility Area (LRA) FHSZ map is mandated by the California Government Code.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Ordinance 1610
2. City of Banning Local Responsibility Area Fire Hazard Severity Zones.pdf
3. Existing Chapter 8.16 Fire Protection Code
4. Existing Chapter 15.28 Fire Districts

ORDINANCE 1610

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE FIRE HAZARD SEVERITY ZONES WITHIN THE CITY OF BANNING BASED ON MAPS PROVIDED BY THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION BY AMENDING THE BANNING MUNICIPAL CODE SECTION 8.16.020 AND CHAPTER 15.28

WHEREAS, California Government Code Section 51178 establishes the responsibility of the State Fire Marshal to identify areas within the state as Moderate, High, and Very High Fire Hazard Severity Zones, based on consistent statewide criteria and the severity of fire hazards expected to prevail in those areas; and

WHEREAS, California Government Code Section 51175 requires California Department of Forestry and Fire Protection (CAL FIRE) to evaluate fire hazard severity within Local Responsibility Areas and to identify where the Very High Fire Hazard Severity Zones exist; and

WHEREAS, Senate Bill 63 (2021) expanded the State Fire Marshal's evaluation requirements to include Moderate and High Fire Hazard Severity Zones within the Local Responsibility Areas; and

WHEREAS, the Fire Hazard Severity Zone maps have been updated to more accurately reflect the zones in California that are susceptible to wildfire, utilizing the Fire Hazard Severity Zone model established by the Office of the State Fire Marshal; and

WHEREAS, pursuant to Government Code Section 51178.5, the City of Banning made the updated Fire Hazard Severity Zones map available for public review and comment within thirty (30) days of its receipt on March 24, 2025; and

WHEREAS, pursuant to Government Code Section 51179(a), the City is required to adopt the updated Fire Hazard Severity Zones map by ordinance within one hundred twenty (120) days of its receipt on March 24, 2025; and

WHEREAS, the City Council hereby designates the Fire Hazard Severity Zones as required by CAL FIRE pursuant to Government Code Section 51178; and

WHEREAS, the Local Responsibility Area Fire Hazard Severity Zones map, as updated by CAL FIRE and the Office of the State Fire Marshal, is hereby incorporated by reference; and

WHEREAS, the Fire Hazard Severity Zones Map will be located electronically on the City's website at www.ci.banning.ca.us and maintained in the Office of the Fire Marshal.

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

SECTION 1. RECITALS. That the above Recitals are true and correct and are incorporated as though fully set forth herein.

SECTION 2. CEQA. The City Council finds that the proposed actions are not a project subject to the California Environmental Quality Act ("CEQA"). (State CEQA Guidelines, § 15060(c)(3).) Section 15378 of the State CEQA Guidelines provides that organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment do not qualify as a project subject to CEQA. Here, the proposed actions constitute an organization or administrative activity that will not result in direct or indirect physical changes in the environment because it involves the designation of FHSZs in the Local Responsibility Areas as recommended by the Office of the State Fire Marshal and amendments to the City's Fire Code

SECTION 3. REPEAL FIRE DISTRICTS, CHAPTER 15.28. Chapter 15.28 of the City of Banning Municipal Code, titled "Fire Districts," is hereby repealed in its entirety.

SECTION 4. AMEND FIRE PROTECTION CODE, CHAPTER 8.16. Chapter 49 (Requirements for Wildland-Urban Interface Fire Areas) of Section 8.16.020 - Amendments to California Fire Code, is hereby repealed and amended as follows:

…

CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE AREAS

Fire Hazard Severity Zones Map

In accordance with Government Code Sections 51175 through 51189, the Moderate, High, and Very High Fire Hazard Severity Zones designated by the California Department of Forestry and Fire Protection, as shown on the Fire Hazard Severity Zones map dated March 24, 2025, and retained on file at the office of the Fire Chief, are hereby adopted by reference. This map supersedes any previously adopted Fire Hazard Severity Zones or related maps within the jurisdiction of the City of Banning.

…

All other remaining provisions of Section 8.16.020 shall remain unchanged and continue in full force and effect.

SECTION 5. CONFLICTING PROVISIONS REPEALED

Any provision of the City of Banning Municipal Code, or any ordinances or resolutions, that conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 6. EFFECTIVE DATE OF ORDINANCE

That this ordinance shall take effect thirty (30) days after its second reading and adoption by the City Council.

SECTION 7. CERTIFICATION

That the City Clerk shall certify the passage of this Ordinance and shall cause the same to be published according to law.

INTRODUCED at a regular meeting of the City Council on June 24, 2025, and PASSED, APPROVED, and ADOPTED by the City Council on July 8, 2025.

PASSED, APPROVED AND ADOPTED this 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that Ordinance 1610 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24th day of June, 2025, and was duly adopted at a regular meeting of said City Council on the 8th day of July, 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

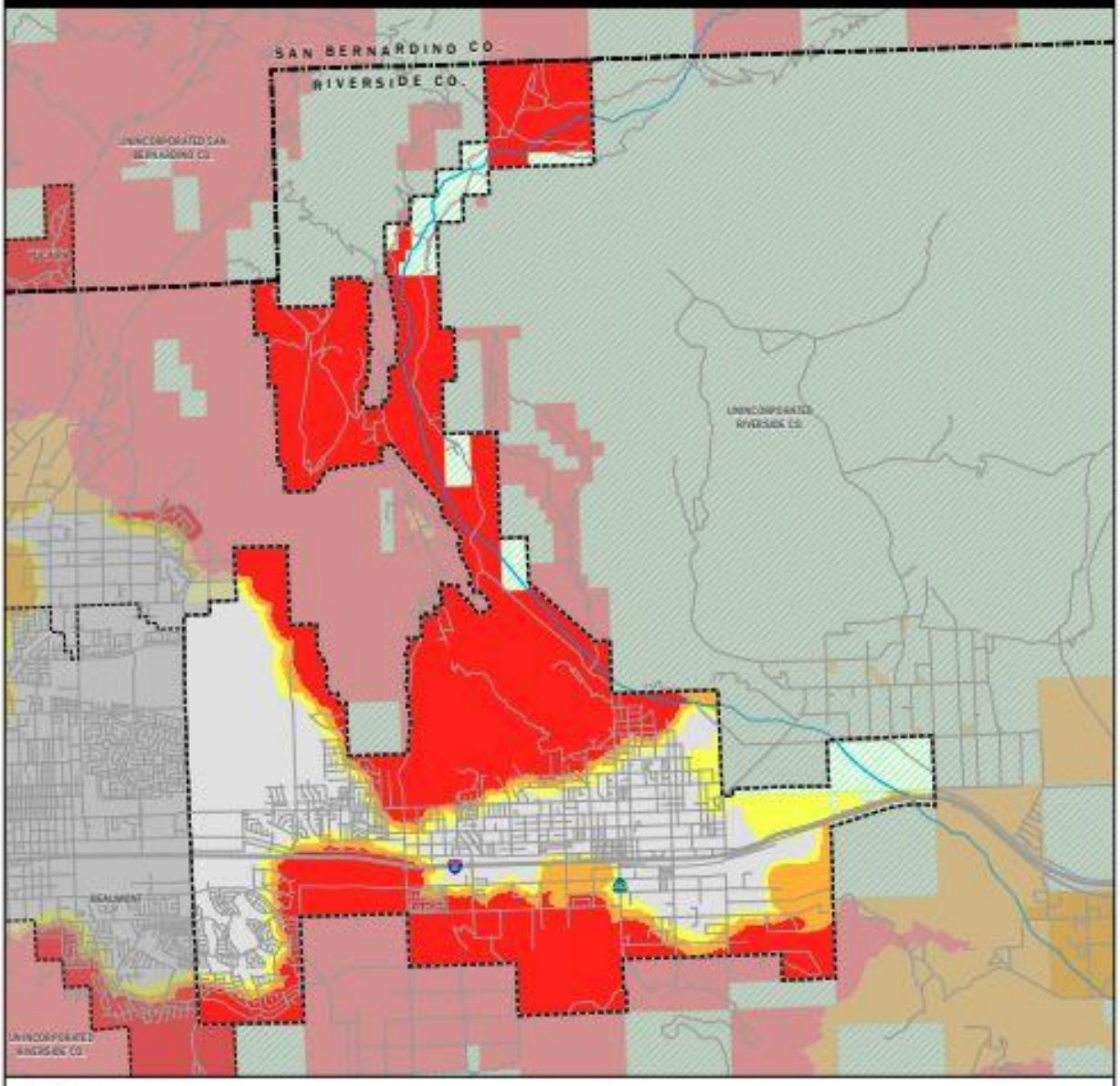
Caroline Patton, Administrative City Clerk
City of Banning, California

CITY OF BANNING – RIVERSIDE COUNTY

Local Responsibility Area Fire Hazard Severity Zones

As Identified by the State Fire Marshal

March 24, 2025





Fire Hazard Severity Zones (FHSZ) in Local Responsibility Area (LRA), as Identified by the State Fire Marshal

Very High | High | Moderate

Fire Hazard Severity Zones in State Responsibility Area (SRA), Effective April 1, 2024

Very High | High | Moderate

Mi 0 1 2 3

Km 0 1 2 3 4 5

Projection: NAD 83 California Teale Albers
Scale: 1:64,000 at 11" x 17"

Incorporated City | Federal Responsibility Area (FRA) | Unzoned LRA

Government Code section 51178 requires the State Fire Marshal to identify areas in the state as moderate, high, and very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Gavin Newsom, Governor, State of California
Wade Crowfoot, Secretary for Natural Resources, CA Natural Resources Agency
Joe Tyler, Director/Fire Chief, CA Department of Forestry and Fire Protection
Daniel Berlant, State Fire Marshal, CA Department of Forestry and Fire Protection

Data Sources:
CAL FIRE Fire Hazard Severity Zones (FHSZSRA23_3, FHSZLRA_25_1)
CAL FIRE State Responsibility Areas (SRA25_1)
City and County boundaries as of 1/1/22/24 (CA Board of Equalization)

Chapter 8.16 - FIRE PROTECTION CODE

Footnotes:

*--- (**2**) ---*

***Editor's note—** Section 2 of Ord. No. 1503, adopted Dec. 12, 2016, repealed and replaced in its entirety ch. 8.16 to read as herein set out. Former ch. 8.16 pertained to the same subject matter, consisted of §§ 8.16.010—8.16.050 and derived from the 1965 Code; Ord. 1380; and Ord. No. 1468, adopted Feb. 11, 2014.*

8.16.010 - Application and adoption of the California Fire Code.

Except as stated in this section or as amended below in section 8.16.020 of this chapter, all of the provisions and appendices of the 2022 California Fire Code, inclusive of all of the inclusions and exclusions set for in each chapter's matrix, are hereby adopted and shall apply to the City of Banning. In addition, the following provisions that are excluded in the 2022 California Fire Code are hereby adopted: Chapter 1 (excluding Sections 103.2 and 109.3), Chapters 3 and 25, and Sections 403.12, 503, 510.2, and 1103.2.

(Ord. No. 1503, § 2, 12-12-16; Ord. No. 1555, § 1, 12-10-19; Ord. No. 1586, § 2, 11-8-22)

8.16.020 - Amendments to California Fire Code.

The codes, chapters, standards, and appendices are amended as specifically set forth in the following chapters herein:

CHAPTER 1. SCOPE AND ADMINISTRATION

Section 101.4 of the California Fire Code is deleted in its entirety and replaced with the following:

101.4 Severability. If any provision, clause, sentence, or paragraph of this code or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this code which can be given effect without the invalid provision or application, and to this end, the provisions of this code are hereby declared to be severable.

Section 102.5 of the California Fire Code is amended as follows:

102.5 Application of residential code. Where structures are designed and constructed in accordance with the California Residential Code, the provisions of this code shall apply as follows:

1. Construction and design provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.7 of this code shall apply.

2. Administrative, operational and maintenance provisions of this code shall apply.

3. Automatic fire sprinkler system requirements of this code shall apply to detached accessory buildings 3,600 square feet (334 m^2) or greater in accordance with Section 903.2. The provisions contained in Section 903.2.18 of the California Fire Code or Section R309.6 of the California Residential Code may be used for the design of the automatic fire sprinkler system for detached private garages.

Section 104.1.1 is added to Section 104.1 of the California Fire Code to read as follows:

104.1.1 Authority of the Fire Chief and Fire Department.

1. The Fire Chief is authorized and directed to enforce all applicable State fire laws and provisions of this code and to perform such duties as directed by the City Council.

2. The Fire Chief is authorized to administer, interpret and enforce this code. Under the Fire Chief's direction, the Riverside County Fire Department is authorized to enforce ordinances of the City of Banning pertaining to the following:

2.1. The prevention of fires.

2.2. The suppression or extinguishment of dangerous or hazardous fires.

2.3. The storage, use and handling of hazardous materials.

2.4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.

2.5. The maintenance and regulation of fire escapes.

2.6. The maintenance of fire protection and the elimination of fire hazards on land, in buildings, structures and other property, including those under construction.

2.7. The maintenance of means of egress.

2.8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.

3. The following persons are hereby authorized to interpret and enforce the provisions of this code and to make arrests and issue citations as authorized by law:

3.1. The Unit Chief, Peace Officers and Public Officers of the California Department of Forestry and Fire Protection.

3.2. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department.

3.3. The Riverside County Sheriff and any deputy sheriff.

3.4. The Police Chief and any police officer of any city served by the Riverside County Fire Department.

3.5 Officers of the California Highway Patrol.

3.6. Code Officers of the City of Banning Code Enforcement Department.

3.7. Peace Officers of the California Department of Parks and Recreation.

3.8. The law enforcement officer of the Federal Bureau of Land Management.

Sections 104.7 and 104.7.1 of the California Fire Code are deleted in their entirety and replaced with the following:

104.7 Liability. Any liability against Riverside County or the City of Banning or any officer or employee for damages resulting from the discharge of their duties shall be as provided by law.

Section 104.13 is added to Section 104 of the California Fire Code to read as follows:

104.13 Authority of the Fire Chief to close hazardous fire areas. Except upon National Forest Land, the Fire Chief is authorized to determine and announce the closure of any hazardous fire area or portion thereof. Any closure by the Fire Chief for a period of more than fifteen (15) calendar days must be approved by the Riverside County Board of Supervisors and/or the City Council within fifteen (15) calendar days of the Fire Chief's original order of closure. Upon such closure, no person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas. During such closure, the Fire Chief shall erect and maintain at all entrances to the closed area sufficient signs giving notice of closure. This section shall not prohibit residents or owners of private property within any closed area, or their invitees, from going in or being upon their lands. This section shall not apply to any entry, in the course of duty, by a peace officer, duly authorized public officer or fire department personnel. For the purpose of this section, "hazardous fire area" shall mean public or private land that is covered with grass, grain, brush or forest and situated in a location that makes suppression difficult resulting in great damage. Such areas are designated on Hazardous Fire Area maps filed with the office of the Fire Chief.

Section 105.3.1 of the California Fire Code is amended to add the following language:

105.3.1 Expiration. An operational permit shall remain in effect for a period of one (1) year (365 days), unless otherwise reissued, renewed, or revoked, or for such a period of time as specified in the permit and as specified in writing by the Fire Code Official.

Section 107.2 of the California Fire Code is deleted in its entirety and replaced with the following:

107.2 Schedule of permit fees. Fees for services and permits shall be as set forth in the City of Banning fee schedule.

Section 107.7 is added to Section 107 of the California Fire Code to read as follows:

107.7 Cost recovery. Fire suppression, investigation, rescue, or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1, as may be amended from time to time. Additionally, any person who negligently, intentionally, or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150 et seq., as may be amended from time to time. Any expense incurred by the Riverside County Fire Department for securing such emergency shall constitute a debt of such person and shall be collectable by Riverside County in the same manner as in the case of an obligation under contract, express or implied.

Section 108.2 of the California Fire Code is amended to add the following language:

108.2 Inspections. The Fire Code Official shall issue an annual permit for a building, structure, and operations therein.

Section 111.1 of the California Fire Code is deleted in its entirety and replaced with the following:

111.1 Board of appeals established. The Board of Appeals shall be the City Manager. If he or she determines an outside board is needed, he or she shall designate an outside hearing officer to hear the appeal. The Fire Chief shall be notified of any appeal and the Fire Chief or designee shall be in attendance at the appeal hearing. Depending on the subject of the appeal, specialized expertise may be solicited, at the expense of the applicant, for the purpose of providing input to the Appeals Board.

Section 112.4 of the California Fire Code is deleted in its entirety and replaced with the following:

112.4 Violation and penalties. It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this code, or to violate the provisions of any permit granted pursuant to this code. Punishments and penalties for violations shall be in accordance with the City of Banning ordinances and fee schedules and Health and Safety Code Sections 17995 through 17995.5.

CHAPTER 2. DEFINITIONS

The definition of "Fire Chief" in Section 202 of the California Fire Code is deleted in its entirety and replaced with the following:

FIRE CHIEF. The Fire Chief of Riverside County or the Fire Chief's designee.

CHAPTER 3. GENERAL REQUIREMENTS

Section 308.1.6.3 of the California Fire Code is deleted in its entirety and replaced with the following:

308.1.6.3 Sky lanterns or similar devices. A person shall not release or cause to be released a sky lander or similar device.

CHAPTER 5. FIRE SERVICE FEATURES

Section 503.2.1 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm). For additional requirements or alternatives see Riverside County Fire Department Standards and Policies, as may be amended from time to time.

Section 503.2.2 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.2 Authority. The fire code official shall be the only authority authorized to designate fire apparatus access roads and fire lanes and to modify the minimum fire lane access widths for fire or rescue operations

Section 503.6.1 is added to Section 503.6 of the California Fire Code to read as follows:

503.6.1 Automatic opener. New motorized gates shall be provided with means to be automatically opened remotely by emergency vehicle in accordance with Riverside County Fire Department standards and Policies, as may be amended from time to time.

Exception: Gates serving individual one- and two-family dwelling parcels.

Section 503.7 is added to Section 503 of the California Fire Code to read as follows:

503.7 Loading areas and passenger drop-off areas. On private properties, where fire apparatus access roads are utilized for loading or unloading or utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the minimum required width for the fire apparatus access road.

Section 507.5.7 is added to Section 507 of the California Fire Code to read as follows:

507.5.7 Fire hydrant size and outlets. As determined by the fire code official, fire hydrant sizes and outlets shall be based on the following:

1. Residential Standard - one (1) four (4) inch outlet and one (1) two and half (2½) inch outlet.

2. Super Hydrant Standard - one (1) four (4) inch outlet and two (2) two and one half (2½) inch outlet.

3. Super Hydrant Enhanced - two (2) four (4) inch outlet and one (1) two and one half (2½) inch outlet.

Section 507.5.8 is added to Section 507 of the California Fire Code to read as follows:

507.5.8 Fire hydrant street marker. Fire hydrant locations shall be visually indicated in accordance with Riverside County Fire Department Technical Policy 06-11, as may be amended from time to time. Any hydrant marker damaged or removed during the course of street construction or repair shall be immediately replaced by the contractor, developer or person responsible for removal or damage.

Section 508.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1 General. Where required by other sections of this code and in all buildings classified as high-rise buildings by the California Building Code, in buildings greater than 300,000 square feet (27871 m^2) in area and in Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access, a fire command center for fire department operations shall be provided and comply with Sections 508.1.1 through 508.1.8.

Section 508.1.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1.1 Location and access. The fire command center shall be located adjacent to the main lobby and shall be accessible from fire department vehicular access or as approved by the fire code official. The room shall have direct access from the building exterior at the lowest level of fire department access.

Section 508.1.3 of the California Fire Code is amended to add the following:

Exception: A fire command center solely required because a building is greater than 300,000 square feet (27871 m^2) in area shall be a minimum of 96 square feet (9 m 2) with a minimum dimension of 8 feet (2438 mm).

Section 508.1.6 of the California Fire Code is amended to add the following:

Exception: A fire command center solely required because a building is greater than 300,000 square feet (27871 m^2) in area shall comply with NFPA 72 and contain the features set forth in Section 508.1.6 subsections 5, 8, 10, 12, 13 and 14. The features set forth in Section 508.1.6 subsections 1, 2, 3, 4, 6, 7, 9, 11, 15, 16, 17, 18 and 19 shall be required when such building contains systems or functions related to these features.

Section 508.1.7 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1.7 Fire command center identification. The fire command center shall be identified by a permanent easily visible sign stating, "Fire Dept. Command Center," located on the door to the fire command center.

Section 509.2.1 is added to Section 509.2 of the California Fire Code to read as follows:

509.2.1 Minimum clearances. A 3-foot (914 mm) clear space shall be maintained around the circumference of exterior fire protection system control valves, or any other exterior fire protection system component that may require immediate access, except as otherwise required or approved.

CHAPTER 6. BUILDING SERVICES AND SYSTEMS

Section 608.11.1.2 of the California Fire Code is deleted in its entirety and replaced with the following:

608.11.1.2 Manual operation. When required by the fire code official, automatic crossover valves shall be capable of manual operation. The manual valves shall be located in an approved location immediately outside of the machinery room in a secure metal box or equivalent and marked as Emergency Controls.

CHAPTER 9. FIRE PROTECTION SYSTEMS

Section 903.2 of the California Fire Code is deleted in its entirety and replaced with the following:

903.2 Where required. In all new buildings and structures which are 3,600 square feet (334 m^2) or greater, an approved automatic sprinkler system shall be provided regardless of occupancy classification. Where the Sections 903.2.1 - 903.2.20 of the California Fire Code require more restrictive requirements than those listed below, the more restrictive requirement shall take precedence.

Exception: Unless required elsewhere in this code or the California Building Code, automatic fire sprinkler systems shall not be required for the following:

1. Detached Group U occupancies used for agricultural or livestock purposes, less than 5,500 square feet (511 m^2), and having setback distances of 50 feet (15 m) or more from the property line and other buildings.

2. Detached non-combustible equestrian arena shade canopies that are open on all sides and used for riding only - no commercial, assembly or storage uses.

3. Detached fabric or non-combustible shade structures that are open on all sides and used to shade playground equipment, temporary storage of vehicles and dining areas with no cooking.

4. Detached Group U occupancy greenhouses less than 5,500 square feet (511 m^2).

5. Where determined by the Fire Chief that no major life safety hazard exists, and the fuel load does not pose a significant threat to firefighter safety or to other structures or property, automatic fire sprinklers may be exempted.

One- and two-family dwellings shall have an automatic fire sprinkler system regardless of square footage in accordance with the California Residential Code. Fire sprinkler systems shall be installed in mobile homes, manufactured homes and multifamily manufactured homes with two-dwelling units in accordance with Title 25 of the California Code of Regulations.

The following exceptions in the California Fire Code shall not be allowed:

a. Exception in Section 903.2.3

b. Exception 2 in Section 903.2.11.3

Section 903.3.5.3 is added to Section 903 of the California Fire Code to read as follows:

903.3.5.3 Hydraulically calculated systems. The design of hydraulically calculated fire sprinkler systems shall not exceed 90 percent of the water supply capacity.

CHAPTER 32. HIGH-PILED COMBUSTIBLE STORAGE

Section 3204.2.1 is added to Section 3204.2 of the California Fire Code to read as follows:

3204.2.1 Minimum requirements for client leased or occupant owned warehouses. Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible fire protection engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The fire protection engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall describe the basis for determining the commodity and sprinkler design selection, how the commodities will be isolated or separated, and include referenced design document(s), including NFPA 13 or the current applicable factory mutual data sheets. If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

CHAPTER 49. REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

Section 4904.4 is added to Section 4904 of the California Fire Code to read as follows:

4904.4 High Fire Hazard Severity Zone Maps. In accordance with Government Code Sections 51175 through 51189, Very High Fire Hazard Severity Zones are designated as shown on a map titled Very High Fire Hazard Severity Zones, dated December 24, 2009, and retained on file at the office of the Fire Chief, which supersedes other maps previously adopted designating high fire hazard areas.

———

APPENDIX B

Table B105.2 of the California Fire Code is amended as follows:

TABLE B105.2

REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (gallons per minute)	FLOW DURATION (hours)
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the California Fire Code	50% of the value in Table B105.1(2) [a]	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the California Fire Code	50% of the value in Table B105.1(2) [b]	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.

a. The reduced fire-flow shall be not less than 1,000 gallons per minute.
b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

———

APPENDIX C

Section C103.1 of the California Fire Code is deleted in its entirety and replaced with the following:

C103.1 Hydrant spacing. Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the International Fire Code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be in accordance with Sections C103.2 and C103.3. Fire hydrants shall be provided at street intersections."

(Ord. No. 1555, § 1, 12-10-19; Ord. No. 1586, § 2, 11-8-22; Ord. No. 1595, § 2, 9-12-23)

Chapter 15.28 - FIRE DISTRICTS

15.28.010 - Fire zones generally.

The fire districts shall be known and designated as Fire Zones One, Two and Three. Such zones shall include the territory or portions of the city described in the following section and as illustrated, outlined and designated on a certain map on file in the office of the city clerk for the application of the regulations included in the California Building Code adopted by Section 15.08.010.

(Code 1965, § 6-09.01.)

(Ord. No. 1555, § 21, 12-10-19)

15.28.020 - Description of fire zones.

Fire Zones One, Two and Three of the city are hereby created and established as follows:

A. Fire Zone One. None established;

B. Fire Zone Two. Fire Zone Two shall consist of all that territory in this city included in the following boundaries:

Beginning at the intersection of Murray Street and Livingston Street; north along the centerline of Hays Street to the centerline of Third Street; south along the centerline of Third Street to the centerline of Livingston Street; east to the centerline of Murray Street, being the point of beginning;

C. Fire Zone Three. Fire Zone Three shall consist of all that certain territory in this city lying outside of Fire Zone Two.

(Code 1965, § 6-09.02.)

15.28.030 - Restrictions related to fire zones.

A. The restrictions in Fire Zones One, Two and Three shall consist of and be the restrictions provided for in the California Building Code adopted by Section 15.08.010 except as hereby specifically amended.

B. Notwithstanding any contrary provisions of this Code, including provisions of the California Building Code as adopted or as amended, it shall be unlawful for any person, firm or corporation to erect, construct, or move in any building or structure in the city unless the same is provided with a fire-retardant roof covering as defined in section 3203(e) of the California Building Code 1979 Edition, or a roofing material designated as Class A or B by a testing laboratory which has

been approved by the superintendent of building safety and the fire chief of the fire department as a testing agency that is regularly engaged in conducting test Class A or B roofing. No wood roof-covering of any type shall be permitted within the city limits.

C. It shall be unlawful for any person, firm or corporation to make any alterations, repairs, improvements or additions to any building or structure in the city involving the removal, repair, replacement or installation of roofing material on more than fifty percent of the roof of such structure or building within any twelve-month period unless the roof area so altered, repaired, improved or added to is provided with a roof or roof covering as provided in subsection A of this section.

(Code 1965, § 6-09.03.)

(Ord. No. 1555, § 22, 12-10-19)

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Nicole Jews, Human Resources Manager** **Michelle Green, Interim Administrative Services Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Public Hearing on Vacancies to Comply with Assembly Bill 2561**

RECOMMENDATION:

Hold a public hearing; and Receive and file this report in compliance with AB 2561.

BACKGROUND:

Description This item is being presented in response to Assembly Billy 2561 (AB 2561), signed into law by Governor Newsom on September 22, 2024, in response to new transparency requirements related to staffing vacancies. AB 2561 mandates that public agencies hold at least one public hearing each fiscal year before the adoption of their budgets to report on vacancy levels, evaluate hiring and retention efforts, and allow for participation by recognized bargaining groups. This report includes workforce data for the 2024 calendar year, along with the most current staffing status as of June 1, 2025.

JUSTIFICATION:

The legislative intent of AB 2561 declares the following:

1. Job vacancies in local government are widespread and a significant problem for the public sector affecting occupations across wage levels and education requirements.
2. High job vacancies impact public service delivery and the workers who are forced to handle heavier workloads, with understaffing leading to burnout and increased turnover that further exacerbates staffing challenges.
3. There is a statewide interest in ensuring that public agency operations are appropriately staffed and that high vacancy rates do not undermine public employee labor relations.

To mitigate these impacts, the law requires agencies to:

1. Report annually on vacancies, recruitment activity, and retention strategies;
2. Identify any policies or practices that may hinder hiring or retention;
3. Provide recognized bargaining groups an opportunity to present during the public hearing; and
4. If any bargaining group vacancy rate reached or exceeds 20% of authorized positions, provide additional data upon request, including applicant volume, hiring timelines, and efforts to improve compensation, benefits, and working conditions.

Failure to comply with AB 2561 may result in an unfair practice charge. Agencies are obligated to present vacancy information annually or, under certain circumstances at the employee organization's

request. Employee organizations are allowed to present to the City Council when the vacancy report is presented.

Workforce Overview:

As of June 1, 2025, the City has 249.7 full-time equivalent (FTE) budgeted positions and 7 are elected or appointed officials. Of the remaining 242.7 FTE's 90.65% are represented by bargaining groups. The City's overall vacancy rate is 17.92%.

Vacancy rates are calculated as follows: Vacancy Rate (%) = (Number of Vacant Positions in an employee group / Total Number of Authorized Positions) X 100. The following table summarizes the City's vacancy rate by employee group as of June 1, 2025.

Represented Employee Groups	**FTE's Budgeted/Filled**	**Vacancies**	**Vacancy Rate**
IBEW General Unit	75	19	20.21
IBEW Utility Unit	43	4	8.51
Banning Police Officer's Association (BPOA)	29	7	19.44
Banning Police Management Association (BPMA)	3	0	0
Teamsters Local 1932	31	9	22.50
Unrepresented Employee Groups			
PT Police Cadets, Seasonal	14.20	2.5	14.97
Executive Contracts	4	2	33.33
TOTAL:	199.20	43.50	17.92

Vacancies:
IBEW General

- 1 Customer Service Representative – On hold, budget
- 2 Accounting Specialist, Accounts Payable – On hold, budget
- 1 Code Enforcement Supervisor – Open recruitment
- 2 Public Safety Dispatcher – Open recruitment
- 1 Animal Control Officer – Pending position reclass
- 1 Community Services Officer – Pending position reclass
- 1 Police Records Technician I – On hold, budget
- 1 Building Permit Technician – Application in review
- 1 Work Release Crew Leader – On hold, budget
- 1 Parks Supervisor - Pending department review
- 1 Management Analyst – On hold, budget
- 1 Maintenance Worker I/II – On hold, budget
- 1 Accounting Specialist, Payroll - Pending testing
- 1 Executive Secretary (reclass from Asst. City Mgr.) - Position offered
- 2 Case Manager - Hold pending Opportunity Village status

IBEW Utility:

- 1 Backflow/Locator Specialist – Pending position reclass
- 1 Water Crew Supervisor – Pending recruitment
- 1 Wastewater Collection System Technician I – Pending recruitment
- 1 Public Benefits Analyst – Pending recruitment

Teamster Local 1931

- 1 Communication Manager
- 1 Grants Manager
- 1 Homeless Services Director
- 1 Planning Manager – Starting in June
- 1 Building Official – Applications in review
- 1 Sr. Building Inspector – On hold, budget
- 1 Sr. Civil Engineer – On hold, budget
- 1 Deputy Finance Director - Open recruitment
- 1 Finance Manager - Pending position reclassification

BPOA:

- 6 Police Officers – Open recruitment
- 1 Police Sergeant – Open recruitment

Unrepresented

- 1 City Manager, Executive Recruitment – Pending council direction
- 1 Administrative Services Director – Pending position reclassification
- 1 - 0.5 PT Police Cadet On hold, budget
- 2 - 0.5 Bus Drivers – Open recruitment
- 2 - 0.5 PT Case Managers - Hold pending Opportunity Village status

Vacancies within the City arise from a range of factors including retirement, internal promotions, resignations, and terminations. Since January 1, 2024, the City has hired 50 full-time positions and 16 part-time positions. Human Resources staff managed 67 recruitments and reviewed 4,106 applications, demonstrating consistent interest in City employment opportunities.

Employee Separations:
Since January 1, 2024, 46 full-time equivalent employees have separated from the City. The reasons for departure were as follows:

- 8 employees retired
- 11 employees were involuntarily separated
- 15 employees left for other municipal positions offering higher pay or promotional opportunities
- 3 employees left the State
- 1 employee left due to the commute
- 9 employees left for the private sector

Employee Retention:
Employee retention remains a central focus of the City's workforce strategy. The City has implemented several initiatives designed to improve employee satisfaction, promote longevity, and enhance professional growth. These efforts include:

- Monthly and/or quarterly meetings with represented labor groups
- Enhanced employee recognition programs
- Ongoing professional development through in-person and online training programs through various professional organizations

- Implementation of a succession plan/career development plan
- Contract awarded for Classification and Compensation Study, including an organizational assessment

As part of its workforce planning and in alignment with AB 2561, the City continues to assess internal practices and workforce conditions to identify and address recruitment and retention challenges. Current areas of focus include:

- Exploring new advertising methods and platforms, particularly hard-to-fill positions in which local talent is scarce.
- Ensuring compensation and benefits remain competitive within the region
- Reviewing recruitment best practices and improving the onboarding experience

The ongoing self-assessment helps the City become an employer of choice, supports organizational resilience, and ensures the effective delivery of public services.

The City is committed to maintaining a skilled and resilient workforce and to comply with the requirements of AB 2561. This report and public hearing fulfill the requirements of AB 2561 and we will be working to bring all represented bargaining units are below the 20% vacancy threshold. The City will continue to monitor staffing trends, address recruitment challenges, and invest in workforce development.

FISCAL IMPACT:

The cost to prepare this staff report is estimated to be $300.

ALTERNATIVES:

None

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Affidavit of Public Hearing

Record Gazette

AFFIDAVIT OF PUBLICATION

Record Gazette
218 N. Murray St., Banning, CA 92220

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

2025 06 16_PHN Vacancies

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:

Jun 20, 2025

Executed on: June 20, 2025

At City of Banning, California

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

K Shepard

Signature

CITY OF BANNING
NOTICE OF PUBLIC HEARING

AB 2561 EMPLOYEE VACANCIES AND RECRUITMENT AND RETENTION EFFORTS

NOTICE IS HEREBY GIVEN that the City Council of the City of Banning, California, will hold a public hearing at its meeting of **July 8, 2025.** The City Council meeting begins at 5:00 p.m. in the Council Chambers at City Hall, 99 E. Ramsey Street, Banning, CA 92220. You may watch the meeting online at https://banninglive.viebit.com/. Youi may participate through Zoom by following the link on the coverpage of the meeting agenda.
Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. You may provide oral comments at the in-person hearing. Agendas are available at least 72 hours in advance of the meeting online: https://banningca.granicus.com/ViewPublisher.php?view_id=1. Written comments may be submitted to the City Council by email at CityClerks@banningca.gov or by letter to the City Clerk's Office, PO Box 998, Banning, CA 92220. Transmittal prior to the start of the meeting is required. Any correspondence received during or after the meeting will be distributed to the City Council as soon as practicable and retained for the official record.
Submitted by:
/s/ Caroline Patton, Administrative City Clerk
City of Banning, California

Dated:
June 16, 2025
Published:
June 20, 2025
Published
Record Gazette
June 20, 2025

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **David Newell, Community Development Director**

MEETING DATE: **July 8, 2025**

SUBJECT: **Consideration of (1) Resolution 2025-106, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38576, for the Subdivision of the 131.28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-107, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1611, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation**

RECOMMENDATION:

1. Adopt Resolution 2025-106.
2. Adopt Resolution 2025-107.
3. Introduce and conduct first reading of, by title only, Ordinance 1611: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

BACKGROUND:

Note: This project was previously considered in May 2025 and the Council's decision during that time is proposed for rescission as a separate agenda item on July 8, 2025. This will be a de novo hearing and decision.

Project Location:
The Site is located in the eastern portion of the City of Banning, and is generally bounded by Interstate 10 and Ramsey Street to the south with the Banning Municipal Airport located further south of I-10; vacant land and the California Highway Patrol (CHP) Banning West Weigh Station to the east; and vacant lands to the north and west. Immediately north of the Project site is Morongo Band of Mission Indians Tribal Land. The Site is located east of the intersection of Hathaway Street and Morongo Road

and the Site's development involves improving and extending Wilson Street from this intersection, requiring a realignment of Morongo Road further north on Hathaway Street. The Site comprises eight Assessor's Parcel Numbers (APNs) totaling 131.28 acres: 532-030-008, 532-030-009, 532-080-008, 532080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 ("Project Site").

Proposed Applications:
The applications that have been filed in conjunction with this project and the scope of the City Council's review are the following:

- Design Review, Case DR 21-7017 for the construction of one concrete tilt-up speculative industrial building of approximately 1,320,284 square feet, with approximately 39,600 square feet of office space and 1,312,284 square feet of warehousing on the 131.28-acre Project Site. The location of office space within the speculative warehouse building is not currently known, however, it would likely be located on the southwestern or southeastern corners of the building. For the purposes of the Environmental Impact Report (EIR) and the analyses contained therein, it is assumed that the Project would consist of approximately 640,200 square feet of warehousing and approximately 640,200 square feet of high-cube fulfillment uses. The City Council shall review the Design Review application for conformance to the criteria listed in Banning Zoning Ordinance (BZO) Section 17.56.050.
- Tentative Parcel Map, Case TPM 38576, for the subdivision of the 131.28-acre Project Site. The Tentative Parcel Map establishes road rights-of way, Project development areas, public infrastructure locations, and easements for various public facilities. The TPM proposes seven (7) new parcels (including four lettered and three numbered lots), consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34 acres to 89.5-acres, common open spaces, and circulation, access easements and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development and related site improvements, and 17.23-acres will be dedicated to new right-of-way improvements consistent with the Circulation Element. The City Council shall review the Tentative Parcel Map application for conformance to the criteria listed in Banning Municipal Code Title 16.14.030.
- Development Agreement is proposed to specify terms and obligations between the developer and City, including public benefit fees, land dedication, term for development and other items specific to the Project. The terms are described in more detail later in this report. The City Council shall review the Development Agreement application for conformance to the criteria listed in BZO Section 17.60.030(C).

In addition to the above, due to the project's proximity to the Banning Municipal Airport, the Project is subject to review by the Riverside County Airport Land Use Commission (ALUC). The site is located within Airport Compatibility Zone D of the Banning Municipal Airport Influence Area (AIA), requiring an ALUC determination of consistency with the County's Airport Land Use Compatibility Plan. On April 1, 2025, the ALUC Director determined the project is consistent with their Plan, subject to the City applying conditions to its approval (Letter Attached). These conditions are included in the draft conditions of approval attached to this report.

Other City permits required for the Project may include, but are not limited to: issuance of encroachment permits for driveways, sidewalks, and utilities; security and parking area lighting; demolition permits; building permits; grading permits; tenant improvement permits; and permits for new utility connections.

Planning Commission Action:
On March 5, 2025, the Planning Commission voted 3-2 and adopted Resolution 2025- 04 recommending the City Council approve the Project applications and certify the EIR. In addition to the conditions recommended by staff, the Planning Commission conditioned this recommendation on the following:

1. Negotiate with City Attorney on concerns on development agreement, including Community Facilities District (CFD), Development Impact Fee (DIF) credits, and other concerns.
2. Improve Hathaway Street to four lanes with parking (or wide shoulder) on the west side of the

street and turn pockets at each intersection.
3. The Developer shall do their best efforts to do local hiring.

Additional discussion on these conditions is provided later in this report.

Comments from Planning Commissioners opposed to the motion included the following:

1. Non-compliance with the Criteria Cell and Special Linkage requirements of the Multiple Species Habitat Conservation Plan (MSHCP)
2. Missing decision from ALUC
3. Concern with inadequate information on cumulative traffic impacts due to the cumulative project list not including the occupancy of the warehouse at 200 John Street

The Applicant has provided a response to these items in a response letter attached to this report.

Existing Conditions:

The Project site consists of vacant, mostly undeveloped land that contains non-ornamental vegetation. The western portion of the Project site contains a 5-acre stockpile that is approximately 15 to 20 feet in height. The material originated during the grading of the adjacent site to the west. Additionally, there is an existing Southern California Edison (SCE) 112-kilovolt (kV) transmission line that bisects the Project site in a southwest-northeast manner. An unpaved access/utility road exists to serve this transmission line. Additionally, there is an unpaved road that runs east-west along the northern portion of the Project site.

The Project site is gently sloping and does not contain drastic elevation changes over short distances. Project site elevations range from approximately 2,325 feet above mean sea level (AMSL) at the northwest corner of the Project site near the intersection of Hathaway Street and Morongo Road, and approximately 2,152 feet AMSL at the southeast corner of the Project site. There is approximately 173 feet of elevation difference across the Project site and the average site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site towards the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation (Caltrans) right -of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea.

Analysis – Development Applications:

The Banning Commerce Center Project the development of approximately 1,320,284 square feet of warehouse building (including office space) within one concrete tilt-up building. The Project also proposes associated facilities and improvements of the Project Site including on-site parking, loading docks, landscaping, and other related onsite and off- site improvements. A sewer lift- station is required on the southwesterly portion of the site (Lot “D” of the Tentative Parcel Map) and an electrical substation may be constructed on the northwesterly area of the project site (north side of Wilson Street extension on Lot “C” of the Tentative Parcel Map).

Zoning. The property is located within the Business Park Zone. Pursuant to the permitted uses table in BZO Section 17.12.020, warehousing is permitted as a by-right use. The building complies with standards in 17.12.030, including building height (50 -ft. maximum and 50-ft. proposed), required setbacks (10-ft. minimum front and 254-ft. proposed), and lot coverage (60% maximum and 34% proposed).

Site Access, Project Circulation and Parking. Regional access to the Project would be provided from I-10. Local access would be provided via East Ramsey Street, Hathaway Street, Wilson Street, and Nicolet Street. Project site ingress and egress for the Project building would be via two driveways: one 44-foot wide driveway at the intersection of Nicolet Street and O’Donnell Street and one 52-foot wide driveway along Wilson Street. The Project access point along Wilson Street would be signalized. The Project access points from Nicolet Street and O’Donnell Street would be unsignalized. While not considered as part of the Project, the City has currently proposed a roadway alignment on the eastern

portion of the Project site for the future alignment of Cottonwood Road. This road would connect the Project to a proposed interchange with I-10. At such a point when the proposed interchange and roadway are constructed, there would be additional regional access to/from the Project site. Emergency access to the Project site would be provided by the proposed driveways located at the intersection of Nicolet Street and O'Donnell Street and at the driveway along Wilson Street.

Based upon a site-specific parking analysis for the various occupancy types proposed for the site, Banning Municipal Code Section 17.12.110 requires a total of 802 parking stalls for the Project site. Parking stalls would be provided in a combination of 805 passenger vehicle parking stalls, consisting of a combination of standard auto stalls, ADA stalls, and electric vehicle (EV) charging stations. Specifically, 614 standard stalls, 17 Americans with Disabilities Act (ADA) stalls, 3 ADA van stalls, and 171 electric vehicle (EV) stalls to include a combination of standard EV, EV ADA, EV ADA Van, and ambulatory EV stalls will be provided. Parking for 82 bicycles would also be provided on site. Additionally, 270 truck trailer parking stalls (including dock doors and surface parking) are proposed at the building and 205 truck trailer parking stalls are proposed on the Project site north of Wilson Street. The Project would exceed the City requirement of 802 standard stalls by 3 standard parking stalls.

In addition to the improvements located on the Project site, the Applicant will improve the Project frontage with full- or half-width roadway improvements for the functional classification of the roadways. Improvements would include roadway paving, curb and gutter, sidewalk, lighting, landscaping, underground utility infrastructure (water, sewer, electrical, storm), and striping as follows:

- **Wilson Street**. The Project will be required to construct half-width improvements of Wilson Street along the Project frontage from Hathaway Street to the intersection of Wilson Street and O'Donnell Street. The remaining half of Wilson Street along this segment is to be constructed by others. The Project will construct fullwidth improvements of Wilson Street from the intersection of Wilson Street and O'Donnell Street to the eastern extent of the easternmost driveway along the Project's northern portion
- **O'Donnell Street**. The Project will require constructing half -width improvements of O'Donnell Street along the Project frontage from Nicolet Street to the intersection of Wilson Street and O'Donnell Street. The remaining half of O'Donnell Street along this segment is to be constructed by others.
- **Nicolet Street**. An additional access road consisting of the extension of Nicolet Street from Hathaway Street to O'Donnell Street, will be required to comply with Fire access requirements.

The Project Site includes frontage on its easterly side for the future Cottonwood Road, which will be required as part of the realignment of the Ramsey Street/I-10 interchange. However, improvement of this street is not required at the time of the development of the Project.

Storm Drainage and Water Quality. The storm drain infrastructure to be constructed by the Project would be installed as part of the roadway improvements of O'Donnell Street and Wilson Streets along the Project frontages. These storm drains would be conveyed into the existing City of Banning storm conveyance infrastructure. In addition, on-site storm water retention infrastructure, including storm catch basins, underground conveyance, a concrete reinforced drainage swale on the northern Project boundary, and detention basins located on the southern and northern portions of the Project site would be constructed to intercept and retain the 100 -yr 3-hour stormwater flows pursuant to the City of Banning Municipal Code Section 13.24.110. A total of six detention basins are proposed on the Project site and have the capacity to detain 21.76 acre-feet of storm flows on the Project site. A drainage swale is proposed along the northern boundary of the Project site which would intercept and convey off-site sheet flows and shallow concentrated flows from the north to the east then south along to eastern boundary of the Project site. These flows would be conveyed into existing Caltrans stormwater infrastructure located at the CHP Banning West Weigh Station.

Grading Improvements. Retaining walls would be constructed onsite to address the approximately 173-foot elevation change across the Project site. These retaining walls would be located on the northwest, north, south and southeast portions of the Project Site, with wall heights ranging from 2 to 10 feet. It is

anticipated that a net import of 250,000 CY of earthwork will be required for the implementation of the Project. As part of the grading required for the Project, the maximum depth of excavation would be approximately 40 feet below grade.

Electrical Infrastructure. Existing on-site SCE transmission lines would be relocated to accommodate the Project. These transmission lines would be rerouted and installed underground within the rights-of-way of O'Donnell Street and Wilson Street as part of the off-site roadway improvements along the Project frontages. The undergrounding of above-ground electrical infrastructure would start at the intersection of Nicolet Street and O'Donnell Street, then northward along O'Donnell Street to the intersection of O'Donnell Street and Wilson Street, then eastward along Wilson Street to the eastern driveway along the northern portion of the Project site. At this point, the transmission line would daylight and continue along the proposed Wilson Street alignment to connect with the existing SCE transmission line at the northeast corner of the Project site.

Architecture. The proposed architectural design for the concrete, tilt-up building is a contemporary style of industrial building with variations in roof planes, wall planes, generous use of reveals to lend shading interest, glass windows with anodized aluminum trim, metal awning accents over entrances, and a pleasing and contrasting warm earth-tone paint palette. The variations in wall plane and roof plane movement are consistent with the City's Industrial Design Guidelines.

Landscaping. Irrigated landscaped areas would be constructed as part of the Project. Landscaping would include drought-tolerant shrubs, ground cover, and ornamental trees. The storm water basin(s) would be planted with grasses and shrubs tolerant of seasonal water inundation. Landscaping would be planted along Project frontages to provide screening from the public rights-of-way. Based upon comments received during the DEIR public review and comment period, a revised conceptual landscape plan for the project has been included in the Final EIR.

Other Off -Site Improvements. Recommendations made in the 2023 Traffic Analysis (FEIR Appendix K1) prepared for the Project are based on the minimum improvements needed to accommodate site access and maintain acceptable peak hour operations for the Project. Intersection improvements are recommended for seven intersections. For those improvements listed in Section 4.12 Transportation, Table 4.12-3 and not constructed as part of the Project, the Project Applicant's responsibility for the Project's contributions towards deficient intersections is fulfilled through payment of fair share contributions or fees that would be assigned to construction of the identified recommended improvements. The Project Applicant would be required to pay fair share and fees consistent with the City's requirements.

A sanitary sewer lift station would be required to be constructed in order to serve the Project. However, this sanitary lift station would serve all other projects in the vicinity to the Project. As this area of the City has been identified by the City for development and was analyzed within the General Plan EIR, this new infrastructure would not have been previously unknown. Further, the lift station, and associated force main and gravity main would be constructed within already established ROW or within easements to be dedicated to the City on land previously disturbed. Further, this lift station is currently planned to be a public lift station and would not necessarily be implemented by the Project, however, the Project's contribution to fair share funding and development impact fees would provide for the implementation of the lift station.

Hours of Operation and Employment. As the end-user of the Project is currently unknown and the ultimate Project use is speculative, it is assumed that the Project would operate 24 hours a day, seven (7) days a week. Likewise, it is assumed that approximately 2,841 employees would be employed on-site across three (3) shifts (947 employees per shift).

Analysis - Development Agreement:
California Government Code, §65864 through 65869.5, establish procedures for cities and counties to

enter into development agreements; BZO Chapter 17.60 implements the requirements of state law and specifies the required content and process for review and approval of development agreements. Development agreements establish a vested right to proceed with development in conformation with the regulations in effect at the time of approval. This provides assurance to a developer that the project may proceed as originally approved, and not be affected by future changes in land uses regulations. In exchange for this assurance, the developer may agree to provide additional dedications, construction of public improvements, or other similar public benefits.

The proposed Development Agreement is included as an attachment to this report. Points that have been negotiated between the City and the Applicant are as follows:

1. Term of Agreement. The agreement has a term of fifteen (15) years with an option to extend five (5) years.
2. Vesting of Development Rights. As a material inducement to Developer and its lenders to continue with diligent efforts to promote the development of the Property, Developer shall have the vested right to develop the Project on the Site in accordance with the terms and conditions of the Project Approvals, this Development Agreement, and the Existing Development Regulations, and City shall have the right to control development of the Site in accordance with the provisions of the Project Approvals, this Development Agreement, and the Existing Development Regulations.
3. Subdivision Map Extension and Other Development Approvals. As permitted by Government Code § 66452.6, each subdivision or parcel map, heretofore or hereafter approved in connection with development of the Site or the Project shall be extended and shall remain in effect for the term provided by the Agreement. In addition, all subsequently adopted discretionary project approvals shall remain in effect for the term provided by this Development Agreement.
4. Development Impact Fees. Development Impact Fees (“DIF”) currently imposed are identified as applicable. Impact fees and sewer and water connection and capacity fees shall be those in effect at the time of the issuance of a building permit and due and payable by Developer prior to the issuance of the building permit for the building in question.
5. Ramsey Interchange Fee. Developer shall pay City a Ramsey Interchange Fee in the amount of Nine Million Dollars ($9,000,000) (“Ramsey Interchange Fee”) no later than two (2) years from the date of the ordinance approving the Development Agreement. If not paid within two (2) years, the fee shall be subject to CPI during the term of the agreement.
6. Electric Facilities Fee. The developer would pay $357,000 per megavolt-amperes (MVA), based on the requested electrical load prior to issuance of building permit.
7. Electrical Substation Land Dedication. The developer is offering to dedicate Lot "C" of the Tentative Parcel Map for electric facilities and receive credit from its impacts fee payments, based on an appraised cost, and if determined the land is still necessary after its appraisal.
8. Sanitary Lift Station Land Construction and Dedication. Developer shall construct a sanitary lift station (“Lift Station”) on lettered lot “D” on the proposed Tentative Parcel Map No. 38576 (“Lift Station Property”) subject to plans and specifications approved by the Public Works Director. City shall issue DIF Wastewater (Sanitary) credits in the amounts of (i) the cost of designing and constructing the Lift Station, and (ii) the FMV of the Lift Station Property (collectively, “Lift Station Costs”) which are in excess of the fair share of such costs attributable to the Project at full buildout as determined by the Public Works Director. Developer shall complete construction of the Lift Station prior to the issuance of the first certificate of occupancy for the Project.
9. Service and Facilities Components Required through the Formation of a Community Facilities District. After occupancy, the owner would pay $0.10 per square foot annually (with an annual CPI escalator) for use towards maintenance of public streets, public facilities and parks, and other related improvements and maintenance in the District.

The proposed agreement was reviewed by the Planning Commission at their meeting of March 5, 2025, and was recommended for approval by the City Council subject to conditions. The conditions included the following:

1. Negotiate with City Attorney on concerns on development agreement, including Community Facilities District (CFD), Development Impact Fee (DIF) credits, and other concerns.

2. Improve Hathaway Street to four lanes with parking (or wide shoulder) on the west side of the street and turn pockets at each intersection.
3. The Developer shall do their best efforts to do local hiring.

A revised development agreement is attached to this report and includes revisions made to the agreement based on the above conditions. The one exception is Item #2 and the extent of the required improvements to Hathaway Street. After evaluating the recommendation from the Planning Commission, the City Engineer determined that the requested improvements along Hathaway would be difficult to implement with existing constraints along this roadway. As a result, staff requested the applicant prepare an exhibit showing improvements to restrict truck entry into the residential areas located west of Hathaway and create an additional buffer via bike lane between traffic lanes and adjacent residential. Staff recommends this alternative, depicted in an Exhibit of the Development Agreement, to the recommendation on Item #2.

Environmental Determination:

Environmental Impact Report. The proposed project is subject to the California Environmental Quality Act (CEQA). Based upon the complexity and magnitude of the proposed project, staff determined that an Environmental Impact Report should be prepared for the project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comments on the Project's potential impact(s) on the environment. The State Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period for the NOP extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impacts addressed in Chapter 4 of the Draft EIR. A Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022 providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project, required actions, and the environmental review process. No public comments were received during the Scoping Meeting.

The Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory.

A Notice of Availability (NOA) of the Draft EIR was provided to responsible and trustee agencies, as well as the organizations and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR. During the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The following comment letters were submitted to the City during the public review period:

State Agencies:

- S1: California Department of Fish and Wildlife

- S2: South Coast Air Quality Management District

Tribal Governments:
- T1: Morongo Band of Mission Indians

Local Agencies/Governments:
- L1: Riverside County Flood Control and Water Conservation District

Organizations:
- O1: Advocates for the Environment
- O2: California Native Plant Society
- O3: Center for Biological Diversity
- O4: Coalition for Californians Allied for a Responsible Economy
- O5: Golden State Environmental Justice Alliance
- O6: Oswit Land Trust
- O7: SC Wildlands
- O8: SC Wildlands (2nd Letter)
- O9: Stand Up for Mother Earth

The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project.

Less Than Significant Impacts. Of the 20 environmental factors analyzed in the Environmental Impact Report, specific categories associated with these factors were determined to be less than significant and were not further analyzed in the Draft EIR. The categories in these specific factors include:
- Aesthetics (Thresholds 4.1-1, 4.1-2, 4.1-3, 4.1-4)
- Agriculture and Forestry Resources (Thresholds 7.2-1, 7.2-2, 7.2-3, 7.2-4)
- Air Quality (Thresholds 4.3-4)
- Biological Resources (Thresholds 4.4-4, 4.4-4)
- Cultural Resources (Threshold 4.5-1)
- Energy (Threshold 4.6-1, 4.6-2)
- Geology and Soils (Thresholds 4.7-1(i), 4.7-1(ii), 4.7-1(iii), 4.7-1(iv), 4.7-2, 4.7-3, 4.7-4, 4.7-5)
- Hazards and Hazardous Materials (Thresholds 4.9-1, 4.9-2, 4.9-3, 4.9-4, 4.9-5, 4.9-6, 4.9-7)
- Hydrology and Water Quality (Thresholds 4.10-1, 4.10-2, 4.10-3, 4.10-4, 4.10-5, 4.10-6, 4.10-7, 4.108)
- Land Use and Planning (Thresholds 4.11-1, 4.11-2)
- Mineral Resources (Thresholds 4.12-1)
- Noise (Thresholds 4.13-1, 4.13-2, 4.13-3)
- Population and Housing (Thresholds 4.14-1, 4.14-2)
- Public Services (Thresholds 4.15-1, 4.15-2, 4.15-3, 4.15-4, 4.15-5)
- Recreation (Thresholds 4.16-1, 4.16-2)
- Transportation (Thresholds 4.17-1, 4.17-3, 4.17-4)
- Utilities and Service Systems (Thresholds 4.19-1, 4.19-2, 4.19-3, 4.19-4, 4.19-5)
- Wildfire (Thresholds 4.20-1, 4.20-2, 4.20-4)

Less Than Significant Impacts with Mitigation. The following mitigation measures are feasible and are made binding through the Mitigation Monitoring and Reporting Program (MMRP) . Based on the analysis in the EIR, imposing mitigation measures will reduce potentially significant impacts to less than significant to Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Transportation, Tribal Cultural Resources, and Wildfires, including the below referenced mitigation measure list which are fully described in the MMRP.

- MM BIO-1: MSHCP Burrowing Owl 30-Day Preconstruction Surveys.
- MM BIO-2: Nesting Bird Preconstruction Surveys.

- MM BIO-3: USACE/CDFW/RWQCB Riverine Resources.
- MM CUL-1.
- MM CUL-2.
- MM CUL-3.
- MM GEO-1.
- MM GEO-2.
- MM GEO-3.
- MM GEO-4.
- MM TCR-1: Native American Treatment Agreement.
- MM TCR-2: Retention of Archaeologist.
- MM TCR-3: Cultural Resource Management Plan.
- MM TCR-4: Pre-Grade Meeting.
- MM TCR-5: On-site Monitoring.
- MM TCR-6: Inadvertent Discovery of Cultural Resources.
- MM TCR-7: Inadvertent Discovery of Human Remains.
- MM TCR-8: Final Report.
- MM FIRE-1: Fire Safety Requirements.

Significant and Unavoidable Impacts. Section 15126 of the CEQA Guidelines requires that the EIR identify the significant environmental effects that cannot be avoided if the proposed project should be implemented (CEQA Guidelines Section§ 15126(b)), and the significant irreversible environmental changes that would be involved if the proposed project is implemented (CEQA Guidelines Section§ 15126(c)). The City finds the Development Project would result in significant and unavoidable impacts with respect to air quality, greenhouse gas emissions, and transportation after implementation of all feasible mitigation measures. In accordance with CEQA Guidelines Section 15092(b)(2), the City cannot approve the Development Project unless it first finds (1) under Public Resources Code Section 21081(a)(3), and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social technological, or other considerations, including provisions of employment opportunities to highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the EIR; and (2) under CEQA Guidelines Section 15092(b), that the remaining significant effects are acceptable due to overriding considerations described in CEQA Guidelines Section 15093 because the economic, legal, social, technological or other benefits of the proposed project outweigh its unavoidable adverse environmental effects. Therefore, a Statement of Overriding Considerations has been prepared.

Statement of Overriding Considerations. The California Environmental Quality Act provides provisions for an agency to approve a project when such a project will cause one or more significant environmental effects. In conjunction with the certification of the EIR, findings of fact are required pursuant to Section 15091 of the Public Resources Code (PRC) which provides that no public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified that identifies one or more significant environmental effects of the project, unless, the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. Additionally, the Lead Agency must not approve a project that will have a significant effect on the environment unless it finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable adverse environmental effects (PRC § 21081(b)).

A draft resolution for Council consideration is included as an attachment for certifying the EIR, including

the adoption of findings and statement of overriding considerations and the MMRP.

JUSTIFICATION:

In order to approve the subject applications, the City Council is required to make findings pursuant to BZO Section 17.56.050 (Design Review), Section 66474 of the Subdivision Map Act (Tentative Map), and BZO Section 17.60.030(C) (Development Agreement). The Planning Commission recommended approval of these applications pursuant to the findings in Planning Commission Resolution 2025-04. The findings are included in the draft resolution and ordinance attached to this report.

Design Review:

BZO Section 17.56.050 requires that four findings be met to justify approval of a Design Review application. The Planning Commission found the following:

Finding A: The proposed use is consistent with the General Plan.

Finding of Fact: Proposed Design Review 21-7017 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 subject property is designated Business Park (BP) on the General Plan land use map. The proposed use is consistent with the BP land-use designation and is a permitted use within the zoning district. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 21-7017 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 proposed Design Review 21-7017 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: The proposed Project is an approximately 1,320,284 square-foot light industrial speculative warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Business Park zone and the Project will provide adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding 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.

Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, the Project proposes street frontage and circulation improvements with access to the street to be provided by driveways from Wilson Street and the intersection of Nicolet and O'Donnell Streets, and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto O'Donnell Street and to improve the roadway for Wilson Street into the site to its ultimate configuration.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The Project is a new construction development with a proposed 1,320,284 square-foot light industrial speculative warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, and east. The Project is considered an Industrial

use. Landscaping is required to maintain the character of the surrounding neighborhood.

Tentative Parcel Map:
Pursuant to Section 66474 of the Subdivision Map Act, there are seven findings that must be met to justify approval of a Tentative Map application. The Planning Commission found the following:

Finding A: The proposed Tentative Tract Map or Tentative Parcel Map is consistent with all applicable general and specific plans.
Finding B: The design and improvements of the proposed Tentative Tract Map or Tentative Parcel Map is consistent with the zone in which the property is located.
Findings of Fact: The City's General Plan land use designation and Zoning Map will continue to indicate the designation of the project site as "Business Park," and the proposed Map provides for the accommodation of seven (7) new parcels, consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34-acres to 89.5-acres, common open spaces, and circulation and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development, and 17.23-acres will be dedicated to new right-of-way improvements.

Finding C: The site of the proposed map is physically suitable for the type of development proposed.
Finding D: The subject site is physically suitable for the proposed density of development.
Finding of Fact: The 131.28-acre Project site is currently vacant and undeveloped. The Project site has gentle sloping and does not contain drastic elevation changes over short distances. The Project site has elevations ranging between 2,325 feet above mean sea level (amsl) on the northwest corner of the Project site at the intersection of Hathaway Street and Morongo Road, and 2,152 ft amsl on the southeast corner of the Project site. There is approximately 173 ft of elevation difference across the Project site and the site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site to the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation right-of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea. The proposed map as conditioned, including the mitigation measures contained within the Final Environmental Impact Report and the Mitigation Monitoring Reporting Program will ensure that the Project's development is in accordance with and will implement the public improvements and mechanisms whereby the necessary facilities and resources will be available for future uses.

Finding E: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
Finding of Fact: With the exception of the significant and unavoidable environmental effects of the project identified in the FEIR and the MMRP, the design of the subdivision and proposed improvements are not expected to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat. The project site is not in a linkage designated under the MSHCP that is a connection between substantial habitat blocks with adequate size, configuration, and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified covered species. Significant cumulative effects of the project on the MSHCP-covered plans and wildlife, wildlife movement, riparian/riverine areas and habitat connectivity are fully mitigated by the City of Banning's signatory status under the MSHCP and the requisite measures for mitigation of project-specific impacts to the burrowing owl, Los Angeles pocket mouse and Stephens' kangaroo rat and these species' habitat. Cumulative effects not specially covered under the MSHCP are nevertheless mitigated to less than significant levels by the broad range of habitats covered by the MSHCP, project design features and mitigation measures required for the proposed project, and payment of the MSHCP mitigation fee.

Finding F: The design of the proposed map, and its proposed design and improvements, is not likely to cause serious public health problems.
Finding of Fact: The design of the subdivision is in conformance with the City's General Plan, Zoning

Ordinance and Subdivision Ordinance. Moreover, the future construction of the Banning Commerce Center development project will 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. The design and construction of all improvements for the subdivision will be in conformance with the City of Banning General Plan Circulation Element which establishes the general layout and design standards or the major vehicular roadways and non-vehicular paths within the project area. The proposed street improvements and internal circulation have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare, and are in compliance with the General Plan Circulation Element. By means of the project's circulation design, the proposed street system throughout the Project area will not impede emergency vehicle access and response times throughout the neighborhoods.

Finding G: The design of the proposed map, and its proposed design and improvements, will not conflict with easements, acquired by the public at large, for access through or use of property, within the proposed subdivision.
Finding of Fact: The subdivision design with any easements acquired by the public at large for access through or use of the property. The design of the subdivision and type of improvements will maintain or reconfigure easements when necessary for public access and services, abandon those easements no longer needed for public purposes, and dedicate new easements as needed to provide for public access and services through the property within the proposed subdivision.

Development Agreement:
BZO Section 17.60.030(C) requires that two findings be met to justify approval of a Development Agreement. The Planning Commission found the following:

Finding A: The proposed Development Agreement via adoption and certification of the Final Environmental Impact Report, and approval of the Design Review and Tentative Parcel Map will be consistent with the General Plan and Zoning Map.
Findings of Fact: In accordance with the Banning Municipal Code, the Development Agreement contains provisions that set forth a defined term, the specific types, density, and intensity of uses allowed, reservations or dedication of land for public purposes, a limited stay on future development fee increases; and processes for reviewing related future approvals and amending the Development Agreement. Approval of the Development Agreement would provide for the orderly development of the Project and necessary infrastructure improvements.

Finding B: The proposed Development Agreement would promote the welfare and the interest of the City.
Findings of Fact: The Development Agreement incorporates provisions for financing, acquisition, and construction of infrastructure, for the Banning Commerce Center Project, as well as acquisition and development of public street improvements. The DA would grant the applicant vested rights to development of the Project in accordance with a phasing plan and other City approvals in exchange for certain financial contributions, including a substantial public benefit fee, and other consideration to be received by the City.

FISCAL IMPACT:

Fiscal impacts will be offset by fees and improvement costs paid by the developer, including permit applications, impact fees, and roadway and other public improvements. In addition, the City will directly benefit financially by the following negotiated items, which are beyond the typical fees paid by a development application if the development agreement is approved:

1. $9,000,000 in payments to the City for funding transportation-related costs toward roadways/interchanges
2. $357,000 payment for per megavolt-amperes (MVA), based on the requested electrical load
3. $0.10 per sq. ft. annually (with annual CPI escalator) as part of a community facilities district to pay for on-going maintenance costs of public streets, public facilities and parks, and other related

improvements and maintenance in the District; this would amount to over $132,000 in annual revenue to offset maintenance costs and other city services as specified in the CFD once established.

As noted in the attached fiscal impact analysis report, it is anticipated that the project would result in a net increase of recurring revenues amounting to $505,215 annually. The report cites total recurring revenues of $869,954 annually and total recurring expenditures of $364,739 annually, which results in the net increase of $505,215 to the City's annual revenues. The CFD would augment the annual revenue generated by the Project and provide an additional $132,000 annually toward maintenance and services within the boundary of the CFD once established, which further reduces impacts to the City's finances.

ALTERNATIVES:

1. Continue the hearing to a date certain if the Council requires further information that cannot be answered during the hearing.
2. Modify the conditions for approval based on evidence received during the hearing.
3. Provide alternate responses to the required findings and direct staff to return with resolution ratifying a different decision.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. CC Resolution 2025-106 compiled
2. CC Resolution 2025-107 compiled
3. Ordinance 1611
4. Draft Development Agreement
5. Applicant Response to PC Concerns
6. Riverside Co ALUC Approval Ltr
7. EIR and Appendices Links
8. Preliminary Site, Grading, and Street Plans
9. Floor Plan and Elevations
10. Landscape Plan
11. Tentative Parcel Map, TPM 38576
12. Aerial and Vicinity Maps
13. Fiscal Impact Analysis 7-1-24
14. Planning Commission Meeting Minutes 3-5-25

RESOLUTION 2025-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE BANNING COMMERCE CENTER PROJECT BY SANSONE GROUP, INCLUDING A DESIGN REVIEW APPLICATION, CASE DR 21-7017, FOR THE CONSTRUCTION OF A 1,320,284-SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING ON 131.28-ACRES OF LAND GENERALLY LOCATED NORTH OF THE I-10 FREEWAY/E. RAMSEY STREET, EAST OF N. HATHAWAY STREET AND BISECTED BY WILSON STREET, WITHIN THE BUSINESS PARK ZONE.

WHEREAS, Sansone Group submitted applications for a Design Review (Case DR 2021-7017), Tentative Parcel Map (Case TPM 38576), and Development Agreement with the City of Banning, for the development of industrial uses within a proposed 1,320,204-square foot building on a 131.28-acre project site located north of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and bisected by Wilson Street on assessor's parcel numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 (collectively, the "Project"); and

WHEREAS, pursuant to Section 17.04.060.A. of the Banning Zoning Ordinance (BZO), the City Council has the authority to review and approve or conditionally approve the subject applications, including determinations on any associated environmental impacts in accordance with the California Environmental Quality Act (CEQA) for the Project; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines Sections 15064(f)(2) and 15070, the proposal constitutes a project as defined by CEQA and Community Development Department staff has determined that the Project is likely to have a significant effect on the environment; and

WHEREAS, based upon the complexity and magnitude of the proposed Project, staff determined that an Environmental Impact Report should be prepared for the Project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comment on the Project's potential impact(s) on the environment; and

WHEREAS, the State of California Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impact; and

WHEREAS, the Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022 providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project,

required actions, and the environmental review process. No public comments were received during the Scoping Meeting; and

WHEREAS, the Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory; and

WHEREAS, a Notice of Availability (NOA) of the Draft EIR was provided to, responsible and trustee agencies, as well as the organizations, and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR; and

WHEREAS, during the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project; and

WHEREAS, in accordance with the disclosure requirements of CEQA Guidelines Section 15072(g)(5), the Project site is not listed as a hazardous property as designated under Section 65962.5 of the Government Code; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on February 21, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to recommend that the City Council adopt a Final Environmental Impact Report (FEIR) for the Project. The public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on February 20, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on March 5, 2025, the Planning Commission held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project

and at which time the Planning Commission considered the entirety of the Project and voted 3-2 to recommend that the City Council approve the subject applications; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on June 27, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to adopt a Final Environmental Impact Report (FEIR) for the Project. Said public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on June 26, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on July 8, 2025, the City Council held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the City Council considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan.

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

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. CEQA COMPLIANCE. The adoption of City Council Resolution 2025-107 serves as the environmental determination on the Project and the Applicant is required to comply with the MMRP.

SECTION 3. FINDINGS FOR DESIGN REVIEW APPLICATION, CASE DR 21-7017. BZO Section 17.56.050 requires that four findings be met to justify approval of a Design Review application. The Planning Commission found the following:

Finding A: The proposed use is consistent with the General Plan.
Finding of Fact: Proposed Design Review 21-7017 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 subject property is designated Business Park (BP) on the General Plan land use map. The proposed use is consistent with the BP land-use designation and is a permitted use within the zoning district. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 21-7017 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 proposed Design Review 21-7017 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: The proposed Project is an approximately 1,320,284 square-foot light industrial speculative warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Business Park zone and the Project will provide adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding 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.

Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, the Project proposes street frontage and circulation improvements with access to the street to be provided by driveways from Wilson Street and the intersection of Nicolet and O'Donnell Streets, and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto O'Donnell Street and to improve the roadway for Wilson Street into the site to its ultimate configuration.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The Project is a new construction development with a proposed 1,320,284 square-foot light industrial speculative warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, and east. The Project is considered an Industrial use. Landscaping is required to maintain the character of the surrounding neighborhood.

SECTION 4. FINDINGS FOR TENTATIVE PARCEL MAP APPLICATION, CASE TPM 38576, APPLICATION. Pursuant to Section 66474 of the Subdivision Map Act, there are seven findings that must be met to justify approval of a Tentative Map application. The Planning Commission found the following:

Finding A: The proposed Tentative Tract Map or Tentative Parcel Map is consistent with all applicable general and specific plans.

Finding B: The design and improvements of the proposed Tentative Tract Map or Tentative Parcel Map is consistent with the zone in which the property is located.

Findings of Fact: The City's General Plan land use designation and Zoning Map will continue to indicate the designation of the project site as "Business Park," and the proposed Map provides for the accommodation of seven (7) new parcels, consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34-acres to 89.5-acres, common open spaces, and circulation and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development, and 17.23-acres will be dedicated to new right-of-way improvements.

Finding C: The site of the proposed map is physically suitable for the type of development proposed.

Finding D: The subject site is physically suitable for the proposed density of development.

Finding of Fact: The 131.28-acre Project site is currently vacant and undeveloped. The Project site has gentle sloping and does not contain drastic elevation changes over short distances. The Project site has elevations ranging between 2,325 feet above mean sea level (amsl) on the northwest corner of the Project site at the intersection of Hathaway Street and Morongo Road, and 2,152 ft amsl on the southeast corner of the Project site. There is approximately 173 ft of elevation difference across the Project site and the site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site to the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation right-of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea. The proposed map as conditioned, including the mitigation measures contained within the Final Environmental Impact Report and the Mitigation Monitoring Reporting Program will ensure that the Project's development is in accordance with and will implement the public improvements and mechanisms whereby the necessary facilities and resources will be available for future uses.

Finding E: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Finding of Fact: With the exception of the significant and unavoidable environmental effects of the project identified in the FEIR and the MMRP, the design of the subdivision and proposed improvements are not expected to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat. The project site is not in a linkage designated under the MSHCP that is a connection between substantial habitat blocks with adequate size, configuration, and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified covered species. Significant cumulative effects of the project on the MSHCP-covered plans and wildlife, wildlife movement, riparian/riverine areas and habitat connectivity are fully mitigated by the City of Banning's signatory status under the MSHCP and the requisite measures for mitigation of project-specific impacts to the burrowing owl, Los Angeles pocket mouse and Stephens' kangaroo rat and these species' habitat. Cumulative effects not specially covered under the MSHCP are nevertheless mitigated to less than significant levels by

the broad range of habitats covered by the MSHCP, project design features and mitigation measures required for the proposed project, and payment of the MSHCP mitigation fee.

Finding F: The design of the proposed map, and its proposed design and improvements, is not likely to cause serious public health problems.

Finding of Fact: The design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance and Subdivision Ordinance. Moreover, the future construction of the Banning Commerce Center development project will 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. The design and construction of all improvements for the subdivision will be in conformance with the City of Banning General Plan Circulation Element which establishes the general layout and design standards or the major vehicular roadways and non-vehicular paths within the project area. The proposed street improvements and internal circulation have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare, and are in compliance with the General Plan Circulation Element. By means of the project's circulation design, the proposed street system throughout the Project area will not impede emergency vehicle access and response times throughout the neighborhoods.

Finding G: The design of the proposed map, and its proposed design and improvements, will not conflict with easements, acquired by the public at large, for access through or use of property, within the proposed subdivision.

Finding of Fact: The subdivision design with any easements acquired by the public at large for access through or use of the property. The design of the subdivision and type of improvements will maintain or reconfigure easements when necessary for public access and services, abandon those easements no longer needed for public purposes, and dedicate new easements as needed to provide for public access and services through the property within the proposed subdivision.

SECTION 5. APPROVAL OF APPLICATIONS. Based on the foregoing recitals, facts, and findings, and the entirety of the administrative record, the City Council hereby approves the Banning Commerce Center Project Applications, including Design Review, Case DR 21-7017, and Tentative Parcel Map, Case TPM 38576, subject to the conditions contained in Exhibit A and Exhibit B.

SECTION 6. 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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-106, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Community Development Conditions

PROJECT: DR 21-7017, TPM 38576
SUBJECT: Conditions of Approval (City Council Resolution 2025-106)
APPLICANT: Sansone Group
LOCATION: TTM 38576 (North of I-10 Freeway/East Ramsey Street, east of N. Hathaway Street, and bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532110-015)

EXHIBIT A
City Council Resolution 2025-106

***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 construction and operation of the Banning Commerce Center Project ("Project") shall always comply with all federal, state, County and City laws, codes, regulations, and standards, including those that relate to hazardous materials.

2. 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 (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Sections 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.

3. Approval of these entitlements shall not waive compliance with any sections of the CA Government Code, Banning Municipal Code (BMC), or other applicable City ordinances, in effect at the time of building permit issuance.

4. A copy of the signed Resolution of approval and these conditions of approval imposed on the Banning Commerce Center development project and TPM 38576 shall be reproduced in legible form on the improvement plans submitted for review and approval as required by the reviewing department.

5. Prior to any occupancy/use of the Project site, or business activity being commenced thereon, the applicant shall complete these conditions of approval to the satisfaction of the Community Development Director.

6. The subject property shall be operated and maintained in accordance with the site plans stamped approved by the City and on file in the Planning Division, the conditions contained herein, and the applicable regulations within the BMC.

7. The Applicant shall complete any/all improvements to the site contained in the Subdivision Improvement Agreement for TM 38576, unless otherwise stated in the Development Agreement.

8. The Applicant shall be responsible for completion of all Performance and Labor and Material Bonds under the approval for TM 38576.

9. Prior to release of performance bonds, the developer shall complete all public improvements including street widening, sidewalks, connections to sidewalks and trails within the development, providing ease of access to common open spaces and amenities.

10. The Applicant shall provide evidence that the fully executed Development Agreement for the project has been recorded, and a perfected copy of the recorded documents shall be provided to the Community Development Department, Planning Division.

11. The Planning Division shall prepare and present to the City Council an annual performance report for the Development Agreement to ensure that project milestones have been completed pursuant to the terms of the Development Agreement.

12. All phases of site preparation, grading, construction, and operations shall adhere to the Mitigation Measures contained within the Mitigation Monitoring and Reporting Program.

The following mitigation measures are deemed feasible and are made binding through the MMRP. Imposition of these mitigation measures will reduce potentially significant impacts to less than significant and included as conditions of approval for the project as follows:

13. MM BIO-1 MSHCP Burrowing Owl 30-Day Preconstruction Surveys
In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW.

If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.

14. MM BIO-2 Nesting Bird Preconstruction Surveys

Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading.

The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the

nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following:

1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.

2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.

If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of Project activities, and at the onset of any changes in such Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.

15. MM BIO-3 USACE/CDFW/RWQCB Riverine Resources
Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

The notification to CDFW should provide the following information:

1. A stream delineation including the bed, bank, and channel;
2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009);
3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity.
4. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance.

To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP.

• Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that onsite mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.
• A Habitat Mitigation and Monitoring Plan for the creation of in kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies.
• A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.

16. MM CUL-1 Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earthmoving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from

Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.

17. MM CUL-2 If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.

18. MM CUL-3 If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. 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 shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall 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 24 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.

19. MM GEO-1 The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.

20. MM GEO-2 The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following:
    • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques.
    • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist).
    • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.

21. MM GEO-3 A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel

will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.

22. MM GEO-4 Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued.

    Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.

23. MM TCR-1 Native American Treatment Agreement. Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.

24. MM TCR-2 Retention of Archaeologist. Prior to any ground disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground disturbing activities, and the procedures to be followed in such an event.

25. MM TCR-3 Cultural Resource Management Plan. Prior to any ground disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all

pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.

26. MM TCR-4 Pre-Grade Meeting. The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.

27. MM TCR-5 On-site Monitoring. During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

28. MM TCR-6 Inadvertent Discovery of Cultural Resources. In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

    If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference:
    • Full avoidance.
    • If avoidance is not feasible, Preservation in place.
    • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.
    • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1).

29. MM TCR-7 Inadvertent Discovery of Human Remains. The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s].

    Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be

protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98.

In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5.

The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.

If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.

30. MM TCR-8 Final Report. The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].

31. MM FIRE-1 Fire Safety Requirements. The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (Appendix M1). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.

The Final Environmental Impact Report contains findings regarding environmental impacts that remain significant and unavoidable. To reduce these impacts to the maximum extent feasible, the following mitigation measures are required:

32. MM AQ-1
The Project shall utilize “Super-Compliant” low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD’s Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications:
• All architectural coatings will be super-compliant low VOC paints.
• Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil based paints.
• Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
• For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org).

• Use compliant low-VOC cleaning solvents to clean paint application equipment. • Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
• Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable.
• Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

33. MM AQ-2
Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following:
• Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options.
• Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
• Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride matching service.
• Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others.
• Each building shall provide preferred parking for electric, low emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

This mitigation measure applies only to tenant occupancy and not the building shell approvals.

34. MM AQ-3
Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following:
• The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site.
• Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines.

This mitigation measure applies only to building shell approvals and not the tenant improvements.

35. MM AQ-4
Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states:
• Truck drivers shall turn off engines when not in use.
• Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485). Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged.
• Telephone numbers of the building facilities manager and CARB to report violations.
• Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

36. MM AQ-5
Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program— including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

37. MM AQ-6
The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

38. MM GHG-1
Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.

39. MM GHG-2
Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.

40. MM GHG-3
The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling

program. This mitigation measure applies only to tenant permits and not the building shell approvals.

41. MM GHG-4
Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used onsite shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.

42. MM GHG-5
Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.

43. MM TRANS-1
Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures:

Potential VMT Reduction Strategies

The following are potential VMT reduction measures that could be implemented:
• The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees.
• The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT.
• The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT.
• The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT.
• The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.

Building Department

44. Once submitted for official plan review full architectural and structural drawing plans shall be provided. Structural plans and calculations shall be provided by a California licensed engineer or licensed architect.

45. Please provide the following number of construction plans and documents listed below for the first review of the proposed project. The initial plan review time will take two weeks on most projects. The applicant will receive an application number at the time plans are submitted for Building & Safety's plan review. This number is needed to obtain information regarding your project:

(7) Precise Grading Plans
(7) Plot/Site Plans
(7) Site Disabled Access Plan
(7) Architectural Plans
(7) Structural Plans
(7) Electrical Plans
(7) Electrical Load Calculations
(7) Plumbing Plans/Isometrics
(7) Mechanical Plans
(2) Structural Calculations
(2) Roof and Floor Truss Calculations
(2) Title 24 Energy Calculations
(2) Geology Report
(2) Soils Report
(2) Condition of Approval Packages
(3) Temporary Fence Plan

46. Electronic plan submittal can be provided by building and safety. Please email CommunityDev@banningca.gov for additional information.

47. All structures shall be designed in accordance with the current version of the California Building Codes, including the California Green Building Standards Code. Design all structures to comply with Seismic Design Category D, basic wind speed should be site specific and determined from ATC at www.atcouncil.org/windspeed with exposure type "C", and Energy Calculations shall be designed per Climate Zone 10.

48. Where applicable, prior to issuance of building permits, provide a receipt from the appropriate Unified School District stating that all school fees have been paid. (Banning Unified School District)

49. Banning Electric does not release electric meters until final approvals are obtained from all agencies and departments.

50. Construction projects, requiring temporary electrical power, shall obtain an electrical permit from Banning Electric.

51. Construction projects requiring fire permits must apply and submit fire plans prior to the issuance of the building permit, including fire sprinkler submittals.

52. The Developer/Owner is responsible for the coordination of releasing any Deferral of Development Impact Fees or Bonds after such fees have been paid. The Developer/Owner should be aware, once the deferral notice is sent to the Riverside County Recorder's Office; the release process takes two to three weeks. This process will delay final Certificates of Occupancy.

53. The Developer/Owner is responsible for the coordination of the final occupancy. The Developer/Owner shall request clearances from each department and/or agency at least two weeks prior to requesting a final building inspection from Building and Safety. Each agency may

sign the Building and Safety Job Card, or provide agency approved signed documentation, and provide a copy of the signatures to Building and Safety at the time the final inspection is requested.

54. A security fence with screening shall protect all construction sites. The fencing and screening shall be maintained at all times to protect pedestrians. All development projects shall submit a construction fencing plan with the construction design plans. Construction projects that have phased occupancy shall be completely separated by a construction fence that is screened and show the adjusted fence locations at each phase.

55. The permittee shall utilize an anti-graffiti coating on trash enclosures and decorative block walls.

56. On site toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction toilet facilities of the non-sewer type shall conform to ANSI ZA.3 and on site per NPDS stormwater requirements.

57. All construction materials, which are not used, shall be recycled pursuant to the requirements per the California Green Building Standards Code. Receipts from the recycle company responsible for picking up the materials shall be kept in the construction office. After the construction is complete and before final occupancy, all trash receipts shall be forwarded to the City.

58. Prior to the issuance of Building Permits, on site water service shall be installed and approved by the responsible agency. On site fire hydrants shall be approved by the Riverside County Fire Department. No flammable materials will be allowed on the site until the fire hydrants are established and approved. No flammable construction materials shall be placed on the site without approvals by the Fire Department. All street and access roadways around the project shall be paved for emergency response vehicles before flammable materials are placed on the project.

59. Prior to issuance of building permits, site-grading certifications, compaction reports, and survey report shall be submitted to Building and Safety or to Public Works, as applicable.

60. All construction projects shall comply with the NPDES Stormwater Best Management Program. Prior to building permit issuance submit copy of the Water Quality Management Program Report. (WQMP)

61. All deferred plan items are to be identified on the cover sheet of the drawing plans.

62. 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. The accessible route(s) of travel shall be the most practical direct route.

63. Demolition of any onsite structures requires the following information or action.

    a. Submit copies of the property title at permit submittal.
    b. Provide copy of the hazardous materials survey (asbestos and lead) for each structure.
    c. Contact the City of Banning Building & Safety Department for current abatement and documentation requirements prior to performing demolition.

64. For the removal of fuel storage tanks, or other excavations involving backfill, a compaction shall be filed with the Building & Safety Department. Fuel storage tank removal will require notification of Riverside County Fire, Hazardous Materials and Riverside County Environmental Health Department.

65. All dead and removed trees and foliage is to be properly removed from the site.

66. The City enforces the State of California provisions of the California Building Code disabled access requirements. The Federal Americans with Disabilities Act (ADA) standards may differ in some cases from the California State requirements; therefore, it is the building owner's responsibility to be aware of those differences and comply accordingly.

67. Building and Safety inspection requests must be made by 4:00 pm. on the previous City working day to receive a next day inspection. Please contact (951) 922-4820

68. Plan review application approval is valid for a period of 180 days after application date (plan check submittal date)- if the permit is not obtained within that time period the approval expires and becomes null and void. The Building Official may extend the time for action by the applicant for a period of 90 days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action on an application after expiration the applicant shall resubmit plans and pay a new plan review fee.

69. Structural plans and calculations shall be provided by a California licensed engineer or California licensed architect.

70. Clearly identify distance to property lines to all sides of the proposed buildings and between each building.

71. Allowable Area should be in accordance with CBC Table 506.2, and unlimited building areas shall be in accordance with CBC Section 507.

72. Provide occupancy separations per CBC Table 508.4.

73. For new buildings 10,000 square feet and over, building commissioning shall be included in the design and construction processes of the building project to verify that the building systems and components meet the owner's or owner representative's project requirements. Please comply with all the requirements within CGBSC Section 5.410.2. Subject to further review.

74. Provide and identify on the site plan locations of designated parking spaces for any combination of low-emitting, fuel-efficient and car pool/ van pool vehicles per CGBSC Table 5.106.5.2. Provide calculations on the plans for the required number of spaces per CGBSC sec. 5.106.5.2. Low-emitting, fuel-efficient vehicle parking spaces shall be identified with the words "CLEAN AIR / VANPOOL / EV"". The bottom edge of the last word shall align with the end of the stall striping and be visible beneath a parked vehicle. Provide information on the site plans. CGBSC sec. 5.106.5.2.1.

75. Construction shall comply with CGBSC Section 5.106.5.3.1 or Section 5.106.5.3.2 to facilitate future installation of electric vehicle supply equipment (EVSE). Provide calculation accordingly for the number of electric vehicle charging stations per CGBSC Table 5.106.5.3.3. Please note per the 2022 California Codes, there are newer requirements for EV Parking Spaces.

76. Long Term: Provide and identify secure bicycle parking for buildings with more than (10) ten employees, or for additions or alterations that add 10 or more tenant vehicular parking spaces as outlined per CGBSC sec. 5.106.4.1.2. Bike rack spaces shall total 5% of vehicle parking spaces with a minimum of one space.

77. Accessible parking spaces and an accessible path of travel shall be provided from the public sidewalk to the main entrance of the office areas.

78. The accessible parking space(s) shall be located on the shortest accessible route of travel serving the accessible entrance. In buildings with multiple accessible entrances, assessable parking spaces shall be dispersed and located closest to the accessible entrances. (CBC Section 11B-208.3.1)

79. All entrances and exterior ground-floor exit doors to buildings and facilities shall be made accessible to persons with disabilities. (CBC 11B-206.4.1)

80. Provide a complete accessible path of travel to the street and to the accessible parking space. Identify all slopes and curb conditions along the accessible path of travel. Walks shall be a minimum of 48 inches in width with a maximum cross slope of 2% and a maximum slope in the direction of travel of 5%. Walks exceeding 5% shall conform to the requirements of a ramp. Curb ramps and truncated domes shall be detailed on the drawing plans. (CBC Section 11B-403.5.1)

Fire Department

81. Dock loading shall not impede fire department access lanes.

82. Fire Protection Water Supplies/Fire Flow - Minimum fire flow for the construction of all buildings is required per CFC Appendix B. Prior to building permit issuance for new construction, the applicant shall provide documentation to show there exists a water system capable of delivering the required fire flow. Specific design features may increase or decrease the required fire flow.
    a. Will Serve Letters from the responsible water purveyor are required prior to a map recordation.

83. Fire Protection Water Supplies/Hydrants - The minimum number of fire hydrants required, as well as the location and spacing of fire hydrants, shall comply with CFC Appendix C and NFPA 24. Fire hydrants shall be located no more than 400 feet from all portions of the exterior of the building along an approved route on a fire apparatus access road, unless otherwise approved by the fire department. In areas where new water mains are extended along streets and hydrants are not needed for protection of structures, standard fire hydrants shall be provided at spacing not to exceed 1,000 feet along streets for transportation hazards. Fire hydrants shall be at least 40 feet from the building it is serving. A fire hydrant shall be located within 20 to 100 feet of the fire department connection for buildings protected with a fire sprinkler system. The size and number of outlets required for the approved fire hydrants are 4 x 2 x 2 (super hydrant). Reference CFC as amended and NFPA 24.

84. Fire Department Access - Fire apparatus access roads shall be provided within 150 feet of all exterior portions of buildings, unless otherwise approved by the fire department. Fire apparatus access roads shall have an unobstructed width of no less than 24 feet. Dead-end fire apparatus access roads exceeding 150 feet in length shall provide an approved turn around. For developments within the SRA and within the LRA VHFHSZ, the minimum required turning radius of a fire apparatus access road is 74 feet outside radius and 50 feet inside radius. See California Code of Regulations Title 14 Section 1273.04. The construction of the fire apparatus access roads shall be all weather and capable of sustaining 80,000 lbs. Unless otherwise approved, the grade of a fire apparatus access road shall not exceed 16 percent and the cross slope shall not exceed 2.5 percent. The angles of approach and departure for fire apparatus access roads shall be a maximum of 6 percent grade change for 25 feet of approach/departure. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

85. Fire Department Access Turn Around - On-parcel dead-end fire apparatus access roads exceeding 150 feet in length shall provide a bulb turnaround at the terminus measuring a minimum of 45 feet outside radius and 25 feet inside radius. For development within the SRA and within the LRA VHFHSZ, the bulb turnaround at the terminus shall be 40 feet outside radius and 16 feet inside radius. Parallel parking around the perimeter of the bulb is acceptable provided the bulb outside turning radius is increased by 8 feet. In-lieu of a bulb, a hammer-head type turnaround is acceptable where the top of the T dimension is 120 feet with the stem in the center. Additional turnaround designs may be acceptable as approved by the Fire Department. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

86. Secondary Access. Unless otherwise approved by the Fire Department, dead end fire apparatus access roads shall not exceed 660 feet for Very High Fire Hazard Severity Zone and High Fire Hazard Severity Zone areas. 800 feet for Moderate Fire Hazard Severity Zone. 1,320 feet. Secondary egress/access fire apparatus access roads shall provide independent egress/access from/to the area or as otherwise approved by the Fire Department. Secondary egress/access fire apparatus access roads shall be as remote as possible from the primary fire apparatus access road to reduce the possibility that both routes will be obstructed by a single emergency. Additional fire apparatus access roads based on the potential for impairment by vehicle congestion, condition of terrain, climatic conditions, anticipated magnitude of a potential incident, or other factors that could limit access may be required by the Fire Department. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

87. Fire Department Building Construction Plan Review - Submittal of construction plans to the Fire Department will be required. Final fire and life safety conditions will be addressed when the Fire Department reviews the plans. These conditions will be based on California Fire Code, California Building Code (CBC), and related codes/standards adopted at the time of construction plan submittal. Reference CFC as amended.

88. Fire Sprinkler System - All new commercial buildings and structures 3,600 square feet or larger will be required to install a fire sprinkler system. Reference CFC as amended.

89. Fire Alarm and Detection System - A water flow monitoring system and/or fire alarm system may be required as determined at time of building construction plan review. Reference CFC as amended.

90. Hazardous Vegetation and Fuel Management Plan - Projects in the Local Responsibility Area, Very High Fire Hazard Severity Zone, and the State Responsibility Area Very High, High, and Moderate Fire Hazard Severity Zones shall provide a Hazardous Vegetation and Fuel Management Plan to be reviewed and approved by the Fire Department. A preliminary plan shall be provided to and approved by the Fire Department prior to any new parcel map recordation. A final plan shall be provided prior to grading permit clearances. Reference CFC as amended.

91. Materials and Construction Methods for Exterior Wildfire Exposure - Projects in the Local Responsibility Area, Very High Fire Hazard Severity Zone, and the State Responsibility Area Very High, High, and Moderate Fire Hazard Severity Zones shall comply with Chapter 7A of the California Building Code and California Code of Regulations, Title 14 Fire Safety Regulations. Reference CFC as amended.

92. Unlimited Area Building - Based upon the building construction type and requirements of the California Building Code (CBC), 60 feet of open space (with some reductions permitted) may be required around the building. Consult with your architect for additional information. Reference CBC.

93. Traffic Calming Devices - Requests for installation of traffic calming designs/devices on fire apparatus access roads shall be submitted and approved by the Fire Code Official. Reference CFC as amended.

94. Gate Access - All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. These gates shall be provided with access to gate equipment or another method to open the gate if there is a power failure. (Manual gates shall not be locked unless a Knox padlock or Knox Box containing the key to the lock is installed in an approved location on the approach side of the gate). A pedestrian gate, if used to provide access, shall be a minimum 3 feet wide and provided with a Knox Box/Padlock if locked. Reference CFC as amended and RVC Fire Guideline OFM-01A.

95. Fire Department Access Doors. If high piled storage will be utilized in the building, Fire Department Access Doors may be required every 150 feet along all portions of the interior of the building that are along the fire apparatus access road. Reference CFC as amended.

96. Water Plans - If fire hydrants are required to be installed, applicant/developer shall furnish the water system fire hydrant plans to the Fire Department for review and approval prior to building permit issuance. 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. Reference CFC as amended.

97. Emergency Responder Communication Coverage Systems - Projects that do not meet the exceptions set forth by the Riverside County Office of the Fire Marshal shall provide plans for an emergency responder radio coverage system. Reference CFC as amended and Riverside County Fire Department Policies and Standards.

98. Fire Command Center - A fire command center for fire department operations shall be provided in all buildings classified as high-rise buildings by the California Building Code, in buildings greater than 300,000 square feet, and in Group I-2 occupancies with occupied floors more than 75 feet above the lowest level of fire department vehicle access. This fire command center shall comply with Sections 508.1.1 through 508.1.7. Reference CFC as amended.

99. Knox Box and Gate Access: Buildings shall be provided with a Knox Box. The Knox Box shall be installed in an accessible location approved by the Office of the Fire Marshal. All electronically operated gates shall be provided with Knox key switches and automatic sensors for access. Ref. CFC 506.1.

100. Addressing: All commercial buildings shall display street numbers in a prominent location on the address side and additional locations as required. Ref. CFC 505.1 and County of Riverside Office of the Fire Marshal Standard #07-01.

Public Works Department

Please see attached Public Works Conditions beginning on next page

EXHIBIT B
Public Works Conditions

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.01	The applicant shall comply with Title 18 of the Banning Municipal Code "Grading, Erosion, and Sediment Control", the City of Banning Grading Manual, California Building Code related to excavation and grading, and State Water Resources Control Board orders, rules, and regulations.	Informational	
PW.Grade.02	Grading work shall be balanced on-site, wherever possible. If import or export is required as a result of the final grading plan, then measures will be taken to be in compliance with the applicable City of Banning Ordinances at time of final grading plan approval.	Informational	
PW.Grade.03	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 within the property boundaries, or within drainage devices and easements obtained by the applicant.	Informational	
PW.Grade.04	Rough grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions. The Applicant shall submit design calculations and obtain permits for all perimeter and retaining walls from the Building and Safety Department.	Informational	
PW.Grade.05	Impacts to jurisdictional streams, creeks and drainages shall be reviewed and approved by the appropriate regulatory agencies with jurisdiction in this area and will require the appropriate required permits issued. Long term regular maintenance and operation of drainage improvements, such as detention basins, shall be included in the initial regulatory permitting applications. Proof of permits shall be provided to the Public Works Department prior to the issuance of any grading permit.	Prior to Issuance of a Grading Permit	
PW.Grade.06	A Grading Plan and Erosion Control Plan shall be submitted to the City Engineer for review and approval.	Prior to Issuance of a Grading Permit	
PW.Grade.07	The grading plan shall identify existing easements within the development area. If any grading work impacts easements outside of the City of Banning jurisdiction, a copy of the encroachment permit for the easement holder shall be provided to the City Engineer and noted on the grading plan.	Prior to Issuance of a Grading Permit	
PW.Grade.08	The grading plan shall identify environmental mitigation areas on the plan. Proof of permits from Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board shall be provided prior to any grading work and noted on the grading plan.	Prior to Issuance of a Grading Permit	
PW.Grade.09	Temporary basins shall be constructed to meet detention requirements and earthen channels/berms shall be used to divert and convey flows during construction.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.10	The applicant shall submit a PM10 Management Plan for construction operations to the City Engineer and/or SCAQMD for review and approval.	Prior to Issuance of a Grading Permit	
PW.Grade.11	If Import or Export is required, the applicant shall submit a construction haul route plan to the City Engineer for review and approval. Deviation during construction from the approved plan shall constitute a violation of the conditions of the grading permit.	Prior to Issuance of a Grading Permit	
PW.Grade.12	A soils report and geotechnical study shall be submitted in conjunction with the grading plan with further analyses of on-site soil conditions and appropriate measures to control erosion and dust. Any issues or recommendations provided in the report shall be addressed to the satisfaction of the City Engineer. The responsible geotechnical engineer shall sign and stamp all grading plans indicating the plan complies with the recommendations of the comprehensive soils and geotechnical report.	Prior to Issuance of a Grading Permit	
PW.Grade.13	A grading permit shall be obtained from the Public Works Department prior to the commencement of any grading work.	Prior to Issuance of a Grading Permit	
PW.Grade.14	Construction documents shall include language that requires all construction contractors to strictly control the staging of construction equipment and the cleanliness of construction equipment stored or driven beyond the limits of the construction work area. Construction equipment shall be parked and staged within the project site. Staging areas shall be screened from view from adjacent properties. Vehicles shall be kept clean and free of mud and dust before leaving the development site. Surrounding streets shall be swept daily and maintained free of dirt and debris.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.15	As required in MMRP **MM BIO-1:** In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below:	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.15 (cont'd)	If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval. f active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.16	As required in MMRP **BIO-2:** Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading. The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following: 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.16 (cont'd)	2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of Project activities, and at the onset of any changes in such Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.17	As required in MMRP **MM BIO-3:** Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.17 (cont'd)	Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting. • A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.18	As required in MMRP **MM CUL-1**, please include the following note on Grading Plans: Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth-moving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.	Prior to Issuance of a Grading Permit	
PW.Grade.19	As required in MMRP **MM CUL-2**, please include the following note on Grading Plans: If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.	During Excavation	
PW.Grade.20	As required in MMRP **MM CUL-3**, please include the following note on Grading Plans: Prior to the issuance of grading permits, the applicant shall enter into a Native American monitoring agreement with one of the Consulting Tribes for the Development Project. The Native American Monitor shall be on site during all initial ground-disturbing activities, including clearing, grubbing, vegetation removal, grading, and trenching, within native soils. The Native American Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities in accordance with MM CUL-5 to allow identification, evaluation, and potential recovery of cultural resources. The applicant shall meet and confer with the Tribe on the consideration of a "Sensitivity Workshop" training on possible things that could come up in case a Native American Monitor is not on site to monitor at certain times. Agreement Date:	Prior to Issuance of a Grading Permit	
PW.Grade.21	As required in MMRP **MM GEO-1**: The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.22	As required in MMRP **MM GEO-2:** The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following: • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques. • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist). • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.	Prior to Issuance of a Grading Permit	
PW.Grade.23	As required in MMRP **MM GEO-3**: A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.	Prior to Issuance of a Grading Permit and excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.24	As required in MMRP **MM GEO-4:** Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.	During excavation	
PW.Grade.25	As required in MMRP **MM TCR-1:** Native American Treatment Agreement: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.	Prior to Issuance of a Grading Permit	
PW.Grade.26	As required in MMRP **MM TCR-2:** Retention of Archaeologist: Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.	Prior to Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.27	As required in MMRP **MM TCR-3:** Cultural Resource Management Plan: Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.	Prior to Issuance of a Grading Permit	
PW.Grade.28	As required in MMRP **MM TCR-4**: Pre-Grade Meeting: The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.	Prior to Issuance of a Grading Permit	
PW.Grade.29	As required in MMRP **MM TCR-5**: On-site Monitoring: During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.	During Excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.30	As required in MMRP **MM TCR-6:** Inadvertent Discovery of Cultural Resources: In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed. If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference: • Full avoidance. • If avoidance is not feasible, Preservation in place. • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction. • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1)	During Excavation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.31	**MM TCR-7**: Inadvertent Discovery of Human Remains: The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s]. Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98. If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.	During Excavation	
PW.Grade.32	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.	Prior to Issuance of a Building Permit	
PW.Grade.33	The applicant shall provide a lot pad certification. The pad certification shall include an elevation and compaction certification. The elevation certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. The compaction certification shall list the relative compaction of the pad soil and shall be certified by a licensed geotechnical engineer.	Prior to Issuance of a Building Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Grade.34	The applicant shall provide a Final Grade Certification. The certification shall be stamped and signed by a licensed civil engineer or land surveyor and shall show actual building setbacks, swales, drainage devices, and other items shown in conformance with the approved Precise Grading Plan.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.General.01	The subject property shall substantially conform to the approved Banning Commerce Center Design Review (DR21-7017), Environmental Impact Report and Mitigation Monitoring and Reporting Program (ENV21-1524), Tentative Parcel Map 38576, and Banning Commerce Center Development Agreement. The City Engineer may approve minor design modifications to the project plans during the plan check process, if such modifications conform to the provisions of the Banning Municipal Code. Substantial changes shall not be permitted except upon application for, and approval of modification of this entitlement in compliance with all applicable procedures and requirements. Where conflict exists between these Conditions of Approval and the governing documents listed above, the more strict provision shall prevail.	Informational	
PW.General.02	Revisions to the approved Tentative Parcel Map 38576 during plan check process; including, but not limited to, lot line alignments, easements, improvement plan revisions, and similar minor changes that are in substantial compliance with the Tentative Map, or associated Conditions of Approval, shall be administratively approved through the plan check process with the mutual consent and approval of the Developer, the Community Development Director, and the City Engineer. Changes that are not administratively approved, through the process referenced above and herein shall be amended in accordance with the Subdivision Map Act, as amended and codified within the Banning Municipal Code (BMC).	Informational	
PW.General.03	All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.	Informational	
PW.General.04	The applicant shall comply with the Tentative Parcel Map, Conceptual Grading Plan, Preliminary Hydrologic and Hydraulic Analysis, Preliminary Water Quality Management Plan, Preliminary Geotechnical Investigations, Traffic Impact Analysis, and other relevant technical documents approved during project entitlement with the Environmental Impact Analysis. Any significant omission to the representation of the site conditions may require the plans to be resubmitted for further review and revision.	Informational	
PW.General.05	An Encroachment 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.	Informational	
PW.General.06	If a CFD is considered for this Parcel Map, prior to first COO, the applicant shall either demonstrate that the CFD has already been created or that a CFD application has been submitted and accepted as complete by the City of Banning Financial Services Division and shall include all maps, related Engineers report, and the required information (CFD boundary maintenance areas by location and type, etc.) to the satisfaction of the City Engineer.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.General.07	The applicant is responsible for resolving any conflicts with existing or proposed easements. All easement(s) of record and proposed easements shall be shown on the final map, grading plan, and improvement plans where applicable.	Informational	
PW.General.08	Where survey monuments exist, such monuments shall be protected or shall be referenced and reset, pursuant to the Business and Professions Code, Sections 8700 to 8805 (Land Surveyors Act)	Informational	
PW.General.09	All future utility systems including gas, electric, telephone, water, sewer, and cable TV, shall be provided for underground (except SCE 115 kV Transmission Faculties), 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.	Informational	
PW.General.10	Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced or repaired as determined by the City Engineer or his/her representative.	Informational	
PW.General.11	All weather vehicular access in accordance with Riverside County Fire Department Technical Policy #TP 22-002 shall be maintained at all times to all parts of the proposed subdivision, where construction work is in progress, for emergency vehicles.	Informational	
PW.General.12	All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff to all surface structures (curbs, gutters, sidewalks, paving, etc.) within the Final Map and required improvement plan limits. The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Applicant.	Informational	
PW.General.13	Prior to the release of surety and upon completion of construction, the Applicant 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.	Informational	
PW.General.14	A Mitigation and Monitoring Reporting Program has been established for this project. All conditions in the MMRP shall be implemented with sign off and approvals by the milestones required in the MMRP.	Informational	

The following is a non-inclusive list of items that may be required by the Public Works Department. Unless otherwise authorized in writing by the City Engineer, plans shall utilize the minimum scale specified and shall be drawn on 24"x36" sized paper. Plans should be drawn at a larger scale if additional detail and/or clarity is desired (Note: The applicant may be required to prepare other improvement plans not listed here pursuant to improvement required by other agencies and utility purveyors). 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.

The design of public infrastructure elements shall conform to the requirements of these Conditions of Approval, City General Plan, City/Regional Master Plans, City of Banning Grading Manual, City of Banning codes/standards, Standard Specifications for Public Works Construction (current edition), and Caltrans Standards and Specifications at no cost to any governmental agency as required by the City Engineer.

The design of private grading and improvements outside of public right of way shall comply with the City of Banning Grading Manual, Title 18 of the City of Banning Municipal Code, California Building Code, State Water Resources Control Board orders, rules, and regulations, and City of Banning standards and practices.

All off-site plan and profile, street improvement plans, and signing and striping plans shall show all existing improvements for a minimum distance of 200 feet longitudinally along the centerline of the street and within the existing right of way, and to a distance sufficient to show any required design transitions.

An index map shall be provided on the title sheet of all plan sets showing the overall view of the entire work area.

All plans shall be complete, to the satisfaction of the City Engineer, prior to final map recordation and determination of surety estimates.

Permit Type	Plan Set	Scale	Notes
Grading	Rough Grading Plan	1" = 40'	
	Precise Grading Plan	1" = 20'	
	Borrow Plan	1" = 40'	If Necessary
	Stockpile Plan	1" = 40'	If Necessary
	Retaining Walls	1" = 40'	May be included with any grading plan
	Haul Route	1" = 100'	May be included with any grading plan
	Clearing Plan	1" = 100'	May be included with any grading plan
	Demolition Plan	1" = 100'	May be included with any grading plan
	Erosion and Sediment Control	1" = 40'	Shall be included with any grading plan
Encroachment	Street Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Signing and Striping Plan	1" = 40'	
	Traffic Signal Plan	1" = 40'	
	Traffic Control Plan	1" = 40'	
	Storm Drain Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Channel Improvement Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Potable Water Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Non Potable Water Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Sewer Plan	1" = 40' Horiz/ 1" = 4' Vertical	
	Other Improvements	TBD	As pre-approved by City Engineer
Final Maps	Final Map	1" = 40'	
	Easement Dedications		
	Corner Records		

	Records of Survey
Technical Studies	Geotechnical Report
	Hydrologic and Hydraulic Report
	LOMR (as required by FEMA)
	Water Quality Management Plan (WQMP)
	Potable Water Hydraulic Assessment
	Sewer Lift Station Study
	Dust Control and Prevention Plan (PM10)
	Compaction Report
Permits and Agreements	Permission to Grade
	Construction Agreements
	BMP Agreement
	Landscape Maintenance Agreement
	Improvement Agreement
	Performance Bonds
	Labor and Material Bond
	Maintenance Bond
	Non-Interference Letter
	Regional Water Quality Control Board Permits
	USFWS/CDFW Permits
Certifications	Grading Certifications
	Pad Certifications

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.01	The submittal, approval, and recordation of the Final Map shall be in accordance with the provisions of the State Subdivision Map Act and Title 16, Subdivisions, of the Banning Municipal Code.	Informational	
PW.Map.02	The Final Map shall have adequate reservations for public ingress and egress as well as public and/or private utility easements and abandonment of existing utility easements to the satisfaction of the City Engineer. The applicant shall be responsible for contacting all utility providers to establish appropriate easements required to provide services to each development area.	Informational	
PW.Map.03	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 with the County Surveyor simultaneously with the final map and labeled ENVIRONMENTAL CONSTRAINT SHEET in the top margin. Applicable items will be shown under a heading labeled Environmental Constraints Notes. The Environmental Constraint Sheet shall contain the statement: THE ENVIRONMENTAL CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST. THIS INFORMATION IS DERIVED FROM PUBLIC RECORDS OR REPORTS, AND DOES NOT IMPLY THE CORRECTNESS OR SUFFICIENCY OF THOSE RECORDS OR REPORTS BY THE PREPARER OF THIS MAP SHEET. As required by the City Engineer, the sheet shall delineate constraints involving, but not limited to, any of the following that are conditioned by the Advisory Agency: **archaeological sites**, **geologic hazard mapping**, grading, building, building setback lines, **flood hazard zones**, **seismic lines and setbacks**, **fire protection**, water availability, sewage disposal, **environmental easements**, **environmental reservations**.	Informational	
PW.Map.04	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 may 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 as directed by the City Engineer. All costs associated with acquiring rights-of-way or easements shall be borne by the applicant.	Informational	
PW.Map.05	In the event that the applicant in unsuccessful in acquiring necessary property rights outside the project/development, the City will consider and potentially act on the option to acquire through eminent domain. Permits (or portions of permits) that are not affected by ROW acquisition will not be held up during the property acquisition or eminent domain process.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.06	During the improvement plan checking process, turning radius template checks shall be submitted for access to all storm drain facilities, open space, and other utility easements that are accessed from a publicly accessible paved street. These templates shall clearly show that the easements are sufficient for full access under emergency conditions. The City of Banning's review of the easements shall include appropriateness of the vehicle turning radius, easement slopes and easement widths. Additional easement widths shall be required when the design vehicle is likely to use outriggers or other means of load stabilization.	Informational	
PW.Map.07	Any public right-of-way or streets to be vacated from public use, pursuant to Street and Highway Codes Sections 8300 through 8363, shall conform to the complete vacation procedure and show specific circulation alternative, where required. All street vacations shall be shown on the final map.	Informational	
PW.Map.08	All public facilities including sewer, water, and drainage shall be located in a public right of way or public utility easement. All final maps shall include appropriate easements per the approved tentative map and as required by the City Engineer and/or other agency maintaining public facilities. All easements shall meet minimum width and access requirements as mandated by the City or governing agency.	Informational	
PW.Map.09	Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division prior to final map approval.	Informational	
PW.Map.10	A map of the proposed subdivision drawn at 1”=200’ showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.	Informational	
PW.Map.11	The Applicant shall be responsible for research on private utility lines (Gas, Edison, Telephone, Cable, Internet, etc.) to ensure there are no conflicts with site development. All existing on-site utility lines that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the City Engineer.	Informational	
PW.Map.12	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 unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or unless such easements do not conflict with the City’s intended purposes or uses. 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.	Informational	
PW.Map.13	The applicant, at its sole expense, shall obtain all right of way or easement acquisitions necessary to implement any portion of condition of this project, including public improvements, off-site grading and construction, offsite street requirements, offsite public utility requirements, storm drain improvements, or any other requirement of these conditions.	Prior to Final Map Recordation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.14	The applicant shall provide an easement over, across, and which provides ingress and egress to all private water quality, stormwater, drainage basins, public water facilities, public sewer facilities, public electric facilities, and fire department access to be dedicated to the City, for ingress, egress, and right to inspect, repair, remove, and replace unless otherwise directed by the City Engineer.	Prior to Final Map Recordation	
PW.Map.15	The applicant shall offer for dedication on the Final Map, within Final Map boundaries, all public street right-of-way and public utility easements in conformance with project entitlement documents. The City may leave the dedications open for future acceptance when all required public street improvements for the map are installed by the applicant in the rights of way.	Prior to Final Map Recordation	
PW.Map.16	The Applicant shall dedicate right-of-way or provide temporary easements beyond Parcel Map boundary with adjacent property owner(s) as required to provide utility service, public and/or emergency vehicular ingress and egress access to the nearest paved and publicly maintained street along the proposed Nicolet Street	Prior to Final Map Recordation	
PW.Map.17	The Applicant shall offer to the City of Banning Lot C as shown on the Tentative Parcel Map for electrical utility purposes as defined in the project Development Agreement to the City of Banning.	Prior to Final Map Recordation	
PW.Map.18	The Applicant shall offer to the City of Banning Lot D as shown on the Tentative Parcel Map for a sewer lift station necessary for the site to provide sewer service as defined in the project Development Agreement to the City of Banning.	Prior to Final Map Recordation	
PW.Map.19	The applicant shall offer to dedicate to the City of Banning additional Right of Way as defined within the Final Map improvement limits as necessary to provide the total right of way described below: Wilson Street - 55' to 110' Right of Way (West of O'Donnell Street) Wilson Street - 110' Right of Way (East of O'Donnell Street) O'Donnell Road - Min. 39' Half Width Right of Way Cottonwood Road (South of Wilson Street) - 110' Right of Way All offers of dedication shall include the corner cut-back at all intersections. Corner cutbacks at intersections that will be utilized by trucks shall include truck turn templates to verify cutback dimensions. Additional right of way may be required for intersection configurations or roadway transitions as indicated on the TPM. Additional right of way shall be offered on the final map at no cost to the City of Banning. Where additional right of way is necessary, improvement plans shall be reviewed and approved showing these requirements prior to Final Map recordation.	Prior to Final Map Recordation	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.20	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 - In the amount as supplied by the Record Engineer/Land Surveyor and as approved by the City Engineer 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.	Prior to Final Map Recordation	
PW.Map.21	The City and the applicant are to enter into a Public Improvement Agreement to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans.	Prior to Final Map Recordation	
PW.Map.22	The applicant shall obtain approval from the Fire Marshall in consultation with the City Engineer, for a conceptual fuel modification plan and program, unless the City of Banning Fire Marshall ("Fire Marshall") finds in writing to the City that such plan and program are not required for development of the property within the boundaries of this Final Map. Prior to the issuance of the first certificate of occupancy, within the lots affected by said fuel modification plans, the fuel modification shall be installed and completed under the supervision of the Fire Marshall with an approved plant palette. The CC&Rs or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation.	Prior to Issuance of any Construction Permit	
PW.Map.23	The applicant shall verify and/or set all property corners, r/w corners, and centerline monuments. Subsequently, the applicant shall cause the surveyor to file the appropriate documents and records to the County of Riverside.	Prior to Release of Surety	
PW.Map.24	Public improvements shall be completed and accepted by City of Banning prior to release of Faithful Performance Bond and Labor and Material Bond for such improvements. Faithful Performance Bond for applicable public improvements shall be reduced to 10% once City accepts improvements into maintenance period. Final 10% to serve as the maintenance bond for the 1-year maintenance period.	Prior to Release of Surety	
PW.Map.25	The Applicant shall comply with Assembly Bill 1414, which was enacted on January 1, 1995, and amended Section 8771 of the Business and Professions Code of the Land Surveyors Act. Assembly Bill 1414 requires that two (2) corner records be filed when: - Monuments exist that control the location of subdivisions or tracts, streets or highways; or provides survey control. The monuments are located and referenced by a licensed Land Surveyor before any streets or highways are reconstructed or relocated. The corner record(s) of the references are filed with the County Surveyor. - Monuments are reset in the surface of the new construction and a corner record is filed with the County Surveyor before recording of a Certificate of Completion for the project.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Map.26	Permanent survey monuments shall be set at the intersection of street centerlines, beginning, and end of curves in centerlines, and at other locations designated by the Director of Public Works and City Engineer. All other centerline monuments shall be placed in accordance with standard survey practice. A complete set of street centerline ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of the monumentation bond.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.01	The applicant shall comply with Chapter 13.24 "Stormwater Management Systems" of the Banning Municipal Code.	Informational	
PW.Storm.02	The applicant shall 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.	Informational	
PW.Storm.03	The proposed drainage improvement plans shall be designed such that drainage facilities will maintain or reduce the 100-year peak runoff rates presently exiting all Project boundaries. The Project will use on-site detention basins to reduce the storm water flows to or below the existing condition flows prior to their discharge to areas located downstream of the project. The project shall be designed to retain the 100 year 3 hour storm. Detention facilities shall have a maximum draw down time of 72 hours.	Informational	
PW.Storm.04	Applicant shall submit drainage improvement plans for the proposed subdivision with the accompanying hydrology and hydraulic analysis and shall be designed per the RCFC&WCD Hydrology Manual and the City of Banning flood control standards. Finalized studies shall verify the size of flood control facilities. Drainage facilities shall be in accordance with the approved tentative map and specific plan. Plans shall be submitted to RCFC&WCD and/or the City of Banning for review and approval for facilities that are to be owned and/or maintained by RCFC&WCD.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.05	Trash Capture Devices are designed to keep trash, sediment, and debris from entering the City's storm sewer system including its' curb and gutters. The proposed project is in a "Priority Land Use" area (defined as: high-density residential areas (starting from 10 dwellings units/acre), Industrial areas (manufacturers, storage warehouses, distribution centers, junkyards), Commercial areas (populated consumer areas where goods and services are exchanged), Mixed-use areas (areas where high-density residential, industrial, and commercial intermix), and Public Transportation areas (property drains to or from bus stops)). Therefore, the developer shall install, operate, and maintain a "Full Capture" trash treatment control device for all storm drain systems (catch basins, inlets, etc.) on the property that capture runoff from the Priority Land Use area to comply with Trash Amendments/Provisions as defined by the SWRCB. The full capture system/device shall be selected from the SWRCB's approved Certified "Full Capture Systems" list and shall also be approved by the City Engineer. If the project does not require a WQMP but is in a "Priority Land Use" area, a BMP Maintenance Agreement shall be prepared and executed with the City to ensure proper operation and maintenance of the full capture system/device and an annual self-inspection report shall be submitted to the Engineering Division.	Informational	
PW.Storm.06	Stormwater basins within the development shall be privately maintained. Any public storm drain with connection to a private stormwater basin shall include easements for public access and maintenance of the drainage device.	Informational	
PW.Storm.07	Any stormwater basin outlet pipe without a direct connection to a City of Banning accepted storm drain or culvert shall be privately maintained.	Informational	
PW.Storm.08	Easements to the City of Banning over storm drain basins and outlets shall be provided in accordance with the Stormwater Facilities Management Agreement.	Informational	
PW.Storm.09	The applicant shall prepare a Final Water Quality Management Plan in accordance with the California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011. The WQMP shall identify if the project meets the criteria of a Priority Development Project and identify project Site Design BMP's and Treatment Control BMP's as applicable. The WQMP shall be reviewed and approved by the City Engineer.	Prior to the Issuance of a Grading Permit	
PW.Storm.10	The applicant shall execute a Stormwater Management Facilities Agreement on terms agreed to by the parties guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be recorded with the Riverside County Recorder and run with the land.	Prior to the Issuance of a Grading Permit	
PW.Storm.11	The applicant shall file a LOMR as required by FEMA to remove the project site from the mapped floodplain in accordance with the preliminary floodplain studies prepared during project entitlement.	Prior to the Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.12	The applicant shall identify and include in its improvement plans structural and non-structural Best Management Practices (BMP's) as outlined in the Final Water Quality Management Plan (WQMP).	Prior to the Issuance of a Grading Permit	
PW.Storm.13	Drainage easements, as necessary, shall be shown and dedicated to the City of Banning on the Final Map.	Prior to Recordation of Final Map	
PW.Storm.14	As required in MMRP **MM BIO-3:** Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.	Prior to the Issuance of a Grading Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Storm.14 (cont'd)	Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting. • A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.	Prior to the Issuance of a Grading Permit	
PW.Storm.15	Applicant shall make pipeline repairs necessary within the required improvement limits as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Storm.16	Applicant shall provide GIS shape files for all roadway centerlines to the City of Banning Public Works Department for inclusion in the GIS database.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.01	All street designs shall comply with City of Banning standard drawings where available. If no City standard is available applicant may select standards in the following order: 1 - City of Banning Standards 2 - Riverside County Standard Drawings 3 - 'Greenbook' Standard Drawings 4 - Caltrans Standard Drawing 5 - Other published standards, subject to approval from the City Engineer. Any standard drawing other than City of Banning standards shall be included on the improvement plan set as reference.	Informational	
PW.Street.02	All street designs shall provide pavement and lane transitions per City of Banning and Caltrans standards for transitions to existing street sections.	Informational	
PW.Street.03	Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.	Informational	
PW.Street.04	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.	Informational	
PW.Street.05	Applicant's geotechnical engineer shall provide the design of the pavement section and field measured "R-Values" based upon the Caltrans Method.	Informational	
PW.Street.06	Street pavement design shall take into account the subgrade soil strength, the projected traffic loading, and have a design life of 20 years.	Informational	
PW.Street.07	Minimum AC Thickness for any roadway shall be 4" AC, completed in 2 lifts. Final lift shall be a 0.15-foot cap completed after onsite construction is completed.	Informational	
PW.Street.08	A minimum of 36' of asphalt pavement are required for all new roadways. For LOCAL, COLLECTOR, DIVIDED COLLECTOR, and ARTERIAL HIGHWAY S, applicant shall provide additional pavement opposite the street centerline of the project to meet the 36' pavement requirement.	Informational	
PW.Street.09	A minimum width of 20 feet for a paved or all weather emergency access in accordance with Riverside County Fire Department Technical Policy #TP 15-002.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.10	Applicant shall provide horizontal and vertical site distance calculations for review and approval by the City Engineer. Safe horizontal traffic sight distances and vertical curve sight distances shall be maintained regardless of street intersection angles, street grades, landscaping, or the lot configuration shown on the approved tentative tract map, as follows: - All vertical curve sight line design shall be per the Caltrans Design Manual (Figures 201-latest, Topic 405-latest, et al). The vertical curve design speed along with the requisite vertical curve geometric data shall be shown on the improvement-drawing sheet where the curve occurs. - All horizontal curve sight line design shall be per Riverside County Standards (Plates 114, 821, et al). Horizontal curve design speeds along with the related geometric data shall be tabulated on the improvement drawing sheets where the curves occur. - Horizontal and vertical sight distances shall be maintained even if such compliance results in reconfigured lots and/or a reduction in the lot count shown on the approved tentative map. City of Banning Ordinances shall be met while achieving the required safety requirements.	Informational	
PW.Street.11	In accordance with the California Building Code, Title 24, and the requirements of the Americans with Disabilities Act (ADA), facilities for disabled persons shall be constructed in locations specified by the City Engineer (i.e., accessible paths of travel, curb ramps, etc.).	Informational	
PW.Street.12	Parking areas shall be designed and improved with grades not to exceed five percent slope. All applicable ADA standards will be adhered to.	Informational	
PW.Street.13	The street improvement plans shall include details for all ADA ramps, indicating elevations and grades in accordance with City of Banning standard drawings at a scale of 1”=5’ or larger if necessary.	Informational	
PW.Street.14	ADA Ramps shall comply with City of Banning Standards and adopted PROWAG guidelines, whichever is stricter.	Informational	
PW.Street.15	All streets shall have a maximum grade of 15 percent. Wherever feasible street grades should be kept to 10 percent or less.	Informational	
PW.Street.16	Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.	Informational	
PW.Street.17	Commercial/Industrial driveway grades shall not exceed eight percent unless approved by the City Engineer.	Informational	
PW.Street.18	Traffic improvements shall adhere to the criteria shown in the approved Traffic Impact Analysis, Environmental Impact Report, and Mitigation and Monitoring Reporting Program.	Informational	
PW.Street.19	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 raise pavement markers at fire hydrants), and street name signs.	Informational	
PW.Street.20	All existing overhead utility lines located on or adjacent to the site shall be undergrounded prior to public improvement acceptance and surety release, to the satisfaction of the Public Works Director, including but not limited to, electrical distribution, telephone, and cable lines, with the exception of electric utility lines over 55 kV in accordance with Ordinance 1500.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.21	Project shall incorporate facilities included the adopted Active Transportation Plan, including bike lane facilities.	Informational	
PW.Street.22	Wilson Street (East of O'Donnell Street): Complete full width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (110' ROW, 86' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes.	Informational	
PW.Street.23	Wilson Street (West of O'Donnell Street): Construct half width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (55' half width ROW, 43' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lane.	Informational	
PW.Street.24	O'Donnell Street: Construct partial width street improvements for DIVIDED COLLECTOR roadway per City of Banning Standard ST100 (min. 39' half width ROW, 28' curb to CL) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes	Informational	
PW.Street.25	Nicolet Street: Construct Nicolet Street from Hathaway Street to O'Donnell Street as an offsite access road in accordance with Riverside County Fire Department Technical Policy TP22-002 with a minimum 24' AC Paving with a structural section designed to carry project truck traffic. Applicant shall provide right of way or easement rights associated with this offsite roadway improvement.	Informational	
PW.Street.26	Cottonwood Ave is designated as an Arterial Highway in the City of Banning Circulation Element, with a future interchange connection to Interstate 10, and shall be designed in such a manner to allow for the ultimate overcrossing of Interstate 10. Cottonwood Ave: Half width street improvements for ARTERIAL HIGHWAY roadway per City of Banning Standard ST101.1 (110' ROW, 86' curb to curb) including the following: Curb and Gutter, AC Pavement, Driveways, Street Lighting, Sidewalk, Parkway Landscaping, Traffic Signs, Roadway Striping, Painted Median, Class 2 Bike Lanes. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Informational	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.27	Applicant shall submit and obtain written approval from the City Fire Marshall for the plans for all public or private access drives or streets. The plans shall include plan view and sectional views and indicate the grade and width of the road measured from 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 City Fire Marshall. Applicable covenant, conditions or restrictions (CC&R's) 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 from the Fire Marshall is granted.	Prior to Grading Permit	
PW.Street.28	COTTONWOOD AVE ALIGNMENT STUDY: Applicant shall process an alignment study for the ultimate plan and profile for Cottonwood Ave along the project's frontage that would accommodate the ultimate overcrossing and interchange at I-10. Study shall be concurrently processed by Caltrans and the City of Banning. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Grading Permit	
PW.Street.29	Applicant shall prepare plans to fully implement requirements in the Traffic Impact Analysis for the project. Intersection improvements shall be designed for the ultimate condition. Improvement Plans shall indicate any right of way requirements that exceed the minimum City of Banning standards. THIS CONDITION SHALL BE BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Recordation of Final Map	
PW.Street.30	Applicant shall provide proposed development plans to the City of Banning Transit Department for review and consideration of bus routing and bus stops. If a bus stop is required Wilson Street, applicant shall provide a Bus Turnout per Riverside County Standard Plan 814, necessary rights of way, bus shelter, trash receptacles, and signage.	Prior to Recordation of Final Map	
PW.Street.31	A line item shall be included in the Construction Security Worksheet for the personnel needed for twenty-four hours a day, seven days per week for tending and maintaining all construction signage and safety apparatus. To the best extent possible, a person should be available twenty-four hours a day and seven days a week. The police department and fire department shall have access to the phone number. If there is a public concern, any person can contact the police/fire department who will be able to get a hold of the personnel. The personnel shall be available as on-call and the telephone number for the on-call person shall be publicly available at the Banning Police and Fire Departments. The City of Banning's construction inspectors shall have the authority to stop the work in progress until the safety signage/lighting has been restored to a condition acceptable to said inspector.	Prior to Recordation of Final Map	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.32	HARGRAVE STREET AND I-10 WESTBOUND RAMPS: The project traffic impact analysis indicates that the intersections of Hargrave Street and Interstate-10 will operate below acceptable levels with the additional of project traffic, and that the impact can be mitigated with the installation of a traffic signal. Applicant shall prepare and process plans with Caltrans for the installation of a traffic signal at this intersection. Issuance of an encroachment permit by Caltrans is required prior to the issuance of a building permit. Applicant shall construct the traffic signal at this intersection and have it operational prior to a Certificate of Occupancy. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Building Permit - Prior to Certificate of Occupancy	
PW.Street.33	HARGRAVE STREET AND I-10 EASTBOUND RAMPS: The project traffic impact analysis provides that the project contributes to the ultimate traffic at this intersection, with 32.2% fair share cost for the installation of a traffic signal and 29.5% for the addition of a southbound left turn lane. Applicant shall prepare and process plans with Caltrans for the installation of a traffic signal and striping at this intersection. Issuance of an encroachment permit by Caltrans is required prior to the issuance of a building permit. Applicant shall construct the traffic signal at this intersection and have it operational prior to a Certificate of Occupancy. Applicant is eligible for DIF reimbursement for project costs above the stated fair share requirements and may enter into a Reimbursement Agreement with the City of Banning for this work. THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Building Permit - Prior to Certificate of Occupancy	
PW.Street.34	FAIR SHARE IMPROVEMENTS: The project traffic impact analysis provides that the project contributes to the ultimate traffic at Hathaway and Nicolet. The study assumes 67.9% fair share cost for the installation of a traffic signal and 71.6% to restripe the southbound approach to provide one left turn lane and one shared through-right turn lane. Applicant shall prepare and construct the improvements listed above, and may enter into a reimbursement agreement with the City of Banning for the balance of the project costs to be reimbursed to the developer as other fair share contributions for the intersection are received by the City of Banning.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.35	A Traffic Control Plan shall be submitted for review and approval by the City Engineer. The Traffic Control Plan shall be prepared by a California Registered Traffic Engineer or Civil Engineer experienced in this type of plan preparation. Traffic control shall be included as a line item in the Engineer's Estimate for bonding purposes. No construction shall be allowed prior to the approval of this plan.	Prior to Encroachment Permit	
PW.Street.36	Street lights shall be installed in accordance with the City of Banning Electric Department Standards. A detailed lighting plan shall be submitted for review and approval by the City's Electric Department and City Engineer prior to recordation of Final Maps. The plan shall indicate style, illumination, location, height and length of mast arm.	Prior to Encroachment Permit	
PW.Street.37	FRONTAGE IMPROVEMENT CONDITIONS FOR COTTONWOOD AVE - THIS CONDITION SHALL NOT APPLY, BASED ON THE PROJECT DEVELOPMENT AGREEMENT NEGOTIATIONS AND THE PUBLIC BENEFITS PROVIDED THEREIN.	Prior to Certificate of Occupancy	
PW.Street.38	As required in MMRP **GHG-1**, please include the following note on Street Improvement Plans: Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.	Prior to Certificate of Occupancy	
PW.Street.39	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.	Prior to Certificate of Occupancy	
PW.Street.40	All required public improvements for the project shall be completed, tested, and approved by City of Banning and/or other governing agency to the satisfaction of the City Engineer or their designee.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Street.41	Applicant shall install all street name signs, striping, and related signage as shown on the approved plans to the satisfaction of the City Engineer and Public Works Director.	Prior to Certificate of Occupancy	
PW.Street.42	HATHAWAY STREET IMPROVEMENTS: The following shall be completed to the satisfaction of the City Engineer: •Along the west side of N Hathway Street between E Williams Street and E George Street, install City standard sidewalk behind curb and gutter, and install city standard curb ramps at intersections. Install new residential driveways as necessary to maintain access to existing driveway locations. •Within the existing right-of-way and pavement along the west side of N Hathway Street between E Williams Street and future Wilson Street, install striping for a new 6 ft. bike lane. •Within the existing right-of-way and pavement along the east side of N Hathway Street between E Williams Street and existing Nicolet Street, install striping for a new 6 ft. bike lane. •At the intersection of E Jacinto View Road and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Jacinto View Rd •At the intersection of E Nicolet Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Nicolet Street •At the intersection of E George Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E George Street	Prior to Certificate of Occupancy	
PW.Street.43	HARGRAVE STREET AND RAMSEY STREET OPERATIONAL STUDY: Applicant shall prepare an operational analysis of the intersection of Ramsey and Hargrave, including striping, turn pockets, and signal operations based on the project traffic study for review by the Public Works Department to the satisfaction of the City Engineer and implement recommendations prior to the issuance of a Certificate of Occupancy.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.LS.01	The applicant shall be required to enter into a Landscape Maintenance Agreement for the perpetual maintenance of landscaping within the public right-of-way fronting the project sites.	Informational	
PW.LS.02	Prior to laying of the aggregate base layer for any new streets, all landscaping irrigation services (or sleeves to accommodate said services) shall be installed. Street cut permits may be denied and alternate methods may be required for any construction within a street that was accepted by the City within the prior five years.	Informational	
PW.LS.03	The applicant shall plant and maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public rights-of-way, and median islands constructed in connection with the project in accordance with applicable City standards until maintenance of such area is turned over to Property Owners Association. This includes ensuring that irrigation systems are operating properly, the clearing of debris, and regular weed removal.	Informational	
PW.LS.04	Landscape and irrigation plans for all required facilities shall be submitted for approval. The final design of the parkways, walls, landscaping, and sidewalks shall be included in the plans and shall be subject to approval by the Community Development Director and City Engineer.	Informational	
PW.LS.05	All landscape improvements within public right of way shall be compliant with the City of Banning MWELO guidelines.	Informational	
PW.LS.06	Applicant shall prepare and submit to the City of Banning Public Works Department landscape and irrigation for approval	Prior to Encroachment Permit	
PW.LS.07	An automatic sprinkler system and landscaping shall be installed, within the common areas including perimeter slopes and perimeter streets. Each system shall include a smart landscape irrigation controller (including remote communication), 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.	Prior to Certificate of Occupancy	
PW.LS.08	As required in MMRP **MM GHG-4**, please include the following note on Landscape and Irrigation Plans: Prior to the to issuance of Certificate of Occupancy, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.	Prior to Certificate of Occupancy	
PW.LS.09	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.	Prior to Surety Release	
PW.LS.10	Applicant shall provide GIS shape files for all irrigation lines and appurtenances including street crossings to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Wat.01	All public potable water improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.	Informational	
PW.Wat.02	All private potable water improvement shall be designed and constructed per California Building Code, California Plumbing Code, and California Fire Code, latest editions. All private improvements shall be concurrently reviewed by the Building and Safety Department.	Informational	
PW.Wat.03	All private fire suppression systems shall be reviewed and approved by the City Fire Marshall.	Informational	
PW.Wat.04	Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.	Informational	
PW.Wat.05	A water improvement plan shall be submitted, separate from grading or site plans, showing proposed water service connection sizes and locations, including separate laterals for irrigation and fire protection. Both the domestic and irrigation water services will require the installation of a RP backflow protection device.	Informational	
PW.Wat.06	Applicant shall provide detail water demand and hydraulic calculations for use in sizing laterals, meters, backflows, and booster pumps as necessary, and for annual indoor and outdoor usage.	Informational	
PW.Wat.07	All water mains and fittings shall be a minimum of 8-inch in diameter and shall be DIP. Water line easements shall be a minimum width of 20 feet if installed outside of right-of-way or public utility easement.	Informational	
PW.Wat.08	Fire hydrants shall be installed within the right of way of the Parcel Map boundaries as per approved plans, at a 300-foot maximum spacing.	Informational	
PW.Wat.09	The fire service with require a RPDA backflow protection device. Private fire hydrants shall be painted red, and approval of location and materials to be coordinated with the Fire Department.	Informational	
PW.Wat.10	A backflow device must be installed on all common-area buildings and at each irrigation water connection. The backflow device must be in compliance with City of Banning standards and specifications.	Informational	
PW.Wat.11	Any utility work associated with the development that disturbs roadways constructed in the previous 5 years shall include full cross section grind and overlay for trench repair tasks.	Informational	
PW.Wat.12	Prior to recordation of the final parcel map, associated improvement plans for potable water facilities shall be submitted to the City for review and approval and shall be substantially complete to the satisfaction of the City Engineer.	Prior to Recordation of Final Map	
PW.Wat.13	Potable water easements, as necessary, shall be shown and dedicated to the City of Banning.	Prior to Recordation of Final Map	

COA #	Condition of Approval	Completion Milestone	Status
PW.Wat.14	Submit a hydraulic analysis report demonstrating adequate pressures throughout the project's water system during max day demand (MDD) with fire flow conditions. The hydraulic analysis, based on the City's latest calibrated water model, shall identify when and if additional facilities would be required to meet Project water demands. The study shall assume that 2 sources of water are necessary, and identify any offsite water improvements required to meet required project flows.	Prior to Encroachment Permit	
PW.Wat.15	All required water lines and fire hydrants shall be installed and made operable before any building permits are issued. This may be done in phases if the construction work is in progress for emergency vehicles.	Prior to Building Permit	
PW.Wat.16	Applicant shall make pipeline repairs within the required improvement plans necessary as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Wat.17	Applicant shall provide GIS shape files for all potable water lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Sew.01	All public sewer improvements shall be constructed per City of Banning Standards and Specifications, Standard Specifications for Public Works Construction, current edition, or as otherwise approved in writing by the City Engineer.	Informational	
PW.Sew.02	Applicant shall install facilities within public rights of way. Where public right of way is not available, applicant shall provide easement rights to the City of Banning covering existing and proposed facilities necessary for the project.	Informational	
PW.Sew.03	All sewer lines to be constructed within the public right-of-way shall be extra strength Vitrified Clay Pipe (VCP). All sewer mains shall be minimum of 8 inches in diameter. Any sewer main greater than 15-inches (15”) shall be extra strength VCP. Any sewer with more than 15’ cover (FG/FS to top of pipe) shall be extra strength VCP. Final sizes shall be approved by the City Engineer based on calculations submitted by the design engineer accounting for ultimate discharge flows for phase and all upstream areas. Sewer line easements shall be a minimum of 20 feet wide if installed outside of right-of-way or public utility easement.	Informational	
PW.Sew.04	Any sewer force main shall be Ductile Iron Pipe with internal epoxy coating. Sizing to be determined by hydraulic analysis of the proposed lift station.	Informational	
PW.Sew.05	Each developed parcel shall have its own sewer lateral and shall be PVC SDR 26.	Informational	
PW.Sew.06	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.	Informational	
PW.Sew.07	Any pad with an elevation lower than the nearest upstream manhole rim elevation shall require a backwater valve.	Informational	
PW.Sew.08	Sewer mains shall maintain a straight alignment from manhole to manhole whenever feasible. The required radius, when necessary, shall be achieved by use of deflection at the joint with VCP pipe, following manufacturer’s guidelines.	Informational	
PW.Sew.09	The City of Banning will not permit any forced sewer system maintained by any entity other than the City of Banning within City of Banning rights of way. Private sewer pumps to public force main is not permitted.	Informational	
PW.Sew.10	Any utility work associated with the development that disturbs roadways constructed in the previous 5 years shall include full cross section grind and overlay for trench repair tasks.	Informational	
PW.Sew.11	Prior to recordation of the final parcel map, associated improvement plans for sewer facilities shall be submitted to the City for review and approval and shall be substantially complete to the satisfaction of the City Engineer.	Prior to Recordation of Final Map	
PW.Sew.12	Sewer easements within the required improvement plans and as necessary, shall be shown and dedicated to the City of Banning on the Final Map.	Prior to Recordation of Final Map	
PW.Sew.13	Applicant shall provide plans and capacity studies for a sewer pump station to be located on Lot D as shown on the Tentative Parcel Map. The sewer lift station shall be designed to municipal standards and will be dedicated and operated by the City of Banning Wastewater Utility.	Prior to Encroachment Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Sew.14	Applicant will construct sewer force main from the proposed sewer lift station to a connection point on the existing City of Banning gravity sewer main.	Prior to Encroachment Permit	
PW.Sew.15	Applicant shall fill out and submit an Industrial User Survey form and an Industrial Waste Permit application.	Prior to Encroachment Permit	
PW.Sew.16	Submit Sewer Improvement Plans along with the infrastructure phasing plan to the City Engineer for review and approval.	Prior to Encroachment Permit	
PW.Sew.17	The applicant shall inspect with CCTV all new public sewer mains and submit to the City for review and approval prior to surety release and acceptance of sewer improvements.	Prior to Release of Surety	
PW.Sew.18	Applicant shall make pipeline repairs within the required improvement plans as identified by the City Engineer or City Inspector for City acceptance of facilities.	Prior to Release of Surety	
PW.Sew.19	Applicant shall provide GIS shape files for all sewer lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Release of Surety	

COA #	Condition of Approval	Completion Milestone	Status
PW.Electric.01	The Developer will be responsible for the cost of all electric distribution facilities and related infrastructure needed to serve the development's project. The Developer may be required to execute one or more line extension agreements with the City of Banning Electric Utility ("Utility") providing for the installation, construction, improvement, and dedication of the utility system following approval of Tentative Parcel Map.	Informational	
PW.Electric.02	Areas/Locations will be required for onsite electric distribution equipment, pad mounted transformer(s), vault(s) & service equipment etc. The areas/locations must be sufficient for safe operation and maintenance of the electric utility equipment. The infrastructure installed shall be adequate to support power delivery to each facility within the project. The Developer shall provide and install all conduits, vaults, and other materials associated with electric utility installations. The Utility will provide pad-mounted equipment, cables, and their terminations at the Developer's cost.	Informational	
PW.Electric.03	All electric utility equipment including but not limited to poles, substructures, transformers, pad mounted switch(es), meter(s) and/or metering equipment shall have adequate working clearances per Utility requirements. Some trees and bushes shown on the landscape plan might be eliminated.	Informational	
PW.Electric.04	The Utility own and operates several electric facilities consisting of 69/34.5kV delivery, 12.47kV distribution, and fiber optic communication facilities that surround this project. It will be the Developer's responsibility to facilitate a design and construction for interconnection, relocation, and undergrounding of these utility assets within the Final Map improvement limits and coordination with the Electric Utility will be required for any said interconnection and relocation to accommodate new building/facility placement or new right-of-way alignment/setback.	Informational	
PW.Electric.05	Streetlight and streetlight infrastructure required by Public Works and/or the City shall be installed by the developer, including any necessary metering equipment, and are assumed to be publicly owned and to be maintained by the Utility.	Informational	
PW.Electric.06	The Developer will be required to adhere to all requirements and guidelines within the City of Banning Electric Utility General Commercial Service Requirements.	Informational	
PW.Electric.07	Prior to the issuance of a grading permit, electric utility infrastructure backbone plans for this project must be completed.	Prior to Grading Permit	
PW.Electric.08	Prior to constructing the Utility's electric distribution system, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the Utility. It will also be required that the developer follow the Electric Utility Maps & Records requirements. This will allow the utility to assist with the review of distribution plans completed by the Developer and provide a cost estimate(s) to service the project. Design conditions and requirements to serve the project with electricity shall be discussed and reviewed following approval of the Parcel Map.	Prior to Encroachment Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Electric.09	The Utility will require adequate easements needed to serve the project. An easement is described as an area behind sidewalk and outside of the boundaries of the right-of-way (R/W). Easements will be required for vaults, conduits, streetlights and pad mounted transformers and switches and any other electric distribution equipment outside of the R/W. Adequate easements will be required to serve all parcels of this project. These easements shall be offered for dedication to the City of Banning for public utility purposes. A non-exclusive easement shall be provided to the City of Banning to include the installation of electric distribution facilities within all common areas.	Prior to Encroachment Permit	
PW.Electric.10	Prior to the issuance of a building permit, electric utility infrastructure (conduits, vaults, etc.) must be completed as well as any temporary or permanent electric infrastructure to supply power to each parcel as constructed. The developer will be required to submit load calculations and execute one or more Electric Service Agreements for each building or parcel.	Prior to Building Permit	
PW.Electric.11	All plans for electric vehicle charging station infrastructure and distributed energy resources must be discussed with the Utility for review and approval.	Prior to Building Permit	
PW.Electric.12	Applicant shall provide GIS shape files for all potable water lines and appurtenances including service laterals to the Public Works Department for inclusion in the GIS Database.	Prior to Surety Release	

COA #	Condition of Approval	Completion Milestone	Status
PW.Refuse.01	Effective January 1, 2022, all businesses shall subscribe to City's three-container (trash, recycling, organics), Collection Services per Banning Municipal Code, Title 8.28, "Garbage Collection and Disposal" unless a City approved exemption is granted. Information on the program is available on the City of Banning website and made available at the following link: https://library.municode.com/ca/banning/codes/code_of_ordinances.	Informational	
PW.Refuse.02	Applicant shall comply with the City of Banning Trash and Recycling Enclosure Design Guide	Informational	
PW.Refuse.03	Applicants are required to use the City's exclusive franchise hauler (Waste Management) unless otherwise approved in writing by the Public Works Department.	Informational	
PW.Refuse.04	Construction debris shall be disposed of at a certified recycling site. It is the responsibility of the developer to contact the City's franchised solid waste hauler, Waste Management of the Inland Valley, at 1-800-423-9986 for disposal of construction debris.	Informational	
PW.Refuse.05	Applicants are encouraged to review the referenced sections in the 2019 California Green Building Standard Code: HTTPs://calgreenenergyservices.com/wp/wp-content/uploads/2019_california_green_code.pdf	Informational	
PW.Refuse.06	Applicants shall submit a Construction and Demolition Waste Diversion Plan to the City's Solid Waste Program Coordinator (SWPC) prior to commencement of construction or demolition. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a plan template.	Prior to Demolition AND/OR Prior to Building Permit	
PW.Refuse.07	The developer shall participate in the City's recycling and diversion programs by providing a solid waste enclosure to accommodate necessary solid waste containers.	Prior to Building Permit	
PW.Refuse.08	All new development projects including, but not limited to, industrial and business buildings and facilities, as well as multi-family complexes shall provide a solid waste enclosure to accommodate trash, recycle and organics waste bins and/or containers. Solid waste enclosures for multiple tenant properties, such as a shopping center, must design the enclosure to accommodate all waste containers of the property.	Prior to Building Permit	
PW.Refuse.09	Solid waste enclosures shall be located on the site to be serviced.	Prior to Building Permit	
PW.Refuse.10	The enclosure shall be designed for the exclusive use of housing solid waste containers including trash, recyclable and organics materials.	Prior to Building Permit	
PW.Refuse.11	Enclosures shall be lockable and/or contain locking bins. Locking mechanisms on enclosures and/or bins shall be approved by the City of Banning Solid Waste Franchise Hauler.	Prior to Building Permit	

COA #	Condition of Approval	Completion Milestone	Status
PW.Refuse.12	As required in MMRP **GHG-3**, please include the following note on Building Plans: The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.	Prior to Certificate of Occupancy	
PW.Refuse.13	As required in MMRP **RCM AIR-4**, please include the following note on Building Plans: Materials and Spoils Control. Development Project materials will not be cast from the Development Site, and Development Project related debris, spoils, and trash will be contained daily and removed to a proper disposal facility.	Prior to Building Permit	
PW.Refuse.14	As required in MMRP **MM GHG-1**, please include the following note on Building Plans: Provide separate recycling bins within each commercial/industrial building and provide large external recycling collection bins at central locations in the commercial and industrial land uses for collection truck pickup. Provide a commercial recycling/composting program that provides 70 percent diversion of waste for the commercial land uses. Provide an industrial recycling program that provides 80 percent diversion of waste for the industrial land uses.	Prior to Building Permit	
PW.Refuse.15	Pursuant to CAL Green Building Standards Code section code 5.408. Construction and demolition wastes must be recycled and or salvaged for a reuse minimum of 65% of nonhazardous construction demolition waste materials. All projects require construction waste reduction, disposal and recycling services that comply with the 2019 California Green Building Standards Code (CALGreen) as described in the Non-Residential (5.408).	Prior to Certificate of Occupancy	
PW.Refuse.16	187.Applicants shall submit a Construction and Demolition Waste Diversion Reporting Form to the City's Solid Waste Program Coordinator upon completion of the project to obtain diversion approval prior to final sign-off. Contact the SWPC at hstuart@banningca.gov or 951.922.3193 for further details and to obtain a report form template.	Prior to Certificate of Occupancy	

COA #	Condition of Approval	Completion Milestone	Status
PW.Fees.01	All fees must be paid in full at the thresholds identified below. Plan check fees for professional report review and all improvement plan reviews shall be paid at the time of submittal of said documents in accordance with the fee schedule in effect at the time of the submittal.	Informational	
PW.Fees.02	Applications submitted without full payment of fees are deemed incomplete. Plan review will not commence until all fees are paid.	Informational	
PW.Fees.03	Evidence of paid fees to agencies outside the City of Banning is required prior to the issuance of any applicable permit.	Informational	
PW.Fees.04	Public Works Grading Permit fees (including fees for NPDES inspections) shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.	Prior to Grading Permit	
PW.Fees.05	Public Works Encroachment Permit and Inspection fees shall be paid prior to the issuance of any permits in accordance with the fee schedule in effect at the time of scheduling.	Prior to Encroachment Permit	
PW.Fees.06	Water Meter fees and installation fees shall be paid in full prior to installation of any water meter in accordance with the fee schedule in effect at that time.	Prior to Installation	
PW.Fees.07	Water connection fees shall be paid in accordance with the fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	
PW.Fees.08	Sewer connection fees shall be paid in accordance with the fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	
PW.Fees.09	Traffic Impact fees shall be paid in accordance with the Development Impact Fee schedule in effect at that time, unless otherwise specified in the Development Agreement.	Prior to Building Final/C of O	

RESOLUTION 2025-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, CERTIFYING AN ENVIRONMENTAL IMPACT REPORT ("EIR"), ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM ("MMRP") FOR THE BANNING COMMERCE CENTER PROJECT INVOLVING A DESIGN REVIEW APPLICATION, CASE DR 21-7017, FOR THE CONSTRUCTION OF A 1,320,284-SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING ON 131.28-ACRES OF LAND GENERALLY LOCATED NORTH OF THE I-10 FREEWAY/E. RAMSEY STREET, EAST OF N. HATHAWAY STREET AND BISECTED BY WILSON STREET, WITHIN THE BUSINESS PARK ZONE.

WHEREAS, Sansone Group submitted applications for a Design Review (Case DR 2021-7017), Tentative Parcel Map (Case TPM 38756), and Development Agreement with the City of Banning, for the development of industrial uses within a proposed 1,320,204-square foot building on a 131.28-acre project site located north of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and bisected by Wilson Street on assessor's parcel numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 (collectively, the "Project"); and

WHEREAS, pursuant to Section 17.04.060.A. of the Banning Zoning Ordinance (BZO), the City Council has the authority to review and approve or conditionally approve the subject applications, including determinations on any associated environmental impacts in accordance with the California Environmental Quality Act (CEQA) for the Project; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines Sections 15064(f)(2) and 15070, the proposal constitutes a project as defined by CEQA and Community Development Department staff has determined that the Project is likely to have a significant effect on the environment; and

WHEREAS, based upon the complexity and magnitude of the proposed Project, staff determined that an Environmental Impact Report should be prepared for the Project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comment on the Project's potential impact(s) on the environment; and

WHEREAS, the State of California Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impact; and

WHEREAS, the Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022

providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project, required actions, and the environmental review process. No public comments were received during the Scoping Meeting; and

WHEREAS, the Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory; and

WHEREAS, a Notice of Availability (NOA) of the Draft EIR was provided to, responsible and trustee agencies, as well as the organizations, and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR; and

WHEREAS, during the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project; and

WHEREAS, in accordance with the disclosure requirements of CEQA Guidelines Section 15072(g)(5), the Project site is not listed as a hazardous property as designated under Section 65962.5 of the Government Code; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on February 21, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to recommend that the City Council adopt a Final Environmental Impact Report (FEIR) for the Project. The public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on February 20, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on March 5, 2025, the Planning Commission held the duly noticed public hearing at which

interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the Planning Commission considered the entirety of the Project and voted 3-2 to recommend that the City Council approve the subject applications and certify the EIR; and

WHEREAS, in accordance with Government Code Sections 65353, 65854, 65090, and 65091, on June 27, 2025, the City provided public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project, and Notice of Intent (NOI) to adopt a Final Environmental Impact Report (FEIR) for the Project. Said public hearing notice/NOI was also mailed to the owners of the subject properties within 300-feet of the Project boundary on June 26, 2025; and

WHEREAS, in accordance with Government Code Sections 65353 and 65855, on July 8, 2025, the City Council held the duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the Project and at which time the City Council considered the entirety of the Project, including the EIR, CEQA Findings, and the Mitigation Monitoring and Reporting Plan.

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

SECTION 1. RECITALS. The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2. MSHCP. The Project is found to be consistent with the Multi-Species Habitat Conservation Program (MSHCP). The Project site is not located in a criteria cell, but incorporates mitigation measures consistent with requirements of the MSHCP to mitigate impacts on Burrowing Owls, sensitive bird species, and riverine resources through pre-construction surveys, implementation procedures during grading, on-site mitigation, and other measures set forth in the MMRP, Exhibit 3.

SECTION 3. OVERRIDING CONSIDERATIONS. To the extent that the significant effects of the Project are not avoided or substantially lessened to below a level of significance, the City of Banning, having reviewed and considered the information contained in the EIR and the public record, and having balanced the benefits of the Project against the unavoidable effects which remain, finds that such unmitigated effects to be acceptable in view of twelve overriding considerations identified in Exhibit 2. Although significant impacts will remain, the City will mitigate any significant adverse impacts to air quality, greenhouse gas (GHG) emissions, and transportation (vehicle miles traveled) to the maximum extent practicable. In its decision to approve the Project, the City has considered the Project benefits to outweigh the environmental impacts.

SECTION 4. CEQA DETERMINATION. The City Council, based on its independent judgement and analysis, has reviewed and considered the proposed Project and determined, based on the whole record before it, including the EIR, that the proposed

Project will have a significant impact on environment, and hereby makes the CEQA Findings, including the approval of a Statement of Overriding Considerations, as set forth in Exhibit 2; hereby certifies the EIR as set forth in Exhibit 1; and hereby adopts the MMRP as set forth in Exhibit 3, in full compliance with the requirements of CEQA for the Project.

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, APPROVED AND ADOPTED this 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-107, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT 1
Environmental Impact Report

(This document is on file with the City Clerk and currently available online here:

https://engagebanning.civilspace.io/en/projects/banning-commerce-center

)

EXHIBIT 2
Statement of Overriding Considerations

Banning Commerce Center
CEQA Findings of Fact and Statement of Overriding Considerations
SCH No. 2022090102

1.0 STATEMENT OF FACTS AND FINDINGS

1.1 Introduction

The California Environmental Quality Act ("**CEQA**") requires that a Lead Agency issue two sets of findings prior to approving a project that will generate a significant impact on the environment. The Statement of Facts and Findings is the first set of findings where the Lead Agency identifies the significant impacts, presents facts supporting those conclusions reached in the analysis, makes one or more findings supporting the conclusions reached in the analysis, makes one or more findings for each impact, and explains the reasoning behind the agency's findings.

The following statement of facts and findings has been prepared in accordance with the CEQA and Public Resources Code Section 21081. CEQA Guidelines Section 15091(a) provides that:

> *No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.*

There are three possible finding categories available for the Statement of Facts and Findings pursuant to Section 1509(a) of the CEQA Guidelines.

(1) Changes or alterations have been required in or incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The Statement of Overriding Considerations is the second set of findings. Where a project will cause unavoidable significant impacts, the Lead Agency may still approve a project where its benefits outweigh the adverse impacts. Further, as provided in the Statement of Overriding Considerations, the Lead Agency sets forth specific reasoning by which benefits are balanced against effects and approves the project.

Based upon its review of the Environmental Impact Report ("**EIR**"), the Lead Agency finds that the EIR is an adequate assessment of the potentially significant environmental impacts of the Project, represents

the independent judgment of City of Banning ("**City**"), and sets forth an adequate range of alternatives to this project.

The Final EIR is composed of the following elements:

- Banning Commerce Center Project Draft Environmental Impact Report, State Clearinghouse No. 2022090102 (June 2024);
- Mitigation Monitoring and Reporting Program;
- Response to Comments; and
- Corrections and Changes from the Draft EIR to the Final EIR.

2.0 PROJECT SUMMARY

2.1 Description of Project Proposed for Approval

The Banning Commerce Center Project ("**Project**") is generally located within the eastern portion of the City of Banning, within the County of Riverside. Regional access to the Project site is available from Interstate 10 (I-10) via Hargrave Street and Ramsey Street. Local access is provided by Hathaway Street, located east of the Project site; Wilson Street would be extended eastward as part of the Project and would bisect the northerly portion of the Project site. The Project site comprises eight Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, and 532-110-015.

The Project proposes the development of approximately 1,320,284 square feet of warehouse space (including office space) within one concrete tilt-up building. The Project also proposes associated facilities and improvements of the Project site including loading dock doors, on-site landscaping, and related on-site and off-site improvements.

The Project includes various discretionary approvals including applications for a Tentative Parcel Map (No. 38576), Design Review (21-7017), Development Agreement, and a Major Land Use Action Review.

2.2 Project Goals and Objectives

The fundamental purpose and goal of the Project is to implement the vision laid out in the Project objectives, by providing development standards and design guidelines to direct future development within the Project area. In order to promote a high-quality development, as well as the functional integrity, economic viability, environmental sensitivity, and positive aesthetic impact of the Project, specific planning and development objectives for the Project were identified:

Objective 1: Develop an industrial project that conforms to the City's General Plan and Municipal Code.

Objective 2: Provide a new development that will generate a positive fiscal balance for the City moving forward.

Objective 3: Design and build a Class-A institutional quality industrial project that will attract high end tenants and increase the City's tax base.

Objective 4: Generate employment opportunities within the City while improving the local balance of housing to job ratio.

Objective 5: Facilitate the movement of goods and services for the benefit of local and regional economic growth.

Objective 6: Develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway for employee convenience and efficiencies of transporting goods.

Objective 7: Develop a warehouse project which efficiently uses the property, while conforming with all City regulatory policies.

Objective 8: Improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements.

Objective 9: Provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks.

Objective 10: Provide the required infrastructure for Project operation for future growth and prosperity of the surrounding benefit area that will serve the immediate and long term needs of the community.

3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City has conducted an extensive review of this Project which included a Draft EIR and a Final EIR, including technical reports, along with a public review and comment period. The following is a summary of the City's environmental review of the Project:

- Pursuant to the provisions of Section 15082 of the CEQA Guidelines, the City published a Notice of Preparation ("**NOP**") and filed a copy with the California Office of Planning and Research State Clearinghouse to inform the general public, trustee and responsible agencies, and other interested parties that an EIR would be prepared for the Project. The NOP was distributed on August 29, 2022, with a 30-day public review period ending on September 28, 2022.
- The NOP was distributed for a 30-day public review period, which began on August 29, 2022. The NOP was recirculated on September 2, 2022. In addition, the City held a publicly-noticed EIR scoping meeting in person and remotely via Zoom on September 20, 2022. A total of eight comment letters were received in response to the NOP. The comment letters received during the NOP comment period along with the NOP are included in Appendix A of the Draft EIR.
- The scope of the Draft EIR was determined through the NOP and scoping meeting process, as well as through the preparation of an Initial Study. Through these processes, the environmental resource areas included in the State CEQA Guidelines, Appendix G that were found to not be significant were Agriculture and Forestry Resources, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, and Recreation. Public Services was analyzed within the

Draft EIR upon request by the Lead Agency. All remaining environmental resources areas included in the State CEQA Guidelines, Appendix G were analyzed in the Draft EIR.

- The City circulated the Draft EIR for the Project from June 14, 2024 to August 19, 2024. The City received a total of 14 comment letters from responsible agencies and other interested parties. The City prepared responses to all written comments received during the public review period. The comments and responses are contained in Section 2.0 of the Final EIR.
- In accordance with the provisions of Public Resources Code Section 21092.5, the City has provided a written proposed response to each commenting public agency no less than 10 days prior to the proposed certification date of the Final EIR.

4.0 INDEPENDENT JUDGMENT AND FINDING

The Project Applicant retained the independent consulting firm of Kimley-Horn and Associates, Inc. ("**Kimley-Horn**") to prepare the EIR for the Project. Kimley-Horn has prepared the EIR under the supervision, direction and review of the City. The City is the Lead Agency for the preparation of the EIR, as defined by California Public Resource Code Section 21067, as amended. The City of Banning City Council ("**Council**") has received and reviewed the EIR prior to certifying the EIR and prior to making any decision to approve or disapprove the Project. All findings set forth herein are based on substantial evidence in the record as indicated with respect to each specific finding.

4.1 Finding

The EIR for the Project reflects the City's independent judgment. The City has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c)(3) in retaining its own environmental consultant to review the EIR and directing the consultant in preparation of the EIR. The City has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of the City.

The Council has considered all the evidence presented in its consideration of the Project and the EIR, including, but not limited to, the Final EIR and its supporting studies, written and oral evidence presented at hearings on the Project, and written evidence submitted to the City by individuals, organizations, regulatory agencies, and other entities. On the basis of such evidence the Council finds that with respect to each environmental impact identified in the review process (except those described in the following paragraph), the impact is: (1) less than significant and would not require mitigation; (2) potentially significant but would be avoided or reduced to less than a significant level by implementation of identified mitigation measures; or (3) would be significant and not fully mitigatable but would be, to the extent feasible, lessened by implementation of identified mitigation measures.

The EIR also identifies certain significant adverse environmental effects of the Project which cannot be avoided or substantially lessened. Prior to approving this project, the Council also adopts a Statement of Overriding Considerations which finds, based on specific reasons and substantial evidence in the record (as specified in Section 6.0), that certain identified economic, social, or other benefits of the Project outweigh such unavoidable adverse environmental effects.

5.0 ENVIRONMENTAL IMPACTS AND FINDINGS

5.1 Effects Determined to be No Impact/Less Than Significant Impact in the EIR

The Council hereby finds that the following potential environmental impacts of the Project are less than significant or would result in no impact and therefore do not require the implementation of mitigation measures.

AESTHETICS

Impact 4.1-1: Would the Project have a substantial adverse effect on a scenic vista?

Basis for Conclusion: Scenic views from the City and Project site include the San Bernardino Mountains and San Gorgonio Peak located to the north, as well as the San Jacinto Mountains located to the south. These views provide an aesthetically pleasing natural backdrop for the City's residents. Buildout of the Project has the potential to obstruct views of the San Bernardino Mountains to motorists on I-10; however, considering that the Project would be within foreground views from 1-10, in addition to the dominating visual panoramic views of the San Bernardino Mountains, the disruption would be minimal and in short duration. As shown in the visual simulations contained in **Draft EIR Figures 4.1-1a-d**, Project buildings would not significantly impede the visibility of scenic vistas from street level or at various distances around the Project. Furthermore, the closest residences would be at a higher elevation than the top of the Project building and would be at a large distance away from the Project site, therefore making it impossible for the Project to obstruct views of nearby scenic resources. Through adherence to the City's Municipal code, distance between the Project and sensitive viewers, and the dominating panoramic scale of nearby mountain ranges, impacts to scenic vistas would be less than significant **(Draft EIR, p. 4.1-7)**.

Impact 4.1-2: Would the Project substantially damage scene resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

Basis for Conclusion: There are no officially designated state scenic highways within the City. Moreover, the Project site is not located close to a State-designated or eligible scenic highway, and thus the provisions of the California Scenic Highway Program do not apply. The nearest designated state scenic highway is a portion of State Route 243 (SR-243), approximately 1.6 miles southwest of the Project site. Although the Project's development would alter the landscape and natural vistas, construction and operation of the Project site would not substantially damage or obstruct a scenic resource (i.e., trees, rock outcroppings, or historic buildings) within a state scenic highway. As such, impacts that would occur are less than significant. **(Draft EIR, p. 4.1-12)**.

Impact 4.1-3: Would the Project, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Basis for Conclusion: The Project site is located in a nonurbanized area. Construction activities would result in a temporary change to the visual characteristics of the Project site as viewed from the surrounding uses from temporary grading, equipment staging, and associated building activities. Construction would be visible to distant residents on Hathaway Street and motorists on I-10. Residents to the west of the Project site would experience changes in the visual character during the Project site preparation, utility construction, and paving portions of construction while Wilson Street and parking lots on the western portion of the Project site are constructed. These disturbances would be temporary in nature and would cease upon completion of construction.

Regarding operations, the Project would be designed and constructed compliant with the City General Plan land use designations and zoning ordinances for Business Park, which include building height and setback requirements. Additionally, the Project would be characteristic of the adjacent industrial uses, public services, and airport uses. While the Project would alter the existing visual character of the Project site, it would be minimized by compliance with the General Plan, General Plan Final EIR, zoning ordinances, and municipal development standards. As such, Project implementation would have a less than significant impact. (**Draft EIR, p. 4.1-13**).

Impact 4.1-4: Would the Project create a new source of substantial light or glare which will adversely affect day or nighttime view in the area?

Basis for Conclusion: The Project site is primarily undeveloped and surrounded by mostly vacant land. Existing sources of light and glare exist primarily from activity associated with I-10 to the immediate south of the Project site, such as vehicle headlights. Construction of the Project would be limited to the daytime hours of construction permitted (as stated in the Banning Code of Ordinances Standards (Section 8.44.090 and 18.09.200.) (unless otherwise approved by the City of Banning). During operations, the Project would use interior lighting and exterior security and parking lot lighting. All lighting on-site would be consistent with the general standards of the development standards for lighting, Section 17.24.100 of the City's Code of Ordinances, and general design principles identified in Section 17.12.090. As such, both short-term and long-term impacts associated with light and glare would be less than significant. (**Draft EIR, p. 4.1-13 through 4.1-14**).

AGRICULTURAL AND FORESTRY RESOURCES

Impact 7.2-1: Would the Project 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?

Basis for Conclusion: Based on review of the California Department of Conservation (DOC) Important Farmland maps, neither the Project site nor any adjacent land is designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. The Project site and adjacent land are designated as Grazing Land. As such, the Project would not involve converting any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to a non-agricultural use, and no impact would occur. (**Draft EIR, p. 7-1**).

Impact 7.2-2: Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?

Basis for Conclusion: According to the City's Land Use and Zoning Map, no portion of the Project site is zoned or designated for agricultural use. The Project site is not in use for agricultural activities, nor is it subject to a Williamson Act contract. Therefore, the Project would not conflict with existing zoning for agricultural use, or a Williamson Act contract, and there is no impact. (**Draft EIR, p. 7-2**).

Impact 7.2-3: Would the Project 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))?

Would the Project result in the loss of forest land or conversion of forest land to non-forest use?

Basis for Conclusion: The Project site has no lands located within the vicinity that are zoned forest land, timberland, or timberland zoned for timberland production. Additionally, the Project would not result in the rezoning of any forest land or conversion of forest land to non-forest use, and therefore no impact would occur. (**Draft EIR, p. 7-2**).

Impact 7.2-4: Would the Project 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?

Basis for Conclusion: There is no existing active farmland, forest lands, timberlands, or areas zoned for agriculture on the Project site or immediately surrounding areas. As such, development of the Project site would not involve changes to the existing environment which would result from conversion of farmland to non-agricultural use or conversion of forest land to non-forest use. Therefore, no impact would occur. (**Draft EIR, p. 7-2 to 7-3**).

AIR QUALITY

Impact 4.3-4: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Basis for Conclusion: During construction, emissions from construction equipment, such as diesel exhaust, and application of asphalt and architectural coatings would temporarily generate odors. However, these odors would be not anticipated to affect a substantial number of people and would disperse rapidly. The South Coast Air Quality Management District ("**SCAQMD**") CEQA Air Quality Handbook identifies certain land uses as sources of odors. These land uses include agriculture (farming and livestock), wastewater treatment plants, food processing plants, chemical plants, composting facilities, refineries, landfills, dairies, and fiberglass molding. The Project would not include any of the land uses that have been identified by the SCAQMD as odor sources. Therefore, impacts related to odors associated with the Project's construction-related and operational activities would have no impact. **(Draft EIR, p. 4.2-30)**.

BIOLOGICAL RESOURCES

Impact 4.3-4: Would the Project 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?

Basis for Conclusion: The Project site is expected to provide for local wildlife foraging and breeding habitat. However, the Project site does not serve as a regional travel route, wildlife corridor, or wildlife crossing for large or medium-sized mammals between open space habitats located north and south of I-10. Small mammals, reptiles and amphibians may occasionally use off-site culverts, but the culverts are considered significantly strained and provide low quality for wildlife movement and connectivity. Any proposed development within the Project site would be required to comply with all Multiple Species Habitat Conservation Plan (MSHCP) urban/wildlands interface guidelines. Through implementation of associated guidelines and specific best management practices (BMPs), a less than significant impact would occur with respect to Project interference with wildlife movement and corridors. (**Draft EIR, p. 4.3-20**).

Impact 4.3-5: Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Basis for Conclusion: The City Municipal Code Section 17.32.060 discourages the removal of healthy, shade providing, and aesthetically valuable trees. A tree removal and replacement plan would be required for the removal and replacement of all trees over 50 years in age unless their removal is required to protect public health and safety. No trees are located within or adjacent to the Project site that meet the criteria for the City's tree removal ordinance outlined in Section 17.32.060 of the City's Municipal Code. Therefore, the Project would not conflict with any local policies or ordinances protecting biological resources and no impact would occur. (**Draft EIR, p. 4.3-21)**.

CULTURAL RESOURCES

Impact 4.5-1: Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to Section 150645?

Basis for Conclusion: Construction of the Project would not cause a substantial adverse change in the significance of a historical or archaeological resource pursuant to CEQA Guidelines Section 15064.5. Six undocumented historic-era sites were recorded within the Project area. CRM TECH evaluated each of the six resources and concluded that all six resources did not qualify as "historical resources" under CEQA. Therefore, the Project would not significantly impact any historical resources pursuant CEQA Guidelines, and a less than significant impact would occur. (**Draft EIR, p. 4.4-10 to 4.4-11**).

ENERGY

Impact 4.5-1: Would the Project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation?

Basis for Conclusion: The Project is anticipated to be constructed in one phase and over a duration of approximately 18 months. The energy associated with construction includes electricity use associated with water utilized for dust control, diesel fuel from on-road hauling trips, vendor trips, and off-road

construction diesel equipment, as well as gasoline fuel from on-road worker commute trips. Project construction use of electricity was estimated to represent less than one percent of the current electricity use in Riverside County. Additionally, construction diesel fuel and gasoline fuel would represent a negligible amount of the County's fuel. As such, the Project would not substantially affect existing energy fuel supplies or resources, nor would the Project demand new capacity or additional sources of construct fuel. Project-related construction energy use would be less than significant (**Draft EIR, p. 4.5-11** through **4.5-13**).

The energy consumption associated with Project operations would occur from building energy (electricity and natural gas) use, water use, and transportation-related fuel use. The estimated energy demand for electricity, natural gas, diesel, and gasoline would each represent less than one percent of the Countywide use for each resource. Additionally, the Project would install solar photo-voltaic (PV) panels that would help to offset its electricity demand. As such, Project operations would not substantially affect existing energy of fuel supplies or resources. The Project would also comply with applicable energy standards and new capacity would not be required. Project related operation energy use would be less than significant (**Draft EIR, p. 4.5-14** through **4.5-15**).

Overall, construction and operations energy demand for the Project represent a negligible amount compared to the Countywide demand. Additionally, the Project would comply with the California Building Code, which have incorporated California Energy Efficiency Standards for residential and non-residential buildings. As such, the Project would not be wasteful or inefficient, and a less than significant impact would occur (**Draft EIR, p. 4.5-15**).

Impact 4.6-2: Would the Project conflict with or obstruct a State or Local plan for renewable energy or energy efficiency?

Basis for Conclusion: The energy conservation policies and plans relevant to the Project include the California Title 24 energy standards and the CALGreen Building Code. The Project would be required to comply with these existing energy standards and any updates to these standards that come into existence prior to construction. Compliance with state and local energy efficiency standards would ensure that the Project meets all applicable energy conservation policies and regulations. As such, the Project would not conflict with applicable plans for renewable energy or energy efficiency. The Southern California Association of Governments (SCAG) 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (Connect SoCal) (RTP/SCS), integrates transportation, land use, and housing to meet GHG reduction targets set by CARB. The document establishes greenhouse gas (GHG) emissions goals for automobiles and light-duty trucks, as well as an overall GHG target for the region consistent with both the target date of Assembly Bill (AB) 32 and the post-2020 GHG reduction goals of Senate Bill (SB) 375. The Project would not conflict with the stated goals of the RTP/SCS. Project impacts would be less than significant. (**Draft EIR, p. 4.5-15**).

GEOLOGY AND SOILS

Impacts 4.6-1 to 4.6-3: Would the Project directly or indirectly cause potential substantial adverse effects, including risk of loss, injury or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?; (ii) Strong seismic ground shaking?; (iii) Seismic-related ground failure, including liquefaction?; and/or (iv) Landslides?

***Basis for Conclusion: Rupture of Known Earthquake Fault and Strong Seismic Ground Shaking*.** According to the Geotechnical Study prepared for this Project, the Project site is not within an Alquist-Priolo Earthquake fault zone nor was any evidence of faulting identified during field investigation. The nearest fault to the Project site is the San Gorgonio Pass Fault. It was determined that the possibility of significant fault rupture on the Project site would be low. Therefore, the impacts associated with the surface rupture of a known fault would be less than significant, and no mitigation would be required.

In addition, each future building and Project component constructed would be designed and constructed in conformance with all applicable standards governing such development and would use the latest building standards, as adopted by the Building Standards Commission, to minimize impacts from seismic activity. The Project would not cause or exacerbate adverse effects related to rupture of an earthquake fault, nor from fault ruptures. Additionally, the Project would not cause or exacerbate adverse effects related to seismic shaking and future development of habitable structures within the Project site would be conducted in accordance with the CBC requirements and City grading code which would reduce impacts from seismic ground shaking to a less than significant level. Therefore, impacts associated with the rupture of a known earthquake fault and strong seismic ground shaking would be less than significant. (**Draft EIR, p. 4.6-12 to 4.6-13)**.

Seismic-Related Ground Failure (Liquefaction). The Project site is located within an area of susceptibility for liquefaction but is considered to be low risk due to the in-situ soil strength and a groundwater depth that exceeds 50 feet. Furthermore, on-site subsurface conditions encountered at the boring locations indicated that conditions would not be considered to be conducive to liquefaction. Following the design parameters of the geotechnical study and all relevant building codes would reduce any potential issues due to liquefaction and no mitigation measures would be necessary. Impacts would be less than significant. (**Draft EIR, p. 4.6-13 to 4.6-14)**.

Landslides. The Project site has a gentle slopes and does not contain drastic elevation changes over short distances. There are no large, exposed, loose or unrooted boulders on the Project site, nor is the Project site located within close proximity to mountain foothills where landslides are most common. Therefore, the risk of landslides impacting the Project site is considered low to negligible. Therefore, impacts associated with landslides would be less than significant. (**Draft EIR, p. 4.6-13)**.

Impact 4.6-5 Would the Project be located on a geological 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?

Basis for Conclusion: As previously discussed, liquefaction and landslides are not considered to be a significant design concern for the Project. The potential for liquefaction-mediated lateral spreading and subsidence appears to be effectively zero. Subsidence in the City area is closely associated with groundwater levels; groundwater was not encountered during drilling at any boring locations. Subsidence is likely to occur if rapid groundwater extraction occurs in response to increased water demands, resulting from population growth or prolonged drought. However, the alluvial sediments within the basin would not be subject to subsidence risk as there has not been detectable elevation loss, according to California's Groundwater Live: Land Subsidence GIS data. Additionally, the City would minimize potential impacts to subsidence through participation in local and regional efforts to conserve and recharge groundwater. Therefore, compliance with all federal, state, and local policies and regulations, the Project would have a less than significant impact concerning on- or off-site landslides, lateral spreading, ground subsidence, liquefaction, or collapse and no mitigation measures are required (**Draft EIR, p. 4.6-15** through **4.6-16**).

Impact 4.6-6: Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Basis for Conclusion: The near-surface soils encountered during the field study for the Geotechnical Study investigation consisted of silty sands, gravelly sands, and well-graded sands with varying amounts of gravel, cobbles, and boulders; the materials were classified as non-expansive. As such, the Geotechnical Study does not anticipate expansive soils to adversely impact the design, construction, or operation of the Project. Furthermore, all grading and fill placement activities would be completed in accordance with the requirements of the CBC and the City's grading code. Therefore, the Project site would not be impacted by significant soil expansion and a less than significant impact would occur. (**Draft EIR, p. 4.6-16**).

Impact 4.6-7: Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Basis for Conclusion: The Project does not propose septic tanks or other alternative wastewater disposal systems. Accordingly, no impact would occur. **(Draft EIR, p. 4.6-16)**.

HAZARDS AND HAZARDOUS MATERIALS

Impact 4.8-1: Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Basis for Conclusion: Construction activities would include the use of materials such as fuels, lubricants, and greases in construction equipment and coatings used in construction. However, the materials used would not be in such quantities or stored in such a manner as to pose a significant hazard. The use of the materials would also be temporary and short-term or single-use in nature and would cease upon completion of the Project's construction phase. Additionally, grading activities conducted during the construction phase could lead to the disturbance of on-site soils and expose contaminated soils. Since Project construction would involve the use, storage, transport, and disposal of hazardous materials, including potentially contaminated soils, the Project would be required to comply with all applicable federal, state, and local agencies and regulations, including the U.S. Environmental Protection Agency (EPA), the California Department of Toxic Substance Control (DTSC), the California Occupational Safety

and Health Administration (CalOSHA), California Department of Transportation (Caltrans), the Resource Conservation Recovery Act (RCRA), and the Riverside County Department of Environmental Health Hazardous Materials Branch. Compliance with applicable laws and regulations would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for safety impacts. As such, associated Project construction impacts would be less than significant.

Operations of the Project would involve the use of small amounts of hazardous materials, such as industrial cleaners, greases, and oils for cleaning and maintenance purposes. Additionally, the Project would require various outdoor landscape maintenance, which would include the storage and periodic use of pesticides, herbicides, and fertilizers. If equipment needed for such activities are used and housed on-site, the Project may require the storage of fuels and solvents on-site. Project operations may also involve the transport, use, and disposal of hazardous materials. As with Project construction, Project operations would be required to comply with applicable laws and regulations governing the use, storage, transportation, and disposal of hazardous materials. Compliance with applicable laws and regulations concerning hazardous materials would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for significant hazards to the public or the environment. As such, impacts from hazardous materials associated with Project operations would be less than significant.

Overall, the Project operations and construction would be required to comply with all applicable federal, state, and local regulations governing the routine use, transport, storage, and disposal of hazardous materials. As such, impacts from hazardous materials resulting from Project implementation would be less than significant, and no mitigation is required (**Draft EIR, p. 4.8-15** through **4.9-16**).

Impact 4.8-2: Would the Project 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?

Basis for Conclusion: The construction of the Project site could result in hazards to the public or the environment through the accidental upset or release of hazardous materials caused by accidental spillage of hazard materials used during construction phases, or as a result of the exposure of contaminated soil during grading activities. However, as previously discussed, the Project would be required to comply with applicable laws and regulations concerning hazardous materials to ensure that all potentially hazardous materials are used and handled in an appropriate manner and to minimize potential for safety impacts. This is also with respect to any spills or leakages that may occur during construction, so that safety impacts are reduced and the release of hazardous materials into the environment are maintained and do not create a significant hazard to the environment or the public. Furthermore, strict adherence to all emergency response plan requirements set forth by Riverside County Fire Department would be required through the duration of Project construction. As such, construction-related impacts to accidental release of hazardous materials into the environment and exposure to the public would be less than significant.

Project operations would involve typical hazardous materials and chemicals including but not limited to solvents and cleaning products associated with operations of industrial and warehouse types uses.

Additionally, the Project would require various outdoor landscape maintenance during operations that may include storage of, and periodic application of pesticides, herbicides, and fertilizers. Prior to Project approval, a Hazardous Materials Business Plan (HMBP) would be required to show Project conformance with all applicable materials handling protocols. As such, compliance with the aforementioned regulations would reduce significant impacts associated with accidental releases of hazardous materials into the environment and exposure to the public and a less than significant impact would occur.

Overall, Project construction and operations would be required to adhere to emergency response plan requirements and applicable laws and regulations governing the use, storage, and disposal of hazardous materials in addition to the proper protocol for any spills or leakages of such materials. With compliance with the aforementioned regulations and requirements associated with accidental release of hazardous materials into the environment and exposure to the public, the Project would have a less than significant impact and no mitigation is required.

Impact 4.8-3 Would the Project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Basis for Conclusion: The nearest school to the Project site is Hoffer Elementary School approximately 0.27 mile to the west. At their closest points, the western boundary of the Project site and the eastern boundary of Hoffer Elementary School are approximately 0.27 mile apart. However, the majority of the Project site is located at least 0.75 mile from the nearest school. Due to the shape of the Project site the proposed structures would be located at least 0.75 mile away from the nearest school. The northwestern portion of the Project site, the area nearest the school, would include infrastructure improvements, such as the extension of Wilson Street and possible parking areas to serve the Project. Therefore, the Project would not emit hazardous emissions or include the handling of hazardous or acutely hazardous materials, substances, and/or wastes within one-quarter mile of an existing or proposed school. Additionally, the transport of hazardous substances or materials to-and-from the Project site during construction and long-term operational activities would be required to comply with applicable federal, state, and local regulations, as previously mentioned, to reduce public safety hazards.

It was concluded in the Project's Air Quality Impact Analysis that the Project would not exceed the SCAQMD localized significance thresholds during construction. As such, sensitive receptors would not be exposed to substantial pollutant concentrations during Project construction. It was also determined that the Project would not exceed SCAQMD thresholds during operational activities of the Project. Therefore, the impacts would be less than significant. (**Draft EIR, p. 4.8-17** through **4.8-18**).

Impact 4.8-4: Would the Project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code § 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Basis for Conclusion: The Project site is not included on the hazardous sites list compiled pursuant to California Government Code Section 65962.5 (Cortese List). The greater Project site was found to be without violations. No hazardous materials sites were located within or in the immediate vicinity of the

Project site. Therefore, no significant adverse impacts relative to Cortese List sites would occur with Project implementation. No impact would occur. (**Draft EIR, p. 4.-18**).

Impact 4.8-5: For a project located within an airport land use plan, or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?

Basis for Conclusion: The Project site is located within 2.0 miles of a public airport, the Banning Municipal Airport approximately 1,750 feet south of the Project site, on the opposite side of I-10. However, Exhibit V-7 of the Banning General Plan Noise Element shows that the Project is located outside the 55 dBA CNEL noise contour. Additionally, there are no private airstrips located within the Project vicinity. Thus, the Project would not result in a safety hazard impact to people residing or working in the area and a less than significant impact would occur. (**Draft EIR, p. 4.8-18**).

Impact 4.8-6: Would the Project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?

Basis for Conclusion: The majority of the proposed worked to be done during the construction phase of the Project would occur within the boundaries of the Project site and would not impede access to nearby roadways. The City does not designate any roads as emergency evacuation routes within the Project site and any future construction on-site would not impede evacuation routes or interfere with the City's emergency management program. Potential impediments to traffic flows may occur temporarily during the transport of heavy equipment and materials to and from the Project site but would be localized and would end after construction is completed.

Neither construction or operations of the Project site would interfere with emergency access or impede access to nearby roadways, nor would the Project interfere with the City's emergency operations plan. The Project would comply with design standards for emergency services and would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant and no mitigation is required. (**Draft EIR, p. 4.8-19**).

Impact 4.8-7: Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

Basis for Conclusion: According to CAL FIRE's Fire and Resource Assessment Program, the Project site is not located in or near a State Responsibility Area (SRA). The Project site is located in a Local Responsibility Area (LRA) and is designated as a very high fire hazard severity zone (VHFHSZ). Considering the presence of area roadways, lack of steep slopes, and concrete construction of the Project, it is not anticipated that the Project site and associated structures would be affected by a wildfire during construction or operations. Additionally, as part of the Project site development, adjacent roadways would be improved which would serve to provide emergency ingress and egress to the Project site in the event of an emergency. Lastly the Project would comply with all applicable local and state regulations related to fire safety as evaluated through the City's standard development review process. As such, a less than significant impact would occur and no mitigation is required. (**Draft EIR, p. 4.8-20**).

HYDROLOGY & WATER QUALITY

Impact 4.9-1: Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Basis for Conclusion: The Project would include the construction of an industrial warehouse with associated truck parking and loading docks. Associated construction activities include clearing, grading, paving, utility installation, building construction, and the installation of landscaping. All activities could result in the generation of potential water quality pollutants that may consequently adversely affect water quality. As such, short-term water quality impacts have the potential to occur during construction activities in the absence of any protective or avoidance measures. However, pursuant to the requirements of the Colorado River Regional Water Quality Control Board (RWQCB) and the City of Banning, the Project would be required to obtain a National Pollutant Discharge Elimination System (NPDES) Permit for construction activities. Compliance with the NPDES permit and Colorado River Basin Water Quality Control Program involves the preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) for construction-related activities. The SWPPP would specify the Best Management Practices (BMPs) that the Project would be required to implement during construction activities to ensure that all potential pollutants of concern are prevented, minimized, and/or otherwise appropriately treated prior to being discharged from the Project site.

In addition to the NPDES permit, a Water Quality Management Plan (WQMP) is required for managing the quality of stormwater or urban runoff that flows from a developed Project site after construction is completed and the Project site becomes occupied or operational. The WQMP would implement its own BMPs that would be maintained throughout the life of the Project to minimize and/or prevent water pollution caused by stormwater or urban runoff. The Project would also be required to comply with Waste Discharge Requirements as governed by the Colorado River RWQCB to regulate discharges that are not made to surface water, but which may impact the region's water quality by affecting underlying groundwater basins. Since the Project would connect to the sanitary sewer system maintained by the City, the wastewater discharges into the sanitary sewer system would be treated and adequate operations would prevent wastewater discharges into the groundwater.

Lastly, the proposed drainage patterns and infrastructure would align with the existing drainage pattern on-site and runoff discharge rates would not experience a significant change.

Overall, associated Project construction and operations would not violate any water quality standards, waste discharge requirements or otherwise substantially degrade surface or groundwater quality following compliance with the City's Municipal Code, NPDES requirements, and Colorado River RWQCB requirements. As such, a less than significant impact would occur and no mitigation is required. (**Draft EIR, p. 4.9-9** through **4.9-11**).

Impact 4.9-2: Would the Project substantially decrease groundwater supplies or interfere substantially with the groundwater recharge such that the Project may impede sustainable groundwater management of the basin?

Basis for Conclusion: The Project's water demand would require, at most, 0.28 percent of the total water supply that is available to the City. According to the 2020 Urban Water Management Plan (UWMP) for the City, the City produces an average of 7,513 acre feet (AF) of groundwater per year. Assuming that all water consumed by the Project comes from groundwater, the Project's annual water demand of 79 AF would consist of a one percent increase in the total amount of groundwater produced. This does not constitute a significant increase in consumptions and would not decrease the groundwater supply for the San Gorgonio Pass Groundwater Basin.

While the development of the Project site would increase the impervious surface area within the City, the Project would construct on-site stormwater infrastructure that would capture on-site stormwater flows only and direct them into on-site stormwater detention basins. These basins would allow surface water in infiltrate through the substrate and into the groundwater basin for recharge. A total of six basins would be constructed on-site and would have the capacity to detain 21.76 AF of storm flows on the Project site. Additionally, the Project does not propose to alter the existing drainage pattern of the Project site and would discharge stormwater in its existing locations.

As such, the Project would not significantly decrease groundwater supply in the basin or substantially limit the ability for stormwater and surface water to infiltrate and recharge the aquifer. A less than significant impact would occur, and no mitigation is required. (**Draft EIR, p. 4.10-12** through **4.10-13**).

Impacts 4.9-3, 4.9-4, 4.9-5 and 4.9-6: Would the Project substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which will: (i) Result in substantial erosion or siltation on- or off-site?; (ii) Substantially increase the rate or amount of surface runoff in a manner which will result in flooding on- or off-site?; (iii) Create or contribute runoff which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?; or (iv) Impede or redirect flood flows?

Basis for Conclusion: 4.9-3 (Erosion and Siltation). The Project would be designed to accommodate the size of the development and would consist of retaining walls and other grading operations. However, the Project site would be designed, and stormwater infrastructure would be constructed, in a manner that generally maintains the overall existing drainage pattern of the Project site. Project construction would involve substantial ground disturbance, clearing, and grading of the Project site, and on-site erosion could occur. The proposed grading activities would generate fair amounts of silt which could be carried off-site during a heavy rainfall event and result in erosion and/or siltation downstream without any preventative measures. However, as previously discussed, the Project would be required to obtain a NPDES permit for construction activities on-site. Compliance with the NPDES permit involves the implementation of a SWPPP for construction related activities and associated BMPs to minimize erosion and siltation impacts and to protect water quality. Once operational, the Project would reduce the Project site's existing potential for generating substantial amounts of erosion or siltation because the previously undeveloped site that contributed to erosion and siltation would be replaced with a building, paving, landscaped areas, and other stabilized ground covers. Additionally, a Project-specific WQMP would be implemented along

with the associated WQMP BMPs that would treat common surface water pollutants during Project operations.

With adherence to the NPDES permit requirements, including the implementation of SWPPP and associated BMPs, and adherence to the Project's WQMP and associated BMPs, Project implementation would have a less than significant impact on erosion and siltation and no mitigation is required (**Draft EIR, p. 4.9-13** through **4.9-14**).

4.9-4 (On- or Off-Site Flooding). Project runoff calculations for the 100-year storm event were performed and it was determined that the Project's runoff flow rate, volume, velocity, and duration would not exceed the pre-development conditions for the 2-year, 24-hour and 10-year, 24-hour rainfall events through implementation of Site-Design BMP concepts and low impact development (LID)/Site Design BMPSs. Additionally, the City's Municipal Code requires land development activities to include provisions for the management of stormwater runoff from the property, which is to include volumetric or flow-based treatment control BMP design criteria, which shall consist of constructing storage and/or infiltration facilities including basins and make provision to store runoff from rainfall events up to and including the 100-year 3-hour duration event. As previously discussed, the Project would include six detention basins that would have the capacity to detain 21.76 AF of storm flows on the Project site. Post-development peak urban runoff discharge rates would not exceed pre-development peak urban runoff discharge rates. With the implementation of BMPs to minimize impacts from runoff and compliance with existing regulatory framework associated with flood management, Project implementation would have a less than significant impact to on- and off-site flooding and no mitigation is required. (**Draft EIR, p. 4.9-14** through **4.9-15**).

4.9-5 (Stormwater Drainage System Capacity and Polluted Runoff). As previously discussed, the Project's post-development peak runoff discharge rates would not exceed pre-development peak urban runoff and applicable BMPs would be implemented to reduce impacts. The BMPs would not only minimize runoff from the Project site, but would help improve water quality as well and manage pollutants in stormwater runoff. Additionally, the six proposed detention basins would help to manage stormwater flows on- and off-site. With the implementation of the associated BMPs, compliance with NPDES requirements, and the inclusion of the six detention basins on-site, the Project would have a less than significant impact to the stormwater drainage system capacity and polluted runoff, and no mitigation is required (**Draft EIR, p. 4.9-16** through **4.9-17**).

4.9-6 (Impede or Redirect Flood Flows). The Project would capture stormwater flows originating on the Project site which would account for and capture the entirety of the 100-year 3-hour duration event. The Project would also follow existing flow patterns after construction. While a portion of the Project site is located within a mapped flood hazard area (Zone A and Zone X), the Project site would be designed such that the development would be above the flood elevation. As a result, the Project would be required to complete a Federal Emergency Management Agency (FEMA) conditional letter of map revision (CLOMR) and a letter of map revision (LOMR) process prior to grading/construction and prior to building occupancy. This process would alter the FEMA Flood Insurance Rate Map (FIRM) flood zones for the portions of the Project that are within these areas. As the overall drainage flow pattern would not change across the

Project site after construction, flood flows that may occur on the Project site would similarly not be altered. As such, impacts would be less than significant and mitigation is not required (**Draft EIR p. 4.9-18**).

Impact 4.9-7: Would the Project result in flood hazard, tsunami, or seiche zones, or risk release of pollutants due to project inundation?

Basis for Conclusion: The Pacific Ocean is located more than 50 miles from the Project site. The San Jacinto Mountains and Santa Ana Mountains lie between the Project site and the Pacific Ocean. Considering this distance, there is no potential for the Project site to be impacted by a tsunami. Additionally, there are no standing bodies of water, such as lakes, ponds, reservoirs, or inland seas, on or adjacent to the Project site such that seiche would occur in the event of an earthquake, periods of high wind, or other seiche causing event.

The Project site resides within FEMA Flood Zone A and Zone X and would complete a FEMA CLOMR and LOMR process. The Preliminary Off-site Hydrology and Flood Hazard Assessment conducted for the Project site confirmed the Project site is subject to a portion of flows emanating from the west of the San Gorgonio River along with a portion of the breakout flows from the main bank of the San Gorgonio River. Existing flood depths within the Project site and surrounding area directly north are less than 0.25 feet (three inches) during the 100-year flood event. Although the runoff rate and volume levels were determined to be significant, the flows are dispersed over a large enough area to result in a shallow depth, with flow velocity generally less than 2 feet per second, which is considered "low damage" according to the U.S. Bureau of Reclamation Downstream Hazard Classification Guidelines. As the overall flood depth would be less than three inches, flow velocities would be less than 2 feet per second, and the Project would be designed to intercept and accommodate the 100-year 3-hour duration event, impacts would be less than significant, and no mitigation is required. (**Draft EIR, p. 4.9-18** through **4.9-19**).

Impact 4.9-8: Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Basis for Conclusion: The Project site is located within the Coachella Valley-San Gorgonio Pass Basin and is classified as "medium" priority per the Sustainable Groundwater Management Act (SGMA). As such, the basin is required to develop a groundwater sustainability agency (GSA) and a groundwater sustainability plan (GSPs) to manage groundwater for long-term sustainability. The City, in conjunction with the San Gorgonio Pass Water Agency, Banning Heights Municipal Water Agency, Cabazon Water District, Desert Water Agency, and the Mission Springs Water District, would comply with the San Gorgonio Pass Subbasin GSP. Additionally, as previously mentioned, the Project would be required to obtain a NPDES permit and adhere to the requirements of the permit to ensure impacts to water quality during Project implementation are minimized. By abiding to the San Gorgonio Pass Subbasin GSP and the NPDES permit, the Project would not obstruct with a water quality control plan or sustainable groundwater management plan and a less than significant impact would occur. (**Draft EIR, p. 4.9-19** through **4.9-20**).

LAND USE & PLANNING

Impact 7.3-1: Would the Project physically divide an established community?

Basis for Conclusion: The Project site would be developed on vacant and undeveloped land that is designated as Business Park by the City's General Plan Land Use and Zoning Map. The immediate surrounding area consists of General Plan designations such as Business Park, Public Facilities, High Density Residential, as well as the Morongo Reservation. No established communities exist within the Project site, nor does the Project propose or require elements or operations that would divide an existing off-site community. Therefore, the Project would not physically divide an established community and a less than significant impact would occur. (**Draft EIR, p. 7-3**).

Impact 7.3-2: Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Basis for Conclusion: The Project would be required to comply with any applicable state, regional, and local land use plans, policies, and regulations, including the City's land use plans, policies and regulations. The General Plan Land Use designation for the Project site is Business Park, which permits light industrial manufacturing and office/warehouse buildings. The proposed development includes approximately 1,320,284 square feet of industrial space with office space, loading docks, tractor-trailer parking stalls, passenger vehicle parking spaces, and landscaping. Additionally, the construction and design of the buildings would comply with the development standards and design guidelines contained in the Banning Municipal Code. Therefore, implementation of the Project would not conflict with any land use plan, policy, or regulation, and a less than significant impact would occur. (**Draft EIR, p. 7.3-3**).

MINERAL RESOURCES

Impact 7.4-1: Would the Project 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?

Would the Project 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?

Basis for Conclusion: The Project site is located on lands designated as Mineral Resource Zone 2 (MRZ-2), which designates land that may contain significant mineral deposits. The Project site is currently undeveloped and is not utilized for mineral resource extraction and no mineral extraction has occurred on the Project site. Additionally, mineral extraction would result in incompatible uses with the Business Park zoning and land use designations on-site and in the immediate surroundings. Therefore, the Project would have a less than significant impact on the loss of availability of a locally important mineral resource, and no mitigation is required. (**Draft EIR, p. 7.3 to 7.4**).

NOISE

Impact 4.10-1: Would the Project result in the generation of substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Basis for Conclusion: Following the Federal Transit Administration's (FTA) methodology for quantitative construction noise assessments, construction-generated noise levels associated with the Project were calculated using the Federal Highway Administration's (FHWA) Roadway Construction Noise Model (RCNM) computer program. The noise levels calculated show that construction-related noise levels to the nearest sensitive receptor would not exceed the City's 70 dBA threshold. Off-site construction traffic noise was also calculated and was also determined to not exceed the City's threshold. Additionally, construction activities would only be permitted during the hours of 7:00 a.m. and 6:00 p.m. As such, on- and off-site construction noise would have a less than significant impact (**Draft EIR, p. 4.10-6** through **4.10-9**).

During operations, the major noise sources associated with the Project would include stationary noise equipment; truck and loading docks; parking areas; and off-site traffic noise. Noise from the associated sources were calculated to determine the Project's associated operational noise impacts. It was determined that noise associated with mechanical equipment, warehouse truck and loading docks, parking, and off-site traffic are all below the City's noise standards. As such, noise associated with Project operations would have a less than significant impact (**Draft EIR, p. 4.10-9** through **4.10-12**).

Overall, associated Project construction and operation noise levels would not exceed the City's noise standards. Project construction would be limited to daytime hours as to not adversely impact nearby sensitive receptors. Additionally, the Project would be required to comply with the General Plan and Municipal Code noise standards. As such, Project construction and operations would not generate noise levels in excess of City standards, and a less than significant impact would occur.

Impact 4.10-2: Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?

Basis for Conclusion: Vibration generated both from construction- and operation-related sources were both determined to not exceed the FTA thresholds for disturbance. The nearest structure to the Project site (a multi-family residential structure) is approximately 400 feet to the west of the Project site and associated construction equipment would not generate ground vibration that exceeds the FTA thresholds for both building damage and annoyance based on the distance of the Project site to the nearest structure. Associated operational vibration include truck movement activity at the Project site. These movements would generally be low-speed and would occur over new, smooth surfaces. As such, it is not anticipated that truck activity would result in excessive groundborne vibrations. The Project would not result in generation of excessive groundborne vibration or noise levels and a less than significant impact would occur (**Draft EIR, p. 4.10-13** through **4.10-14**).

Impact 4.10-3: For a project located within the vicinity of a private airstrip or 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, will the Project expose people residing or working in the Project area to excessive noise levels?

Basis for Conclusion: The closest airport to the Project site is the Banning Municipal Airport located approximately 1,750 feet to the south. Although the Project is within two miles of a public airport, Exhibit V-7 of the Banning General Plan Noise element shows that the Project is located outside the 55 dBA CNEL

noise contour. Additionally, there are no private airstrips located within the Project vicinity. Therefore, the Project would not expose people working in the Project area to excessive airport- or airstrip-related noise levels, and a less than significant impact would occur. (**Draft EIR, p. 4.10-14**).

POPULATION AND HOUSING

Impact 7.5-1: Would the Project induce substantial unplanned 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)?

Basis for Conclusion: The Project does not include new residential development on- or off-site and would not directly contribute to population growth within the City in this regard. The Project would remain designated and zoned as Business Park, which allows land uses such as light industrial manufacturing, office/warehouse buildings, professional offices, restaurants, and retail uses ancillary to a primary use. It is anticipated that existing residents within the City and neighboring communities within Riverside County would likely fill Project-related employment demands. Additionally, SCAG forecasts that the City's employment will increase to 11,400 jobs by 2045. As Project buildout is estimated for 2045, the Project's estimated 2,841 employees is within the employment forecasts for the City.

The extension of roadways to serve the Project site would only extend roadways from the existing City of Banning network to the furthest extent needed to serve the Project. The Project would not construct roads or provide roadway improvements to areas of the City where the is no existing development or planned projects. As such, the Project would not contribute to direct or indirect unplanned population growth and impacts would be less than significant (**Draft EIR, p. 7-4 to 7-5**).

Impact 7.5-2: Would the Project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

Basis for Conclusion: No housing currently exists within the Project site and the Project does not propose uses or activities that would otherwise displace housing assets or persons. Based on the preceding, the Project would have no impact related to displacement of housing or displacement of people (**Draft EIR, p. 7-5**).

PUBLIC SERVICES

Impact 4.11-1: 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:

Basis for Conclusion: Fire Protection. The City contracts with the Riverside County Fire Department (RCFD), and the Project would be served by the nearest RCFD fire station, Station 89. The RCFD operates under a Regional Fire Protection Program, which allows its fire stations to actively support one another regardless of geographic or jurisdictional boundaries. The Morongo Reservation Fire Department is also nearby, located 2.4 miles northeast of the Project site, and has a standing mutual aid agreement with the County of Riverside. Based on the Project's close proximity to Station 89 as well as the

Morongo Reservation Fire Department, the Project would be adequately served by fire protection services. Furthermore, the City General Plan proposed additional fire stations, one of which is in the vicinity of the Banning Municipal Airport, which is south of the Project site on the opposite side of I-10 **(Draft EIR, p. 4.11-12)**.

The Project would also be required to comply with requirements for emergency lane width, vertical clearance, and distance which would ensure that adequate emergency access is available on the Project site. The Project would also comply with the City Municipal Code Section 12.12.070 which prescribes protective measures and routing of traffic during construction that closes lanes or roadway segments temporarily. The Project would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress. The Project would not alter or impact any existing emergency access roads or evacuation routes as identified in the Western Riverside Council of Governments (WRCOG) Community Vulnerability Profile Map 1: Banning's Regional Evacuation Route. The Project would provide access to the identified evacuation routes through street and access improvements.

Lastly, the Project would be required to pay development impact fees as a condition of approval. With payment of these fees, the Project would receive adequate fire protection service and would not result in adverse physical impacts associated with the provision of or need for new or physically altered fire protection facilities. Additionally, the Project would not adversely affect service ratios, response times, or other performance objectives. The Project would comply with the RCFD Technical Policies and Standards, California Fire Code (CFC), and CBC, including Project features that aid in fire safety and support fire suppression activities.

Considering that the Project would be adequately serviced by existing fire services and would comply with all federal, state, and local policies governing fire safety, the Project would not significantly impact the existing fire services and associated infrastructure and a less than significant impact would occur. (**Draft EIR, p. 4.11-12** through **4.11-13**).

***Police Protection*.** As previously mentioned, the Project would comply with City Municipal Code Section 12.12.070. Emergency services, including the Banning Police Department (BPD), would be consulted to ensure construction and design document compliance with the City of Banning Municipal Code and that adequate public safety and circulation would be maintained during construction. As previously discussed, compliance with the requirements for emergency lane width, vertical clearance, and distance would ensure that adequate emergency access is available for all new development and redevelopment projects. The Project would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress and would not alter or impact any existing emergency access roads. Additionally, the Project would be required to pay development impact fees that would ensure police protection services are not significantly impacted by new development. As such, the Project would not significantly impact the existing police protection services and associated infrastructure, and a less than significant impact would occur. (**Draft EIR, p. 4.11-14**).

Schools. The Project site would not create a direct demand for public school services, as the proposed development does not contain residential uses that could generate any school-aged children requiring

public education. Employment demands for the Project are anticipated to be filled by the existing unemployed population residing in the City and surrounding communities within the County. The Project would not directly generate a student population increase or indirectly draw students to the area, prompting the need for construction or physical alteration of existing public school facilities. Additionally, the Project applicant would be required to pay development impact fees to the Banning Unified School District to offset costs associated with increasing school capacity needs. As such, the Project would not result in substantial adverse physical impacts associated with the construction of new or physically altered school facilities and would therefore not cause significant environmental impacts and a less than significant impact would occur. **(Draft EIR, p. 4.11-15)**.

Parks. No park facilities currently exist on the Project site and Project development would not conflict with any nearby park facilities or require modification or construction of park facilities. Additionally, the Project does not propose residential uses that would generate an increase in population requiring new park facilities. As such, the Project would not cause or contribute to a need to construct new or physically alter existing park facilities. Therefore, a less than significant impact would occur and no mitigation is required **(Draft EIR, p. 4.11-16)**.

Other Public Facilities. The Project would not create a direct demand for other public facilities considering the proposed use does not include residential uses that would generate population growth requiring other public facilities. Therefore, the Project would not cause or contribute to a need to construct new or physically alter existing public facilities. Furthermore, no public facilities exist on the Project site and Project development would not conflict with existing public structures or require modification of any public facility. As such, the Project would result in a less than significant impact to other public facilities and no mitigation is required **(Draft EIR, p. 4.11-16)**.

RECREATION

Impact 7.6-1: 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?

Basis for Conclusion: No park facilities exist on the Project site and Project development would not conflict with any nearby park facilities or require the modification or construction of park facilities. The Project would not contain residential uses that would generate population growth requiring park facilities. Although the Project would create additional jobs in the area, it is expected that the Project employment demands would be filled by existing residents in the City, Riverside County, and surrounding area. As such, the Project would not increase the use of existing neighborhood and regional parks or substantially deteriorate existing park facilities and a less than significant impact would occur **(Draft EIR, p. 7-5** through **7-6)**.

Impact 7.6-2: Would the Project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Basis for Conclusion: The Project consists of an industrial use, which does not generally result in significant amounts of park usage. The Project does not propose or require the construction of any new on- or off-site recreational facilities, nor would it require the expansion of any existing recreational facilities. Therefore, environmental effects related to the construction or expansion of recreational facilities would not occur with implementation of the Project and a less than significant impact would occur. **(Draft EIR, p. 4.16-6)**.

TRANSPORTATION

Impact 4.12-1: Would the Project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Basis for Conclusion: The Project would adhere to the City General Plan goals and policies outlined in the Circulation Element. In fact, the Project's circulation network would be designed consistently with the existing transportation system by adhering to the transportation guidelines set in the City's General Plan. If applicable, the Project would comply with the City's Development Impact Fee program, which would require a payment of fees to ensure that the Project's impact would not significantly impact the regional circulation and/or arterial expansions planned by the City and County.

While the City does not currently have a bicycle or pedestrian circulation plan, the development impact fees would go toward any future bicycle or pedestrian plans or future improvements to existing facilities. Additionally, the Project would improve pedestrian walkways adjacent to the Project site and be designed to ensure pedestrian safety. Additionally, the Project would support public transit use by improving roadway circulation and pedestrian walkways near the Project site. This would allow employees to utilize public transit, especially the bus routes nearest the Project site, Banning Routes 1 and 6. The development impact fees would also support the expansion of public transit near the Project site.

Overall, the Project would not conflict with the relevant goals, policies, and ordinances, addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities and a less than significant impact would occur **(Draft EIR, p. 4.12-10** through **4.12-12)**.

Impact 4.12-3: Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Basis for Conclusion: The Project site does not currently have direct access to the roadway network of the City of Banning. Wilson Drive and Nicolet Street east of Hathaway Street and O'Donnell Street are platted roadway rights-of-way within the City that would be constructed to serve the Project. The Project would also include roadway improvements along the Project frontages. The design of all roadway improvements would not include geometric designs that would increase hazards or incompatible uses. The Project's design features would include the creation of new driveways, improvements of adjacent/nearby roadways, and development of internal circulation pathways. Specifically, these improvements would be designed in conformance with the development and design standards of the Banning General Plan and Banning MC design standards, which include but is not limited to Banning MC Section 17.24.040, "Each structure or use shall maintain direct access to a public right-of-way. Where a structure or use is

part of a larger project, such as shopping center, all structures shall maintain reciprocal access easements through parking lots. Wherever possible, circulation systems shall interconnect between projects, and limit access onto arterial roadways."

As such, the Project site would have safe and efficient movement of traffic within and throughout the Project site. Furthermore, this would ensure that the Project would not introduce any sharp curves for the public and Project uses, or create dangerous intersections, or design hazards. Lastly, the Project does not propose incompatible land uses that would result in a potential significant traffic safety hazard. Therefore, the Project would not substantially increase hazards due to a geometric design feature or incompatible land use, and impacts would be less than significant (**Draft EIR, p. 4.12-22 to 4.12-23**).

Impact 4.12-4: Would the Project result in inadequate emergency access?

Basis for Conclusion: As previously stated, Wilson Street and Nicolet Street are platted roadway rights-of-way within the City that would be constructed to serve the Project east of Hathaway Street and O'Donnell Street. Wilson Street and Nicolet Street intersect Hathaway Street and would be constructed as part of coordination between the development of this Project, developers of adjacent properties, and the City. Should the construction of Nicolet Street be delayed for any reason, the Project would be required to provide a secondary access to the Project site. This extension would not be a permanent roadway improvement and would occur through already disturbed areas. This secondary access would only be required as conditioned by the City upon Project approval.

Project site ingress and egress for the warehouse building would be via two driveways: one 44-foot driveway at the intersection of Nicolet Street and O'Donnell Street; one 52-foot driveway along Wilson Drive. Additionally, while not considered part of the Project, the City has currently proposed a roadway alignment on the eastern portion of the Project site. This road would connect the Project to a proposed interchange with I-10. At such a point when the proposed interchange and roadway are constructed, there would be an additional location for regional access to the Project site. Emergency access to the Project site would be provided by the proposed driveways located at the intersection of Nicolet Street and O'Donnell Street and at the driveway along Wilson Drive.

Furthermore, design of any needed roadway improvement and subsequent construction due to increased traffic volumes on local roadways would comply with the applicable federal, state, and local requirements related to emergency access and evacuation plans. The proposed design and construction plans for any future construction and roadway improvement, including potential mitigation to accommodate any future increase in traffic volume, would be reviewed and approved by the City engineering department and fire marshal (if needed) during the plan review and prior to Project approval. As such, the Project would not result in inadequate emergency access and would comply with design standards for emergency services and impact would be less than significant and no mitigation is required (**Draft EIR p. 4.11-23** through **4.11-24**).

UTILITIES & SERVICE SYSTEMS

Impact 4.14-1: Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?

Basis for Conclusion: Water Use. Potable water to the Project site would be provided by the City of Banning Public Works and Utilities Department. The City of Banning Public Works and Utilities Department provides water to its service area primarily via groundwater. The majority of Project water facilities would be installed below ground and installed within existing or future road rights-of-way, and as such the only physical impacts would be associated with temporary impacts during construction. Additionally, compliance with the NPDES permit, Waste Discharge Order (WDR), BMPs, and the City's Municipal Code would ensure the Project meets all mandatory construction stormwater management requirements. All Project water facilities would be constructed and operated in accordance with applicable guidelines and regulations in the City. This includes the stipulation that a Project-specific WQMP be prepared that identifies BMPs that would be implemented during operation that would treat common surface water pollutants, including silts. In consideration of existing requirements, no significant impacts are anticipated with respect to Project water facilities (**Draft EIR, p. 4.14-14**).

Wastewater. The Project would utilize the City of Banning Public Works – Wastewater Division's existing wastewater infrastructure along with new proposed infrastructure meant to serve the Project area. To provide a conservative estimate of wastewater generation, it is assumed that the Project would generate the same amount of wastewater as water demanded. Therefore, it should be assumed that the Project would generate approximately 1.9 percent of the Banning Wastewater Treatment Plant (WWTP) daily capacity. Originally, the Draft EIR calculated the percentage to be 1.08 percent, however this percentage has been updated to 1.9 percent to reflect the correctly estimated percentage of daily capacity of wastewater of the Banning WWTP that the Project would generate and is included in the **Section 3.0 Errata** of the Final EIR. Therefore, no new wastewater treatment facilities would need to be constructed for the Project.

A sanitary sewer lift station would be required to be constructed to serve the Project. However, this sanitary lift station would serve all other projects in the vicinity to the Project. As this area of the City has been identified by the City for development and was analyzed within the General Plan EIR, this new infrastructure would not have been previously unknown. Further, the lift station, and associated force main and gravity main, would be constructed within already established right-of-way or within easements to be dedicated to the City on land previously disturbed. As the expansion of these services would have previously been analyzed and the areas in which the infrastructure would be installed would be in previously disturbed areas, there would not be significant impacts related to the expansion of these services and a less than significant impact would occur in this regard. (**Draft EIR, p. 4.14-14** through **4.14-15**).

Stormwater and Drainage. The Project's proposed storm drain infrastructure would include infrastructure installed as part of the roadway improvements of Wilson Street and O'Donnell Street, and

along the Project frontages. These storm drains would be conveyed into existing City storm conveyance infrastructure. In addition, on-site storm sewer infrastructure would be constructed to intercept and store the 100-year 3-hour duration event storm flows pursuant to the City MC Section 13.24.110. The Project's stormwater and drainage facilities would be constructed and operated in accordance with applicable guidelines and regulations of the Coachella Valley Water District (CVWD), the Clean Water Act (CWA), and City. Lastly, the Project would also follow the Project-specific WQMP prepared for the Project that identifies BMPs what would be implemented during operation that would treat for common surface water pollutants, including silts. Therefore, the Project would not require or result in the relocation or construction of new or expanded stormwater and drainage facilities that would result in significant environmental effects and impacts would be less than significant (**Draft EIR, p. 4.14-15** through **4.14-16**).

Electricity. Existing on-site Southern California Edison (SCE) transmission lines would be relocated to accommodate the Project. These transmission lines would be rerouted and installed underground within the right-of-way of Nicolet Street, O'Donnell Street, and Wilson Street as part of the off-site roadway improvements along the Project frontages. Furthermore, the new infrastructure would be completely underground, pursuant City MC Section 17.24.170. Therefore, the Project would not require or result in the relocation or construction of new or expanded electricity facilities that would result in significant environmental effects and impacts would be less than significant (**Draft EIR, p. 4.14-16**).

The Project would not require or result in the relocation or construction of new or expanded utility infrastructure and facilities such that relocation or construction would result in substantial adverse impacts to the environment. All design and construction would adhere to applicable standards, policies, and regulations as outlined in associated regulatory documents including but not limited to the City's Municipal Code, CVWD, CWA, and requirements associated with NPDES permitting, WQMP, BMPs, and WDRs. As such, a less than significant impact would occur and no mitigation is required.

Impact 4.14-2: Would sufficient water supplies be available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Basis for Conclusion: The Water Supply Assessment (WSA) that was prepared for the Project determined that the Project's water demand would be less than one percent of the total available water supply and consumption. Furthermore, the WSA would be more conservative that the City's 2020 UWMP, and the Project's water demand would still only be less than one percent of the available supply. Since water consumption rates would be decreased as a result of an increase in efficiencies of water appliances and use of water, daily water generated by the Project site would be minimal. Additionally, the Project, along with other future industrial projects, have been incorporated into the projected water demands for the City's 2020 UWMP and were reasonably accommodated into future water supplies during normal, dry-, and multiple dry-years. Since these water demands have been incorporated and accounted for, and do not directly necessitate the further development of water infrastructure, a less than significant impact would occur, and no mitigation is required. (**Draft EIR, p. 4.14-16** through **4.14-17**).

Impact 4.14-3: Would the Project result in a determination by the wastewater treatment provider which serves or may serve the Project determined that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

Basis for Conclusion: The Project's proposed industrial uses would be consistent with the City's current land use and zoning designations of Business Park for the Project site, and thus, would have been accounted for in the City's General Plan and UWMP. Additionally, as previously stated, the Project would generate approximately 1.9 percent of the Banning WWTP daily capacity. According to the City's General Plan FEIR, average industrial wastewater generation in 2018 was calculated to be 750 gallons per acre per day (gpd). Using the 2018 generation rates for industrial uses, a less conservative approach, the WSA found that the Project could generate approximately 22,727 gallons per day (gpd), which would account for 0.6 percent of the Banning WWTP daily capacity. Originally, the Draft EIR had miscalculated the percentage as 1.7 percent; however, this error has been updated to 0.6 percent to reflect the Project's correctly estimated percentage of wastewater generation of Banning WWTP daily capacity and is included in **Section 3.0 Errata** of the Final EIR. As such, even with the conservative estimates, the Banning WWTP would have adequate capacity to serve the Project's projected demand. As such, impacts to wastewater treatment flows and capacity would be less than significant and no mitigation is required (**Draft EIR, p. 4.14-18 to 4.14-19**).

Impact 4.19-4: Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Basis for Conclusion: While the Project is anticipated to generate solid waste during both construction and operational phases, it is not anticipated that generated solid waste would result in inadequate landfill capacity. The Project would comply with applicable local, state, and federal regulations regarding solid waste, including state and local solid waste standards and reduction goals. All solid waste within the City would be deposited at the Lamb Canyon Sanitary Landfill, El Sobrante Landfill, and/or the Badlands Landfill for disposal. Combined, the three landfills have a remaining capacity of 171,020,120 cubic yards with a daily throughput of 26,054 tons per day. The Project is estimated to generate approximately 7,920 pounds per day, or approximately 3.96 tons per day for the 1,320,284 square foot building area of the Project. As such, the Project's waste generation would be 0.02 percent of the combined daily throughput of all landfills. The Project would not result in excess capacity of local infrastructure or impair attainment of solid waste reduction goals and a less than significant impact would occur. (**Draft EIR, p. 4.14-19** through **4.14-20**).

Impact 4.14-5: Would the Project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Basis for Conclusion: The Project would comply with all applicable local, state, and federal regulations regarding solid waste, including those of the County. The Project is anticipated to generate solid waste during both construction and operational phases but not in excess resulting in inadequate landfill capacity. As such, The Project would be compliant with all applicable local, state, and federal regulations and reduction strategies related to solid waste and a less than significant impact would occur **(Draft EIR, p. 4.14-20)**.

WILDFIRE

Impact 4.15-1: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?

Basis for Conclusion: According to the CAL FIRE's Fire and Resource Assessment Program, FHSZ Viewer, the Project site is not located in or near an SRA; the nearest SRA to the development site is located approximately 1.5 miles east of the Project site. The Project site is located within an LRA designated as a VHFHSZ, as identified on the latest FHSZ maps prepared by CAL FIRE (**Draft EIR, p. 4.15-13**). The Project site is adjacent to vacant land that extends to the base of the San Bernardino Mountains, where high wind conditions periodically occur that have the potential to dramatically spread wildland fires. The proposed parking areas and Wilson Street extension within the northern portion of the Project site would provide buffer between vacant lands to the north and the proposed structure in a way that could reduce wildfire risk to structures. The Project would also be required to incorporate wildfire prevention design techniques in accordance with the City of Banning General Plan Program 3.A, such as the use of "defensible space," fire retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards.

Additionally, the Project site would comply with the City of Banning General Plan Program 3.B and would provide adequate emergency vehicle access and evacuation routes through multiple points of ingress/egress. The Project would not alter or impact any existing emergency access roads or evacuation routes as identified in the WRCOG Community Vulnerability Profile Map 1: Banning's Regional Evacuation Route. The Project site would provide access to the identified evacuation routes through street and access improvements. A Wildfire Fire Evacuation Plan (WEP) was prepared specifically for the Project and focuses on wildland fire evacuations. Ultimately, the WEP will be used to educate the evacuation approach during wildfires and other similar emergencies and links to important citizen preparedness information. The City of Banning Police Department would be the primary law enforcement agency responsible for evacuations within the City's jurisdiction. The City also contracts with the Riverside County Fire Department/ CAL FIRE for fire protection.

The proposed construction, along with the removal of any brush, trees, and grasses would limit the potential for wildfire spreading by removal of source materials. Since there will be multiple points of ingress/egress and building designs would be compliant with state, regional, and local regulations, buildout of the Project would not interfere with emergency response and evacuation plans for the City. Lastly, in accordance with the City of Banning General Plan Program 3.C, the City shall adopt standard requirements for all development proposal in High Fire Hazard Areas, including requirements for the preparation of Fire Protection Plans (FPP) prior to the approval of Tentative Tract Maps, Tentative Parcel Maps, or other land use permits. Therefore, a less than significant impact would occur associated with the substantial impairment of an adopted emergency response plan (**Draft EIR, p. 4.15-13** through **4.15-15**).

Impact 4.15-2: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project, due to slope, prevailing winds, and other factors, exacerbate wildlife risks, and thereby expose Project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Basis for Conclusion: The Project site does not currently have direct access to the roadway network of the City. However, the improvements to Wilson Street and Nicolet Street east of Hathaway Street and O'Donnell Street and associated roadway improvements would improve access to the City's evacuation routes. The addition of these new and improved roadways would also act as fuel breaks, further preventing the uncontrolled spread of wildfire.

Wildfire may occur in wildland areas that surround the Project site, but would not be meaningfully increased in frequency, duration, or size with the construction of the Project. The Project's on-site fire potential will be much lower than its current condition due to conversion of wildland fuels to a building, parking areas, managed landscapes, fuel modification areas, improved accessibility for fire personnel, and structures built to the latest ignition and ember resistant fire codes. Additionally, the Project would comply with applicable City policies mitigating or minimizing wildfire hazard risks. In accordance with the City of Banning General Plan Program 3.A, the Project would be required to incorporate wildfire prevention design techniques, such as the use of "defensible space," retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards. The Project would also build all structures consistent with the latest CBC which also includes features to minimize fire hazards. Due to the presence of area roadways, lack of steep slopes, and concrete construction of the Project, it is not likely to be affected by a wildfire during construction or operations. As such, the Project would not exacerbate wildfire risks or expose Project occupants to pollutant concentrations or the uncontrolled spread of a wildfire, and a less than significant impact would occur (**Draft EIR, p. 4.15-18 to 4.15-20**).

Impact 4.15-4: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Basis for Conclusion: The Project site is on relatively flat ground and not adjacent to steep slopes. The Project site is surrounded by suburban development and vacant land that is also relatively flat. According to FEMA's National Flood Hazard Layer (NFHL), much of the Project site exists within Zone X, indicative of areas of minimal flood hazard. However, the northeast portion of the Project site, an area encompassing approximately 47.5 acres, is designated as Zone A, a hazard area with a one percent annual chance of flooding (100-year flood hazard area). However, the WQMP and Preliminary Hydrology Calculations Reports concluded that the proposed drainage improvements would adequately convey flows to the proposed basins and would also capture runoff adequately. As such, the Project is not anticipated to expose people or structures to significant risks resulting from runoff, post-fire slope instability, or drainage change. Therefore, a less than significant impact would occur and no mitigation is required (**Draft EIR, p. 4.15-21**).

5.2 EFFECTS DETERMINED TO BE MITIGATED TO LESS THAN SIGNIFICANT LEVELS

The City of Banning, having reviewed and considered the information contained in the Final EIR, the Technical Appendices and the administrative record, finds, pursuant to California Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1) that changes or alterations have been required in, or incorporated into the Project, which would avoid or substantially lessen to below a level of significance the following potentially significant environmental effects. The City finds that these potentially significant adverse impacts can be mitigated to a level that is considered less than significant after implementation of mitigation measures identified in the Final EIR.

AIR QUALITY

Impact 4.2-3 Would the Project expose sensitive receptors to substantial pollutant concentrations?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-6** is feasible, is adopted, and will reduce the potential sensitive receptor impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Land uses considered sensitive receptors include residences, schools, playgrounds, childcare center, long-term health care facilities, rehabilitation centers, convalescent centers, and retirement homes. The Project is surrounded mainly by vacant and undeveloped land. Some residential uses are located west of Hathaway Street, and the Morongo Reservation is located to the north of the Project site. The nearest sensitive receptor is a multi-family residential apartment complex located approximately 400 feet to the west of the Project site (**Draft EIR, p. 4.2-24**).

Project emissions for both construction and operations were estimated using CalEEMod and SCQAMD Final Localized Significance Threshold (LST) Methodology to determine the Project's impacts to nearby sensitive receptors. The results of the analysis determined that Project construction emissions would be below the SCAQMD LST at each nearby sensitive receptor. Additionally, LSTs were estimated for Project operations using a worst-case scenario including all on-site Project-related stationary sources and three percent of mobile sources. It was determined that Project operations would not result in significant concentrations of pollutants at nearby sensitive receptors (**Draft EIR, p. 4.2-25**).

The Project's carbon monoxide (CO) emissions would not result in excess CO generation such that a CO hotspot would be created. CO exceedances are caused by vehicular emissions, primarily when vehicles are idling at intersection. As part of the SCAQMD's CO Hotspot Analysis, the Wilshire Boulevard and Veteran Avenue intersection, one of the most congested intersections in southern California with an average daily traffic volume (ADT) of approximately 100,000 vehicles per day, was modeled for CO concentrations. The Banning General Plan Circulation Element shows existing and future traffic volumes for major roadways. Access to I-10 would be from Ramsey Street, which would have a maximum of 22,418 ADT near the Project site. The Project is estimated to induce ADT to 27,801 vehicles per day. As the CO hotspots were not experienced at the Wilshire Boulevard and Veteran Avenue intersection even

as it accommodates approximately 100,000 vehicles daily, it can be reasonably inferred that the CO hotspots would not be experience at any Project vicinity intersections. Therefore, impacts with respect to CO exceedances would be less than significant (**Draft EIR, p.4.2-29**).

A chronic hazard was calculated based on the highest annual average concentration at the maximally exposed individual receptor. The highest maximum chronic hazard index associated with unmitigated diesel particulate matter (DPM) emissions from the Project would be 0.022. The chronic hazard index threshold is one (1). Therefore, even without mitigation, non-carcinogenic hazards are calculated to be within acceptable limits. With mitigation, the chronic hazard would be reduced to 0.011. Therefore, impacts associated with non-carcinogenic risk would be less than significant (**Draft EIR, p. 4.2-30**).

A Health Risk Assessment (HRA) was prepared for the Project and conducted based on the SCAQMD's Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis and the SCAQMD Risk Assessment Procedures and the guidance from the Office of Environmental Health Hazard Assessment (OEHHA). Construction-related activities would result in Project-generated emissions of DPM from off-road, heavy-duty diesel equipment exhaust; paving; architectural coating application; on-road truck travel; and other miscellaneous activities. Accordingly, the Project would result in a maximum cancer risk of 6.53 in one million for residents and 6.12 in one million for workers which is below SCAQMD's threshold of 10 in one million. SCAQMD Rule 2305 requires warehouse operators to earn Warehouse Actions and Investments to Reduce Emissions (WAIRE) points by completing actions off the WAIRE Menu. As such the Project would implement **MM AQ-6**, which would require charging stations for cargo handling equipment. **MM AQ-6** allows the Project to be in compliance with Rule 2305 as part of the WAIRE program. Additionally, with the implementation of **MM AQ-6**, the maximum cancer risk from the Project would decrease to 4.30 per million for residents and 3.00 per million for workers. Therefore, impacts associated with carcinogenic risk would be mitigated with the implementation of **MM AQ-6** to less than significant levels (**Draft EIR, p. 4.2-30**).

Mitigation Measures

MM AQ-6 The Project shall include necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.

BIOLOGICAL RESOURCES

Impact 4.3-1: Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-1** and **MM BIO-2** are feasible, are adopted, and will reduce the potential species/habitat impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project site occurs partially within a predetermined Survey Area for two Multiple Species Habitat Conservation Plan (MSHCP) Narrow Endemic Plan Species (NEPS), including Yucaipa (Marvin's) onion (*Allium marvinii*) and many-stemmed dudleya (*Dudleya multicaulis*). According to the MSHCP guidelines, focused surveys are required during the appropriate flowering season to document the presence/absence of these species if suitable habitat is present and if the property is located within a predetermined Survey Area. Focused surveys for both MSHCP NEPS were conducted during the Spring of 2023 to determined presence/absence and neither of the two MSHCP NEPS were detected during the Project surveys and are therefore not expected to occur due to lack of observation (**Draft EIR, p. 4.3-12**).

Although the Project site possess suitable habitat for three MSHCP covered plant species, including Payson's jewelflower (*Caulanthus simulanus*), Perry's spineflower (*Chorizanthe parryi* var. *parryi*), and slender-horned spineflower (*Dodecahema leptoceras*), the Project site is not located within a survey area for these species and the MSHCP has determined that all these sensitive species potentially occurring on-site have been adequately covered and no surveys are required (**Draft EIR, p. 4.3-12**).

Additionally, the Project site is not located within an MSHCP criteria area Species Survey Area, and no surveys are required. Further, the Project site possesses suitable habitat for two MSHCP non-covered plant species including chaparral sand-verbena (*Abronia villosa* var. *aurita*) and Robinson's pepper-grass (*Lepidium virginicum* var. *robinsonii*). Focused surveys for sensitive plants were conducted during the Spring of 2023 to determine presence/absence. No sensitive plants including other California Native Plant Society (CNPS) special-status plants, or species of local concern were observed or expected onsite. Therefore, a less than significant impact would occur concerning sensitive plant species (**Draft EIR, p. 4.3-12**).

An initial Burrowing Owl habitat assessment was conducted during the winter of 2022. Eight focused Burrowing Owl surveys were also conducted on March 8, 9, 20, April 12, and 19, May 3, 30, and 31 of 2023. Suitable burrowing owl burrows potentially utilized for refugia and/or nesting were documented adjacent to the property including foraging habitat documented throughout the Project site. No burrowing owl or characteristic sign such as white-wash, feathers, tracks, or pellets were detected within or immediately adjacent to the Project site during the 2023 survey efforts. Mitigation measures have been identified to reduce potentially significant impacts to less than significant levels. As such, **MM BIO-1** would be implemented to ensure a 30-day pre-construction survey for burrowing owls is conducted prior to initial ground-disturbing activities. During visual surveys, all potentially suitable burrow or structure entrances are investigated for signs of owl occupation and carefully observed to determine if burrowing owls utilize these features, when present. No burrowing owl or characteristic signs were detected within or immediately adjacent to the Project site during the 2023 survey effort (**Draft EIR, p. 4.3-12** through **4.3-13**).

A total of six MSHCP Planning Species, Bell's sage sparrow (*Artemisiospiza belli belli*), Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), white-tailed kite (*elanus leucurus*), loggerhead shrike (*Lanius ludovicianus*), and Stephen's kangaroo rat (*Dipodomys stephensi*), have the potential to occur within the Project site. While the MSHCP had determined that these sensitive species potentially occurring within the Project site have been adequately covered, and no surveys are required, the Project would still be required to comply with **Standard Condition (SC) BIO-1**, which would require the payment of the MSHCP Local Development Mitigation Fee. While the payment of these fees is not mitigation of Project impacts in it of themselves, these fees would allow the MSHCP to implement the plan (**Draft EIR, p. 4.3-13**).

Although the Crotch's bumble bee (*Bombus crotchii*) is not covered by the MSHCP and no suitable habitat was identified on the Project site for the species, the prevalence and ubiquitous nature of Crotch's bumble bee habitat throughout the state and region would provide for a reasonable, and conservative, assumption that suitable scattered foraging habitat for the species is present. The purpose of the **SC BIO-1** would allow MSHCP to acquire and preserve higher quality habitat than those currently present for special-status species, such as the Crotch's bumble bee (**Draft EIR, p. 4.3-13**).

A total of 14 sensitive species has the potential to occur within the Project site. Potential impacts to MSHCP planning species would be mitigated following implementation of **MM BIO-1** and compliance with **SC BIO-1**. Furthermore, **MM BIO-2** would implement a nesting bird pre-construction survey, that would also be implemented to reduce impacts to important biological resources. (**Draft EIR, p. 4.3-13** through **4.3-14**).

Standard Conditions:

SC BIO-1 **MSHCP Local Development Mitigation Fee**. The Project Applicant shall pay MSHCP Local Development Mitigation fees, as a standard condition, as established and implemented by the City of Banning. Five categories of the fee are defined and include: Residential, density less than 8.0 dwelling units per acre $4,236 per dwelling unit; Residential, density between 8.0 and 14.0 dwelling units per acre $1,766 per dwelling unit; Residential, density greater than 14.1 dwelling units per acre $781 per dwelling unit; Commercial $19,066 per acre; and Industrial $19,066 per acre. The Project proposes industrial uses and would utilize the $19,066 per acre fee.

Mitigation Measures

MM BIO-1 **Burrowing Owl 30-Day Pre-Construction Surveys.** In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503. 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified biologist prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the Project site in the days or

weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW.

If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the Project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan.

The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval.

If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan.

A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures.

The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.

MM BIO-2 **Nesting Bird Preconstruction Surveys**. Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading.

The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following:

- Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures.
- Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts.

If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the

Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of Project activities, and at the onset of any changes in such Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.

Impact 4.3-2: Would the Project 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 Wildlife or U.S. Fish and Wildlife Service?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3** is feasible, is adopted, and will reduce the riparian impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: No riparian scrub, forest, or woodlands habitat are located within the Project site. Also, no vegetation communities listed by the California Department of Fish and Wildlife (CDFW) as sensitive were documented within or adjacent to the Project site. A total of 131.28 acres of desert scrub, non-native grassland, Riversidean sage scrub, and disturbed/developed vegetation communities will be directly and permanently impacted by Project implementation. As such, the Project would implement **MM BIO-3**. **MM BIO-3** would require either the creation of 1.62-acres of habitat or purchase of a minimum of 1.62-acres of habitat creation credits from an approved mitigation bank. However, there is not current existing mitigation bank approved for the Whitewater River watershed. If a mitigation bank

were to be approved for the Whitewater River watershed, a minimum purchase of 1.62-acres of habitat creation credits would be required. Additionally, if mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. Any on- or off-site mitigation would require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. Further, to meet the criteria of a biologically equivalent or superior alternative, the applicant would offset permanent impacts to a minimum of 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as outlined in **MM BIO-3** in the MMRP for the Project. Lastly, a Habitat Mitigation and Monitoring Plan (HMMP) would prepared and implemented. With the implementation of **MM BIO-3** and preparation and implementation of a HMMP, the Project would have a less than significant (**Draft EIR, p. 4.4-27**).

Mitigation Measures

MM BIO-3 **USACE/CDFW/RWQCB Riverine Resources**. Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

The notification to CDFW should provide the following information:

1. A stream delineation including the bed, bank, and channel;

2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al. 2009);

3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity. Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and

4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site.

Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is

required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the Project site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance.

To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum of 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP.

- Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.
- A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies.
- A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.

Impact 4.3-3 Would the Project have a substantial adverse effect on state or federally protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3** is feasible, is adopted, and will reduce the wetland impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project would result in a total of 0.18 acre of permanent impacts to U.S. Army Corps of Engineers (USACE)/RWQCB jurisdictional resources. However, no wetlands are located within or adjacent to the Project site. As such, no wetlands would be impacted as a result of Project implementation (**Draft EIR, p. 4.3-15**).

Prior to the issuance of a grading permit, the Project Applicant would obtain a CWA Section 404 permit, Section 1602 Streambed Alteration Agreement from the CDFW, and Waste Discharge Requirements (WDR) permit issued by the RWQCB pursuant to the California Water Code Section 13260 as outlined in **MM BIO-3**, refer to the MMRP.

The Project would result in a total of 0.54 acre of permanent impacts to CDFW/MSHCP Section 6.1.2 Riverine Jurisdictional Resources. However, no riparian habitat would be directly impacted by Project implementation. Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, purchase of 2.67 acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the Whitewater River watershed, it is assumed 2.67 acres of on-site creation is required as outlined in **MM BIO-3**. As a result of the impacts to jurisdictional features, two mitigation areas have been identified for the Project site. These mitigation areas will consist of two non-contiguous parcels totaling 2.67 acres (2.20 acres and 0.547 acres) on the northeast and eastern portions of the Project site. This would mitigate the impacted area through reestablishment of habitat at a ratio of 5:1. This proposed creation area would be designed to meander within the mitigation area creating a natural looking braided drainage and vegetated with alluvial fan sage scrub habitat. Further a deed restriction would be placed on all or a portion of the 2.67-acre mitigation area(s) and a HMMP would be prepared to direct the habitat restoration process for the mitigation area. This HMMP would be reviewed and approved by the relevant permitting agency or agencies (**Draft EIR, p. 4.3-16**).

Additionally, the Project would comply with all water quality regulations, including compliance with NPDES regulations and MS4 permit requirements. The MS4 permit places pollution prevention requirements on planned developments, construction sites, commercial and industrial businesses, municipal facilities and activities, and residential communities. Both these permits include the treatment of all surface runoff from paved and developed areas and include the implementation of BMPs during construction activities, along with installation and maintenance of structural BMPs that ensure adequate long-term treatment of water before entering any stream course or municipal system. As such, with the compliance of all applicable water quality regulations and implementation of **MM BIO-3**, the Project would have a less than significant impact (**Draft EIR, p. 4.3-16**).

Mitigation Measures

Refer to **MM BIO-3** above.

Impact 4.3-6 Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approve local, regional, or State habitat conservation plan?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM BIO-3, MM BIO-2,** and **MM BIO-3** are feasible, are adopted, and will reduce the potential MSHCP impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project is located within the Western Riverside County MSHCP: The Pass Plan Area and is not located within an MSHCP Criteria Area Cell or Cell Group. Following implementation of the MSHCP Urban/Wildlands Interface Guidelines and BMP's the proposed action would be consistent with MSHCP goals and objectives for The Pass-Special Linkage Area (SLA). At a minimum, an MSHCP 30-day preconstruction survey will be required immediately prior to the initiation of construction to ensure protection for this species and compliance with the conservation goals as outlined in the MSHCP. As documented above, Project implementation would be consistent with all provisions, guidelines and objectives of The SLA following implementation of **MM BIO-1**, **MM BIO-2**, and **MM BIO-3** (**Draft EIR, p. 4.3-21**).

Additionally, the Project site is not located within the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). However, the collection, and transfer of flows from the Project site through earthen bottom, concrete channels with dissipaters and culverts are expected to have significantly reduced natural sediment deposits to the San Gorgonio River and therefore, no new or additional downstream impacts to fluvial conditions respective of altering sediment load within the CVMSHCP is expected. Therefore, Project development would not conflict with the CVMSHCP, and a less than significant impact would occur (**Draft EIR, p. 4.3-21** through **4.3-22**).

MSHCP Urban/Wildlands Interface Guidelines

The Project site occurs partially within a predetermined Survey Area for two MSHCP NEPS including Yucaipa (Marvin's) onion and many-stemmed dudleya. No suitable habitat or clay substrates were documented on-site, and the species are not expected to occur on-site. However, to ensure MSHCP NEPS are adequately addressed, focused surveys were conducted during the Spring of 2023 and neither species was documented on-site during these surveys. As such, the Project would be consistent with MSHCP Section 6.1.3 The Project site is not located adjacent to an existing or proposed MSHCP Conservation Area. However, the Project site is located approximately 1,700 feet (0.32 mile) southwest of a regional wildlife movement corridor (San Gorgonio River). Therefore, all proposed Urban/Wildlands Interface Guidelines and BMPs would be implemented. As such, the Project would be consistent with MSCHP Section 6.1.4. The Project site is not located within or adjacent to an existing or proposed MSHCP Conservation Area. However, the Project site is located approximately 1,700 feet (0.32 mile) southwest of a regional wildlife movement corridor (San Gorgonio River).

Additionally, the Project would include fuel modification zones to create defensible space and reduce risks associated with wildfire. Fuel modification would be provided as needed around the perimeter of the Project site as required by RCFD and would be a minimum of 100 feet wide. At least 100 feet is provided between the perimeter of the structure and the property line allowing this minimum 100-foot fuel modification to be obtainable on property owned by the owners of the structure. Further, all portions of the 100-foot perimeter are either paved or landscaped, and any landscaping would comply with the applicable fuel modification zone requirements, as outlined in ***Draft EIR Section 4.14 Wildfire*** (**Draft EIR, p. 4.15-11** through **4.15-13**). Therefore, all fuels management guidelines would be implemented. (**Draft EIR, p. 4.3-22**).

Overall, the Project would be consistent with the aforementioned guidelines of the Western Riverside County MSHCP and would not conflict with the CVMSHCP. Additionally, the Project would implement **MM BIO-1** through **BIO-3**, which would reduce potentially significant impacts and the Project would have a less than significant impact.

Mitigation Measures

Refer to **MM BIO-1** through **BIO-3** above.

CULTURAL RESOURCES

Impact 4.4-2: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-1**, and **MM CUL-2** are feasible, are adopted, and will reduce potential impacts to identified historic resources from construction of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project area has a low sensitivity for prehistoric archaeological resources, and it is unlikely that intact, subsurface prehistoric archaeological deposits would be uncovered during Project construction. A previously recorded isolate in the Project area, a circa 1917 USGS survey marker designated 33-022297, was not found during the field survey that was performed on February 10 and 11, 2022, although finding this artifact was not considered a focal point of the fieldwork. Isolates such as this, or localities with fewer than three artifacts, do not constitute archaeological sites due to the lack of depositional context and thus of information potential.[1] None of the six cultural resources identified during the field survey demonstrated any historical or archaeological interest. Sensitivity for encountering historic-age archaeological resources is considered low to moderate. However, the Project would still implement **MM CUL-1** and **MM CUL-2** to ensure that any potentially unknown archaeological resources would not be adversely affected by Project construction. As such, with implementation of **MM CUL-1** and

[1] CRM TECH Page 14.

MM CUL-2, a less than significant impact concerning archaeological resources would occur. (**Draft EIR, p. 4.4-11** through **4.4-12**).

Mitigation Measure

MM CUL-1 Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth moving activities, including clearing, grubbing, cutting, and trenching at the site. The monitor(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.

MM CUL-2 If archaeological remnants are discovered during monitoring, the monitor(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.

Impact 4.5-3: Would the Project disturb any human remains, including those interred outsides of dedicated cemeteries?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-3** is feasible, is adopted, and will reduce potential impacts to human remains from construction of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: The Project site does not contain a cemetery and no known formal cemeteries are located within the immediate site vicinity. If human remains are discovered during Project grading or other ground disturbing activities, the Project would be required to comply with the applicable provisions of California Health and Safety Code Section 7050.5 as well as PRC Section 5097 et. seq. California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin. Pursuant to California Public Resources Code (PRC) Section

5097.98(b), remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made by the Coroner.

If the Coroner determines the remains to be Native American, the California Native American Heritage Commission (NAHC) must be contacted and the NAHC must then immediately notify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendant(s) shall then make recommendations within 48 hours and engage in consultations concerning the treatment of the remains as provided in PRC Section 5097.98. As such, **MM CUL-3** would be implemented to ensure the Project is compliant with the above policies and that a qualified archaeologist would assess the significance of the find. With the implementation of **MM CUL-3**, the Project would have a less than significant impact on human remains (**Draft EIR, p. 4.4-13**).

Mitigation Measure

MM CUL-3 If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. 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 shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall 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 24 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.

GEOLOGY AND SOILS

Impact 4.6-4: Would the Project result in substantial soil erosion or the loss of topsoil?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM GEO-1**, are feasible, are adopted, and will reduce the potential erosion impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Construction activities have the potential to expose soils to short-term wind and water erosion. However, reduction of potential erosion can be accomplished through implementation of a SWPPP, which specified BMPs for temporary erosion controls. Further, the Geotechnical Engineer must be informed of water seepage encountered during grading or foundation construction for possible revision to the recommended construction procedures and/or installation of subdrains. The Project would also be required to follow the requirements of the NPDES permit, which contains measures to control impacts to erosion.

Along with all required permits and the erosion control plan verified by the City prior to initiation of any ground disturbing activity or grading permit, **MM GEO-1** would ensure Project buildout would not lead to a substantial loss of topsoil or erosion through compliance with all grading guidelines and all recommendations provided in the Geotechnical Investigation Proposed Banning Commerce Center (**Draft EIR, Appendix F1**) prepared for the Project. Implementation of **MM GEO-1** and conformance to these requirements and verification by the City as part of the development approval process would ensure that potential impacts from construction of the warehouse is less than significant (**Draft EIR, p. 4.6-14** through **4.6-15**).

Project operations would not involve procedures which would result in substantial soil erosion. Following construction, the Project site would be covered with hardscape and landscaping which would not contribute to erosion. Landscaping would include drought-tolerant shrubs, ground cover, and trees. The storm water basin(s) would be planted with grasses and shrubs tolerant of seasonal water inundation. Ground cover would reduce erosion and loss of on-site soils post-construction. This would ensure that Project operation would not result in the loss of topsoil or sedimentation into local drainage facilities and water bodies. Therefore, the potential for substantial soil erosion or the loss of topsoil is considered less than significant with mitigation. (**Draft EIR, p. 4.6-15**).

Mitigation Measures

MM GEO-1 The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.

Impact 4.6-8: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Findings:

1. Changes or alternatives have been required in, or incorporated into the Project, which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM GEO-2, MM GEO-3,** and **MM GEO-4** are feasible, are adopted, and will reduce the potential paleontological resource impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Unique geologic features are not common in the City of Banning or surrounding San Gorgonio Pass area. The geologic processes that formed landforms within the Project area are generally the same processes as in other parts of California.

A Paleontological Resources Assessment (PRA) was completed as part of the Project on May 20, 2024. As part of the PRA, a paleontological record search was conducted on May 28, 2024 for the Project area, with a 1-mile buffer, through the Los Angeles County Natural History Museum (LACNHM) and the Western Science Center (WSC). No paleontological resources were identified within the Project area as part of the

study. However, the age and composition of soils and sediments across the Project area, combined with the knowledge of paleontological resources identified within similar sediment deposits in California, indicate a high sensitivity for paleontological resources. In addition to the above records search and sensitivity review conducted by LACNHM and WSC, a review of the Riverside County Land Information System paleontological sensitivity layer was conducted for the Project area. The Project area is mapped as having Low Potential (L) for paleontological resources, though this is likely a mapping error, as the County of Riverside has identified areas with Pleistocene-aged alluvial sediments as High A or High B based on documented significant Pleistocene-age fossils in the broader region. As such, based on the age and composition of the soils, a sensitivity analysis conducted by LACNHM and WSC, and guidance provided by Riverside County, the Project area retains a high sensitivity for paleontological resources.

Further, as only a very small percentage of the Project area has been subject to prior disturbance, the likelihood of intact paleontological resources, which would be considered scientifically significant if discovered, being present within the Project area and inadvertently impacted by the Project remains high. As such, in order to mitigate impacts to paleontological resources, the Project would implement **MM GEO-2** through **MM GEO-4**. Therefore the Project would have a less than significant impact with mitigation. (**Draft EIR, p. 4.6-17**).

Mitigation Measures

MM GEO-2 The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following:

- The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques.
- The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist).
- The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.

MM GEO-3 A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules,

paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on-site.

MM GEO-4 Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued.

Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.

TRIBAL CULTURAL RESOURCES

Impact 4.13-1: Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site feature place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resources to a California Native American tribe.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM CUL-1** through **MM CUL-3** and **MM TCR-1** through **MM TCR-8** are feasible, are adopted, and will reduce the potential tribal cultural impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1),

changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Project-related construction activities could potentially uncover Native American historical or archaeological resources. However, the Project area appears to have low sensitivity for prehistoric archaeological resources, and it is unlikely that intact, subsurface prehistoric archaeological deposits would be uncovered during Project construction.

On October 13, 2021, CRM TECH submitted a written request to the State of California NAHC for a records search in the commission's Sacred Lands File. In response to CRM TECH's inquiry, the NAHC states in a letter dated November 19, 2021, that the Sacred Lands File (SLF) search did not return any information of Native American cultural resources (e.g., traditional use or gathering area, place of religious or sacred activity, etc.) within the immediate vicinity of the Project.

The Planning Department notified the following California Native American Tribes per the requirements of AB 52 on September 14, 2022, to initiate Tribal Consultation. The following tribes were contacted for consultation: Cahuilla Band of Indians, Morongo Band of Mission Indians (MBMI), Ramona Band of Cahuilla Mission Indians, Santa Rosa Band of Mission Indians, Serrano Nation of Indians, and the Yuhaaviatam of San Manuel Nation (YSMN). During the 30-day consultation period, only the YSMN responded. YSMN sent a response by email on October 11, 2022. YSMN indicated that the Project was located outside of their ancestral territory and did not wish to consult. MBMI provided a response after the 30-day consultation period on September 3, 2023. MBMI requested a formal consultation and provided mitigation measures they wished to have included as part of consultation. While consultation with MBMI fell outside the 30-day consultation period, the City wished to maintain good faith relations with the MBMI and as such, MBMI requested that mitigation measures are included as part of the Draft EIR.

To ensure that any potential tribal cultural resources would not be adversely affected during Project construction, MBMI requested that Project developer retain a Tribal Monitor during ground disturbing activities and that the developer would initiate a Native American Treatment Agreement (**MM TCR-1**). Additionally, the City of Banning through continued good-faith consultation with several Tribal Governments have established a suite of mitigation measures to be implemented in Projects that may have the opportunity to impact tribal cultural resources, which includes tribal monitoring. These mitigation measures, including those provided by MBMI, are provided below as **MM TCR-1** through **MM TCR-8** (**Draft EIR p. 4.13-10** through **4.13-11**). Therefore, with the implementation of these mitigation measures, impacts would be less than significant.

Mitigation Measures

Refer to **MMs CUL-1** through **CUL-3**.

MM TCR-1 **Native American Treatment Agreement**: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush

removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.

MM TCR-2 **Retention of Archaeologist:** Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground-disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.

MM TCR-3 **Cultural Resource Management Plan:** Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.

MM TCR-4 **Pre-Grade Meeting:** The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan

MM TCR-5 **On-site Monitoring:** During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.

MM TCR-6 **Inadvertent Discovery of Cultural Resources:** In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the

evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed.

If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference:

- Full avoidance.
- If avoidance is not feasible, Prevention in place.
- If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.
- If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1).

MM TCR-7 **Inadvertent Discovery of Human Remains:** The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s].

Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98.

In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5.

The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.

If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.

MM TCR-8 **Final Report:** The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].

WILDFIRE

Impact 4.15-3: If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the Project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM FIRE-1**, is feasible, is adopted, and will reduce potential fire hazard impacts of the Project to less-than-significant levels. Accordingly, the Council finds that, pursuant to PRC Section 21081 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant sensitive receptor impacts of the Project identified in the FEIR.

Basis for Conclusion: Currently, the Project site is composed of vacant land, and does not contain special infrastructure such as fuel breaks or emergency water sources. Construction and operation of the Project would not increase the risk of fire, nor would it require the installation/maintenance of infrastructure that would exacerbate fire risk. The Project would include improvements to adjacent roadways that would serve to provide emergency ingress and egress to the Project site in the event of an emergency. Additionally, vegetation management shall be performed pursuant to the Project's Fire Protection Plan (FPP) prior to the start of work and prior to import of combustible construction materials. Adequate fuel breaks shall be created around all grading, site work, and other construction activities in areas where there is flammable vegetation. Landscape planting would not utilize prohibited plants that have been found to be highly flammable. To ensure that the Project reduces fire risk, the Project would implement **MM FIRE-1,** which requires compliance with all Fire Safety Requirements as identified in the FPP prepared

for the Project. With the combination of adherence to relevant fire and building codes and implementation of the Project Design Features (PDFs), and mitigation measures, a less than significant impact would occur. (**Draft EIR, p. 4.15-21**).

Mitigation Measures

MM FIRE-1 **Fire Safety Requirements.** The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (**Appendix M1**). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.

5.3 EFFECTS WHICH REMAIN SIGNIFICANT AND UNAVOIDABLE AFTER MITIGATION

The City of Banning having reviewed and considered the information contained in the Final EIR, Technical Appendices and the administrative record, finds, pursuant to California Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social, technological, or other considerations, makes infeasible the mitigation measures identified in the Final EIR, and therefore, the Project would cause significant and unavoidable impacts to the categories of:

AIR QUALITY

Impact 4.2-1: Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Basis for Conclusion: To determine the Project's consistency with the SCAQMD Air Quality Management Plan (AQMP), the Project must demonstrate that:

1. The Project will not result in an increase in the frequency or severity of existing air quality violations, or cause or contribute to new violations, or delay the timely attainment of air quality standards or the interim emissions reductions specified in the AQMP
2. The Project will not exceed assumptions in the AQMP, or increments based on the years of the Project buildout phase.

The Project would be consistent with the second criterion, as the proposed industrial development and uses are consistent with the City's General Plan land use designation for the Project site of Business Park, which allows for light industrial manufacturing and office/warehouse buildings (**Draft EIR, p. 4.2-16**).

However, the Project is not consistent with the first criterion. The Project would not exceed construction emission standards with implementation of **MM AQ-1**, which ensures the Project utilizes "Super Compliant" low volatile organic compounds (VOC) paints; however, the Project's operational emissions would exceed the operational standard for nitrogen oxides (NO_x) of 55 pounds per day and would remain above the SCAQMD threshold. Further, unmitigated reactive organic gas (ROG) operational emissions would be 83.6 pounds per day, which exceeds the SCAQMD threshold of 55 pounds per day. With implementation of mitigation measures, identified below, operational ROG emissions would be reduced to 54.6 pounds per day. **MM AQ-2** through **MM AQ-6** would reduce operational emissions to the greatest

amount feasible; however, implementation would not reduce operational emissions enough to be below threshold, as shown in **Draft EIR, Table 4.2-9**. Since the Project would result in air pollutant emissions that exceed SCAQMD's operational emissions thresholds, even with mitigation implemented, the Project would be inconsistent with the AQMP, and would result in a significant and unavoidable impact. No feasible mitigation measures are available which would reduce impacts to the SCAQMD AQMP to less than significant (**Draft EIR, p. 4.2-16** through **4.2-17**).

Therefore, the Project would be inconsistent with the AQMP and would result in a significant and unavoidable impact.

While the Project would not reduce impacts to less than significant levels, the Project would still be required to comply with applicable plans, programs, and policies (PPP) based on local, state, or federal requirements that are frequently independent of CEQA review and typically include compliance with the provisions of the Building Code, SCAQMD Rules, etc. The City may impose additional requirements during the approval process, as appropriate. Because PPPs are neither Project specific nor a result of development of the Project, they are not considered to be either project design features or mitigation measures. The Project would comply with the PPPs listed below (**Draft EIR, p. 4-2-17**).

The Project has incorporated all reasonable and feasible mitigation measures to reduce this impact, and would comply with all applicable local, state, and federal regulations related to air quality. As previously mentioned, the Project would adhere to all applicable policies, ordinances, and regulations relating to GHG emissions. However, despite compliance with applicable state, federal, and local regulation governing GHG emissions and implementation of feasible mitigation measures the Project will still result in a significant and unavoidable impact with respect to Project and cumulative GHG emissions.

PPP-1 Prior to the issuance of grading permits, the City Engineer shall confirm that the Grading Plan, Building Plans and Specifications require all construction contractors to comply with SCAQMD's Rules 402 and 403 to minimize construction emissions of dust and particulates. The measures include, but are not limited to the following:

PPP-1a Portions of a construction site to remain inactive longer than a period of three months will be seeded and watered until grass cover is grown or otherwise stabilized.

PPP-1b All on-site roads will be paved as soon as feasible or watered periodically or chemically stabilized.

PPP-1c All material transported off-site will be either sufficiently watered or securely covered to prevent excessive amounts of dust.

PPP-1d The area disturbed by clearing, grading, earthmoving, or excavation operations will be minimized at all times.

PPP-1e Where vehicles leave a construction site and enter adjacent public streets, the streets will be swept daily or washed down at the end of the work day to remove soil tracked onto the paved surface.

In addition, for projects greater than 50 acres, additional requirements include, but are not limited to, the following:

PPP-1f Maintain a daily record of specific dust control actions taken and maintain records for a minimum of three years.

PPP-1g Install signage with contact information.

PPP-1h Identify a dust control supervisor.

PPP-2 Pursuant to SCAQMD Rule 1113, the Project applicant shall require by contract specifications that the interior and exterior architectural coatings (paint and primer including parking lot paint) products used would have a volatile organic compound rating of 50 grams per liter or less.

PPP-3 Require diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, Section 2449.

PPP-4 The Project shall be designed in accordance with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (CRR, Title 24, Part 6). These standards are updated, nominally every three years, to incorporate improved energy efficiency technologies and methods. The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. The Title 24 Energy Efficiency Standards (Section 110.10) requires buildings to be designed to have 15 percent of the roof area "solar ready" that will structurally accommodate later installation of rooftop solar panels. If future building operators pursue providing rooftop solar panels, they will submit plans for solar panels prior to occupancy.

PPP-5 The Project shall be designed in accordance with the applicable CALGreen Code (CCR, Title 24, Part 11). The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. These requirements include, but are not limited to, the following:

PPP-5a Design buildings to be water-efficient. Install water-efficient fixtures in accordance with Section 4.303 (residential) and Section 5.303 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5b Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with Section 4.408.1 (residential) and Section 5.408.1 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5c Provide storage areas for recyclables and green waste and adequate recycling containers located in readily accessible areas in accordance with Section 4.410 (residential) and Section 5.410 (nonresidential) of the California Green Building Standards Code Part 11.

PPP-5d To facilitate future installation of electric vehicle supply equipment (EVSE), nonresidential construction shall comply with Section 5.106.5.3 (nonresidential electric vehicle charging) of the California Green Building Standards Code Part 11.

PPP-6 The Project tenants shall comply with the SCAQMD Indirect Source Rule (Rule 2305). This rule is expected to reduce NO_x and PM_{10} emission during construction and operation. Emission reductions resulting from this rule were not included in the Project analysis. Compliance with Rule 2305 is enforced by the SCAQMD through their reporting process and is required for all warehouse projects greater than 100,000 sf.

Mitigation Measures

MM AQ-1 The Project shall utilize "Super-Compliant" low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD's Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications:

- All architectural coatings will be super-compliant low VOC paints.
- Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil-based paints.
- Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
- For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org).
- Use compliant low-VOC cleaning solvents to clean paint application equipment.
- Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
- Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable.
- Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

MM AQ-2 Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following:

- Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options.
- Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day.
- Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service.
- Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others.
- Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces.

This mitigation measure applies only to tenant occupancy and not the building shell approvals.

MM AQ-3 Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following:

- The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site.
- Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines.

This mitigation measures applies only to building shell approvals and not the tenant improvements.

MM AQ-4 Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states:

- Truck drivers shall turn off engines when not in use.
- Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485).

Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged.

- Telephone numbers of the building facilities manager and CARB to report violations.
- Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas.

This mitigation measure applies only to tenant improvements and not the building shell approvals.

MM AQ-5 Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program—including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption. This mitigation measure applies only to tenant improvements and not the building shell approvals.

MM AQ-6 The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-1** through **MM AQ-6** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Although the Project's long-term influence will be consistent with the SCAQMD's AQMP second criterion, the Project's exceedance of operation ROG and NO_x thresholds will potentially result in a long-term impact on the region's ability to meet state and federal air quality standards. Although construction emissions will not exceed SCAQMD thresholds and would be consistent with the assumptions in the AQMP, impacts associated with AQMP compliance will be significant and unavoidable due to Project implementation. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR.

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to consistency with the SCAQMD AQMP through the exceedance of operational ROG and NO_x thresholds. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts

CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Impact 4.2-2: Would the Project 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?

Basis for Conclusion: As shown in ***Draft EIR Table 4.2-8***, construction of the Project would exceed the SCAQMD threshold for the O_3 precursors ROG (VOC) (**Draft EIR, p. 4.2-22**). However, implementation of **MM AQ-1** would require the Project to use "Super-Compliant" low VOC paints to reduce ROG emissions from to less than significant levels, from 109.73 pounds per day to 33.7 pounds per day, which is under the SCAQMD threshold of 75 pounds per day. As such, impacts would be less than significant with mitigation incorporated in regard to construction (**Draft EIR, p. 4.2-21**).

The Project would implement **MM AQ-2** through **MM AQ-6** to reduce operational emissions to the greatest extent feasible, reducing ROG emissions from 83.6 pounds per day to 54.6 pounds per day, which is below the SCAQMD threshold of 55 pounds per day; however, Project operations would still exceed SCAQMD emissions thresholds for NO_x, even with mitigation incorporated. Emissions from motor vehicles are controlled by State and federal standards and the Project would have no control over these standards. The Project would comply with PPP-3 requiring diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, Section 2449 (**Draft EIR, p. 4.2-22**).

The Project operator would directly reduce NO_x and particulate matter emissions to otherwise facilitate emission and exposure reductions of these pollutants in nearby communities in accordance with Rule 2305. Alternatively, warehouse operators can choose to pay a mitigation fee. Funds from the mitigation fee will be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in communities nearby. Furthermore, warehouse owners and operators are required to earn Warehouse Actions and Investments to Reduce Emissions (WAIRE) points each year. WAIRE points are a menu-based system earned by emission reduction measures. Warehouse operators are required to submit an annual WAIRE Report which includes truck trip data and emission reduction measures. WAIRE points can be earned by completing actions from a menu that can include acquiring and using natural gas, Near-Zero Emissions and/or Zero-Emissions on-road trucks, zero-emission cargo handling equipment, solar panels or zero-emission charging and fueling infrastructure, or other options.

A preliminary WAIRE calculation has been conducted for the Project. The Project would include five zero-emission yard trucks that would operate for approximately eight hours per day, 365 days per year. Based on the SCAQMD WAIRE User Calculator the Project would have a Warehouse Points Compliance Obligation (WPCO) of 927.1 and would earn 5,133.6 points. As a result, the Project more than fulfills its WPCO and would bank 4,206.5 points. However, based on a preliminary WAIRE calculation estimated for the Project, Project operational emissions would still exceed the SCAQMD threshold despite implementing mitigation measures. Operational NO_X impacts associated with mobile sources would

remain significant, no additional feasible mitigation measures are available that can reduce mobile NO_X emission impacts to less than significant. Project impacts would be significant and unavoidable. (**Draft EIR, p. 4.2-23** through **4.2-24**).

As previously mentioned, the Project would adhere to all applicable policies, ordinances, and regulations relating to criteria pollutant emissions. The Project would implement **MM AQ-1** through **MM AQ-6** and to reduce Project criteria pollutant emissions to the greatest extent feasible. However, despite compliance with applicable state, federal, and local regulation governing GHG emissions and implementation of feasible mitigation measures the Project will still result in a significant and unavoidable impact with respect to Project criteria pollutants.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-1** through **MM AQ-6** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project's operational emissions will remain above SCAQMD thresholds for NO_x resulting in a significant and unavoidable impact. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the Project identified in the FEIR. Additionally, the SCAQMD and CARB have the purview and authority to regulate criteria air pollutants and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to cumulatively considerable criteria pollutant emissions through the exceedance of operational ROG and NO_x thresholds. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Mitigation Measures

Refer to **MM AQ-1** to **MM AQ-6** above.

Cumulative Impacts: In accordance with SCAQMD's methodology, any project that produces a significant project-level regional air quality impact in an area that is in nonattainment contributes to the cumulative impact. Due to the extent of the area potentially impacted from cumulative project emissions, the SCAQMD considers a project cumulatively significant when project-related emissions exceed the SCAQMD regional emissions thresholds. As discussed above, the Project's operational emissions would exceed the SCAQMD regional emissions thresholds, causing a significant and unavoidable impact. As such, the Project would have a cumulatively considerable impact (**Draft EIR, p. 4.2-31**).

GREENHOUSE GAS EMISSIONS

Impact 4.7-1: Would the Project generate greenhouse gas emission, either directly or indirectly, that may have a significant impact on the environment?

Basis for Conclusion: GHG emissions associated with the Project are summarized in **Draft EIR, Table 4.7-3**. Total area and indirect sources would be reduced with mitigation from 6,471 $MTCO_2e$ to 2,392 $MTCO_2e$. However, the Project's mitigated emissions for mobile sources would be approximately 27,048 $MTCO_2e$ annually from both construction and operations for mobile sources. Even with mitigation, Project-related GHG emissions would exceed the City's 3,000 $MTCO_2e$ per year threshold. The majority of the GHG emissions (76 percent of unmitigated emissions and 86 percent of mitigated emissions) are associated with non-construction related mobile sources. Emissions of motor vehicles are controlled by State and federal standards, and the Project has no control over these standards.

MM GHG-1 through **MM GHG-5** would reduce GHG emissions associated with Project development. **MM GHG-1** would require the installation of solar PV panels or the acquisition of energy from renewable sources. **MM GHG-2** would require the Project to provide "EV ready" employee parking stalls. **MM GHG-3** would mandate diverting at least 75 percent of landfill waste produced. **MM GHG-4** would require 100 percent electric landscaping equipment, and **MM GHG-5** would require electrical hookups for future electric trucks and trucks with auxiliary equipment. Additionally, implementation of **MM AQ-2** through **MM AQ-6**, located in **Section 4.2: Air Quality**, would reduce the Project's operational emissions through appropriate signage for on-site circulation, limiting idling emissions, and utilizing all-electric cargo handling equipment

As previously discussed, the Project would be required to comply with SCAQMD Rule 2305 which would directly reduce emissions or to otherwise facilitate emissions reduction. Warehouse operators can also choose to pay a mitigation fee, where the funds would be used to incentivize the purchase of cleaner trucks and charging/fueling infrastructure in neighboring communities. Additionally, warehouse owners and operators would be required to earn WAIRE points each year. WAIRE points are a menu-based system earned by emission reduction measures. Warehouse operators are required to submit an annual WAIRE Report which includes truck trip data and emission reduction measures. WAIRE points can be earned by completing actions from a menu that can include acquiring and using natural gas, Near-Zero Emissions and/or Zero-Emissions on road trucks, zero-emission cargo handling equipment, solar panels or zero-emission charging and fueling infrastructure, or other options.

A preliminary WAIRE calculation has been conducted for the Project. The Project would include approximately five zero emission yard trucks. Based on the SCAQMD WAIRE User Calculator, with implementation of LOR-5, the Project would have a WPCO of 927 and would earn 5,134 points. As a result, the Project more than fulfills its WPCO and would bank 4,207 points.

As demonstrated in **Draft EIR, Table 4.7-3**, mitigation measures would reduce Project GHG emissions by approximately 15 percent; however, total mitigated emissions would continue to exceed the City's threshold of 3,000 $MTCO_2e$ per year. Additional mitigation to reduce the Project's mobile emissions is not feasible due to the limited ability of the City to address emissions resulting from trucks, cars, and/or emissions generated by trucks outside of the City's limits. As with all land use projects, the Project's mobile

and transportation related GHG emissions are a function of two parameters: emissions control technology and vehicle miles traveled (VMT). CARB is directly responsible for regulating mobile and transportation source emissions in the State. The State is also implementing legislation and regulations to address the second parameter affecting transportation related GHG emissions by controlling for VMT. However, the state has determined that VMT regulations are not applicable to heavy trucks, such as those that will utilize the Project and generate the majority of the Project's GHG emissions.

As such, the City of Banning has no regulatory control over emissions control technology and therefore has limited ability to control or mitigate emissions associated with vehicle emissions associated with this Project. Additional mitigation to further reduce the Project's non-mobile emissions is also not feasible. The Project's mitigation measures and laws, ordinances, and regulations (LORs) address non-mobile emissions to the extent possible, by requiring on-site renewable energy (**MM GHG-1**), requiring the Project to meet or exceed CALGreen Tier 2 standards (**MM GHG-2**), diverting 75 percent landfill waste (**MM GHG-3**), requiring 100 percent electric landscape equipment (**MM GHG-4**), and requiring electric hookups for future electric trucks (**MM GHG-5**). Additionally, the City has no enforcement authority over offset credits that fund carbon reduction projects outside of the City. Therefore, the use of carbon offsets has not been considered for the Project as a conservative measure.

Existing requirements based on local, State, and federal laws and regulations are frequently required independently of CEQA review. Typical requirements include compliance with the provisions of the Building Code, CalGreen Code, local municipal code, SCAQMD Rules, etc. Laws, orders, and regulations (LORs) are neither Project specific nor a result of Project development and are therefore not considered to be project design features or MMs. The Project would comply with the following LORs:

LOR-1 Pursuant to SCAQMD Rule 1113, the Project applicant shall require by contract specifications that the interior and exterior architectural coatings (paint and primer including parking lot paint) products used would have a volatile organic compound rating of 50 grams per liter or less.

LOR-2 Require diesel powered construction equipment to turn off when not in use per Title 13 of the California Code of Regulations, §2449.

LOR-3 The Project shall be designed in accordance with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (California Code of Regulations [CCR], Title 24, Part 6). These standards are updated, nominally every three years, to incorporate improved energy efficiency technologies and methods. The Building Official, or designee shall ensure compliance prior to the issuance of each building permit. The Title 24 Energy Efficiency Standards (§110.10) require buildings to be designed to have 15 percent of the roof area "solar ready" that will structurally accommodate later installation of rooftop solar panels. If future building operators pursue providing rooftop solar panels, they will submit plans for solar panels prior to occupancy.

LOR-4 The Project shall be designed in accordance with the applicable California Green Building Standards (CALGreen) Code (24 CCR, Part 11). The Building Official, or designee shall

ensure compliance prior to the issuance of each building permit. These requirements include, but are not limited to:

- Design buildings to be water-efficient. Install water-efficient fixtures in accordance with §4.303 (residential) and §5.303 (nonresidential) of the California Green Building Standards Code Part 11.
- Recycle and/or salvage for reuse a minimum of 65 percent of the nonhazardous construction and demolition waste in accordance with §4.408.1 (residential) and §5.408.1 (nonresidential) of the California Green Building Standards Code Part 11.
- Provide storage areas for recyclables and green waste and adequate recycling containers located in readily accessible areas in accordance with §4.410 (residential) and §5.410 (nonresidential) of the California Green Building Standards Code Part 11.
- To facilitate future installation of electric vehicle supply equipment (EVSE), nonresidential construction shall comply with §5.106.5.3 (nonresidential electric vehicle charging) of the California Green Building Standards Code Part 11.

LOR-5 The Project tenants shall comply with the SCAQMD Indirect Source Rule (Rule 2305). This rule is expected to reduce NO_X and PM_{10} emissions during construction and operation. Emission reductions resulting from this rule were not included in the Project analysis. Compliance with Rule 2305 is enforced by the SCAQMD through their reporting process and is required for all warehouse projects greater than 100,000 square feet.

Mitigation Measures

Refer to **MM AQ-2** through **MM AQ-6** above.

MM GHG-1 Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load. The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage.

In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.

MM GHG-2 Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.

MM GHG-3 The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.

MM GHG-4 Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.

MM GHG-5 Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project' GHG emissions would remain above the SCAQMD thresholds, resulting in a significant and unavoidable impact. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR. Additionally, the SCAQMD and CARM have the purview and authority to regulate GHG emissions from mobile sources and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project and cumulative GHG emissions. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified GHG impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Impact 4.7-2 Would the Project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Basis for Conclusion: As demonstrated in ***Draft EIR Table 4.7-4***, the Project would be consistent with the stated goals of the SCAG RTP/SCS and would not interfere with SCAG's ability to achieve the region's post-2020 mobile source GHG reduction targets. Additionally, ***Draft EIR Table 4.7-3*** indicates that 90 percent of the Project's mitigated GHG emissions are from mobile sources, which would be further reduced by the 2022 CARB Scoping Plan measures for GHG emissions reductions and associated strategies. The City has no control over mobile emissions, and these emissions would decline in the future due to measures discussed above, as well as cleaner technology and fleet turnover. Statewide GHG emissions reduction strategies in the latest 2022 Scoping Plan include implementing SB 100, which would achieve 100 percent clean electricity by 2045; achieving 100 percent zero emission vehicle sales in 2035 through Advanced Clean Cars II; and implementing the Advanced Clean Fleets regulation to deploy zero-emission vehicle (ZEV) buses and trucks. Several of the State's plans and policies would contribute to a reduction in mobile source emissions from the Project. Although these measures are not directly applicable to the Project, any commercial activity associated with goods movement would be required to comply with these measures as adopted. The Project would not obstruct or interfere with efforts to increase ZEVs or state efforts to improve system efficiency. As such, the Project would not interfere with their implementation (**Draft EIR, p. 4.7-25** through **4.7-28**).

Despite plan consistency, the Project's long-term operational GHG emissions would exceed the 3,000 $MTCO_2e$ per year threshold despite the implementation of **MM AQ-2** through **MM AQ-6** located in **Section 4.2: Air Quality**, and **MM GHG-1** through **MM GHG-5**; thus, the Project could impede California's Statewide GHG reduction goals for 2030 and 2050. Therefore, a significant and unavoidable impact would occur as a result of the Project.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** are feasible, have been adopted, and will reduce, but not eliminate, potential air quality impacts from operations of the Project. Despite implementation of mitigation measures, the Project's GHG emissions would conflict with the City's emissions thresholds. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR. Additionally, the SCAQMD and CARB have the purview and authority to regulate GHG emissions from mobile sources and thus, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project and cumulative GHG emissions. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section 21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the

alternatives identified in the EIR, and the identified GHG impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Mitigation Measures

Refer to **MM AQ-2** through **MM AQ-6** and **MM GHG-1** through **MM GHG-5** above.

Cumulative Impacts: GHGs are global pollutants, unlike criteria air pollutants and TACs, which are pollutants of regional and local concern. Whereas pollutants with localized air quality effects have relatively short atmospheric lifetimes (about one day), GHGs have much longer atmospheric lifetimes of one year to several thousand years that allow them to be dispersed around the globe. It is generally the case that an individual project of this size and nature is of insufficient magnitude by itself to influence climate change or result in a substantial contribution to the global GHG inventory. The State CEQA Guidelines generally address GHG emissions as a cumulative impact because of the global nature of climate change. As such, GHG impacts are recognized as exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective. The additive effect of Project-related GHGs would not result in a reasonably foreseeable cumulatively considerable contribution to global climate change. In addition, the Project as well as other cumulative related projects would also be subject to all applicable regulatory requirements, which would further reduce GHG emissions. As discussed above, the Project-related GHG emissions would exceed the City's 3,000 $MTCO_2e$ threshold of significance despite implementation of **MM AQ-2** through **MM AQ-6** from the Air Quality Assessment and **MM GHG-1** through **MM GHG-5** and could impede statewide 2030 and 2050 GHG emission reduction targets. As such, the Project would result in a potentially significant cumulative GHG impact.

TRANSPORTATION

Impact 4.12-2: Would the Project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Basis for Conclusion: To comply with CEQA, the City adopted Traffic Impact Analysis Guidelines for Local Transportation Analysis and Vehicle Miles Traveled Analysis (City Guidelines). The City Guidelines documents the City's VMT analysis methodology and adopted VMT impact thresholds.

VMT Screening

Consistent with City Guidelines, projects that meet certain screening criteria based on their location, land use, or other attributes may be presumed to result in a less than significant transportation impact. As the City has not developed their own City VMT screening tool, the WRCOG VMT Screening Tool (Screening Tool) was alternatively used to aid in the screening process and offers screening attributes consistent with the screening criteria listed in the City Guidelines. The following screening criteria for land development projects were selected for further evaluation based on their applicability to the Project:

- Proximity to Transit
- Low VMT Area
- Small/Low Trip Generating Projects

Land development projects that have one or more of the following attributes may be presumed to have a less than significant VMT impact.

Proximity to Transit

According to City Guidelines, projects that meet the following criteria may be presumed to have a less than significant VMT impact:

- Located within a Transit Priority Area (TPA) (i.e., within ½ mile of an existing "major transit stop" or an existing stop along a "high-quality transit corridor"),
- Consistent with the City's General Plan and zoning,
- Have a floor-to-area ratio (FAR) greater than 0.75
- Projects that provide parking less than or equal to the City's Municipal Code requirements,
- And projects that do not replace any affordable residential units with moderate- or high-income residential units.

Based on the Screening Tool results, the Project site is not located within ½ mile of an existing major transit stop, or along a high-quality transit corridor, and TPA screening criteria is not met.

Low VMT Area

As noted in the City Guidelines, "Projects located in areas with low VMT will be eligible to be screened out as long as they are consistent with the City's General Plan." The City recognizes any net increase in VMT per employee for uses consistent with General Plan Guidelines as exceeding the threshold for Low VMT.

The Screening Tool is used to determine if a Project is in a low VMT Area. It uses the sub-regional Riverside County Transportation Model (RIVCOM) to measure VMT performance within individual traffic analysis zones (TAZs) in the region. First, the Project's physical location is identified on the map, then the Screening Tool provides VMT data for the TAZ in which the project resides to determine existing VMT for that zone. The Project was located and selected by parcel location. The Screening Tool was then run for production-attraction (PA) VMT per employee. The Project TAZ 41 was shown to generate 26.9 VMT per employee, which is below the WRCOG regional average 30.4 VMT per employee for industrial land uses.

The Project was determined to be located in a low VMT area. However, after further examination of the Project's TAZ within the RIVCOM model it was determined that the Project's TAZ contained mostly agricultural use types, which is not consistent with the proposed industrial land use of the Project. Therefore, the Project does not qualify for this screening criteria and the Low VMT screening criteria is not met.

Small/Low Trip Generating Projects

The City Guidelines recognizes those projects generating fewer than 1,000 daily vehicle trips to result in a less than significant VMT impact. The Project is estimated to generate 5,384 daily vehicle trips, exceeding the City's 1,000 daily vehicle trip threshold for projects consistent with the City's General Plan land use designations. Therefore, the Project type screening criteria is not met.

VMT Analysis

VMT Metric and Significance Threshold

According to the City Guidelines, the appropriate efficiency metric used to measure VMT for purposes of determining a potential transportation impact for non-residential land use projects in the City is VMT per employee. In addition, the City Guidelines have identified the following impact threshold:

- For other land uses (for example, industrial, manufacturing, etc.), any net increase in VMT per employee (for the WRCOG regional average) would indicate a significant impact for uses consistent with the General Plan.

The WRCOG regional threshold was calculated using WRCOG's latest RIVCOM model version 3.5. Results from this calculation yielded the same base year results of 30.4 VMT per employee for the WRCOG regional average.

Project's VMT Calculation and Comparison to Impact Threshold

Draft EIR, Table 4.12-4 show the Project-generated VMT per employe for home-based work and **Table 4.12-5** provides the comparison of the Project's anticipated VMT generation to the City's threshold; Project generated VMT per employee was estimated as 33.3 while the City's threshold is 30.4. As such, the Project would exceed the City threshold and the Project's VMT impact is considered significant.

Upon completion of the VMT Screening and Analysis, Project was not found to meet any available screening criteria, the Project's VMT analysis was found to exceed the City's VMT per employee threshold by 9.5 percent, and implementation of feasible VMT reduction measures would not definitively reduce Project VMT or Project VMT impacts. Reductions in commute VMT through feasible reduction measures such as those described below would be provided by the Project and would be implemented as part of future Certificates of Occupancy for future tenants as noted in **MM TRANS-1**. However, even with implementation of the potential VMT reduction measures and **MM TRANS-1**, the Project VMT impact is assumed to exceed the City VMT threshold. Potential commute trip reduction strategies have been considered for the purposes of reducing Project related VMT impacts (i.e., commute trips) determined to be significant. As the future building tenants are not known for the Project, the effectiveness of each commute trip reduction measures cannot be known at this time. The Project can, however, consider the following measures that have the potential to reduce work/commute VMT, although no quantified benefit can be taken at this time. The Project VMT impact is therefore considered significant and unavoidable.

Mitigation Measures

MM TRANS-1 Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures:

Potential VMT Reduction Strategies

The following are potential VMT reduction measures that could be implemented:

- The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees.
- The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT.
- The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT.
- The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT.
- The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.

Findings: The Council adopts CEQA Finding 1 (CEQA Guidelines Section 15091(a)(1)). The Council finds that **MM TRANS-1** is feasible, is adopted, and will reduce, but not eliminate, potential traffic impacts from operations of the Project. Despite the implementation of mitigation measures, Project will still exceed the City's VMT thresholds. Accordingly, the Council finds that, pursuant to PRC Section 21081(a)(1) and CEQA Guidelines section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid potentially significant air quality impacts from the proposed Project identified in the FEIR.

Impacts associated with VMT were calculated pursuant to the City Guidelines. However, variables considered as part of the VMT analysis are not City or Project specific. Nor are the impacts attributable only to the Project, as VMT impacts are a regionwide issue. Therefore, the City, as lead agency, does not hold sole responsibility for the impacts. VMT impacts are not borne by one agency alone (the City), but by a multitude of local, regional, and state agencies who are working together collectively to address impacts associated with VMT. Therefore, the Council also adopts CEQA Finding 2 (CEQA Guidelines Section 15091(a)(2)).

However, even with compliance with all applicable policies, ordinances, and regulations, and with the incorporation of the mitigation measures noted above, the Project will still have a significant and unavoidable impact with respect to Project traffic impacts. All reasonable and feasible mitigation measures have been adopted for the Project, and there are no feasible alternatives to avoid the identified unavoidable significant impact (see **Section 5.4, Alternatives to the Project** of these Findings). Therefore, the Council also adopts CEQA Finding 3 (CEQA Guidelines Section 15091(a)(3)). Pursuant to Section

21081(a)(3) of the California PRC, as described in the SOC, the Council has determined that specific economic, legal, social, technological, or other considerations make infeasible the alternatives identified in the EIR, and the identified air quality impacts are thereby acceptable because of specific overriding considerations (see Findings **Section 6.0**).

Cumulative Impacts: The Project's VMT analysis provides an analysis of the Project's cumulative impacts on VMT. The VMT analysis concludes that Citywide VMT increases with the Project resulting in a significant and unavoidable cumulative VMT impact. Even with implementation of reasonable and feasible VMT reduction measures, the VMT analysis concludes that Citywide VMT increases from the Project would result in a significant and unavoidable cumulative VMT impact.

5.4 ALTERNATIVES TO THE PROJECT

Section 6.0 of the Draft EIR analyzes the following three (3) alternatives to the Project as proposed, and evaluates these alternatives for their ability to meet the Project's goals and objectives. CEQA requires the EIR to include in its evaluation a No Project Alternative. Additionally, CEQA requires the EIR to describe a reasonable range of alternatives to the Project which would feasibly attain the basic Project objectives but would avoid or substantially lessen any of the identified significant impacts.

Alternatives considered within this analysis include:

- No Project Alternative (No Warehouse Development or Off-Site Improvements)
- Reduced Building Intensity
- Two Building Alternative

A fourth alternative, the Alternative Site Alternative, was considered but rejected. While it is feasible that an alternative site could be selected for the Project, an alternative site would entail either the same or new significant environmental effects when compared to the Project. Furthermore, viable alternative locations for the Project are limited to those that would feasibly attain most of the Project objectives. There are no other properties of sufficient size and owned or reasonably acquired by the Project applicant that are located in the City, and along a major transportation corridor that would satisfy the Project objectives and eliminate or reduce impacts from the Project. It should be noted that comments on the Draft EIR did not identify any other alternatives requested for consideration.

The analysis included in the Draft EIR describes each alternative, analyzes the impacts of the alternative as compared to the Project, identifies significant impacts of the Project that would be avoided or lessened by the alternative, assesses the alternative's ability to meet most of the Project objectives, and evaluates the comparative merits of the alternative and the Project. In making the following findings relating to Project alternatives, the City certifies that it has independently reviewed and considered the information included in the Draft EIR.

Significant and Unavoidable Impacts of the Project

Sections 4.1 through **4.15** of the Draft EIR address the environmental impacts of implementation of the Project. The analyses contained in these sections identified the following significant and unavoidable environmental impacts resulting from the Project:

Air Quality. The Project would result in the following significant and unavoidable air quality impacts, despite the implementation of all feasible mitigation measures: (1) conflict with or obstruct implementation of the applicable air quality plan, due to operational emissions; (2) result in a cumulatively considerable net increase in criteria pollutants for which the region is non-attainment, due operational emissions; and (3) although localized impacts would be less than significant for both Project-related construction and operational emissions, a significant and unavoidable cumulative impact would occur due to regional criteria pollutant emissions.

Greenhouse Gas Emissions. The Project would result in the following significant and unavoidable greenhouse gas (GHG) emissions impacts, despite the implementation of feasible mitigation measures: (1) generation of 22,969 $MTCO_2e$ per year (mitigated) of GHG emissions that could have a significant impact on the environment, 76 percent of which are from mobile sources which are subject to State and Federal standards and therefore cannot be reduced by the Project; (2) the Project would conflict with applicable policies, plans, or regulations reducing emissions of greenhouse gas emissions; and (3) the Project would result in a potentially significant cumulative GHG emissions impact.

Transportation. The Project would result in the following significant and unavoidable transportation impacts: (1) The Project would exceed the City's VMT per employee threshold by 9.5 percent, and (2) result in a Citywide cumulative VMT impact that would not be able to be definitively reduce by proposed VMT reduction mitigation measures.

Alternative 1 No Project Alternative (No Warehouse Development or Off-Site Improvements)

Findings: The No Project/No Build Alternative allows decision-makers the ability to compare the impacts of approving the Project with impacts of not approving the Project by leaving the Project site in its existing condition with the existing development. No development would occur under this alternative. (**Draft EIR, p. 6-5**). Alternative 1 would avoid all potential significant impacts that could occur from Project construction and operation as, by definition, it assumes that no development would occur and therefore no grading, construction or operational traffic and related impacts such as air quality, GHG emissions, and transportation would occur. The lack of significant impacts associated with Alternative 1 would also remove the significant and unavoidable impacts associated with Project implementation.

All impact areas which were anticipated to result in a less than significant impact, less than significant with mitigation measures, or a significant and unavoidable impact due to implementation of the Project would be eliminated under the No Project Alternative. The No Project Build Alternative would avoid all potential significant impacts and significant and unavoidable impacts that would occur from Project construction and operation. The lack of significant impacts associated with the No Project Alternative would fail to meet any of the Project objectives, as the Project site would remain in its current state of development (**Draft EIR, p. 6-10**).

Aesthetics. Under the No Project, the Project site would remain in its vacant and undeveloped state. However, as previously discussed, the land use designation and zoning for the Project site is Business Park, and as such, those uses could be developed on the Project site in the future. Until such time though, this Alternative assumes that the Project site would remain in its current undeveloped state. Therefore, under

this Alternative, there would be no impacts regarding aesthetics, light, and glare and would be environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Air Quality. Significant and Unavoidable impacts to air quality were anticipated to occur with Project development with respect to the Project's ability to comply with established air quality plans for the region and pollution generation. The No Project Alternative would result in no construction or operational emissions from the Project as it would not be developed and would presumably continue the existing uses (vacant land) in the Project site. The continued use of the Project site in its current state would lead to no change in anticipated emissions and would therefore remain at the current level of emissions generated. Therefore, under this Alternative, there would be no impact regarding air quality; this alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Biological Resources. The Project would result in a less than significant environmental impacts to special-status species, riparian habitats, and wetlands with mitigation measures implemented. Under this Alternative, none of the Project's impacts would occur, and no habitat modification would occur. Therefore, under this Alternative, there would be no impact regarding biological resources as no habitat, or plant or wildlife species would be impacted. Impacts would be reduced compared to the Project. This alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Cultural Resources. The Project would result in less than significant impact to archeological resources and human remains with mitigation incorporated. Under the No Project Alternative, these potential Project impacts would be avoided, as no ground disturbing activities would occur. This Alternative would also avoid the Project's potential for disturbing human remains, which is concluded to be less than significant through compliance with the established regulatory framework as outlined in MM CUL-3. Therefore, under this Alternative, there would be no impact regarding cultural resources; this alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Energy. Under the No Project Alternative, the Project would not be developed. The Project site is currently undeveloped, and as such, would not require or consume energy. Therefore, when compared to the Project, no energy impacts associated with the No Project Alternative would occur. Therefore, under this Alternative, impacts regarding energy would be less than that of the Project. This alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-6**).

Geology and Soils. The Project would result in a less than significant impact regarding the loss of topsoil, strong seismic activity, development on an unstable soil, and paleontological resources with mitigation measures implemented. Mitigation measures apply to the inadvertent find of previously unknown paleontological resources. However, under the No Project Alternative, there would be no impact regarding geology and soils; reduced compared to the Project. While there is a low likelihood of Project construction having the potential to impact unknown paleontological resources, mitigation would be required to reduce potentially significant impacts. Under the No Project Alternative, impacts as described would be fully avoided, with the exception being located in an area of strong seismic ground shaking. The No Project Alternative would be environmentally superior to the Project regarding geological, soils, and paleontological resources. The exposure of people to seismic, geologic, and soil hazards under the No

Project Alternative would be non-existent as there would be no development under this alternative, whereas the Project would expose people and structures to geologic hazards (**Draft EIR, p. 6-7**).

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to generate harmful emissions at levels that would exceed established thresholds and conflict with GHG regulations. The Project would exceed the City's allowable threshold of 3,000 $MTCO_2e$. The primary source of the Project's $MTCO_2e$ emissions would stem from mobile source emissions. Although mitigation is proposed to minimize the potential emissions impacts associated with Project implementation, emissions are still anticipated to exceed the City's 3,000 MTCO2e maximum threshold. Because emissions are anticipated to exceed allowable levels, the Project's emissions would also conflict with air quality goals in a manner that would be significant and unavoidable. The No Project Alternative would result in no operations emissions as a result of the Project since the Project would not be developed in this Alternative and would be environmentally superior when compared to the Project. Under existing conditions, no emissions occur. Therefore, under this Alternative, impacts regarding GHG would be less than the Project (**Draft EIR, p. 6-7**).

Hazards and Hazardous Materials. Associated Project impacts to hazards including 1) increased safety risk to workers due to the transport, handling, and disposal of hazardous materials and waste 2) foreseeable or accidental release of hazardous materials 3) emissions of hazardous emissions to nearby schools 4) location on Cortese List of known hazardous material sites and 5) location near a nearby airport would all be mitigated to a less than significant level. Under the No Project Alternative, all Project impacts would be avoided since short-term construction and long-term operations associated with the Project would not be implemented. No warehouse, landscape improvements, and other associated on-site and off-site improvements would occur which would eliminate any potential for release of hazardous materials off-site. Therefore, the "No Project" Alternative would be environmentally superior to the Project regarding hazards and hazardous materials, since no ground disturbing activities would occur, and no buildings or structures would be constructed or operated. Therefore, under this Alternative, impacts regarding hazards would be less than the Project (**Draft EIR, p. 6-7** to **6-8**).

Hydrology and Water Quality. The No Project Alternative would eliminate both short-term and long-term impacts to water quality, since there would be no grading, excavation, or construction activities associated with the Project. This Alternative would not alter or substantially change current hydrologic conditions compared to the development of the Project, nor increase the rate of stormwater runoff that would adversely affect the water quality. This Alternative would be environmentally superior to the Project regarding hydrology and water quality, since no increase in stormwater capacity would occur, impervious surfaces would not increase, and land uses would not be added. Therefore, under the No Project Alternative, impacts regarding hydrology and water quality would be less than the Project (**Draft EIR, p. 6-8**).

Noise. The Project would implement mitigation measures to reduce excess noise levels from construction machinery, demolition, site preparation, grading, and building construction, as well as operational noise. Additionally, the Project would have less than significant impacts regarding vibration from construction or operational uses largely in part due to the Project's distance to existing structures or

sensitive receptors. Further, the activities to occur on-site would not require operations that would produce large amounts of vibration. Under the No Project Alternative on-site noise levels would be eliminated since no short-term construction activity or Project operations would occur. Therefore, the No Project Alternative would be environmentally superior to the Project regarding noise and vibration during short-term construction activity (**Draft EIR, p. 6-8**).

Public Services. Under the No Project Alternative, no warehouse or associated improvements would be developed, and no employment activity or visitors would be generated resulting in the need for fire or police services. In addition, no Development Impact Fees would be paid to the City for various City services. Although the Project's impacts related to fire and police services were determined to be less than significant, the public services impacts would be reduced under this alternative compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-8**).

Transportation. Under No Project Alternative, no new employees or industrial warehouse uses would be introduced on the Project site, and existing VMT would be maintained. Therefore, there would be no impacts under this Alternative, and the significant and unavoidable traffic impacts that would occur from the Project would be avoided. Impacts under this alternative would be less compared to the Project. The No Project Alternative is environmentally superior when compared to the Project (**Draft EIR, p. 6-9**).

Tribal Cultural Resources. The Project would require mitigation measures, including on-site monitoring during ground disturbance, to reduce impacts to tribal cultural resources. The No Project Alternative would not involve the construction of uses that could potentially disturb tribal cultural resources. Therefore, under this Alternative, impacts regarding tribal cultural resources would be reduced compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-9**).

Utilities and Service Systems. The No Project Alternative would avoid the Project's temporary increased demand upon utilities and service systems during construction and permanent demands during operations. Given the Project's scope and nature (i.e., warehouse construction and landscape maintenance), Project operations would create a demand for water, and increase wastewater or solid waste generation. This Alternative would maintain the existing demand for all utilities, which is none. The No Project Alternative would retain the Project site in its current condition. Temporary increases in utility demand and construction of utilities would not occur during construction, and neither would increase in services and utilities demand resulting from operation of the warehouse. Therefore, under this Alternative, impacts regarding utilities and service systems would be less compared to the Project. The No Project Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-19**).

Wildfire. The No Project Alternative would not involve the construction of warehouse uses, and rather, keep the vacant Project site in its current state. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. The Project would include the development of a warehouse with a fire suppression system and the Project would construct roadway improvements which would serve as fire breaks. This in turn would reduce the potential for fires to occur

on-site and then spread off of the Project site. In the Project site's existing conditions and under the No Project Alternative there would be no development of the property or of the roadways. The risks of wildfires would remain with no opportunity, other than fire service response, to control or abate a fire on the Project site. Therefore, the No Project Alternative would be environmentally inferior when compared to the Project (**Draft EIR, p. 6-9**).

Attainment of Project Objectives. The No Project Alternative would not meet any of the Project objectives, as identified in **Draft EIR, Section 3.0 Project Description**, as the Project site would remain in its current state of development (vacant).

Alternative 2 Reduced Building Intensity

Findings: Alternative 2 would entail the development of a single warehouse building at a smaller square footage than what was proposed for the Project. The Alternative would involve the development of a 1,122,000 square foot warehousing building which would include approximately 33,660 square feet of office space. A 15 percent reduction in building intensity was selected as it represents the largest decrease in building size that would remain financially and economically feasible for the Applicant considering the current Project site and location. A much larger reduction in size would be required to reduce significant and unavoidable impacts to less than significant. A reduction of more than 80 percent in the building footprint would be required to reduce the significant unavoidable greenhouse gas emissions of the Project to be less than significant with mitigation incorporated. However, this reduction in size would not be financially or economically feasible nor would it meet any of the Project objectives and therefore was not considered.

Alternative 2 would minimize impacts related to the scale of the Project. Therefore, environmental impact areas such as aesthetics, energy, utilities and service systems, and wildfire hazards may see a nominal improvement regarding potential impact significance. However, these resource areas are anticipated to have a less than significant impact under the Project. The Project was able to achieve a less than significant impact with mitigation incorporated in all environmental impact areas except air quality, greenhouse gas emissions, and transportation. These resources were anticipated to create significant and unavoidable impacts (**Draft EIR, p. 6-10 to 6-11**).

Aesthetics. Under Alternative 2, the building footprint and building elevations would be nominally reduced. The smaller size of the warehouse building proposed in Alternative 2 would create similar impact to aesthetic resources. There would be no overall reduction or increase in the impacts to views scenic vistas. When compared to the Project, aesthetics impacts associated with the Alternative 2 would be nominally reduced. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Air Quality. As previously stated, the Project would conflict with established air quality plans for the region and pollutant generation. Specifically, the Project would exceed NOx, emissions thresholds during its operational phase. Alternative 2 would propose the same business park land use as the Project although the business park building space would be reduced by 198,000 square feet (15 percent) for the

Alternative. This would reduce potential operational emissions through the reduced building area. However, the majority of operational emissions would result from mobile sources such as vehicles and construction equipment. The vehicular traffic generated from the Project is not anticipated to be significantly reduced in Alternative 2; however, vehicular traffic would be slightly reduced commensurate with the reduction in building footprint. Operations of Alternative 2 are expected to be similar to the Project. The emissions generated from this Alternative would be slightly reduced when compared to the Project; however, it would remain significant and unavoidable. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Biological Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar biological resource impacts. As with the Project, mitigation measures would be required to reduce biological resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Reduced Building Intensity Alternative. However, impacts associated with both the Project and Alternative 2 would be less than significant with mitigation incorporated The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11)**.

Cultural Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar potential impacts to cultural resources. As with the Project, mitigation measures would be required to reduce cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11 to 6-12)**.

Energy. Both Alternative 2 and the Project would require energy during the construction and operations phases of the Project, although Alternative 2 would require approximately 15 percent less energy to build and operate when compared to the Project. When compared to the Project, Alternative 2 would result in fewer energy-related impacts than the Project. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally superior when compared to the Project. **(Draft EIR, p. 6-12)**.

Geology and Soils. Both Alternative 2 and the Project would be located on the same site and disturb the same footprint for construction, and as such, would result in similar geology and soils impacts. As with the Project, mitigation measures would be required to reduce geology and soils, and paleontological impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12)**.

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to conflict with GHG emissions regulations through the generation of excess $MTCO_2e$. The Project's GHG emissions stem largely from mobile source emissions, which would be slightly reduced when compared to the Project. For this impact, mitigation is proposed to reduce potential impacts, however, the Project was still found to exceed thresholds with mitigation. Alternative 2 would likely

reduce emissions impacts through a reduction in energy use due to the reduced building size. Even with a reduction in energy use emissions, the mobile source emissions associated with vehicular travel would be slightly reduced, commensurate with the reduction in traffic. While Alternative 2 would result in fewer GHG emissions, it would be unlikely to reduce emissions such that they would not exceed the City's GHG emissions thresholds. The impact would be expected to remain a significant and unavoidable impact. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12)**.

Hazards and Hazardous Materials. Both Alternative 2 and the Project would disturb the same footprint for construction and operation of a landscaped warehouse building, and as such, would result in similar hazards impacts. As with the Project, no mitigation measures would be required to reduce hazards impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-12 to 6-13)**.

Hydrology and Water Quality. Both Alternative 2 and the Project would disturb the same footprint for construction and operation of a landscaped warehouse building with implementation of a stormflow detention system, and as such, would result in similar hydrology and water quality impacts. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Noise. Both Alternative 2 and the Project would generate noise during the construction and operations phases of the Project, although the Reduced Building Intensity Alternative would generate approximately 15 percent less noise when compared to the Project given the reduction in building size. As with the Project and due to a lack of nearby sensitive receptors as well as proximity to I-10, no mitigation measures would be required to reduce noise impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Public Services. Both Alternative 2 and the Project would require similar public services needs, even with 15 percent reduction in size. When compared to the Project, Alternative 2 would result in similar public services impacts related impacts than the Project. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Transportation. The Project was not found to meet any available VMT screening criteria and therefore was found to exceed the City's VMT per employee threshold by 9.5 percent. Implementation of feasible VMT reduction measures would not definitively reduce Project VMT or Project VMT impacts to less than significant levels.

Alternative 2 would involve the development of a smaller warehouse building which would utilize a smaller portion of the Project site and the number of dock doors and employees would be reduced under this Alternative. Alternative 2 business park uses would be approximately 15 percent less than the Project. It is anticipated that a 15 percent reduction of projected employment would occur with this Alternative. VMT impacts associated with the Project were found to be significant and unavoidable. While the Reduced Building Intensity Alternative includes a building that is 15 percent smaller, it is anticipated that this Alternative would still exceed City VMT thresholds and realize a significant and unavoidable impact. As such, the Alternative 2 would result in a lessened impacts but would remain significant and unavoidable. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-13)**.

Tribal Cultural Resources. Both Alternative 2 and the Project would disturb the same footprint for construction, and as such, would result in similar potential impacts to tribal cultural resources. As with the proposed Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 2. However, impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-11 to 6-12)**.

Utilities and Service Systems. Both Alternative 2 and the Project would require additional utilities and service system infrastructure to be constructed to serve them. While Alternative 2 would require approximately 15 percent fewer utility needs when compared to the Project given the reduction in size. The Project would not cause significant impacts with respect to utilities and service systems. All utilities would be able to serve the Project after adequate infrastructure would be constructed as part of the Project. Overall, when considering the scale of Alternative 2, Alternative 2 would result in similar utility and service system impacts related impacts than the Project. Impacts associated with both the Project and Alternative 2 would be less than significant. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-14)**.

Wildfire. Under Alternative 2, the development of the Project site would occur similar to the Project, but business park use would be reduced 15 percent. Existing development in the Project area includes roadways, public facilities, and vacant land planned for business park uses. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. Similar to the Project, Alternative 2 is with an LRA zone, provision of fire protection services would continue under contract to the Riverside County Fire Department. Similar to the Project, the Alternative 2 warehouse structure would be predominantly concrete which is not typically susceptible to fire. Neither Alternative 2, nor the Project, would interfere with any emergency plan or evacuation plan. This Alternative also would not exacerbate any existing fire hazards associated with slopes or spreading of wildfire. Lastly, neither the Project nor this Alternative would require construction of any infrastructure that could exacerbate fire hazards. Furthermore, under this Alternative, as with the Project, roadways would be constructed which would serve as fire breaks and help prevent the spread of active wildfires. As such, similar impacts would occur with implementation of Alternative 2. The Reduced Building Intensity Alternative would be environmentally equivalent when compared to the Project **(Draft EIR, p. 6-14)**.

Attainment of Project Objectives. Alternative 2 would meet all of the objectives of the Project despite the smaller building size. However, Alternative 2 does not maximize the City's benefits realized or achievement of the Project Objectives when compared to the Project. Implementation of Alternative 2 would achieve the Project objectives, but not to the extent as would be achieved by the Project. Alternative 2 would: develop an industrial project that conforms to the City's General Plan and Municipal Code (Objective 1); provide a new development that will generate a positive fiscal balance for the City moving forward (Objective 2); facilitate the movement of goods and services for the benefit of local and regional economic growth (Objective 5); develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway for employee convenience and efficiencies of transporting goods (Objective 6); improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements (Objective 8); provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks (Objective 9); and provide the backbone infrastructure for future growth and prosperity of the surrounding benefit (Objective 10). However, the reduction of 198,000 square feet would lower the City's potential tax revenue (Objective 3) and provide fewer employment opportunities to area residents (Objective 4). Additionally, the Project would not fully or efficiently utilize the entirety of the property in which the Project is situated (Objective 7). This alternative would not meet Objective 3, Objective 4, or Objective 7.

Alternative 3 Two Building Alternative

Findings: Alternative 3 would maintain similar impacts related to the scale of the Project since Alternative 3 proposes an approximately 2 percent decrease in the warehouse building footprint. Therefore, environmental impact areas such as energy and utilities and service systems may see a nominal decrease regarding potential impact significance. However, these resource areas are anticipated to have a less than significant impacts under the Project. The Project was able to achieve a less than significant impact with mitigation incorporated in all environmental impact areas except air quality, GHG emissions, and transportation. These resources were anticipated to create significant and unavoidable impacts. (**Draft EIR, p. 6-16**).

Aesthetics. Alternative 3 would develop two buildings, compared to the one building under the Project. The development of two buildings would cause lesser visual impacts on the surrounding area, scenic vistas, and the visual character of the Project site when compared to the Project. As the building footprint would be nominally decreased by 2 percent with this Alternative, the general mass and scale of the Project site would appear to have a lesser visual impact for two buildings on-site as opposed to one. This would be due to the increased green space and landscaping that would be required when taking setbacks, building spacing, and required landscaping areas into account. Furthermore, with a two building alternative, there would be additional site planning criterion to meet and may provide a more flexible layout when considering the amount of earthwork that may be required. Each building final floor elevations could be different and would eliminate the need for grading, this would help ensure that the general visual character would remain. Further, the two building alternative would allow separate screening to occur to prevent views of operations that some individuals may find unappealing. When compared to the Project, aesthetics impacts associated with Alternative 3 would be less when compared

to the Project. The Two Building Alternative would be environmentally superior when compared to the Project (**Draft EIR, p. 6-16**).

Air Quality. As previously stated, the Project would conflict with established air quality plans for the region and pollutant generation. Specifically, the Project would exceed NO_x thresholds during its operational phase from vehicular trips. Alternative 3 would propose the same warehousing land use as the Project, although the warehousing building space would be divided into two buildings totaling 1,293,600-square-feet of building space. This is a decrease in warehouse footprint by 26,400 square feet from the Project. This would slightly reduce potential operational emissions through the reduced building area. However, the majority of operational emissions stem from mobile sources such as vehicles and construction equipment. The vehicular traffic generated from the Project is not anticipated to be significantly reduced in Alternative 3. Operations of Alternative 3 is expected to be similar to the Project. Because the usage would be similar, the emissions generated from Alternative 3 would be similar to the Project and would also likely create a significant and unavoidable impact. The Two Building Alternative would be environmentally equivalent when compared to the Project. (**Draft EIR, p. 6-16**).

Biological Resources. Both the Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar biological resource impacts. As with the Project, mitigation measures would be required to reduce biological resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Cultural Resources. Both the Alternative 3 and the Project would disturb similar footprint for construction, and as such, would result in similar cultural resource impacts. As with the Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**)

Energy. Both Alternative 3 and the Project would require energy during both the construction and operations phases of the Project. Construction and operation of two buildings would require similar energy usage compared to the one building proposed under the Project. When compared to the Project, Alternative 3 would result in similar energy-related impacts than the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Geology and Soils. Both Alternative 3 and the Project would disturb a similar footprint for construction of a warehouse facility on the same site, and as such, would result in similar geology and soils impacts. As with the Project, mitigation measures would be required to reduce geology and soils, including paleontological resources, impacts to a level of less than significant. As such, similar impacts would occur with implementation of Alternative 3. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Greenhouse Gas Emissions. The Project's significant and unavoidable GHG impacts were associated with the potential to conflict with GHG regulations through the generation of excess $MTCO_2e$. The Project's

GHG emissions stem largely from mobile source emissions. For this impact, mitigation was proposed to reduce potential impacts, however, the Project was still found to exceed thresholds with mitigation.

Alternative 3 would likely reduce emissions impacts through a reduction in energy use commiserated with the reduction in building footprint. Additionally, these interior spaces would be more energy efficient in terms of environmental control (HVAC). However, the usage rate of the Project site would remain similar. Even with a reduction in energy use emissions, the mobile source emissions associated with vehicular travel would not be largely reduced, any reduction would be too small to account for it. Therefore, Alternative 3 would likely remain in excess of the City's GHG thresholds. The impact would be expected to remain a significant and unavoidable impact. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17 to 6-18**).

Hazards and Hazardous Materials. Both Alternative 3 and the Project would disturb a similar footprint for construction of a landscaped warehouse facility, and as such, would result in similar hazards impacts. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Hydrology and Water Quality. Both Alternative 3 and the Project would disturb a similar footprint for construction of a landscaped warehouse building with implementation of a stormflow detention system, and as such, would result in similar hydrology and water quality impacts. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Noise. Both the Alternative 3 and the Project would generate noise and vibration during both the construction and operations phases of the Project. As this Alternative would consist of construction over the same Project footprint and would result in identical operational uses, the noise and vibration generated from the construction and operation of this Alternative would be similar to that of the Project. While this Alternative does represent a 2 percent reduction in building footprint, it is unlikely that this would result in a meaningful reduction in noise. Therefore, noise impacts would be similar under Alternative 3 compared to the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Public Services. Both Alternative 3 and the Project would require additional public service needs. With the development of two buildings, provision of public services would be required. When compared to the Project, the Alternative 3 would result in similar public services impacts related to the Project. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18**).

Transportation. Despite the nominal footprint size reduction, Alternative 3 would likely remain similar to the Project in usage intensity. Further, the number of employees would be largely the same. Alternative 3 would be approximately 2 percent smaller than the Project. A 2 percent reduction of projected employment would lead to nominal decrease in employees. This would not drastically change the projected number of vehicular trips for Alternative 3 especially since large amounts of traffic would come from operations-based truck transportation which is not proposed to be reduced. As the intensity of development between Alternative 3 and the Project would be similar and the uses would be identical,

traffic-based impacts would be similar. Because the vehicular travel would be largely the same between alternatives, a significant and unavoidable impact would occur with either the Project or Alternative 3. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-18 to 6-19**).

Tribal Cultural Resources. Both the Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar tribal cultural resource impacts. As with the Project, mitigation measures would be required to reduce tribal cultural resource impacts to a level of less than significant. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-17**).

Utilities and Service Systems. Both the Alternative 3 and the Project would require additional utilities and service system needs. Although the Two Building Alternative would require approximately 2 percent less utility needs when compared to the Project given the reduction in size. When compared to the Project, the Two Building Alternative would result in slightly reduced utility and service system related impacts than the d Project; however, it is anticipated these reductions would be nominal and impacts would be similar. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-19**).

Wildfire. Under Alternative 3, the development of the Project site would occur similar to the Project, however, building footprint would be reduced by 2 percent and would result in two buildings rather than one. The Project site is not located in or near an SRA. However, the located within an LRA and is designated as a Very High FHSZ zone. Similar to the Project, Alternative 3 is within an LRA zone, and the provision of fire protection services would continue under contract to the Riverside County Fire Department. Similar to the Project, the Alternative 3 warehouse structures would be predominantly concrete which is not typically susceptible to fire. Both Alternative 3 and the Project would disturb a similar footprint for construction, and as such, would result in similar wildfire impacts. As with the Project, development of Alternative 3 would include fire suppression methods that would reduce the potential for fire. Furthermore, under this Alternative, as with the Project, roadways would be constructed which would serve as fire breaks and help prevent the spread of active wildfires. As such, similar impacts would occur with implementation of the Two Building Alternative. The Two Building Alternative would be environmentally equivalent when compared to the Project (**Draft EIR, p. 6-19**).

Attainment of Project Objectives. Implementation of Alternative 3 would achieve each of the Project objectives, but not to the fullest extent as would be achieved by the Project. Alternative 3 would: develop an industrial project that conforms to the City's General Plan and Municipal Code (Objective 1); provide a new development that will generate a positive fiscal balance for the City moving forward (Objective 2); design and build a Class-A institutional quality industrial project that will attract high end tenants and increase the City's tax base (Objective 3); generate employment opportunities within the City while improving the local balance of housing to job ratio (Objective 4); facilitate the movement of goods and services for the benefit of local and regional economic growth (Objective 5); develop a warehouse project adjacent to transportation corridors, truck routes, local amenities, and the nearby Interstate 10 Freeway

for employee convenience and efficiencies of transporting goods (Objective 6); develop a warehouse project which efficiently uses the property, while conforming to all City regulatory policies (Objective 7); improve public safety and traffic flow in eastern Banning with roadway and infrastructure improvements (Objective 8); provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks (Objective 9); and provide the backbone infrastructure for future growth and prosperity of the surrounding benefit (Objective 10). While this Alternative would meet all of the Project objectives, developing two cumulatively smaller buildings compared to the one warehouse Project site would not meet these Project objectives to the fullest extent possible.

Environmentally Superior Alternative

Based on the summary of information presented in **Draft EIR, Table 6-1, Comparison of Project Alternatives Environmental Impacts with the Project**, the environmentally superior Alternative is Alternative 3: Two Building Alternative. Because Alternative 3 would result in reduced impacts related to aesthetic resources due to the increase in landscaping on the Project site which would protect the visual character of the City of Banning's interface with undeveloped areas. However, the Two Building Alternative would still result in significant and unavoidable impacts related to air quality, GHG emissions, and transportation. Impacts related to biological resources, cultural resources, energy, geology and soils, hazardous and hazardous materials, hydrology and water quality, noise, public services, tribal cultural resources, utilities and service systems, and wildfire would be similar to the Project. Additionally, the Two Building Alternative would meet all of the Project objectives.

CEQA does not require the lead agency (the City of Banning) to choose the environmentally superior alternative. Instead, CEQA requires the City to consider environmentally superior alternatives, weigh those considerations against the environmental impacts of the Project, and make findings that the benefits of those considerations outweigh the harm.

After the No Project Alternative, the environmentally superior Alternative to the Project is the one that would result in the fewest or least significant environmental impacts. Based on the evaluation undertaken, Alternative 3: "Two Building" is the environmentally superior Alternative. This is an environmentally superior project alternative because it would have the least environmental impacts, because although the impacts would not be entirely avoided, the impacts would be decreased when compared to the Project. While Alternative 3 would satisfy all of the Project objectives, Alternative 3 does not maximize the City's benefits realized or achievement of the Project Objectives when compared to the Project, and it would still cause the same significant and unavoidable impacts as the Project (**Draft EIR, p. 6-20 to 6-21**).

6.0 STATEMENT OF OVERRIDING CONSIDERATIONS

6.1 INTRODUCTION

The California Environmental Quality Act (CEQA) and the CEQA Guidelines provide in part the following:

(a) CEQA requires that the decision maker balance the benefits of a Project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) Where the decision of the public agency allows the occurrence of significant effects that are identified in the Final EIR but are not mitigated, the agency must state in writing the reasons to support its action based on the Final EIR and/or other information in the record. This statement may be necessary if the agency also makes the findings under Section 15091(a)(2) or (a)(3) of the CEQA Guidelines.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination (Section 15093 of the CEQA Guidelines).

The City of Banning, having reviewed and considered the information contained in the Final EIR for the Project, which includes Comments and Responses to Draft EIR (Final EIR Section 2.0), and the public record, adopts the following Statement of Overriding Considerations that have been balanced against the unavoidable adverse impacts in reaching a decision on this Project.

6.2 OVERRIDING CONSIDERATIONS

To the extent that the significant effects of the Project are not avoided or substantially lessened to below a level of significance, the City of Banning, having reviewed and considered the information contained in the EIR and the public record, and having balanced the benefits of the Project against the unavoidable effects which remain, finds that such unmitigated effects to be acceptable in view of the following overriding considerations. The City finds that any one of these Project benefits standing alone would be sufficient to sustain the Statement of Overriding Considerations:

1. All feasible mitigation measures have been imposed to lessen Project impacts to less than significant levels; and furthermore, that alternatives to the Project are infeasible because while they have similar or less environmental impacts, they do not provide the benefits of the Project, or are otherwise socially or economically infeasible when compared to the Project, as described in the Statement of Facts and Findings.

2. The Project is consistent with and will contribute to achieving the goals and objectives established by the General Plan. Implementing the City's General Plan as a policy is a legal and social prerogative of the City. The Project will be consistent with General Plan Goals and Policies through the implementation of mitigation measures, and adherence to plans, programs, and policies and laws, ordinances, and regulations that are based on local, state, or federal requirements.

3. The Project that will generate a positive fiscal balance for the City moving forward. Approval of the Project will contribute towards maximizing employment opportunities within the City to improve the jobs-housing balance and to reduce systemic unemployment within the City. The Project will attract businesses that can expedite the delivery of essential goods to consumers and businesses in the City and region.

4. Approval of the Project will create maximum local and regional employment-generating opportunities for citizens of the City and surrounding communities. Specifically, approval of the Project will create approximately 2,841 new jobs, in addition to temporary construction jobs.

5. Construction spending will create a one-time stimulus to the local and regional economies.

6. The Project will employ local members of the Carpenter's, Plumbers and Pipefitter's, Ironworker's, and Laborer's unions to ensure the presence of a well-trained, high-quality construction workforce at the Project.
7. The Project will facilitate the movement of goods and services for the benefit of local and regional economic growth. The Project is strategically located adjacent to transportation corridors, truck routes, local amenities, including the adjacent Interstate 10, thereby ensuring employee convenience and efficient movement of goods and a reduction in vehicle miles traveled.
8. The Project will pay fair share contributions towards future local circulation improvements.
9. The Project will include the creation of new driveways, improvements of adjacent/near-by roadways, and development of internal circulation pathways, thereby improving public safety and traffic flow in eastern Banning with roadway and infrastructure improvements.
10. Approval of the Project will result in improved infrastructure to keep pace with development and will enhance the quality of life for the City's residents by linking land use, transportation, and infrastructure development.
11. The Project will provide enhanced landscaping along City designated corridors with the construction of wide streets and landscaped setbacks.
12. The Project will provide electric passenger car charging infrastructure, including charging infrastructure for a future autonomous truck charging area.

Although significant impacts will remain, the City will mitigate any significant adverse impacts to air quality, greenhouse gas (GHG) emissions, and transportation (vehicle miles traveled) to the maximum extent practicable. In its decision to approve the Project, the City has considered the Project benefits to outweigh the environmental impacts.

7.0 CERTIFICATION OF THE FINAL EIR

7.1 FINDINGS

The City certifies that the Final EIR was prepared in compliance with CEQA and the CEQA Guidelines and that the City has complied with CEQA's procedural and substantive requirements.

The City further certifies that it has reviewed and considered the EIR in evaluation the Project and that the EIR reflects the independent judgment and analysis of the City. The City further finds that no new significant information as defined by CEQA Guidelines Section 15088.5, has been received by the City after the circulation of the Draft EIR that would require further recirculation.

Accordingly, the City certifies the Final EIR for the Banning Commerce Center Project.

As the decision-making body for approval, the City has reviewed and considered the information contained in the Findings and supporting documentation. The City determines that the Findings contain a complete and accurate reporting of the unavoidable impacts and benefits of the Project as detailed in the Statement of Overriding Considerations.

7.2 SIGNIFICANT UNAVOIDABLE IMPACTS

The Project will have significant adverse impacts even following adoption of all feasible mitigation measures which are required by the City. The following significant environmental impacts have been identified in the Final EIR and will require mitigation but cannot be mitigated to a level of insignificance:

AIR QUALITY

The Project would result in the following significant and unavoidable air quality impacts, despite the implementation of all feasible mitigation measures: (1) the Project would conflict with or obstruct implementation of the applicable air quality plan, due to construction and operational emissions and (2) the Project would result in a cumulatively considerable net increase in criteria pollutants for which the region is non-attainment, due to construction and operational NO_x emissions.

GREENHOUSE GAS EMISSIONS

The Project would result in the following significant and unavoidable GHG emissions impacts, despite the implementation of all feasible mitigation measures: (1) the Project would generate long-term operational GHG emissions in excess of the City's adopted 3,000 $MTCO_2e$ per year threshold. Therefore, the Project's GHG emissions that could have a significant impact on the environment; (2) the Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions, namely the Project's long-term operational GHG emissions would exceed the City's 3,000 $MTCO_2e$ per year threshold. Mitigated Project-related GHG emissions total 22,969 $MTCO_2e$ annually. Thus, the Project could impede California's Statewide GHG reduction goals for 2030 and 2050; and (3) the Project would result in a potentially significant cumulative GHG impact.

TRANSPORTATION

The Project would result in significant and unavoidable transportation impacts, despite the implementation of all feasible mitigation measures: the Project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b). Project Buildout is estimated to exceed the City's adopted VMT threshold. Regardless of potential reductions in VMT through feasible reduction measures, reductions in VMT cannot be accurately estimated or guaranteed. Even with implementation of regulatory requirements, and consideration of mitigation, the Project would result in significant and unavoidable impacts.

Details of these significant unavoidable adverse impacts were discussed in the Final EIR and are summarized, or were otherwise provided in Section 5.3, Environmental Effects Which Remain Significant and Unavoidable After Mitigation and Findings, in the Statement of Facts and Findings.

The City has eliminated or substantially reduced environmental impacts where feasible as described in the Statement of Facts and Findings, and the City determines that the remaining unavoidable significant adverse impacts are acceptable due to the reasons set forth in the Statement of Overriding Considerations (see Section 6.0).

CONCLUSIONS

1. Except as to those impacts stated above relating to air quality, GHG emissions, and transportation, all other significant environmental impacts from the implementation of the Project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to a level of insignificance.
2. Alternatives to the Project, which could potentially achieve the basic objectives of the Project, have been considered and rejected in favor of the Project.
3. Environmental, economic, social, and other considerations and benefits derived from the development of the Project override and make infeasible any alternatives to the Project or further mitigation measures beyond those incorporated into the Project.

8.0 ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to *Public Resources Code* Section 21081.6, the City hereby adopts, as conditions of approval of the Project, the Mitigation Monitoring and Reporting Plan (MMRP). In the event of any inconsistencies between the mitigation measures set forth herein and the attached MMRP, the MMRP shall control, except to the extent that a mitigation measure contained herein is inadvertently omitted from the MMRP, in which case such mitigation measure shall be deemed as if it were included in the MMRP.

Exhibit 3
Mitigation Monitoring and Reporting Program

Mitigation Monitoring and Reporting Program

Banning Commerce Center Project

Section 1: Authority

This environmental Mitigation Monitoring and Reporting Program (Program) has been prepared pursuant to Section 21081.6 of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.), and CEQA Guidelines (14 Cal. Code Regs. Section 15000 et seq.) Sections 15091(d) and 15097, to ensure implementation of and provide for the monitoring of mitigation measures required of the Banning Commerce Center (Project), as set forth in the Environmental Impact Report (EIR) prepared for the Project. This report will be kept on file in the office of the CEQA Lead Agency, the City of Banning (City).

As noted in the EIR, the Project has been designed to avoid sensitive resources. The EIR also addresses the potential environmental impacts of the Project, and, where appropriate, recommends mitigation measures to avoid or substantially lessen significant environmental impacts. The Program, detailed in the matrix table below, is designed to monitor and ensure implementation of all mitigation measures that are adopted for the Project.

The City is the Lead Agency for the Project and assumes ultimate enforcement responsibilities for implementation of all mitigation measures listed in this Program. The City may assign responsibility for implementation or monitoring to appropriate designees such as a construction manager or third-party monitor. However, as the Lead Agency, the City remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with this Program. In some cases, the City is required to secure permits or approvals from third-party agencies in order to implement a mitigation measure. In these cases, the City is responsible for verifying that such permits or approvals have been obtained in accordance with the conditions stipulated in the mitigation measure. The City's existing planning, engineering, operations, and procurement review and inspection processes will be used as the basic foundation for the Program procedures and will also serve to provide the documentation for the reporting program.

Section 2: Monitoring Schedule

Prior to construction, while detailed design plans are being prepared by City staff or its agents, City staff will be responsible for ensuring compliance with mitigation monitoring applicable to the Project construction, development, and design phases. Once construction has begun and is underway, monitoring of the mitigation measures associated with construction will be included in the responsibilities of City staff, who shall prepare or cause to be prepared periodic monitoring reports, as appropriate. Regulatory agencies will have to harmonize CEQA mitigation with regulatory permit conditions and monitoring/reporting as part of the regulatory permitting process and will likely require submittal of formal monitoring reports. Once construction has been completed, the City will monitor the Project as specified in the mitigation measures.

Section 3: Support Documentation

Findings and related documentation supporting the findings involving modifications to mitigation measures shall be maintained in the Project file with the Program and shall be made available to the public upon request.

Section 4: Format of Mitigation Monitoring Matrix

The mitigation monitoring matrix on the following pages identifies the environmental issue areas for which monitoring is required, the required mitigation measures, the time frame for monitoring, and the responsible implementing and monitoring agencies.

Section 5: Definitions

The following list provides definitions for acronyms used in the mitigation monitoring and reporting program.

Acronyms/Abbreviation	Description
AQ	Air Quality
AMTP	Archaeological Monitoring and Treatment Plan
APU	Auxiliary Power Unit
BESS	Battery Energy Storage System
BIO	Biological Resources
CALGreen	California Green Building Standards Code
CARB	California Air Resources Board
CDFG	California Department of Fish and Game
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
COA	Conditions of Approval
CRMP	Cultural Resource Management Plan
CTR	Commute Trip Reduction
CUL	Cultural Resources
DBESP	Determination of Biologically Equivalent or Superior Preservation
EIR	Environmental Impact Report
ESA	Environmentally Sensitive Area
EV	Electric Vehicle
FIRE	Wildfire
GEO	Geology and Soils
GHG	Greenhouse Gas
HSC	Health and Safety Code
LEED	Leadership in Energy and Environmental Design
MLD	Most Likely Descendant
MM	Mitigation Measure
MSHCP	Multiple Species Habitat Conservation Plan
NAHC	Native American Heritage Commission
PRC	Public Resources Code
PRIMP	Paleontological Resources Impact Mitigation Program
PV	Photovoltaic
RWQCB	Regional Water Quality Control Board

SCAQMD	South Coast Air Quality Management District
SCE	Southern California Edison
SOI	Secretary of the Interior Standards
TDM	Transportation Demand Management
THPO	Tribal Historic Preservation Officer
TRANS	Traffic and Transportation
USFWS	United States Fish and Wildlife Service
VMT	Vehicle Miles Traveled
VOC	Volatile Organic Chemical
WAIRE	Warehouse Actions and Investments to Reduce Emissions
WDR	Wastewater Discharge Requirement
WEAP	Worker Education and Awareness Program

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
AIR QUALITY				
MM AQ-1: The Project shall utilize "Super-Compliant" low VOC paints which have been reformulated to exceed the regulatory VOC limits (i.e., have a lower VOC content than what is required) put forth by SCAQMD's Rule 1113 for all architectural coatings. Super-compliant low VOC paints shall be no more than 10g/L of VOC. Prior to issuance of a building permit, the City Building and Safety Department shall confirm that plans include the following specifications: • All architectural coatings will be super-compliant low VOC paints. • Recycle leftover paint. Take any leftover paint to a household hazardous waste center; do not mix leftover water-based and oil-based paints. • Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors. • For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain. Set aside the can of cleanup water and take it to the hazardous waste center (www.cleanup.org). • Use compliant low-VOC cleaning solvents to clean paint application equipment. • Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions. • Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable. • Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.	Project Applicant	Prior to issuance of building permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM AQ-2: Prior to issuance of tenant occupancy permits, the tenant/facility operator shall prepare and submit a Transportation Demand Management (TDM) program detailing strategies that would reduce the use of single occupant vehicles by employees by increasing the number of trips by walking, bicycle, carpool, vanpool, and transit. The TDM shall include, but is not limited to the following: • Provide a transportation information center and on-site TDM coordinator to educate employers, employees, and visitors of surrounding transportation options. • Provide on-site car share amenities for employees who make only occasional use of a vehicle, as well as others who would like occasional access to a vehicle of a different type than they use day-to-day. • Promote and support carpool/vanpool/rideshare use through parking incentives and administrative support, such as ride-matching service. • Incorporate incentives for using alternative travel modes, such as preferential carpool/vanpool parking or others. • Each building shall provide preferred parking for electric, low-emitting and fuel-efficient vehicles equivalent to at least eight percent of the required number of parking spaces. This mitigation measure applies only to tenant occupancy and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permits	City of Banning, Community Development Department, Building and Safety Division	
MM AQ-3: Prior to the issuance of a building permit for the Shell Design, the Planning Department shall confirm that the Project is designed to include the following: • The Project buildings' electrical room shall be sufficiently sized to hold additional panels that may be needed to supply power for the future installation of electric vehicle (EV) truck charging stations on the site. • Conduit should be installed from the electrical room to tractor trailer parking spaces in a logical location(s) on the site determined by the Project Applicant during construction document plan check, for the purpose of accommodating the	Project applicant	Prior to issuance of building permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
future installation of EV truck charging stations at such time this technology becomes commercially available and the buildings are being served by trucks with electric-powered engines. This mitigation measure applies only to building shell approvals and not the tenant improvements.				
MM AQ-4: Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that all truck access gates and loading docks within the Project site shall have a sign posted that states: • Truck drivers shall turn off engines when not in use. • Truck drivers shall shut down the engine after two minutes of continuous idling operation (pursuant to Title 13 of the California Code of Regulations, Section 2485). Once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged. • Telephone numbers of the building facilities manager and CARB to report violations. • Signs shall also inform truck drivers about the health effects of diesel particulates, the California Air Resources Board diesel idling regulations, and the importance of being a good neighbor by not parking in residential areas. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	
MM AQ-5: Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications shall include requirements (by contract specifications) that vendor trucks for the industrial buildings include energy efficiency improvement features through the Carl Moyer Program—including truck modernization, retrofits, and/or aerodynamic kits and low rolling resistance tires—to reduce fuel consumption. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM AQ-6: The Project shall include the necessary charging stations for cargo handling equipment. Prior to the issuance of a tenant occupancy permit, the Planning Department shall confirm that the Project plans and specifications show that all outdoor cargo handling equipment (including yard trucks, hostlers, yard goats, pallet jacks, and forklifts) are zero emission/powered by electricity. Note that SCAQMD Rule 2305 (Warehouse Indirect Source Rule) Warehouse Actions and Investments to Reduce Emissions (WAIRE) points may be earned for electric/zero emission yard truck/hostler usage. This mitigation measure applies only to tenant improvements and not the building shell approvals.	Tenant/ facility operator	Prior to issuance of tenant occupancy permit and periodically after development	City of Banning, Community Development Department, Building and Safety Department	
BIOLOGICAL RESOURCES				
MM BIO-1: MSHCP Burrowing Owl 30-Day Preconstruction Surveys In order to avoid Project-related impacts to burrowing owls potentially occurring on or in the vicinity of the Project site and violation of the Burrowing Owl Protocol and the California Fish and Game Code 3503, 3503.5, and 3513, a 30-day preconstruction survey presence/absence survey for burrowing owl within the Impact Site (and 500-foot survey buffer) in accordance with the March 2006 Burrowing Owl Survey Instructions for the Western Riverside County MSHCP Area shall be conducted by a qualified prior to initial ground disturbing activities (e.g., vegetation clearing, clearing and grubbing, grading, tree removal, site watering, equipment staging) to ensure that no owls have colonized the site in the days or weeks preceding the ground disturbing activities. In addition, a preconstruction survey for burrowing owl shall be conducted within 3 days prior to initiation of Project activities and reported to CDFW. If no burrowing owls are observed during the survey, site preparation and construction activities may begin. If burrowing owls have colonized the project site prior to the initiation of ground-disturbing activities, the project proponent will immediately stop work and inform the City of Banning and the Wildlife Agencies (California Department of Fish and Wildlife [CDFW] and US Fish and Wildlife Service [USFWS]). In consultation with the Wildlife Agencies additional avoidance and minimization measures shall be undertaken	Project applicant Qualified Biologist	30 days prior to issuance of a Grading Permit or other construction-related vegetation removal, and ground disturbance	City of Banning, Community Development Department, Planning Division in conjunction with construction contractor and qualified biologist approved by the City and retained by the Project Applicant	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
including the possibility of preparing a Burrowing Owl Protecting and Relocation Plan, prior to initiating ground disturbance. CDFW shall be sent written notification within 48 hours of detection of burrowing owls. If active nests are identified on an implementing Project site during the pre-construction survey, the Project applicant shall not commence activities until no sign is present that the burrows are being used by adult or juvenile owls or following CDFW approval of a Burrowing Owl Plan as described below. If owl presence is difficult to determine, a qualified biologist shall monitor the burrows with motion-activated trail cameras for at least 24 hours to evaluate burrow occupancy. The on-site qualified biologist will verify the nesting effort has finished according to methods identified in the Burrowing Owl Plan. The qualified biologist and Project Applicant shall coordinate with the City, CDFW, and USFWS to develop a Burrowing Owl Plan to be approved by the City, CDFW, and USFWS prior to commencing Project activities. The Burrowing Owl Plan shall describe proposed avoidance, relocation, monitoring, minimization, and/or mitigation actions. The Burrowing Owl Plan shall include the number and location of occupied burrow sites and details on proposed buffers if avoiding the burrowing owls or information on the adjacent or nearby suitable habitat available to owls for relocation. If no suitable habitat is available nearby for relocation, details regarding the creation and funding of artificial burrows (numbers, location, and type of burrows) and management activities for relocated owls shall also be included in the Burrowing Owl Plan. The City will implement the Burrowing Owl Plan following CDFW and USFWS review and approval. If active burrowing owl burrows are detected within Impact Site(s) during Project implementation and construction, the Project applicant shall notify CDFW immediately in writing within 48 hours of detection. A Burrowing Owl Plan will be submitted to CDFW for review and approval within two weeks of detection and no Project activity will continue within 1,000 feet of the burrowing owls until CDFW approves the Burrowing Owl Plan. The City shall be responsible				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
for implementing appropriate avoidance and mitigation measures, including burrow avoidance, passive or active relocation, or other appropriate mitigation measures as identified in the Burrowing Owl Plan. A final report shall be prepared by a qualified biologist documenting the results of the burrowing owl surveys and detailing avoidance, minimization, and mitigation measures. The final report will be provided to City of Banning and CDFW within 30 days of completion of the survey and burrow monitoring for mitigation monitoring compliance record keeping.				
MM BIO-2: Nesting Bird Preconstruction Surveys: Regulatory requirement for potential direct/indirect impacts to nesting common and sensitive bird species will require compliance with the Migratory Bird Treaty Act and California Fish and Game (CDFG) Code Section 3503, 3503.5, and 3513. Site preparation activities (such as ground disturbance, construction activities, and/or removal of trees and vegetation) should be conducted, to the greatest extent possible, outside of the peak nesting season. Regardless of the time of year, a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including disking, vegetation grubbing, and grading. The survey(s) will focus on identifying any bird nests that would be directly or indirectly affected by construction activities. The survey area will include the Project impact footprint and a 500-foot buffer where legal access is granted around the disturbance footprint. Within 72 hours of the nesting bird survey, all areas surveyed by the biologist will be cleared by the Contractor or a supplemental nesting bird survey is required. The survey results shall be provided to the City's Planning Department. The Project Applicant shall adhere to the following: 1. Applicant shall designate a biologist (Designated Biologist) experienced in: identifying local and migratory bird species of special concern; conducting bird surveys using appropriate survey methodology; nesting surveying techniques, recognizing	Project Applicant Qualified Biologist	Three days prior to grading or other construction-related vegetation removal, and ground disturbance, if these activities occur between January 15th and September 15th	City of Banning, Community Development Department, Planning Division in conjunction with construction contractor and qualified biologist approved by the City and retained by the Project Applicant	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
breeding and nesting behaviors, locating nests and breeding territories, and identifying nesting stages and nest success; determining/establishing appropriate avoidance and minimization measures; and monitoring the efficacy of implemented avoidance and minimization measures. 2. Pre-activity field surveys shall be conducted at the appropriate time of day/night, during appropriate weather conditions, no more than 3 days prior to the initiation of Project activities. Surveys shall encompass all suitable areas including trees, shrubs, bare ground, burrows, cavities, and structures. Survey duration shall take into consideration the size of the Project site; density, and complexity of the habitat; number of survey participants; survey techniques employed; and shall be sufficient to ensure the data collected is complete and accurate. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If no nesting birds are observed during the survey, site preparation and construction activities may begin. If active nests or nesting birds (including nesting raptors) are identified during the nesting bird survey, avoidance buffers shall be implemented as determined by a qualified biologist and approved by the City of Banning, based on their best professional judgement and experience. The buffer areas shall be avoided until the Project biologist determines the young have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The buffer shall be of a distance to ensure avoidance of adverse effects to the nesting bird by accounting for topography, ambient conditions, species, nest location, and activity type. All nests shall be monitored as determined by the qualified biologist until nestlings have fledged and dispersed or it is confirmed that the nest has been unsuccessful or abandoned. The Designated Biologist shall monitor the nest at the onset of Project activities, and at the onset of any changes in such Project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. The qualified biologist will serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
that no inadvertent impacts on these nests occur. The qualified biologist shall halt all construction activities within proximity to an active nest if it is determined that the activities are disturbing the nest and may result in nest abandonment or take. The qualified biologist shall also have the authority to require implementation of avoidance measures related to noise, vibration, or light pollution if indirect impacts are resulting in harassment of the nest. Work can resume within these avoidance areas when no other active nests are found. Upon completion of the survey and nesting bird monitoring, a final monitoring report of the findings, prepared by a qualified biologist, will be submitted to the City of Banning documenting compliance with the CDFG Code.				
MM BIO-3: USACE/CDFW/RWQCB Riverine Resources: Prior to the issuance of a grading permit, the Project applicant will obtain a USACE Section 404 Nation Wide Permit, RWQCB Section 401 Water Quality Certificate, and CDFW Section 1602 Streambed Alteration Agreement. The Applicant shall notify the California Department of Fish and Wildlife (CDFW) for impacts to Fish and Game Code section 1602 resources and obtain a CDFW-executed Lake and Streambed Alteration (LSA) Agreement authorizing impacts to Fish and Game Code section 1602 resources associated with the Project. The notification to CDFW should provide the following information: 1. A stream delineation including the bed, bank, and channel; 2. Linear feet and/or acreage of streams and associated natural communities that would be permanently and/or temporarily impacted by the Project. This includes impacts as a result of routine maintenance and fuel modification. Plant community names should be provided based on vegetation association and/or alliance per the Manual of California Vegetation (Sawyer et al 2009); 3. A discussion as to whether impacts on streams within the Project site would impact those streams immediately outside of the Project site where there is hydrologic connectivity.	Project applicant	Prior to issuance of grading permit	City of Banning, Community Development Department, Planning Division in coordination with the Public Works Department, Engineering Divisions and the California Department Fish and Wildlife and Regional Water Quality Control Board	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
Potential impacts such as changes to drainage pattern, runoff, and sedimentation should be discussed; and 4. A hydrological evaluation of the 100-year storm event to provide information on how water and sediment is conveyed through the Project site. Currently, the impacted drainages and overall watershed are not within a service area of an approved mitigation bank. Depending on the timing of impacts and issuance of regulatory permits, should a mitigation bank become approved for the Whitewater River watershed, at minimum 2.67-acres of habitat creation credits from an approved bank will be purchased. However, since at this time no mitigation bank is approved for the whitewater watershed, it is assumed at minimum 2.67-acres of on-site creation is required as outlined below. If it is determined that on-site mitigation is not feasible, creation of non-wetland waters at an off-site location would be required. The off-site location would be required to have a conservation easement or deed restriction placed over the mitigation area to ensure the site remains mitigation in perpetuity. Additionally, whether on or off-site, the mitigation site will require long-term maintenance and management by a qualified conservancy, including payment of a non-wasting endowment to fund the long-term maintenance. To meet the criteria of a biologically equivalent or superior alternative, the applicant will offset permanent impacts to a minimum 0.54-acre of MSHCP Section 6.1.2 riverine resources (CDFW jurisdictional resource) as follows including the preparation of an MSHCP DBESP. • Permanent impacts to a minimum of 0.54-acres of jurisdictional features will be mitigated at a minimum of a 5:1 ratio (2.67 acres) through the creation of in-kind habitat on-site along the eastern and northern most Project boundary. If it is determined that on-site mitigation or off-site is not feasible, additional alternatives could include, payment into an acceptable an approved mitigation bank should one become available at the time of impacts and permitting.				

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
• A Habitat Mitigation and Monitoring Plan for the creation of in-kind habitat will be prepared, reviewed and approved by the City of Banning, USACE, RWQCB and CDFW. The created habitat will be monitored by the Project proponent for a minimum of 5 years; monitoring reports shall be provided to the City of Banning and appropriate regulatory agency on an annual basis. The restoration area must meet standardized success criteria as described in a Habitat Mitigation and Monitoring Plan, which will be required as part of the permit process and approved by the Resource Agencies. • A DBESP will be also prepared, reviewed and approved by the City of Banning and MSHCP wildlife agencies prior to the issuance of grading permits.				
CULTURAL RESOURCES				
MM CUL-1: Prior to the issuance of a grading permit, an archaeological resource monitoring plan shall be developed by a qualified archaeologist. This plan shall include a grading observation schedule, to be maintained when initial mass grading occurs in upper soils, to identify and further evaluate any cultural resources that may be discovered in the Project area. A qualified archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall be retained to attend pre-grading meetings and to monitor earth-moving activities, including clearing, grubbing, cutting, and trenching at the site. The archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall carefully inspect these areas to assess the potential for significant prehistoric or historic remains. If potential archaeological and historical resources are uncovered, the construction contractor shall cease grading operations in the vicinity of the find until further evaluation is undertaken to assess the discovery. Further subsurface investigation may be needed if the resource is determined unique or important for its prehistoric or historic information.	Project applicant Qualified Archaeologist	Prior to issuance of grading permit	City of Banning, Community Development Department, Planning Division; and qualified archaeologist, and tribal representative	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM CUL-2: If archaeological remnants are discovered during monitoring, the archaeologist and/or Native American monitor(s) from Consulting Tribe(s) shall have the authority to divert construction in order to assess the significance of the find. Remnants shall be properly evaluated, documented, and deposited as applicable, consistent with State and local protocols.	Project Applicant Qualified Archaeologist Native American Monitor	During project ground disturbing activities	City of Banning, Community Development Department, Planning Division; and qualified archaeologist, and tribal representative	
MM CUL-3: If previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. 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 shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall 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 24 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.	Project applicant Qualified archaeologist	During project ground disturbing activities	Project Contractor, County Coroner, Native American Heritage Commission, City of Banning, Community Development Department, Planning Division	
GEOLOGY AND SOILS				
MM GEO-1: The Project would comply with the grading guidelines and all recommendations provided in the Geotechnical Investigation prepared for the Project.	Project developer	Prior to issuance of grading permit	City of Banning, Community Development Department, Building and Safety Division	
MM GEO-2: The Applicant will submit a Paleontological Resources Impact Mitigation Program (PRIMP) prepared by a qualified paleontologist to the City's Community Development Director, or designee, prior to the issuance of a grading permit to reduce impacts	Project applicant Qualified paleontologist	Prior to issuance of grading permit	City of Banning, Community Development	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
to sensitive paleontological resources during construction activities, and all other surface-disturbance activities. The PRIMP would include the following: • The PRIMP shall be prepared by a Qualified Paleontologist, based on Society of Vertebrate Paleontology (SVP) guidelines, and meet all regulatory requirements. The qualified paleontologist shall have a Master's Degree or Ph.D. in paleontology, shall have knowledge of the local paleontology, and shall be familiar with paleontological procedures and techniques. • The PRIMP shall include a site-specific investigation that will identify construction impact areas of ranging sensibility and approximate depths at which those resources are likely to be encountered. The Plan shall define monitoring procedures and methodology, and shall specify that sediments of undetermined sensitivity shall be monitored on a part-time basis (as determined by the Qualified Paleontologist). • The PRIMP shall state which resources will be avoided and which shall be recovered for their data potential. Where possible, recovery is preferred over avoidance in order to mitigate the potential for looting of paleontological resources. The Plan shall also detail methods of recovery, preparation and analysis of specimens, final curation of specimens at a federally accredited repository, data analysis, and reporting.			Department, Planning Division	
MM GEO-3: A qualified paleontologist will attend preconstruction meetings to consult with the grading and excavation contractors concerning planned depths, excavation schedules, paleontological field techniques, and safety issues. In addition, all on-site construction personnel will receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work. All ground-disturbing activities associated with Project construction occurring within previously undisturbed fossil bearing formations will be monitored by a qualified paleontologist or qualified paleontological monitor. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and works under the direction of a qualified	Project applicant Qualified Paleontologist	Prior to commencement of grading and excavation	City of Banning, Community Development Department, Planning Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
paleontologist. If fossils are discovered, the paleontologist (or paleontological monitor) will recover them. In most cases, this fossil salvage can be completed in a short period of time; however, some fossil specimens, such as a complete large mammal skeleton, may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) will be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on site.				
MM GEO-4: Fossil remains collected during the monitoring and salvage portion of the program will be cleaned, repaired, sorted, and catalogued. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, will be deposited (as a donation) in a scientific institution with permanent paleontological collections located within Riverside County (or, if no repository is available, adjacent Counties). A final data recovery report will be completed that outlines the results on the paleontological monitoring program. This report will include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils. The report will be submitted to the City's Community Development Director, or designee, upon completion.	Qualified Paleontologist	During excavation	City of Banning, Community Development Department, Planning Division	
GREENHOUSE GAS EMISSIONS				
MM GHG-1: Prior to issuance of tenant occupancy permits, the Project shall be required to install a solar photovoltaic (PV) system or otherwise acquire energy from the local utility that has been generated by renewable sources, sufficient to power the anticipated initial improvements for the warehouse (i.e., the Title 24 electricity demand and the plug-load). The final PV generation facility size requires approval by Southern California Edison (SCE). SCE's Rule 21 governs operating and metering requirements for any facility connected to SCE's distribution system. Should SCE limit the off-site export, the proposed Project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption. The building shall	Tenant/ facility operator	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Building and Safety Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
include an electrical system and other infrastructure sufficiently sized to accommodate the PV arrays. The electrical system and infrastructure must be clearly labeled with noticeable and permanent signage. In addition, to ensure that the Project's electrical room(s) is sufficiently sized to accommodate the potential need for additional electrical panels, either (1) a secondary electrical room shall be provided in the building, or (2) the primary electrical room shall be sized 25 percent larger than is required to satisfy the service requirements of the building or the electrical gear shall be installed with the initial construction with 25 percent excess demand capacity.				
MM GHG-2: Prior to the issuance of a building permit, the Project Applicant or successor in interest shall provide documentation to the City of Banning demonstrating that the Project is designed to achieve Leadership in Energy and Environmental Design (LEED) standards or meet or exceed CALGreen Tier 2 standards in effect at the time of building permit application.	Project applicant/successor in interest	Prior to the issuance of a building permit	City of Banning, Community Development Department, Building and Safety Division	
MM GHG-3: The development shall divert a minimum of 75 percent of landfill waste. Prior to issuance of certificate of tenant occupancy permits, a recyclables collection and load area shall be constructed in compliance with County standards for Recyclable Collection and Loading Areas, and the facility's operator shall be required to provide the City with a copy of the Project's recycling program. This mitigation measure applies only to tenant permits and not the building shell approvals.	Tenant/ facility operator Project developer	Prior to issuance of tenant occupancy permit	City of Banning Public Works Department	
MM GHG-4: Prior to issuance of tenant occupancy permits, the Planning Department shall confirm that tenant lease agreements include contractual language that all landscaping equipment used on-site shall be 100 percent electrically powered. This mitigation measure applies only to tenant permits and not the building shell approvals.	Project applicant	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Planning Division	
MM GHG-5: Conduits for the installation of electrical hookups to allow future electric vehicle (EV) trucks and trucks with auxiliary power units (APU) shall be installed at a ratio of one charging station for every 50 dock high doors.	Project applicant	Prior to issuance of building permit	City of Banning, Community Development	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
			Department, Building and Safety Division	
TRANSPORTATION				
MM TRANS-1: Prior to the issuance of Certificate of Occupancy for future tenants, the future tenant shall demonstrate implementation of reasonable and feasible VMT reduction measures to the satisfaction of the City of Banning Planning Director. Measures to be considered include, but are not limited to VMT strategy reduction measures: **Potential VMT Reduction Strategies** The following are potential VMT reduction measures that could be implemented: • The Project may implement a Voluntary Commute Trip Reduction (CTR) measure. The purpose of the CTR would be to encourage alternative modes of transportation such as carpooling, which would reduce VMT. A proposed CTR program for this Project could include providing on-site and/or online commute information services including information on available transit and ride coordination for employees. • The Project could provide designated carpool/vanpool parking in desirable locations on-site, which could encourage employees to carpool/vanpool to work and reduce VMT. • The Project could install end-of-trip facilities such as bicycle parking and lockers which could encourage employees to use alternative modes of transportation and thus reduce VMT. • The Project could increase sidewalks along the Project frontage and provide connections to existing trails (if applicable) in order to improve pedestrian access. This measure could encourage employees to walk to nearby destinations and thus reduce VMT. • The Project could implement employee parking cash-out policies. Cash-out is when employers provide employees with a choice of forgoing their current subsidized/free parking, provided by the employer, in lieu of a cash payment equivalent to or greater than	Tenant/ facility operator	Prior to issuance of tenant occupancy permit	City of Banning, Community Development Department, Planning Division City of Banning, Public Works Department, Engineering Division	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
the cost of the parking space. This encourages employees to use other modes of travel instead of single occupancy vehicles.				
TRIBAL CULTURAL RESOURCES				
MM TCR-1: Native American Treatment Agreement: Prior to the issuance of grading permits, the applicant shall enter into a Tribal Monitoring Agreement with the Morongo Band of Mission Indians for the project. The Tribal Monitor shall be on-site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources.	Project applicant	Prior to issuance of grading permit	Morongo Band of Mission Indians City of Banning Community Development Department, Planning Division Qualified archaeologist	
MM TCR-2: **Retention of Archaeologist**: Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind) and prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist who meets U.S. Secretary of the Interior Standards (SOI). The archaeologist shall be present during all ground disturbing activities to identify any known or suspected archaeological and/or cultural resources. The archaeologist will conduct a Cultural Resource Sensitivity Training, in conjunction with the Tribe[s] Tribal Historic Preservation Officer (THPO) and/or designated Tribal Representative. The training session will focus on what the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities, and the procedures to be followed in such an event.	Project applicant Qualified Archaeologist	Prior to issuance of grading permit and prior to any ground disturbance	THPO and/or Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	
MM TCR-3: Cultural Resource Management Plan: Prior to any ground-disturbing activities the project archaeologist shall develop a Cultural Resource Management Plan (CRMP) and/or Archaeological Monitoring and Treatment Plan (AMTP) to address the details, timing and responsibility of all archaeological and cultural resource activities	Project applicant Qualified Archaeologist	Prior to any ground disturbance	Tribal representative(s) City of Banning Community	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
that occur on the project site. This Plan shall be written in consultation with the consulting Tribe[s] and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the project schedule.			Development Department, Planning Division Qualified Archaeologist	
MM TCR-4: Pre-Grade Meeting: The retained qualified archeologist and Consulting Tribe[s] representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan.	Project developer Qualified Archaeologist	Prior to commencement of ground disturbing activity	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist Grading Contractor	
MM TCR-5: **On-site Monitoring**: During all ground-disturbing activities the qualified archaeologist and the Native American monitor shall be on-site full-time. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring.	Qualified Archaeologist Native American Monitor Project applicant	During all ground-disturbing activities	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM TCR-6: Inadvertent Discovery of Cultural Resources: In the event that previously unidentified cultural resources are unearthed during construction, the qualified archaeologist and the Native American monitor shall have the authority to temporarily divert and/or temporarily halt ground disturbance operation in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed. If a potentially significant cultural resource(s) is discovered, work shall stop within 60-feet of the discovery and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the Lead Agency and consulting Tribe[s] of said discovery. The qualified archaeologist, in consultation with the Lead Agency, the consulting Tribe[s] and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the Tribal Cultural Resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the Lead Agency for review and approval. Below are the possible treatment and dispositions of significant cultural resources in order of CEQAs preference: • Full avoidance. • If avoidance is not feasible, Preservation in place. • If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction. • If all other options have been proven to be infeasible, data recovery through excavation and curated in a Curation Facility that meets the Federal Curation Standards (CFR s79.1)	Qualified Archaeologist	During all ground-disturbing activities	Tribal representative(s) City of Banning Community Development Department, Planning Division Qualified Archaeologist	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
MM TCR-7: **Inadvertent Discovery of Human Remains**: The Morongo Band of Mission Indians requests the following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe[s]. Should human remains and/or cremations be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within 100-feet of the discovery. The area shall be protected, project personnel/observers restricted. The County Coroner is to be contacted within 24 hours of discovery. The County Coroner has 48 hours to come to his/her determination pursuant to State and Safety Code Section 7050.5. and Public Resources Code (PRC) Section 5097.98. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make their recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.	Project applicant Morongo Band of Mission Indians Qualified Archaeologist	Upon discovery of Human remains	Project Contractor, County Coroner, Native American Heritage Commission, City of Banning, Community Development Department, Planning Division, Tribal Representative(s)	

Mitigation Measures	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
If the Morongo Band of Mission Indians has been named the Most Likely Descendant (MLD), the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance and reside in perpetuity. The place(s) of reburial will not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations will be determined by the Tribes Most Likely Descendant (MLD), the landowner, and the City Planning Department.				
MM TCR-8: Final Report: The final report[s] created as a part of the project (AMTP, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the Lead Agency and Consulting Tribe[s] for review and comment. After approval from all parties, the final reports are to be submitted to the Eastern Information Center, and the Consulting Tribe[s].	Project applicant Qualified Archaeologist	Upon cessation of ground disturbing activities	City of Banning, Community Development Department, Planning Division	
WILDFIRE				
MM FIRE-1: Fire Safety Requirements. The Project shall be required to comply with all Fire Safety Requirements as identified in Section 5 of the Fire Protection Plan prepared for the Project (Appendix M1). Conformance with these requirements shall be verified by the City of Banning Community Development Department during design review prior to the issuance of building and grading permits.	Project applicant	Prior to the issuance of building and grading permits	City of Banning, Community Development Department, Planning Division City of Banning, Community Development Department, Building and Safety Division	

ORDINANCE 1611

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

WHEREAS, the City of Banning, California, ("City") is a general law city and a municipal corporation of the State of California; and

WHEREAS, Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code ("Development Agreement Statute") and Chapter 17.60 of the Banning Municipal Code authorize City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, JDNJ Enterprises, LLC, a Missouri Limited Liability Corporation ("Owner") is proposing to develop an approximately 1,320,284 square-foot tilt-up industrial building with on- and off-sit related improvements on approximately 131.28-acres of real property located entirely within the City of Banning, comprised of three parcels having seven Assessor's Parcel Number (Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015.), and more specifically depicted and described in Exhibit A (hereinafter the "Property"); and

WHEREAS, the Subject Property is, or will be made, subject to the following entitlements: Resolution No. 2025-106 approving Tentative Parcel Map No. 38756 to reconsolidate all existing parcels on the Site into two parcels and Design Review No. 21-7017 for construction of one concrete tilt-up industrial building; and Resolution No. 2025-107 certifying an Environmental Impact Report (EIR), SCH Number 2022090102, Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program (collectively the "Entitlements"); and

WHEREAS, the Project will provide jobs and industry in the City; and

WHEREAS, the Project will provide a community benefit to the residents of the City; and

WHEREAS, the Developer is not requesting from the City, nor is the City providing, any form of financial assistance to locate, develop, construct and/or operate the Project in the City of Banning, and Developer agrees to comply with all conditions of approval; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections 65864 et seq. of the California Government Code, (the "Development Agreement Statute") which authorizes cities to enter into property development agreements with any person(s) or entity(ies) having a legal or equitable interest in real property for the development of such real property in order to establish certain development rights in the real property; and

WHEREAS, the Development Agreement is intended to provide assurances to Developer that an approved Project may proceed subject to the specified policies, rules, regulations, and conditions of approval applicable to the Project at the time of approval, regardless of any changes to City policies, rules, and regulations after project approval; and

WHEREAS, this Agreement will eliminate uncertainty in planning for and securing orderly development and occupancy of the Property, assure installation of necessary improvements, and ensure attainment of the maximum effective utilization of resources within the City at the least economic cost to its citizens; and

WHEREAS, the City Planning Commission held a public hearing on the Project on March 5, 2025 and passed a resolution recommending approval subject to certain specific recommendations; and

WHEREAS, the City prepared the Final Revised EIR (the "FEIR") and, pursuant to Public Resources Code section 21092.5, the City provided copies of the FEIR to all commenting agencies and persons requesting copies of the responses; and

WHEREAS, the City Council of the City of Banning (the "City Council"), at its regularly scheduled public meeting on July 8, 2025, held a public hearing on the Project; and

WHEREAS, based on the foregoing recitals, City has determined that this Agreement is appropriate under the Development Agreement Statute and Chapter 17.60 of the Banning Municipal Code and consistent with the policies and programs of the City of Banning General Plan, any applicable specific plan and the zoning ordinances; and

WHEREAS, this Agreement is voluntarily entered into in consideration of the benefits to and the rights created in favor of each of the parties hereto and in reliance upon the various representations and warranties contained herein; and

WHEREAS, City, as "Lead Agency" under the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, has determined that the "Project," as more fully described in this Agreement, has been fully analyzed per CEQA under the FEIR for the Project dated October 2024 and all other legal prerequisites to the adoption of this Ordinance have occurred.

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

SECTION 1. RECITALS
That the above Recitals are true and correct and are incorporated as though fully set forth herein.

SECTION 2. APPROVAL OF DEVELOPMENT AGREEMENT
That the City Council hereby approves the Development Agreement by and between the City of Banning and JDNJ ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION ("Development Agreement"), a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, subject to the terms and conditions stated therein.

SECTION 3. SEVERABILITY
The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE OF ORDINANCE
That this Ordinance shall take effect thirty (30) days after its second reading by the City Council.

SECTION 5. EFFECTIVE DATE OF DEVELOPMENT AGREEMENT
The Development Agreement shall not be executed by the City until on or after the effective date of the Ordinance.

SECTION 6. RECORDATION OF DEVELOPMENT AGREEMENT
The City Clerk is hereby directed to record the fully executed Development Agreement with the Riverside County Recorder no later than ten (10) days after its execution.

SECTION 7. CERTIFICATION
The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Banning's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED AND ADOPTED this __th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that Ordinance 1611 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of July, 2025, and was duly adopted at a regular meeting of said City Council on the __th day of _____, 2025, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Legal Description

EXHIBIT B
Development Agreement

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

CITY OF BANNING
99 E. RAMSEY STREET
BANNING, CA 92220
BANNING, CALIFORNIA
ATTN: CITY CLERK

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 6103

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF BANNING

AND

JDNJ ENTERPRISES, LLC

CONCERNING

BANNING COMMERCE CENTER

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THIS DEVELOPMENT AGREEMENT (the "Development Agreement") is made and entered into this **{DATE OF AGREEMENT}**, by and between the City of Banning, a California municipal corporation (the "City"), and JDNJ Enterprises, LLC, a Missouri limited liability corporation qualified to do business in the state of California ("Developer"). City and Developer may be referred to in this Development Agreement collectively as the "Parties" or each individually as a "Party."

RECITALS

1. Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code ("Development Agreement Statute") and Chapter 17.60 of the Banning Municipal Code authorizes City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.

2. Developer is proposing to develop an approximately 1,320,000 square-foot tilt-up industrial building consisting of 39,600 square feet of office space and 1,280,400 square feet of warehousing, and trailer parking on approximately 131.33 acres of real property located entirely within the City of Banning, comprised of three parcels having seven Assessor's Parcel Number (Assessor's Parcel Numbers (APNs): 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015.), and more specifically depicted and described in Exhibit A (hereinafter the "Site").

3. City and Developer mutually desire to enter into this Development Agreement pursuant to the Development Agreement Statute in order to implement the Project.

4. On July 8, 2025, the City Council adopted Resolution No. 2025-106 approving Tentative Parcel Map No. 38576 to reconsolidate all existing parcels on the Site into two (2) parcels; and Design Review No. 21-7017 for construction of one concrete tilt-up industrial building as described in the preceding recitals. Resolution No. 2025-106 and any attachments and exhibits thereto is hereby incorporated by this reference.

5. For purposes of this Development Agreement, the approvals granted by Resolution No. 2025-106 are referred to herein as the "Project Approvals."

6. On _____, 2025, the City Council adopted Ordinance No. 1611 approving this Development Agreement between the City and Developer and finding this Development Agreement to be consistent with the City's General Plan and Zoning Code.

7. The terms and conditions of this Development Agreement have undergone extensive review by City staff and the City Council and have been found to be fair, just and reasonable. By electing to enter into this Development Agreement, the City agrees to bind future City Councils by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of the City; and

further finds that the best interests of the citizens of the City and the public health, safety and welfare will be served by entering into this Development Agreement.

8. As set forth in the Project Approvals and this Development Agreement, development of the Site in accordance with this Development Agreement will further important policies and goals of the City, eliminate uncertainty in planning, provide for the orderly development of the Site, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and provide substantial community benefits.

9. Developer has incurred and will in the future incur substantial costs in order to assure development of the Site in accordance with this Development Agreement, and has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Site in accordance with this Development Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the Parties do hereby agree as follows:

AGREEMENT

SECTION 1. RECITALS

The Recitals are part of this Development Agreement and shall be enforceable as any other provision.

SECTION 2. DEFINITIONS

The following defined terms shall have the meanings set forth in this Section 2 unless a different meaning is clearly intended by the context in they are used.

A. “Development Agreement” means this Development Agreement.

B. “City” means the City of Banning.

C. “City Council” means the City Council of the City of Banning.

D. “City Manager” means the City Manager of the City of Banning.

E. “Developer” means JDN Enterprises, LLC, a Missouri limited liability corporation.

F. “Development Impact Fee Program” or “DIF Program” means City’s program of collection and use of development impact fees, including fees for Police Facilities, Fire Facilities, Parkland and Park Facilities, General City Facilities, Transportation Facilities, Wastewater Facilities, and Water Facilities (collectively “DIF”) as set forth in Banning City Council Resolutions 2019-112, as it may be amended or superseded, City’s Update of Traffic Fee Component of the Development Fee

Program dated May 2019 and Development Impact Fee Update Study, dated August 7, 2019.

G. "Effective Date" shall mean the date that Ordinance No. 1611 approving this Development Agreement becomes effective.

H. "Existing Development Regulations," subject to the exclusions and reservations set forth in Section 7, means all ordinances, resolutions, codes, rules, regulations and official policies of the City in force as of the Effective Date and governing the development of the Project and use of the Site; including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications.

I. "Municipal Code" means the Banning Municipal Code, as amended from time to time.

J. "Project" means the proposed development of the Site with 1,320,284 square-foot tilt-up industrial building consisting of 39,600 square feet of office space and 1,312,284 square feet of warehousing and trailer parking in a manner consistent with the Project Approvals and the terms and conditions of this Development Agreement.

K. "Project Approvals" means EIR 2022090102, SCH Number 2022090102, Tentative Parcel Map No. 38576 and Design Review No. 21-7017.

L. "Second Transportation Payment" shall have the meaning ascribed to it in Section 9(B) below.

M. "Site" means the real property that is the subject of the Project Approvals and as legally described in Exhibit A to this Development Agreement.

N. "Term" shall have the meaning ascribed to it in Section 6 below.

O. "Transfer" means any sale, lease, encumbrance, or other transfer of all or any portion of the Project or any interest therein.

P. "Transferee" means any person, partnership, limited liability company, joint venture, firm, or corporation who acquires an interest in the Site pursuant to a Transfer and assumes, or is deemed to assume, Developer's obligations hereunder with respect to such interest.

Q. "Transportation Public Benefit Fee" shall have the meaning ascribed to it in Section 9(B) below.

SECTION 3. DEVELOPER'S REAL PROPERTY INTEREST

Developer warrants and represents that, as of the Effective Date, it has or will have legal title to or an equitable interest in the Site; that it has full legal right to enter into this Development Agreement; and that the persons executing this Development Agreement on behalf of each Developer have been duly authorized to do so.

SECTION 4. RELATIONSHIP OF THE PARTIES

It is hereby specifically understood and acknowledged that the Project is a private development and that neither the City nor Developer will be deemed to be the agent of the other for any purposes whatsoever.

SECTION 5. BINDING EFFECT OF DEVELOPMENT AGREEMENT

A. Covenants, Reservations, and Restrictions. Developer hereby subjects the Project and the Property to the covenants, reservations, and restrictions as set forth in this Development Agreement. The City and Developer hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon each of Developer's successors and assigns in title or interest to the Site. The Parties hereby further declare their understanding and intent that the benefit of such covenants, reservations, and restrictions touch and concern the land by enhancing and increasing the enjoyment and use of the Site by Developer and the future occupants of the Site, the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which this Development Agreement is adopted. Each and every contract, deed, or other instrument hereinafter executed, covering, or conveying the Site or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations, and restrictions expressed in this Development Agreement, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument.

B. Recordation. The City Clerk shall record this Development Agreement in the Official Records of the County Recorder of the County of Riverside within ten (10) days following the Effective Date. Upon the expiration or termination of this Development Agreement and the request of Developer, the City will execute and deliver, in recordable form, an instrument confirming that this Development Agreement is of no further force or effect.

SECTION 6. TERM

The Term of this Development Agreement shall commence on the Effective Date and shall expire fifteen (15) years thereafter (the "Initial Term") unless terminated sooner as provided in this Development Agreement. Unless Developer is in default under this Agreement, the Term shall automatically be extended for an additional five (5) years if prior to the expiration of the Initial Term, the Developer has provided City with the initial Transportation Public Benefit Fee in the amount of Two Million Five Hundred Thousand Dollars ($2,500,000) as specified in Section 9.B. Unless otherwise specified in this

Development Agreement, the respective rights and obligations of the Parties hereto shall remain in full force and effect throughout the Term. Notwithstanding any provision to the contrary herein, in the event that, for any reason whatsoever, Developer fails to acquire fee simple title to the Property ("Fee Title") within 180 days following the Effective Date ("Fee Title Deadline"), Developer may elect, in its sole and absolute discretion, with the written approval of the fee title owner, and upon written notice to the City within sixty (60) days following the Fee Title Deadline, to terminate this Agreement and the Project Approvals. Effective upon such termination by Developer and fee title owner, this Agreement and the Project Approvals shall be of no further force or effect. After the Fee Title Deadline, if Developer has failed to acquire Fee Title and the fee title owner does not issue written approval of termination of this Agreement within five (5) days after the Fee Title Deadline, Developer shall no longer be subject to any of the obligations created in this Agreement or in the Project Approvals.

SECTION 7. VESTING OF DEVELOPMENT RIGHTS

A. General Statement. As a material inducement to Developer and its lenders to continue with diligent efforts to promote the development of the Property, Developer shall have the vested right to develop the Project on the Site in accordance with the terms and conditions of the Project Approvals**,** this Development Agreement, and the Existing Development Regulations, and City shall have the right to control development of the Site in accordance with the provisions of the Project Approvals**,** this Development Agreement, and the Existing Development Regulations.

B. Existing Development Regulations. In accordance with the terms of Gov. Code, § 65866, City and Developer agree the development of the Project on the Site shall be subject to all ordinances, resolutions, codes, rules, regulations and official policies of the City in force as of the Effective Date and governing the development and of the Site, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Site (collectively “Existing Development Regulations”) except as otherwise provided in this Development Agreement.

C. Exclusions and Reservations.

1. “Existing Development Regulations” excludes, and nothing in this Development Agreement shall preclude the application of, any municipal ordinance, resolution, code, rule, regulation or official policy, laws, and regulations that do not conflict with Developer’s vested rights to develop and use the Property in accordance with this Development Agreement. Developer shall comply with such nonconflicting laws and regulations as may from time to time be enacted or amended hereafter.

2. Without limitation to the foregoing exclusions or any nonconflicting law, City hereby expressly reserves its right with regarding to the Project and the Site to apply and enforce any municipal ordinance, resolution, code, rule, regulation or official policy, laws, or regulations regarding: (i) the conduct of businesses, professions, and occupations; (ii) taxes, fees, charges, and assessments; (iii) the control and abatement of nuisances; (iv) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property; (v) the exercise of the power of eminent domain; (vi) any and all new health and safety regulations (e.g., fire, building, and seismic, plumbing, and electric codes) made applicable in the City, inclusive of any similar such codes based upon uniform codes and incorporated by reference into the Banning Municipal Code; and (vii) procedural rules of general city-wide application, provided that City agrees to nevertheless process any Minor Modifications to Tentative Parcel Map No. 38576 or Design Review No. 21-7017 pursuant to the Chapter 17.84 of the Banning Municipal Code as that Chapter reads as of the Effective Date regardless of any later Municipal Code amendment. Such Minor Modifications may include modifications which do not: (a) alter the permitted uses of the Site; (b) increase the maximum height and size of permitted buildings or structures in excess of the originally approved Project; or constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Public Resources Code § 21166.

D. Superior Law. Nothing in this Development Agreement shall preclude the application to the Project and the Site of those changes in City ordinances, regulations, plans, or specifications that are: (i) specifically mandated and required by changes in state or federal laws or regulations as provided in Government Code § 65869.5 or any successor provision or provisions; (ii) required to ensure public safety and are made applicable throughout the City; or (iii) required to ensure access under the Americans with Disabilities Act. In the event such changes prevent or preclude compliance with one or more of the provisions of this Development Agreement, such provisions of this Development Agreement shall be modified or suspended or performance thereof delayed, to the extent necessary to comply with such changes in the law.

SECTION 8. DEVELOPMENT TIMING; PERMIT PROCESSING

A. Developer's Discretion. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure to provide for the timing of development resulted in a later adopted initiative restricting the timing of development, it is the Parties' intent to avoid that deficiency by acknowledging and providing that Developer shall have the right (without obligation), subject to the provisions of this Development Agreement, to complete the Project in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

B. Permit Processing. The City and its officers, agencies and departments shall not unreasonably delay the processing of any application for any permit or approval necessary to commence or complete the Project.

C. Provision of Real Property Interests by City. In any instance where Developer is required to construct any public improvement on land not owned by Developer, Developer shall at its sole cost and expense provide or cause to be provided, the real property interests necessary for the construction of such public improvements. In the event Developer is unable, after exercising reasonable efforts over a period of at least 180 days to acquire the real property interests necessary for the construction of such public improvements ("Offsite Interests"), and if so requested by Developer and upon Developer's provision of adequate security for costs City may reasonably incur as determined by City in its discretion, City may negotiate to attempt to purchase the Offsite Interests in order to allow Developer to construct the public improvements as required by the Project Approvals or this Development Agreement. If City is unable to acquire the Offsite Interests through a voluntary transaction, City shall consider acquiring the Offsite Interests through using its power of eminent domain to acquire such required real property interests. If City does elect in its discretion to exercise its power of Eminent domain, Developer shall pay all reasonable costs associated with such acquisition or condemnation proceedings as determined by City in its discretion and shall enter into a land acquisition agreement ("LAA") with City in a form approved by the City Attorney. The LAA shall provide among other things, that the Developer shall provide a deposit in an amount determined by the City to cover the City's staff, legal and other expenses associated with the condemnation proceedings. This Section is not intended by the Parties to impose upon the Developer an enforceable duty to acquire land or construct any public improvements on land not owned by Developer, except to the extent that the Developer elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by City upon the development of the Project under the Subdivision Map Act or other legal authority. If after using good faith efforts to acquire the Offsite Interests, Developer is unable to acquire the Offsite Interests, and City, in its reasonable discretion, refuses to use its power of eminent domain to acquire the Offsite Interests, City shall waive the requirement for Developer to acquire the Offsite Interests, or if development of the Project cannot proceed without acquisition of the Offsite Interests, the Parties shall meet and confer in good faith to attempt to devise alternatives to allow the Project to proceed without acquisition of the Offsite Interests.

D. Subdivision Map Extension and Other Development Approvals. As permitted by Government Code § 66452.6, each subdivision or parcel map, heretofore or hereafter approved in connection with development of the Site or the Project shall be extended and shall remain in effect for the term provided by this Agreement. If Developer, in its sole and absolute discretion, chooses to process vesting tentative maps, City shall process such vesting maps subject to and in accordance with the Existing Land Use Regulations, the Subdivision Map Act. Subject to and in accordance with the Existing Land Use Regulations, and the Subdivision Map Act any tentative map, either vesting or non-vesting, may be processed in phases. In

addition, Design Review No. 21-7017 and all subsequently adopted discretionary project approvals shall remain in effect for the term provided by this Development Agreement.

E. Development Impact Fees. Development Impact Fees ("DIF") currently imposed are identified in Ordinance No. ___ adopted by the City Council on _____, 20 __. A schedule showing the DIF in place as of the Effective Date is attached as Exhibit "B". DIF and sewer and water connection and capacity fees shall be those in effect at the time of the issuance of a building permit and due and payable by Developer prior to the issuance of the building permit for the building in question. For the sake of clarity, as a condition to building permit issuance for each building, Developer shall pay the development impact fees listed on Exhibit "B" for such building in the amount in effect at the time the building permit for such building is issued, as well as any new or increased DIF authorized by this Agreement. The City may apply subsequently adopted new categories of DIF to the Project if the same are applied uniformly to development either throughout the City or with a defined area of benefit that includes the Property if the subsequently adopted DIF is not applied on an ad hoc basis solely to the Project and the subsequently adopted fee does not physically prevent development of the Property for the uses and to the density and intensity of development set forth in this Agreement. Notwithstanding the foregoing, if Developer is not in default under this Agreement and has made the initial Transportation Public Benefit Fee of Two Million Five Hundred Thousand Dollars ($2,500,000) as specified below, prior to first anniversary of the Effective Date, the City agrees not impose any new category of DIF on the Project for a period of Five Years after the Effective Date.

SECTION 9. PUBLIC BENEFITS

A. Intent. This Section sets forth the terms and conditions under which Developer agrees to provide public benefits in consideration of the of the benefits conferred on Developer and the Site by this Development Agreement.

B. Transportation Public Benefit Fee. Developer shall pay City a Transportation Public Benefit Fee in the amount of Nine Million Dollars ($9,000,000) ("Transportation Public Benefit Fee").Two Million Five Hundred Thousand Dollars ($2,500,000) of the Transportation Public Benefit Fee will be paid no later than one (1) year from the Effective Date and the remaining amount of Six Million Five Hundred Thousand Dollars ($6,500,000) ("Second Transportation Payment") prior to the issuance of the Project's first building permit. If the Second Transportation Payment is not paid prior to the second anniversary of the Effective Date, the amount of the Second Transportation Payment will increase annually equal to the annual percentage change in the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Riverside-San Bernardino-Ontario Area, measured as of the month of April in the previous Fiscal Year, but not less than one percent (1%) and not greater than five percent (5%) . The City shall solely use the Ramsey Interchange Fee for the design and construction of the Ramsey-Interstate 10 interchange and or the Hargrave Street interchange. The City acknowledges and agrees that the City shall not impose

any other fee or exaction upon Developer for the Ramsey-Interstate 10 interchange.

C. Electrical Facilities Fee. Developer shall pay City an Electrical Facilities Fee equal to Three Hundred and Fifty-Seven Thousand Dollars ($357,000) per megavolt-amperes (MVA) of requested electrical load due and payable pro rata prior to issuance of any building permit ("Electric Facilities Fee"). City shall use the proceeds of the Electrical Facilities Fee solely for the design or construction of new or expanded electrical facilities, which can include reimbursement to the City for part of the cost of an existing electrical facility substation which the City has funded.

D. Electrical Substation Land Dedication. Developer shall reserve and offer to dedicate to City lettered-lot "C" on the proposed Tentative Parcel Map No. 38576 for the Banning Electrical Utility to have the option to construct a new electrical substation ("Substation Property"). Such offer of dedication shall occur at the time final Parcel Map No. 38576 is recorded. If the City accepts the offer of dedication and undertakes construction of the electrical substation on the Substation Property, construction of the electrical substation shall be undertaken by the City at no cost to Developer. If the City accepts the offer of dedication for the Substation Property, City or its successors shall not use the Substation Property for any purpose other than a substation and related uses. If the City accepts the offer of dedication for the Substation Property, within thirty (30) days of City's acceptance of the dedication, City shall pay the amount of the fair market value ("FMV") of the Substation Property to the Developer, with the amount of the payment capped at the amount of the Electric Facilities Fee Acquisition of the Substation Property shall be at the sole discretion of the City and the City may in its sole discretion elect not to acquire the Substation Property.

E. Prior to the issuance of the first certificate of occupancy within the Project, the Developer shall be required to take all actions required to improve Hathaway Street, as depicted in Exhibit "C".

F. The Developer shall use reasonable efforts to hire residents of the City of Banning. Developer will hold at least one local job fair with the City for the purpose of recruiting workers from the City.

G. Sanitary Lift Station Land Construction and Dedication. Developer shall construct a sanitary lift station ("Lift Station") on lettered lot "D" on the proposed Tentative Parcel Map No. 38576 ("Lift Station Property") subject to plans and specifications approved by the Public Works Director and as contemplated by the Sewer Master Plan dated ___-. City shall issue DIF credits against the wastewater DIF which includes the Lift Station and Lift Station Property in the amounts of (i) the cost of designing and constructing the Lift Station, and (ii) the FMV of the Lift Station Property (collectively, "Lift Station Costs") in an amount not to exceed the Developer's wastewater DIF obligation. Developer shall complete construction of the Lift Station prior to the issuance of the first certificate of occupancy for the Project. Developer is aware that the sewer force main near the Project running to Nicolet was installed by a previous developer on its property, and Developer must

obtain the consent of the property owner to use this sewer force main for the Project and to undertake any additional improvements to the sewer force main at its sole cost and expense.

H. FMV Process. In order to determine the FMV of the Substation Property and the Lift Station Property, City shall commission an appraisal for each property, which shall be addressed to City and Developer, at Developer's sole expense, prepared by a licensed appraiser holding a MAI designation from the Appraisal Institute ("Developer's Appraiser") with at least 15 years' experience in appraising similar properties in the same geographical region. The FMV shall be based upon the the assumption the Property has in place all needed discretionary approvals to develop a project similar in nature to the Project. The appraiser shall use a date of valuation which is the current date of the appraisal. Developer's Appraiser shall deliver a written report as to their opinion of FMV for each property within sixty (60) days after such appraiser has been retained by Developer. Upon receipt of Developer's appraisal, the City shall have thirty (30) days to review the appraisal and agree or dispute the determination of FMV. In the event that the City disputes the FMV determined by Developer's appraisal, the City shall be entitled to commission a second appraisal, at the City's own expense, prepared by a licensed appraiser having the qualifications provided above ("City's Appraiser"). The City's Appraiser shall deliver a written report as to their opinion of FMV for the property within sixty (60) days after such appraiser has been retained by the City. If the higher appraisal is equal to or less than 120% of the lower appraisal, the two appraisals will be added together and their total divided by two; the resulting quotient will be the FMV of the property in question. If the higher appraisal is greater than 120% of the lower appraisal, the Parties shall have sixty (60) days after Developer's receipt of the City's appraisal to reach a negotiated resolution. If the Parties are unable to reach a negotiation resolution, the Parties shall reasonably cooperate to select a third licensed appraiser having the qualifications provided above("Review Appraiser") to make a final determination of FMV. If the Parties are unable to agree on the selection of the Review Appraiser, the Parties shall jointly petition the Riverside County Superior Court to select a Review Appraiser. The Parties will equally share the fees and expenses associated with the Review Appraiser, including but not limited to, the Parties' joint petition to select a Review Appraiser and the Review Appraiser's fees. The Review Appraiser shall review the two appraisals and then make a determination of FMV, which shall be no less than the value of the lower appraisal and no greater than the value of the higher appraisal. The Review Appraiser's determination of FMV shall be binding on all Parties.

I. Community Facilities Districts.

1. Service CFD. Developer agrees, pursuant to the Mello Roos Act, to petition the City or, alternatively, California Statewide Communities Development Authority ("CSCDA") to form a community facilities district, the boundaries of which shall be coextensive with those of the Site (the "Service CFD") for the purpose of financing City services and ongoing maintenance of public improvements provided by the City to the parcels within the boundaries of

the Service CFD the cost of which shall be solely borne by the Developer, provided such services qualify as authorized services under the Mello Roos Act (collectively, "Authorized Services"). The Service CFD shall be a condition to the City's issuance of the first certificate of occupancy for the Project.

2. If City sponsors the formation of the Service CFD, City shall initiate the process promptly following submission of Developer's petition and compliance with Section 53318(d) of the Mello-Roos Act and shall use good faith, diligent efforts to form the Service CFD, including the scheduling of necessary public hearings at the cost of Developer. If requested, Developer will execute a reimbursement agreement providing for the advance deposit of monies to reimburse City for the cost of its implementing the CFD. Developer agrees to cooperate in the formation and agrees that it will not contest and will exercise all of its voting power in favor of the formation of the Service CFD. Should Developer request CSCDA to sponsor the formation of the Service CFD, City shall cooperate in process and agrees to use good faith efforts to take all necessary and appropriate actions to assist Developer and CSCDA in the formation of the Service CFD in accordance with Section 9.H.1, including the issuance of necessary consents in the formation process.

3. Developer and City shall reasonably cooperate in developing the rate and method of apportionment of special taxes for the Service CFD ("Service RMA"), which the Parties agree shall provide, in part: (a) the maximum Service Special Tax rate in the first year that there is a levy of the Service Special Tax shall be at a rate of $0.10 per building square foot, which amount shall be subject to an "Annual Escalation Factor" equal to the annual percentage change in the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Riverside-San Bernardino-Ontario Area, measured as of the month of April in the previous Fiscal Year, but not less than three percent (3%) and not greater than five percent (5%); (b) the levying of the Service Special Tax shall commence in the first fiscal year following the issuance of a certificate of occupancy by May 1 of the preceding Fiscal Year, (c) the adoption of an annual budgeting process to establish the annual actual Service Special Tax rate, and (d) the Service Special Tax cannot be prepaid.

4. Facilities CFD At the discretion of the Developer, Developer may, pursuant to the Mello Roos Act, petition the City or, alternatively, pursue other financing alternatives, including requesting CSCDA to form a community facilities district, the boundaries of which shall be coextensive with those of the Site ("Facilities CFD," collectively with Service CFD, the "CFDs") for the purpose of financing (i) public infrastructure required under the Development Agreement, including without exception, public streets, highways, and bridges, and other related improvements such as grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway landscaping related thereto, water facilities, storm

drain facilities, sewer facilities, public parks, landscaping, electrical facilities, (collectively, "Facilities"), and (ii) Development Impact Fees, including, without exception, the Public Benefit Fees described in Section B and C above ("Fees," collectively with Facilities, "Authorized Facilities and Fees"). If City agrees to sponsor the formation of the Facilities CFD, City shall initiate the process promptly following submission of Developer's petition and compliance with Section 53318(d) of the Mello-Roos Act, and shall use good faith, diligent efforts to form the Facilities CFD and timely issue bonds ("CFD Bonds"), including the scheduling of necessary public hearings related to formation and issuance of CFD Bonds. Any costs incurrent in establishing the Facilities CFD and issuing the CFD Bonds shall be paid from the CFD Bond proceeds, or failing that by the Developer. Developer agrees to cooperate in the formation and agrees that it will not contest and will exercise all of its voting power in favor of the formation of the Facilities CFD and issuance of CFD Bonds. Should Developer request CSCDA to sponsor the formation of the Facilities CFD and be the issuer of the CFD Bonds, City shall cooperate in process and agrees to use good faith efforts to take cooperate with Developer and CSCDA in the formation of the Facilities CFD and the issuance of the CFD Bonds, including the issuance of necessary consents in the formation and bond issuance processes. Developer and City shall reasonably cooperate in developing the rate and method of apportionment of special taxes for the Facilities CFD ("Facilities RMA").

5. In the event Developer conveys or grants an easement to any portion of the Site to City or any other government agency and the property so conveyed is subject to payment of special taxes under the Facilities CFD formed pursuant to this Development Agreement and CFD Bonds have been issued and are outstanding, Developer shall prepay the special taxes pursuant to the terms of the Facilities RMA with respect to the portion of the Site subject to an easement or being conveyed prior to completion of any such conveyance or easement. Upon completion of the conveyance or grant of easement, Developer's obligation to pay special taxes pursuant to the Facilities RMA and the Services RMA for the conveyed property shall terminate. Alternatively, the RMA may exclude the forgoing conveyance or grant of easement from the imposition of the special taxes to accomplish the goals of this paragraph.

6. Notwithstanding the foregoing, it is acknowledged and agreed by the Parties that nothing contained in this Development Agreement shall be construed as committing or requiring the City Council to authorize and approve the formation of the CFDs and/or the issuance of the CFD Bonds. Further, City and Developer agree that the practical ability to issue CFD bonds is subject to marketability and therefore, Developer and City will first consult with a mutually agreed upon public finance consultant, at Developer's cost prior to forming a Facilities CFD.

7. Except as expressly set forth or reserved in this Development Agreement, City shall not, without the prior written consent of Developer, initiate the formation of any new financing district or assessment district involving the levy of special taxes or assessments for facilities or services applicable to the Project or any portion thereof during the term of this Agreement or prior to the substantial completion of the Project.

SECTION 10. COMPLIANCE REVIEW

Within ten (10) days of each anniversary of the Effective Date, Developer shall file a report with City containing sufficient evidence to demonstrate Developer's good faith compliance with this Development Agreement, and City will review Developer's report in good faith. Pursuant to Gov. Code § 65865.1, if City finds and determines, as a result of its review, that there is substantial evidence that Developer has not complied in good faith with terms or conditions of this Development Agreement, City may terminate or modify the agreement. City does not waive any claim of defect in performance by Developer if after any annual review, City does not enforce this Development Agreement.

SECTION 11. TRANSFERS AND ASSIGNMENTS

A. Transfers. Developer shall have the right to sell, transfer or assign the Site in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code § 66410 et seq.) to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the Term of this Development Agreement without the prior consent of City. City acknowledges and agrees it is likely in the future that Developer may transfer its interest in the Site to an affiliated entity. Developer and Transferee shall execute and record an Assignment and Assumption Agreement whereby the assignee agrees to perform all of the obligations of the Developer under this Development Agreement, a copy of which shall be delivered to the City contemporaneously upon the closing of such sale, transfer or assignment. Upon recordation of the Assignment and Assumption Agreement, Developer shall be released from its obligations with respect to such portion of, or interest in, the Project that was the subject of such Transfer.

B. Conditions Applicable to Transfers. Notwithstanding whether a Transferee has executed an Assignment and Assumption Agreement, a Transferee shall be deemed upon transfer or assignment to have assumed all Developer's obligations and to have been assigned all of Developer's rights under this Development Agreement, and will be deemed the Developer hereunder. This Development Agreement may only be transferred to a person or entity who acquires fee title to the Site or any portion of the Site. Notwithstanding anything herein to the contrary, in no event shall any Lender (as defined in Section 12 below) have any obligation under this Development Agreement unless and until such Lender purchases at a foreclosure sale, or accepts a deed in lieu of foreclosure, the portion of the Site that was subject to a mortgage.

C. Release of Transferring Developer. Notwithstanding any transfer, a transferring Developer shall continue to be obligated under this Development Agreement until

the full satisfaction by such transferring Developer of the following conditions and upon such satisfaction shall be released from the obligations under this Development Agreement: (i) Developer no longer has a legal or equitable interest in all or any part of the Site; (ii) Developer is not then in default under this Development Agreement; and (iii) Developer has provided City with the notice and executed agreement required under Section 11(A) above. If requested by transferring Developer, the City shall promptly memorialize such release in writing upon satisfaction of the foregoing conditions. A default under this Development Agreement by Developer shall not be considered or acted upon by the City as a default by the transferee and shall not affect the transferee's rights or obligations hereunder,. Likewise, a default by a transferee relating to the transferred portion(s) of the Site shall not be considered or acted upon by the City as a default by Developer and shall not affect Developer's rights and obligations hereunder. Notwithstanding the forgoing, if a default of this Development Agreement is of a continuing nature that affects continued development of the Project including, but not limited to a failure to complete public improvements in accordance with the Project Approvals as needed to provide service to the Project or the payment of any tax, fee or assessment such default shall be the continuing responsibility of the transferee, if the transferee has accepted the obligation to complete public improvements.

SECTION 12. LENDERS

A. Rights of Lender. Should Developer place or cause to be placed any encumbrance or lien on the Project, or any part thereof, the beneficiary ("Lender") of such encumbrance or lien shall have the right at any time during the Term of this Development Agreement and the existence of such encumbrance or lien to: (i) do any act or thing required of Developer under this Development Agreement, or cure any default of Developer under this Development Agreement within the time limits set forth in this Development Agreement, and any such act or thing done or performed by Lender or cure shall be as effective as if done by Developer; (ii) realize on the security afforded by the encumbrance or lien by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document evidencing the encumbrance or lien (hereinafter referred to as "a trust deed"); (iii) transfer, convey or assign the title of Developer to the Site to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in a trust deed; and (iv) acquire and succeed to the interest of Developer by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to a court order or pursuant to a power of sale contained in a trust deed. Should any Lender request an amendment of this Development Agreement in respect of the rights and remedies granted to a Lender, the City shall consider such an amendment in good faith and in accordance with state and local law so long as the proposed amendment does not materially and adversely affect the rights, powers, and remedies of the City in respect of a default by Developer hereunder.

B. Notice to Lender. City shall give written notice of any default or breach under this Development Agreement by Developer to Lender (if known by the City)

simultaneously with such notice of default the City gives to Developer and afford Lender the opportunity after receipt of service of the notice to: (i) cure the breach or default within thirty (30) days after service of such notice, where the default can be cured by the payment of money; (ii) cure the breach or default within thirty (30) days after service of such notice where the breach or default can be cured by something other than the payment of money and can be cured within that time; or (iii) cure the breach or default in such reasonable time as may be required where something other than payment of money is required to cure the breach or default and cannot be performed within thirty (30) days after such notice, provided that acts to cure the breach or default are commenced within a thirty (30) day period after service of such notice of default on Lender by the City and are thereafter diligently completed by Lender.

C. Action by Lender. Notwithstanding any other provision of this Development Agreement, a Lender may forestall any action by the City for a breach or default under the terms of this Development Agreement by Developer by commencing proceedings to foreclose its encumbrance or lien on the Site. The proceedings so commenced may be for foreclosure of the encumbrance by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the encumbrance or lien. The proceedings shall not, however, forestall any such action by the City for the default or breach by Developer unless: (i) they are commenced within thirty (30) days after service on Developer (and on Lender if Lender's address is provided by notice to the City pursuant this Development Agreement) of the notice described hereinabove; (ii) they are, after having been commenced, diligently pursued in the manner required by law to completion within one year; and (iii) lender keeps and performs all of the terms, covenants, and conditions of this Development Agreement requiring the payment or expenditure of money by Developer until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, or payment.

SECTION 13. NOTICES

Any notice or instrument permitted or required under this Development Agreement shall be deemed made when personally delivered or when mailed 72 hours after deposit in the United States Mail, certified mail postage prepaid and addressed to the party at the following addresses:

If to City: City of Banning
99 E. Ramsey Street
Banning, CA 92220
Attn: City Manager

If to Developer JDNJ ENTERPRISES, LLC
120 South Central Avenue, Suite 500
St. Louis. MO 63105

Attn: John C. Condas
Allen Matkins Leck Gamble Mallory & Natsis LLP

2010 Main Street, Suite 800
Irvine, CA 92614

Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

SECTION 14. EVENT OF DEFAULT

Developer is in default under this Development Agreement upon the occurrence of one or more of the following events or conditions:

A. A material warranty, representation, or statement made or furnished by Developer to City set forth herein or in any document incorporated by reference herein is false or proved to have been false in any material respect when it was made.

B. City finds and determines upon the basis of substantial evidence following an annual review pursuant to this Development Agreement, that Developer has not complied in good faith with any material term and/or condition of this Development Agreement, subject to notice and opportunity to cure as provided by this Development Agreement.

C. Developer breaches any of the terms or conditions of this Development Agreement, after notice and opportunity to cure as provided in this Development Agreement.

SECTION 15. ENFORCEMENT

A. Notice; Cure. In the event of a default under the provisions of this Development Agreement by Developer or City, the non-breaching party shall give written notice to the defaulting party (or its successor) by registered or certified mail addressed at the address stated in this Development Agreement, and if such violation is not corrected to the reasonable satisfaction of the non-breaching party within thirty (30) days after such notice is served on the defaulting party, or if such breach or default cannot be cured within such thirty (30) days (excluding monetary defaults) and provided that acts to cure the breach or default must be commenced within such thirty (30) days and must thereafter be diligently pursued to completion by the defaulting party, then the non-breaching party may, without further notice, declare a default under this Development Agreement and, upon any such declaration of default, if the City is the defaulting party, Developer may bring any action necessary to specifically enforce the obligations of City. If Developer is the defaulting party, then City may give notice to Developer of its intent to terminate or modify this Development Agreement, in which event the matter shall be scheduled for consideration and review by the City Council.

B. Remedies. The Parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Development Agreement and should be available to the Parties for the following reasons: due to the size, nature, and scope of the Project, it may not be practical or possible to

restore the Property to its natural condition once implementation of this Development Agreement has begun. After such implementation, Developer may be foreclosed from other choices it may have had to utilize the Site or portions thereof. Developer has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Development Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Development Agreement, and it is not possible to determine the sum of money which would adequately compensate Developer for such efforts. Accordingly, it is expressly recognized that injunctive relief and specific enforcement of this Development Agreement are proper and desirable remedies, and it is agreed that in any claim by Developer against City for an alleged breach of this Development Agreement may avail itself to injunctive relief or an appropriate action for specific enforcement of this Development Agreement. It is agreed that specific performance is not available to City against Developer, although City can seek the remedy of injunctive relief, declaratory relief or any other appropriate remedy against Developer.

C. Nonperformance by Developer. Nonperformance by Developer shall not be excused because performance by Developer of the obligations herein contained would be unprofitable, difficult, or expensive, or because of a failure of any third party or entity, other than City.

SECTION 16. PARTIES NOT LIABLE FOR DAMAGES

It is acknowledged by the Parties that the City and Developer would not have entered into this Development Agreement if either could be held liable in damages under or with respect to this Development Agreement or the application thereof. Consequently, and except for the payment of attorneys' fees in accordance with this Development Agreement, the City shall not be liable in damages to Developer, or to any assignee, transferee, or any other person, and Developer shall not be liable in damages to City. Developer and City jointly covenant on behalf of itself and its successors in interest not to sue for or claim any damages: (i) for any breach of this Development Agreement; (ii) for the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; (iii) arising out of or connected with any dispute, controversy, or issue regarding the application or interpretation or effect of the provisions of this Development Agreement; or (iv) for any injury to or interference with the rights of Developer, allegedly or actually arising out of, or incurred in connection with, the Parties entering this Development Agreement, or their exercise of any rights under this Development Agreement. Notwithstanding the forgoing, City shall not be excluded from seeking money damages for non-payment of the Electric Facilities Fee or the Transportation Public Benefit Fee, including attorney fees. In addition, Developer shall not be excluded from seeking its attorneys fees in the case of a breach of this Agreement by City.

SECTION 17. INDEMNIFICATION AND LEGAL CHALLENGE

A. Claims For Damage For Personal Injuries. To the maximum extent permitted by law, Developer must defend, indemnify, and hold the City and its elected officials, officers, contractors serving as City officials, agents, and employees ("Indemnitees") harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of Developer's activities in connection with the development and/or construction of the Project, and which may arise from the direct or indirect operations of Developer or those of Developer's contractors, agents, tenants, employees, or any other persons acting on Developer's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project, including any associated public or private improvements.

B. Prevailing Wages. Without limiting the generality of the preceding paragraph (A), Developer shall defend, indemnify, and hold the Indemnitees harmless from and against any and all claims, liabilities, losses, damages, costs, and expenses arising from or related to any claims that Developer or Developer's contractors are required to pay prevailing wages pursuant to Labor Code Section 1720 et seq., in connection with the development of the Project or any public improvements.

C. Third Party Legal Challenge. Without limiting the generality of preceding paragraph A, in the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Development Agreement, any of the entitlement documents pertaining to the Project including, without limitation, the City's General Plan, Zoning Code, or any other supporting document relating to the Project, Developer shall also indemnify, defend, and hold harmless the Indemnitees with respect to all liability, costs, and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action.

D. Legal Counsel; Cash Deposit. With respect to any legal action or claim falling within Developer's defense, indemnity, and hold harmless obligations, the City shall have the right to select counsel of its choice and the Parties shall cooperate in the defense. The City's separate counsel billing rates shall be identical to the rates City pays for its typical municipal litigation rates for legal challenges of the variety being defended. Developer shall provide, and maintain for the duration of such action or claim, a cash deposit to City in an amount or amounts determined by the City Attorney to be reasonably necessary to cover the City's legal fees, costs, and expenses. Developer shall not be entitled to a refund of funds expended from the deposit regardless of the outcome of the action or claim. The City shall refund to Developer any unexpended funds from the deposit within thirty (30) days of any final disposition or full and complete settlement of the action or claim.

E. Continued Effect of Development Agreement. In the event of any litigation challenging the effectiveness of this Development Agreement, or any portion hereof, this Development Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, Developer may elect to continue development of the Project under this Development Agreement pending completion of the litigation but it shall do so at its sole risk, and the City shall not be liable for any loss suffered as a result thereof. City shall perform all obligations under this Development Agreement, including the timely processing of all applications submitted by Developer in connection with the Project.

F. Survival. This Section shall survive this the expiration or earlier termination of this Development Agreement. Notwithstanding the foregoing, Developer's obligation to indemnify any Indemnitee due to personal injury or property injury suffered in connection with Developer's design and construction of any public facility, shall terminate one (1) year after City accepts Developer's dedication of such public facility.

SECTION 18. ENTIRE AGREEMENT

This Development Agreement and the Exhibits therein contain the entire agreement between the Parties, and is intended by the Parties to completely state the Development Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Development Agreement, is null and void.

SECTION 19. AMENDMENT OR CANCELLATION

Except as otherwise provided for herein, this Development Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties, or their successors in interest, and in the manner provided in Gov. Code, §§ 65865.1, 65867, 65867.5.

SECTION 20. OPERATING MEMORANDA

The provisions of this Development Agreement require a close degree of cooperation between the City and the Developer. It is anticipated due to the term of this Development Agreement that non-substantive interpretation of the Development Approvals may be appropriate with respect to the details of performance of the City and the Developer. To the extent allowable by law and this Development Agreement, the City and Developer shall retain a certain degree of flexibility with respect to all matters, items and provisions covered in general under this Development Agreement. The Developer may request minor changes, adjustments or clarifications under this Agreement and the City and Developer may effectuate such changes, adjustments or clarifications through operating memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Development Agreement. Operating Memoranda shall not constitute an amendment to this Development Agreement but mere ministerial interpretations or clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized, upon consultation with the Developer, to determine whether

a requested interpretation or clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Development Agreement which requires compliance with the provisions of this Development Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby authorized in his or her discretion to execute any Operating Memoranda permitted hereunder without Planning Commission or City Council action and without public hearing.

SECTION 21. MISCELLANEOUS PROVISIONS

A. Binding Effect. This Development Agreement shall bind, and the benefits and burdens hereof shall inure to, the respective Parties hereto and their legal representatives, executors, administrators, successors and assigns, wherever the context requires or admits.

B. Headings. Headings used in this Development Agreement are for reference purposes only and shall not be deemed a part of this Development Agreement.

C. Exhibits. Each exhibit referenced in this Development Agreement is hereby incorporated into the Development Agreement as if set forth in full herein. In the event of any material discrepancy between the terms of any exhibit so incorporated and the terms of this Development Agreement, the terms of this Development Agreement shall control.

D. Time of Essence. Time is of the essence in every provision hereof in which time is a factor.

E. Force Majeure. In the event that any party hereto shall be delayed or hindered or prevented from performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, riots, insurrection, terrorism, war, pandemics, epidemics or other reason of similar nature not the fault of the party delayed in performing the work or doing the acts required under the terms of this Development Agreement, then the performance of such act shall be excused for the period of the delay caused by the foregoing. Financial inability shall not be deemed an excuse for delay under this Section.

F. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

G. Cooperation. Each of the Parties shall cooperate with and provided reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Development Agreement and the satisfaction of the conditions of this Development Agreement.

H. City Manager Authority. Any consent, approved or other instrument described in this Development Agreement may be granted, given or executed on behalf of the

City by the City Manager or their written designee without the need for further authorization from the City Council; provided, however that, notwithstanding the foregoing, the City Manager or their designee may, in their sole discretion, refer to the City Council any item for which the City Manager has authority to act hereunder.

I. Conflicts of Interest; Prohibited Interests. Developer warrants and maintains as of the Effective Date of this Development Agreement that it has no knowledge that any officer or employee of City has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of Developer. If any information regarding an officer of employee of the City having an interest in this transaction or in the business of Developer as of the Effective Date of this Development Agreement comes to the knowledge of Developer at any time during the Term of this Development Agreement, Developer shall immediately make a complete, written disclosure of such interest to the City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws. If the City subsequently is provided information that Developer had knowledge but failed to disclose knowledge of any such interest, and Developer fails to acknowledge such interest within 14 days of notification by the City, Developer's failure shall constitute a breach of the Development Agreement subject to the provisions of Section 14 of this Development Agreement.

J. Applicable Law and Venue. This Development Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for any action or litigation brought for breach or to enforce any provision of this Development Agreement shall be the County of Riverside, California.

K. Partial Invalidity. If any provisions of this Development Agreement shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

L. Attorneys' Fees. In any proceedings arising from the enforcement of this Development Agreement or because of an alleged breach or default hereunder, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and experts' fees incurred during the proceeding (including appeals) as may be fixed within the discretion of the court.

M. Corporate Authority. Each person executing this Development Agreement on behalf of Developer warrants that he or she is duly authorized to execute this Development Agreement on behalf of Developer and that by his or her execution, Consultant is formally bound to the provisions of this Development Agreement.

N. Counterparts. This Development Agreement may be executed by the Parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the Parties had executed the same instrument.

O. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Development Agreement.

P. Legally Binding Contract; Enforceability. It is the intent of City and Developer that this Development Agreement is a legally binding contract which shall prevail over the provisions of any subsequently enacted moratoria, statutes, ordinances, limitations, or other measures, enacted by City, or under the authority of City by voter initiative or referendum, and which initiative, moratorium, referendum, statute, ordinance, limitation, or other measure relates, in whole or in part, to the rate, timing, sequence, or phasing of the development or construction of all or part of the Project or the improvements or affecting parcel or subdivision maps, building permits, occupancy certificates, or other entitlement to use the Site which are issued by City, subject only to the rights and powers reserved to City under the terms of this Development Agreement and the requirements of California law

IN WITNESS WHEREOF, the undersigned have executed this Development Agreement as of the day and year first above-written.

CITY

CITY OF BANNING,
a California municipal corporation

By: _____

Mayor

ATTEST:

By: _____
Marie Calderon
City Clerk

APPROVED AS TO FORM:

By: _____

City Attorney

DEVELOPER

JDN ENTERPRISES, LLC,
a Missouri limited liability corporation

By: _____
{Name}
{Title}

By: _____
{Name}
{Title}

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EXHIBIT A

SITE LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THOSE CERTAIN PARCELS OF LAND LOCATED WITHIN THE MORONGO INDIAN RESERVATION, LOCATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING THOSE PORTIONS OF SECTION 1, 2 AND 12 OF TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN ON THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 489.00 FEET TO A LINE PARALLEL WITH AND 489.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 2, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID PARALLEL LINE NORTH 00°21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 2164.30 FEET TO THE EASTERLY LINE OF SAID SECTION 2;

THENCE CONTINUING ALONG THE EASTERLY PROLONGATION OF SAID PARALLEL LINE SOUTH 88°36'14" EAST 107.02 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 270.81 FEET TO THE NORTHERLY LINE OF A STRIP OF LAND 16.50 FEET IN WIDTH, EXCEPTED FROM GRANT DEED REC. 10/7/2004 AS DOC. NO. 2004-0797131, OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA (DEPT. OF INT. FILING 582 173Y07);

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°47'09" WEST 107.00 FEET TO THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID WESTERLY LINE SOUTH 00°17'18" WEST 16.50 FEET TO THE SOUTHERLY LINE OF THE AFOREMENTIONED 16.50 FOOT STRIP;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°47'09" EAST 107.00 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 52.58 FEET TO THE SOUTH LINE OF SAID SECTION 1, SAID POINT IS LOCATED ON A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 12;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°03'26" WEST 1044.17 FEET TO THE NORTHERLY LINE OF THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED AUGUST 19, 1963 AS INST. NO. 87113 AND THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 26, 1967 AS INST. NO. 84776, BOTH OF OFFICIAL RECORDS OF SAID COUNTY OF RIVERSIDE. SAID NORTHERLY RIGHT OF WAY LINE BEING DEPICTED CALTRANS RIGHT-OF-WAY MAP NO. 984524 FILED IN BOOK 204 PAGE 91 OF CALTRANS RIGHT-OF-WAY MAPS AND CALTRANS RIGHT-OF-WAY MAP NO. 452194 FILED IN BOOK 205 PAGE 263 OF CALTRANS RIGHT-OF-WAY MAPS, BOTH ON FILE IN THE MISC. RECORDS OF THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY OF RIVERSIDE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY SOUTH 71°02'58" WEST 113.17 FEET TO THE WESTERLY LINE OF SAID SECTION 2;

THENCE ALONG SAID WESTERLY LINE OF SECTION 12 NORTH 00°03'26" EAST 1081.36 FEET TO THE SOUTHEAST QUARTER OF THE AFOREMENTIONED SECTION 12;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 2 NORTH 88°36'14" WEST 2641.66 FEET TO THE SOUTH QUARTER CORNER OF SECTION 2;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2 NORTH 89°40'06" WEST 2161.30 FEET TO THE TRUE POINT OF BEGINNING;

RESERVING THEREFROM AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 2583.30 FEET TO A POINT 67.00 FEET WESTERLY OF THE SOUTH QUARTER CORNER OF SAID SECTION 2, SAID POINT IS THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 69.98 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 88°36'14" EAST 30.02 FEET;

THENCE SOUTH 00°21'44" WEST 342.06 FEET TO THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID SOUTHERLY LINE NORTH 88°36'14" WEST 33.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 NORTH 89°40'06" WEST 66.98 FEET TO THE TRUE POINT OF BEGINNING.

APN: 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028 AND 532-090-030

PARCEL 2:

THAT PORTION OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY, LYING NORTHERLY OF THAT CERTAIN PORTION OF SAID NORTHEAST 1/4 CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED OCTOBER 11, 1961, AS INSTRUMENT NO. 87046 IN BOOK 2997, PAGE 542, OFFICIAL RECORDS.

EXCEPTING THEREFROM, ALL RIGHT, TITLE AND INTEREST IN AND TO ALL HYDROCARBONS, MINERALS, GEOTHERMAL RESOURCES, AND MINERAL ORES OF EVERY KIND AND CHARACTER, METALLIC OR OTHERWISE, SOLID, LIQUID OR GAS AND WHETHER OR NOT HEREAFTER KNOWN TO SCIENCE OR INDUSTRY, NOT KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR

UNDERLYING THE SURFACE OF SAID LAND AS SHOWN IN DEED RECORDED JANUARY 28, 1987 AS INSTRUMENT NO. 24458 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 532-110-015

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR ROAD PURPOSES UPON, OVER AND ACROSS THAT PORTION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, INCLUDED WITHIN A STRIP OF LAND 20 FEET WIDE, THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF THE SAID NORTHWEST 1/4, DISTANT ALONG SAID EAST LINE SOUTH 0°41'41" WEST 1359.31 FEET FROM A 3/4 INCH IRON PIPE AND BRASS CAP MARKED "U.S.G.L.O. 1917" SET FOR THE NORTH 1/4 CORNER OF SAID SECTION;

THENCE NORTH 89°25'57" WEST, 1319.31 FEET TO THE WEST LINE OF THE SAID EAST 1/2.

ALSO THAT PORTION OF THE WEST 20 FEET OF SAID EAST 1/2 LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE ABOVE DESCRIBED 20 FOOT STRIP.

EXCEPT THAT PORTION LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST LINE OF SAID EAST 1/2, DISTANT ALONG SAID WEST LINE SOUTH 0°25'01" WEST 1041.97 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THAT CERTAIN LINE HEREINABOVE DESCRIBED AS HAVING A BEARING OF NORTH 89°25'57" WEST;

THENCE NORTHEASTERLY ALONG 545 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY FROM A TANGENT BEARING NORTH 56°01'51" EAST, THROUGH AN ANGLE OF 1°46'36", A DISTANCE OF 16.90 FEET;

THENCE NORTH 54°15'15" EAST 50 FEET, AS CREATED IN DEED RECORDED JUNE 10, 1968 AS INSTRUMENT NO. 53726, OFFICIAL RECORDS.

EXHIBIT B

DIF SCHEDULE AS OF EFFECTIVE DATE

EXHIBIT C

HATHAWAY IMPROVEMENTS

The following shall be completed to the satisfaction of the City Engineer:

- Along the west side of N Hathway Street between E Williams Street and E George Street, install City standard sidewalk behind curb and gutter, and install city standard curb ramps at intersections. Install new residential driveways as necessary to maintain access to existing driveway locations.

- Within the existing right-of-way and pavement along the west side of N Hathway Street between E Williams Street and future Wilson Street, install striping for a new 6 ft. bike lane.

- Within the existing right-of-way and pavement along the east side of N Hathway Street between E Williams Street and existing Nicolet Street, install striping for a new 6 ft. bike lane.

- At the intersection of E Jacinto View Road and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Jacinto View Rd

- At the intersection of E Nicolet Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E Nicolet Street

- At the intersection of E George Street and N Hathway Street, provide traffic measure to restrict Project traffic from access to E George Street

SANSONE group
314.727.6664
SANSONEGROUP.COM
120 S. Central Ave. | Ste. 500
St. Louis, MO 63105

April 2, 2025

David Newell, Community Development Director
City of Banning
99 E. Ramsey Street
Banning, CA 92220

Re: Banning Commerce Center – Planning Commission Questions

David,
In response to the questions asked by several members of the Planning Commission during our project's public hearing on 3/5/25, We are providing the following responses:

1. The was a question as to whether the project adequately addressed the MSHCP Criteria Cell and Special Linkage.

   MSHCP: The Project site is not located in a criteria area or cell, so a HANS process is not required. The EIR and Bio reports address the special linkage area (SLA). The City of Banning's General Plan defers to the CEQA process Guidelines where MSHCP guidelines are silent about the SLA. As such, the Project analyzed its impact on wildlife movement consistent with Appendix G to the State CEQA Guidelines. All regional wildlife movements of large mammals are generally constrained to the San Gorgonio River due to physical obstructions existing elsewhere. While not required for the mitigation of impact to wildlife movements (which are less than significant) the Project is providing the mitigation area (for impacts to jurisdictional features) and the undercrossing of Wilson which would provide connectivity through the Project site.

   Additionally, the Project met with members of the RCA, USACE, RWQCB, EPA, USFWS, CDFW, and RCFCWCD ("the Agencies") for two pre-app meetings on February 7, 2023, and December 13, 2023, to seek input from the Agencies on the proposed on-site mitigation for impacts to jurisdictional features. The Agencies provided input and asked for the provision of an undercrossing of Wilson Street with the adequate openness ratio to support wildlife movement and for the preparation of a sediment transport study. The Project provides both.

2. A member of the commission asked of the status of the project's Riverside County Airport Land Use Commission (ALUC) review.

   ALUC Review: The Riverside County Airport Land Use Commission issued a Director's Determination on April 1, 2025, finding that the Project is consistent with the 2004 Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016. This letter was sent to the City Community Development Department – Planning Division. Refer to ALUC File No. ZAP1053BA25.

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St. Louis, MO 63105

3. There was a question from a Planning Member about the cumulative traffic impacts as it relates to the existing warehouse at 2600 John Street.

   Traffic: The cumulative projects list did not need to include the Banning Distribution Center project since it was already constructed and any traffic from that site would have been captured in the counts. The TA then applied an escalation/yearly increase of traffic to account for growth. The methodology was appropriate and is consistent with the City's traffic analysis guidelines and industry standards.

Thank you for the opportunity to address these concerns. We are looking forward to being heard before City Council in May to Present our project for further review and approval. If there is any additional information required from the project's design team, please let us know.

Sincerely,



Ryan D. Hodges
Development Services Director

RIVERSIDE COUNTY
AIRPORT LAND USE COMMISSION

April 1, 2025

David Newell, Planning Director
City of Banning Community Development Department – Planning Division
99 E. Ramsey Street
Banning, CA 92220

RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW – DIRECTOR'S DETERMINATION

File No.:	ZAP1053BA25
Related File No.:	DR21-7014 (Development Review), TPM38756 (Tentative Parcel Map)
APN:	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-025, 532-090-030, 532-110-015

Dear Mr. Newell,

Under the delegation of the Riverside County Airport Land Use Commission (ALUC) pursuant to ALUC's general delegation as per Policy 1.5.2(d) of the Countywide Policies of the 2004 Riverside County Airport Land Use Compatibility Plan, staff reviewed City of Banning Case Nos. DR21-7014 (Development Review), TPM38756 (Tentative Parcel Map), a proposal to establish 1,320,128 square foot industrial building with office area on 131.28-acres, located southerly of Wilson Street, easterly of O'Donnell Street, northerly of Interstate Highway 10, and westerly of Future Cottonwood Road. The applicant also proposes splitting the site into three separate parcels.

The site is located within Airport Compatibility Zone D of the Banning Municipal Airport Influence Area (AIA). Zone D restricts non-residential intensity to 200 people per average acre and 800 people per single acre. The project proposes 1,280,684 square feet of warehouse area (2,561), 19,800 square feet of first floor office area, and 19,800 square feet of second floor office mezzanine (198), accommodating 2,930 people, resulting in an average acre intensity of 21 people and a single acre intensity of 206 people, both of which are consistent with the Zone D intensity criteria.

The elevation of Runway 8-26 at its westerly terminus is 2,119 feet above mean sea level (AMSL). At a distance of approximately 2,715 feet from the runway to the site, Federal Aviation Administration Obstruction Evaluation Service (FAA OES) review would be required for any structures with top of roof exceeding 2,147 feet AMSL. The site's finished floor elevation is 2,205 feet AMSL and the proposed building height is 50 feet, for a top point elevation of 2,255 feet AMSL. Therefore, FAA Obstruction Evaluation Service review for height/elevation reasons was required. The applicant submitted Form 7460-1 to the FAA OES. A "Determination of No Hazard to Air Navigation" letter for Aeronautical Study No. 2023-AWP-760-OE was issued on November 8, 2022. The study revealed that the proposed facility would not exceed obstruction standards and would not be a hazard to air navigation provided conditions are met. These FAA OES conditions have been incorporated into this finding.

Land use practices that attract or sustain hazardous wildlife populations on or near airports significantly increase the potential of Bird Aircraft Strike Hazards (BASH). The FAA strongly recommends that storm water management systems located within 5,000 or 10,000 feet of the

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Desert Hot Springs

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Director
Paul Rull

Simon A. Housman
Roxanna Vicente
Jackie Vega

County Administrative Center
4080 Lemon St., 14th Floor
Riverside, CA 92501
(951) 955-5132

www.rcaluc.org

Airport Operations Area, depending on the type of aircraft, be designed and operated so as not to create above-ground standing water. To facilitate the control of hazardous wildlife, the FAA recommends the use of steep-sided, rip-rap lined, narrow, linearly shaped water detention basins. All vegetation in and around detention basins that provide food or cover for hazardous wildlife should be eliminated. (FAA Advisory Circular 5200-33B). The project is located 2,715 feet from the runway, and therefore would be subject to the above requirement. The project would utilize Infiltration basins, which are permitted when necessary. Pursuant to the study "Wildlife Hazard Management at Riverside County Airports: Background and Policy", October 2018, by Mead & Hunt, which is the basis of the brochure titled "Airports, Wildlife and Stormwater Management", such basins are permitted in Zone D but must provide for a 48-hour drawdown and propose landscaping that is not attractive to hazardous wildlife. The project has been conditioned to be consistent with these standards in order to reduce bird attractant: 1) new basins are to be designed so as to provide for a maximum 48-hour detention period following the conclusion of a storm event, and to remain totally dry between rainfalls, and 2) any landscaping proposed in the detention basin shall be in accordance with the ALUC "Landscaping Near Airports" and "Airports, Wildlife and Stormwater Management" brochures.

Pursuant to the Banning Land Use Compatibility Plan, the project site is located within Compatibility Zone D. The Compatibility Plan requires projects 10 acres or larger to designate 10% of project area as ALUC qualifying open area that could potentially serve as emergency landing areas.

Based on the project size (131.28 acres) located within Compatibility Zone D, the project is required to provide a minimum 13 acres of open area consistent with ALUC open area criteria. The applicant has provided a total of 15.19 acres of open area within the drive aisles and parking areas. These areas are conditioned to maintain a minimum shape of 75 feet in width and 300 feet in length, and shall be kept obstacle and obstruction free per ALUC open area definition (no objects greater than four feet in height with a diameter of four inches or greater).

As ALUC Director, I hereby find the above-referenced project **CONSISTENT** with the 2004 Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016, provided that the City of Banning applies the following recommended conditions:

CONDITIONS:

1. Any outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.

2. The following uses shall be prohibited:

   (a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

   (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

   (c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, outdoor production of cereal grains, sunflower, and row crops, composting operations, wastewater management facilities, artificial marshes, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly

ash disposal, and incinerators.)

(d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

(e) Highly noise-sensitive outdoor nonresidential uses.

(f) Any use which results in a hazard to flight, including physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations.

3. The attached "Notice of Airport in Vicinity" shall be provided to all prospective purchasers and occupants of the property and be recorded as a deed notice. In the event that the Office of the Riverside County Assessor-Clerk-Recorder declines to record said notice, the text of the notice shall be included on the Environmental Constraint Sheet (ECS) of the final parcel map, if an ECS is otherwise required.

4. Any proposed stormwater basins or facilities shall be designed and maintained to provide for a maximum 48-hour detention period following the design storm, and remain totally dry between rainfalls. Vegetation in and around the basins that would provide food or cover for birds would be incompatible with airport operations and shall not be utilized in project landscaping. Trees shall be spaced so as to prevent large expanses of contiguous canopy, when mature. Landscaping in and around the basin(s) shall not include trees or shrubs that produce seeds, fruits, or berries.

   Landscaping in the stormwater basin, if not rip-rap, should be in accordance with the guidance provided in ALUC "LANDSCAPING NEAR AIRPORTS" brochure, and the "AIRPORTS, WILDLIFE AND STORMWATER MANAGEMENT" brochure available at RCALUC.ORG which list acceptable plants from Riverside County Landscaping Guide or other alternative landscaping as may be recommended by a qualified wildlife hazard biologist.

   A notice sign, in a form similar to that attached hereto, shall be permanently affixed to the stormwater basin with the following language: "There is an airport nearby. This stormwater basin is designed to hold stormwater for only 48 hours and not attract birds. Proper maintenance is necessary to avoid bird strikes". The sign will also include the name, telephone number or other contact information of the person or entity responsible to monitor the stormwater basin.

5. This project has been evaluated as an industrial building consisting of a proposal to establish 1,320,128 square foot industrial building with office area on 131.28-acres. Any increase in building area or change in use will require an amended review by the Airport Land Use Commission.

6. At least 13 acres of ALUC-eligible open areas (at least 75 feet in width and 300 feet in length), as depicted on the Open Space exhibit, shall be kept obstacle and obstruction free per ALUC open area definition (no objects greater than four feet in height with a diameter of four inches or greater).

7. The Federal Aviation Administration has conducted aeronautical studies of the proposed structure (Aeronautical Study No. 20223-AWP-760-OE) and has determined that neither marking nor lighting of the structures is necessary for aviation safety. However, if marking and/or lighting for aviation safety are accomplished on a voluntary basis, such marking and/or lighting (if any) shall be installed in accordance with FAA Advisory Circular 70/7460-1 L Change 2 and shall be maintained in accordance therewith for the life of the project.

8. The maximum height of the proposed structures to top point shall not exceed 50 feet

above ground level, and the maximum elevation at the top of the structures shall not exceed 2,255 feet above mean sea level.

9. The maximum height and top point elevation specified above shall not be amended without further review by the Airport Land Use Commission and the Federal Aviation Administration; provided, however, that reduction in structure height or elevation shall not require further review by the Airport Land Use Commission.

10. Temporary construction equipment used during actual construction of the structures shall not exceed 50 feet in height and a maximum elevation of 2,255 feet above mean sea level, unless separate notice is provided to the Federal Aviation Administration through the Form 7460-1 process.

11. Within five (5) days after construction of each structure reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to https://oeaaa.faa.gov for instructions.) This requirement is also applicable in the event the project is abandoned or a decision is made not to construct the applicable structure.

12. The project does not propose rooftop solar panels at this time. However, if the project were to propose solar rooftop panels in the future, the applicant/developer shall prepare a solar glare study that analyzes glare impacts, and this study shall be reviewed by the Airport Land Use Commission and Riverside County – Aviation Division as owner and operator of French Valley Airport. In the event of any reasonable complaint about glare related to aircraft operations, the applicant shall agree to such specific mitigation measures as determined or requested by Riverside County Aviation Division.

If you have any questions, please contact me at (951) 955-6893.

Sincerely,
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

Paul Rull, ALUC Director

Attachment: Notice of Airport in Vicinity
Aeronautical Study No. 2023-AWP-760-OE

cc: Sansone Group (applicant)
Ryan Hodges (representative)
Lloyd L. Fields & Vulcan Iron and Steel Co. Inc. (property owner)
Art Vela, P.E., City of Banning Director of Public Works
Carl Szoyka, Manager, Banning Municipal Airport
ALUC Case File

\\tlma-22fsp02\ALUC\AIRPORT CASE FILES\Banning\ZAP1053BA25\ZAP1053BA25.LTR.doc

Banning Commerce Center Project_Final EIR
https://www.banningca.gov/DocumentCenter/View/14673/Banning-Commerce-Center-Project-FEIR_October-2024

Banning Commerce Center Project_FEIR Appendices
https://www.banningca.gov/DocumentCenter/View/14676/Banning-Commerce-Center-Project-FEIR_Appendices

Banning Commerce Center Project_FOF and SOOC
https://www.banningca.gov/DocumentCenter/View/14674/Banning-Commerce-Center-Project_FOF-and-SOOC_20241025

Banning Commerce Center Project_MMRP
https://www.banningca.gov/DocumentCenter/View/14675/Banning-Commerce-Center-Project_MMRP

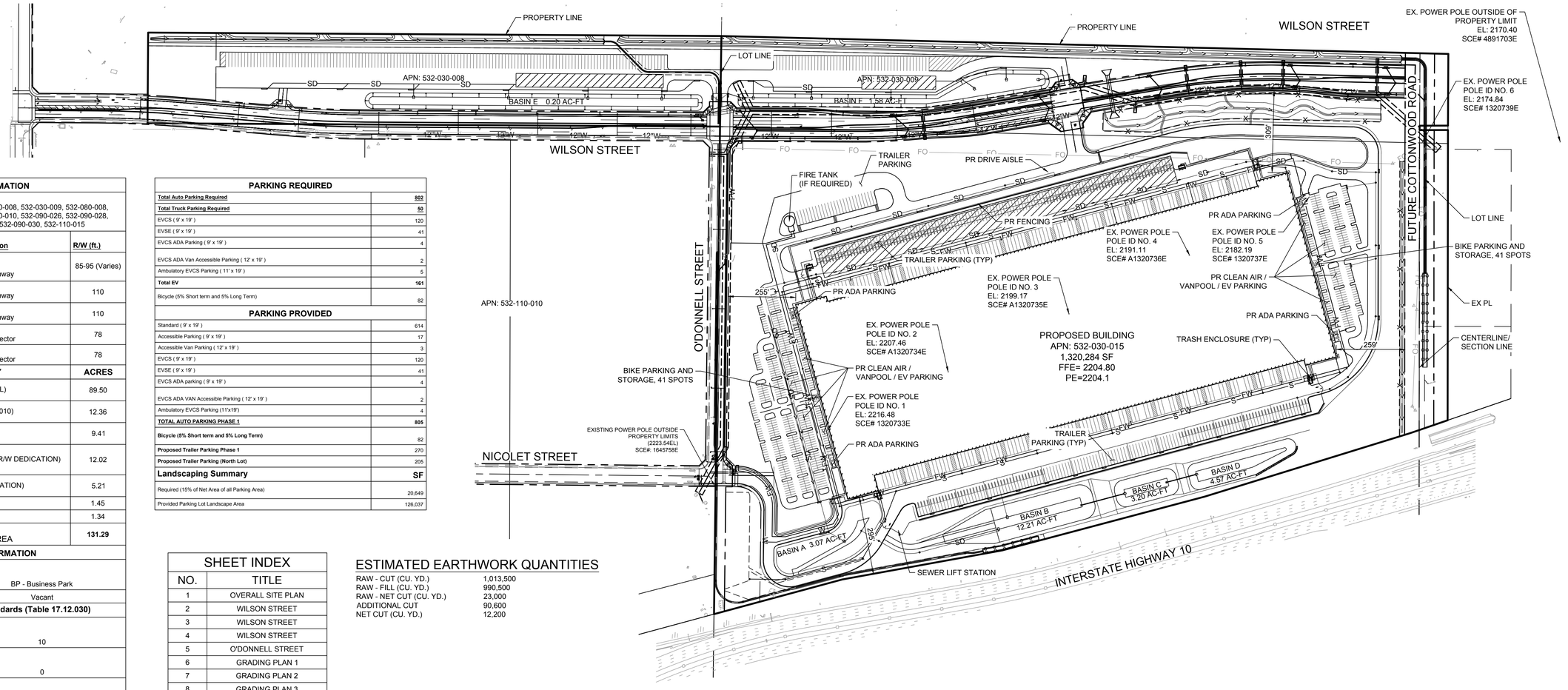
Banning Commerce Center Project_Draft EIR
https://www.banningca.gov/DocumentCenter/View/14414/Banning-Commerce-Center-Project-Draft-EIR

Banning Commerce Center Project_Draft EIR Appendices
https://www.banningca.gov/DocumentCenter/View/14415/Banning-Commerce-Center-Project-Draft-EIR-Appendices

BANNING COMMERCE CENTER

PRELIMINARY DESIGN (30%)

DESIGN REVIEW DR21-7017



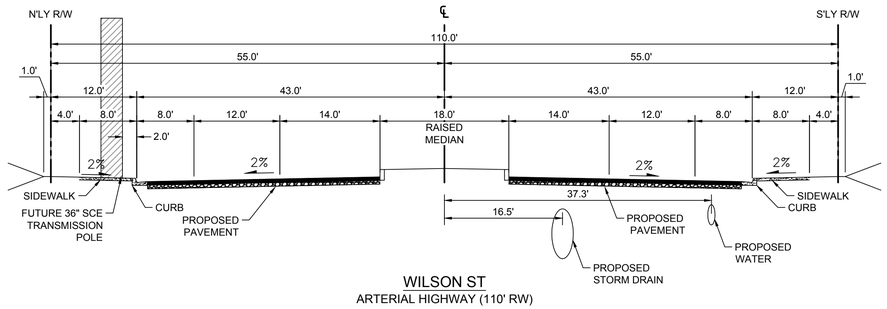
SITE INFORMATION		
ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
N HATHAWAY ST	Arterial Highway	85-95 (Varies)
Cottonwood Rd	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St	Divided Collector	78
O'Donnell St	Divided Collector	78
PARCEL SUMMARY		**ACRES**
PARCEL 1 (PROPOSED BUILDING PARCEL)		89.50
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		12.36
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT "B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
LOT "C" CITY UTILITY LOT		1.45
LOT "D" CITY UTILITY LOT		1.34
TOTAL AREA		**131.29**
ZONING INFORMATION		
General Plan Land Use & Zoning	BP - Business Park	
Existing Use	Vacant	
Industrial Development Standards (Table 17.12.030)		
Min. Front Setback (Feet)	10	
Min. Rear Setback (Feet)	0	
Min. Side Yard Setback (Feet)	0	
Min. Street Side (Feet)	10	
Max. Bldg. Coverage (%)	75	
Maximum Height (stories/feet)	50	
Fence/Wall Height (ft.)	8	
Industrial Parking Requirements (Table 17.28.040B)		
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.	
Industrial warehousing		
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area	
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft	
Trucks	One tractor trailer space per 4 high dock doors	
Parking Stall Min (W x L)	9' x 19'	
Parking Lot Aisle Min	24'	

PARKING REQUIRED	
Total Auto Parking Required	**502**
Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82
PARKING PROVIDED	
Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
TOTAL AUTO PARKING PHASE 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

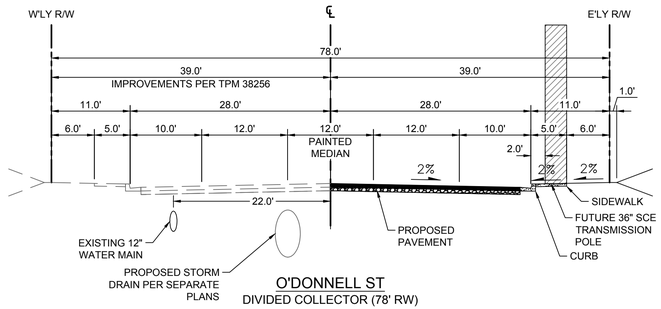
SHEET INDEX	
NO.	TITLE
1	OVERALL SITE PLAN
2	WILSON STREET
3	WILSON STREET
4	WILSON STREET
5	O'DONNELL STREET
6	GRADING PLAN 1
7	GRADING PLAN 2
8	GRADING PLAN 3
9	GRADING PLAN 4
10	GRADING PLAN 5
11	GRADING PLAN 6
12	GRADING PLAN 7
13	GRADING PLAN 8
14	GRADING PLAN 9
15	GRADING PLAN 10
16	GRADING PLAN 11
17	GRADING PLAN 12
18	UTILITY PLAN 1
19	UTILITY PLAN 2
20	UTILITY PLAN 3
21	UTILITY PLAN 4
22	UTILITY PLAN 5
23	UTILITY PLAN 6
24	UTILITY PLAN 7
25	UTILITY PLAN 8
26	UTILITY PLAN 9
27	UTILITY PLAN 10
28	UTILITY PLAN 11
29	UTILITY PLAN 12

ESTIMATED EARTHWORK QUANTITIES

RAW - CUT (CU. YD.)	1,013,500
RAW - FILL (CU. YD.)	990,500
RAW - NET CUT (CU. YD.)	23,000
ADDITIONAL CUT	90,600
NET CUT (CU. YD.)	12,200



WILSON ST
ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST
DIVIDED COLLECTOR (78' RW)

NORTH

GRAPHIC SCALE IN FEET
0 100 200 400

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
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REVISIONS

No.		APPR	DATE

PLANS PREPARED BY:
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 11/5/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

FOR REVIEW ONLY
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 11/5/2024

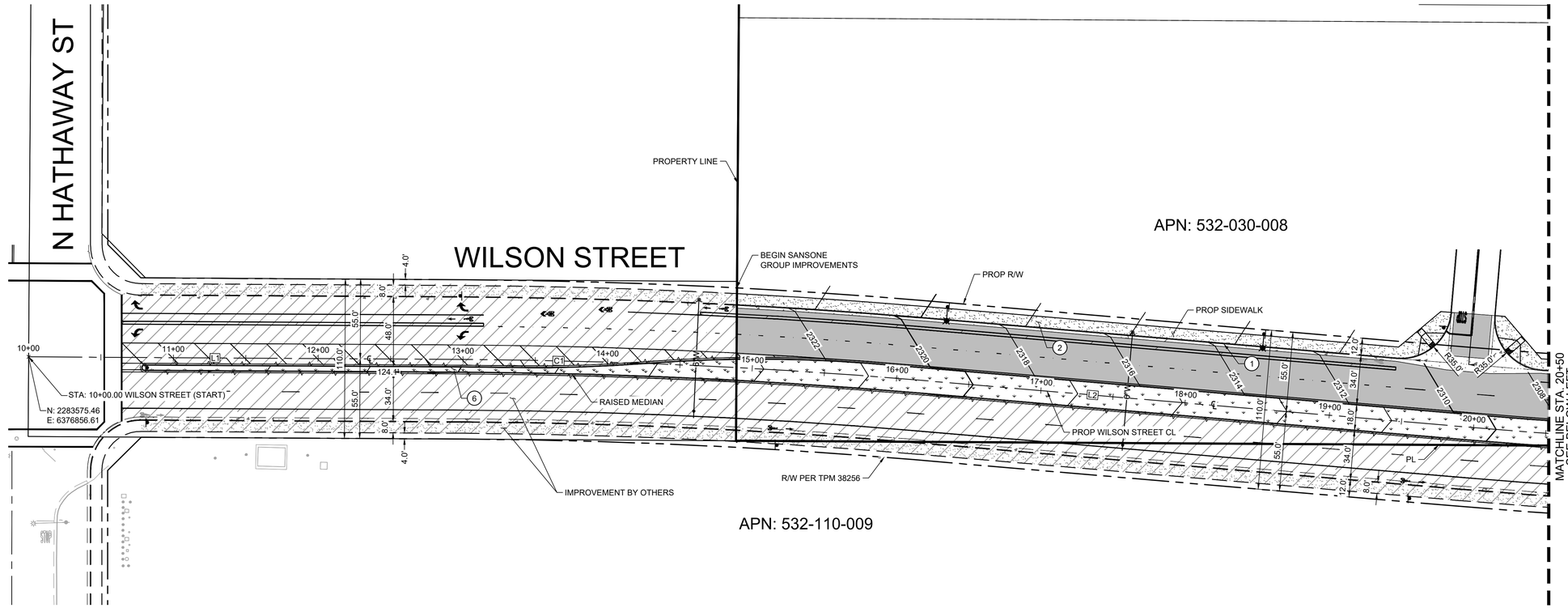
CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

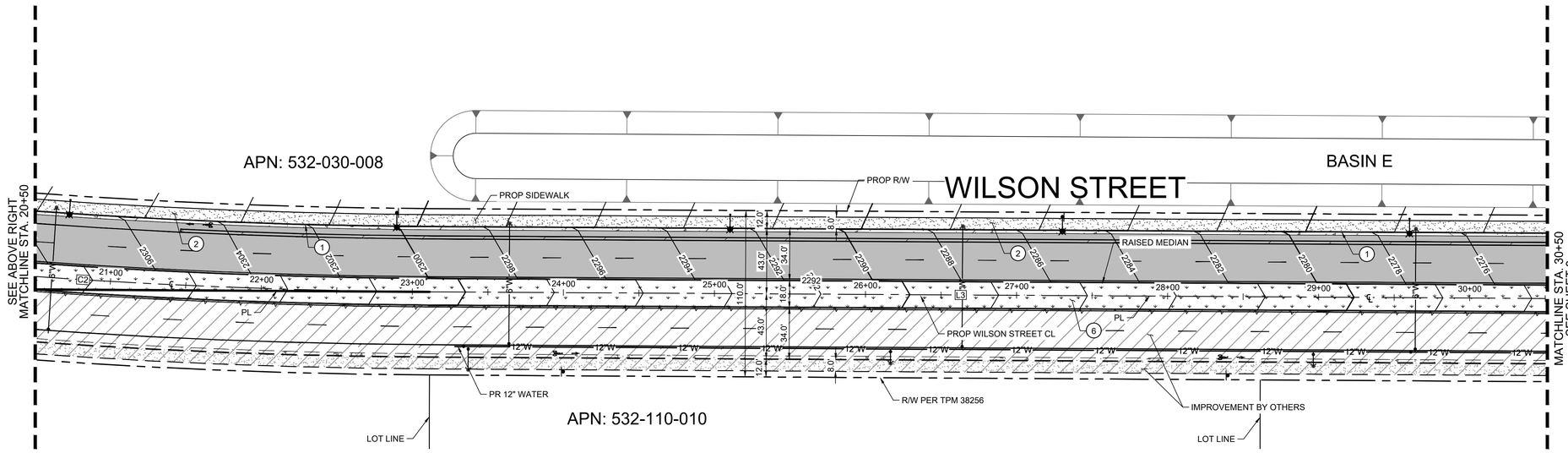
BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
OVERALL SITE PLAN

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 1 OF 29

1015

Plotted By: Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:1 PIG November 05, 2024 09:02:28am K:\RIV_LDEV\194455002 - Banning Logistics\CAD\Preliminary\Grading Plan - Cover.dwg
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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR (100 / 99)
- EXISTING CONTOUR (100 / 99)
- RIDGE LINE (R)
- STORM LINE (SD)
- WATER LINE (W)
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- CONCRETE SIDEWALK
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STREET IMPROVEMENT NOTES

1. PROPOSED CURB AND GUTTER PER CITY OF BANNING STANDARD DRAWING C-200.
2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
6. PROPOSED CENTER ROAD MEDIAN LANDSCAPE.

WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L1	300.00'	S89°39'27"E		
C1	317.17'	S87°23'10"E	4,000.00'	158.67'
L2	377.15'	S85°06'52"E		
C2	317.12'	S87°23'09"E	4,000.00'	158.64'
L3	1,340.65'	S89°39'25"E		

GRAPHIC SCALE IN FEET
0 20 40 80

NORTH

KEYMAP

UNDERGROUND SERVICE ALERT
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REVISIONS

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7/3/2024
EUGENE D. COWAN III, RCE # 86803 — DATE

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SANSONE GROUP
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P.E. No. 86803 Date: 7/3/2024

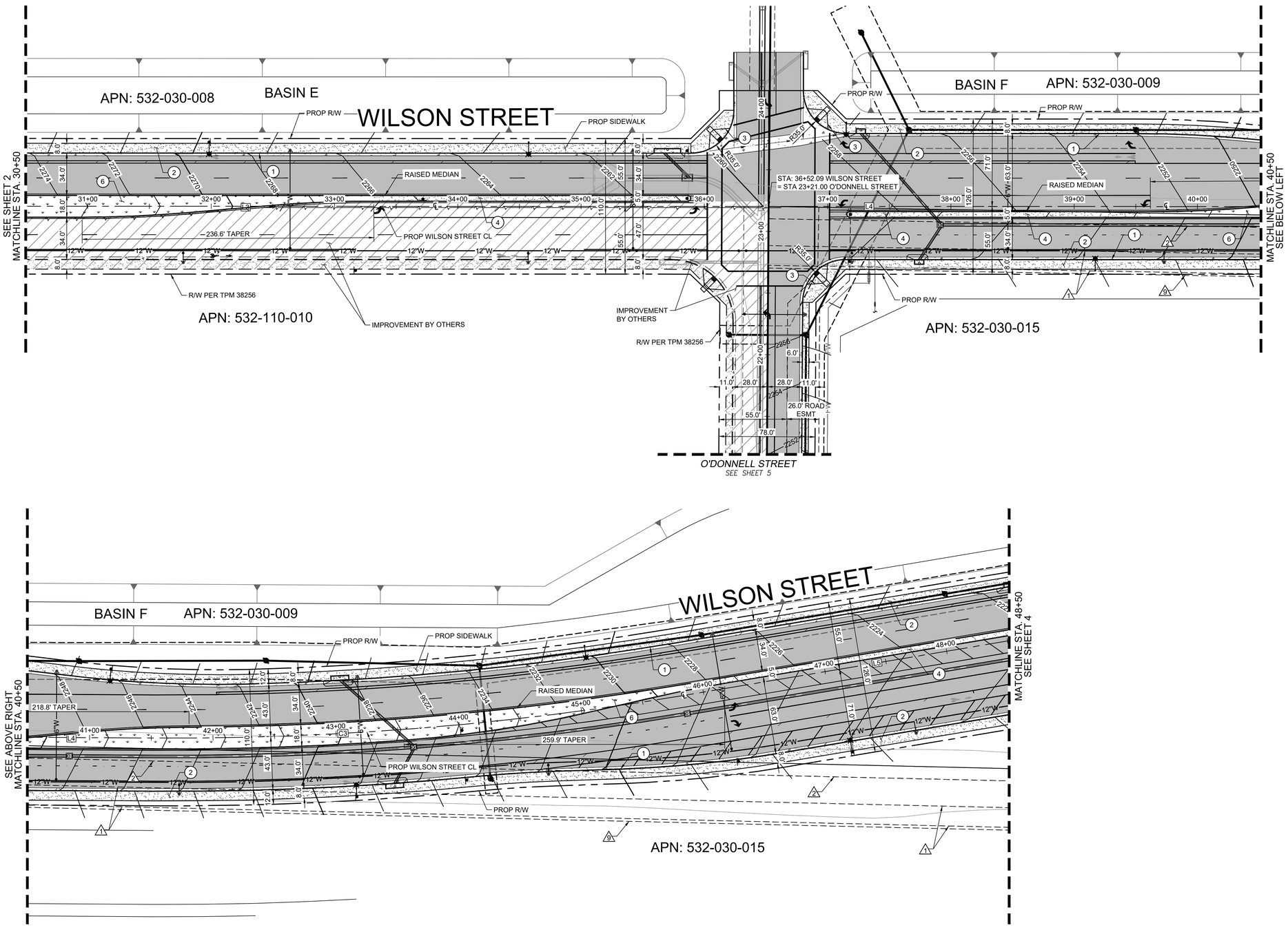
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SENIOR CIVIL ENGINEER
APPROVED BY:
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PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 10+00 - STA 30+50

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 2 OF 29

1016

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:13 WILSON ST July 03, 2024 04:56:59pm K:\RIV_LDEV\194455092 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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2. PROPOSED SIDEWALK PER CITY OF BANNING STANDARD DRAWING ST-100 & ST-101.1.
3. PROPOSED ADA SIDEWALK RAMPS PER RIVERSIDE COUNTY STD NO. 403.
4. PROPOSED CENTER ROAD MEDIAN PER CITY OF BANNING STANDARD DRAWING ST-101.1.
6. PROPOSED CENTER ROAD MEDIAN LANDSCAPE.

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L3	1,340.65'	S89°39'25"E		
L4	500.00'	S89°39'25"E		
C3	431.74'	N85°23'44"E	2,500.00'	216.41'
L5	745.52'	N80°26'54"E		

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP

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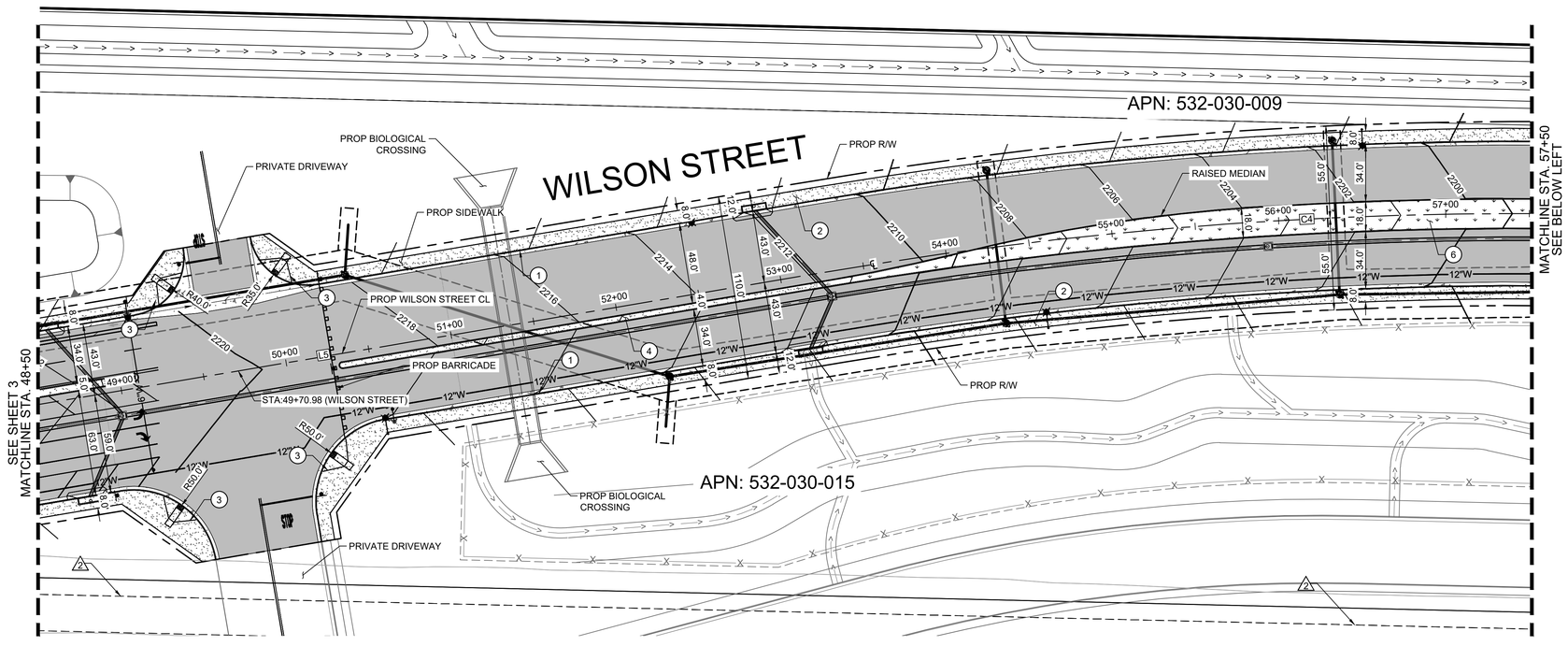
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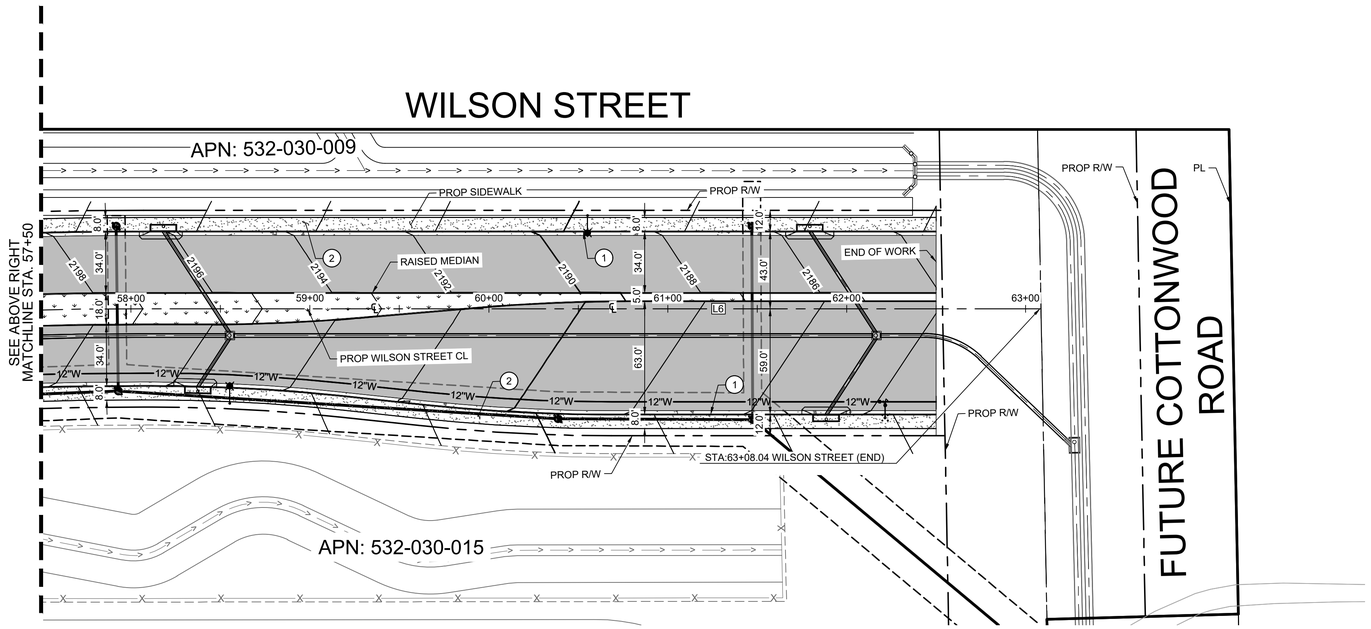
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 30+50 - STA 48+50

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 3 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:14 WILSON ST July 03, 2024 04:57:14pm K:\RIV_LDEV\119445\002 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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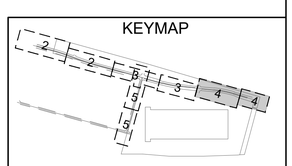
WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L5	745.52'	N80°26'54"E		
C4	477.73'	N85°55'22"E	2,500.00'	239.60'
L6	501.56'	S88°36'10"E		

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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No.		APPR.	DATE

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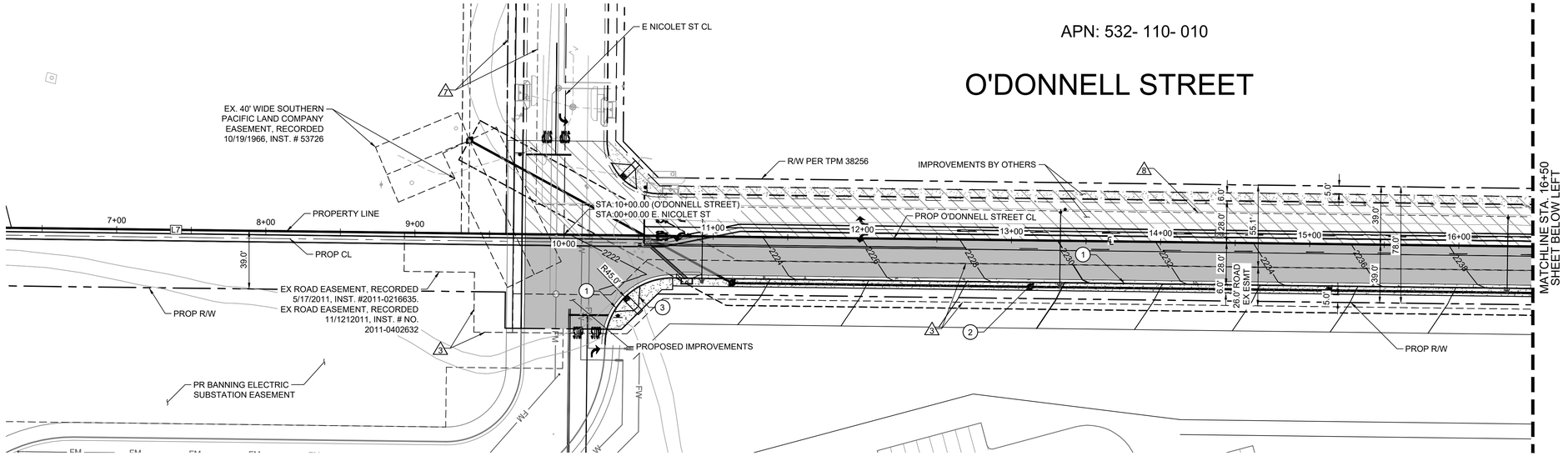
EUGENE D. COWAN III
FOR REVIEW ONLY
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/3/2024

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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

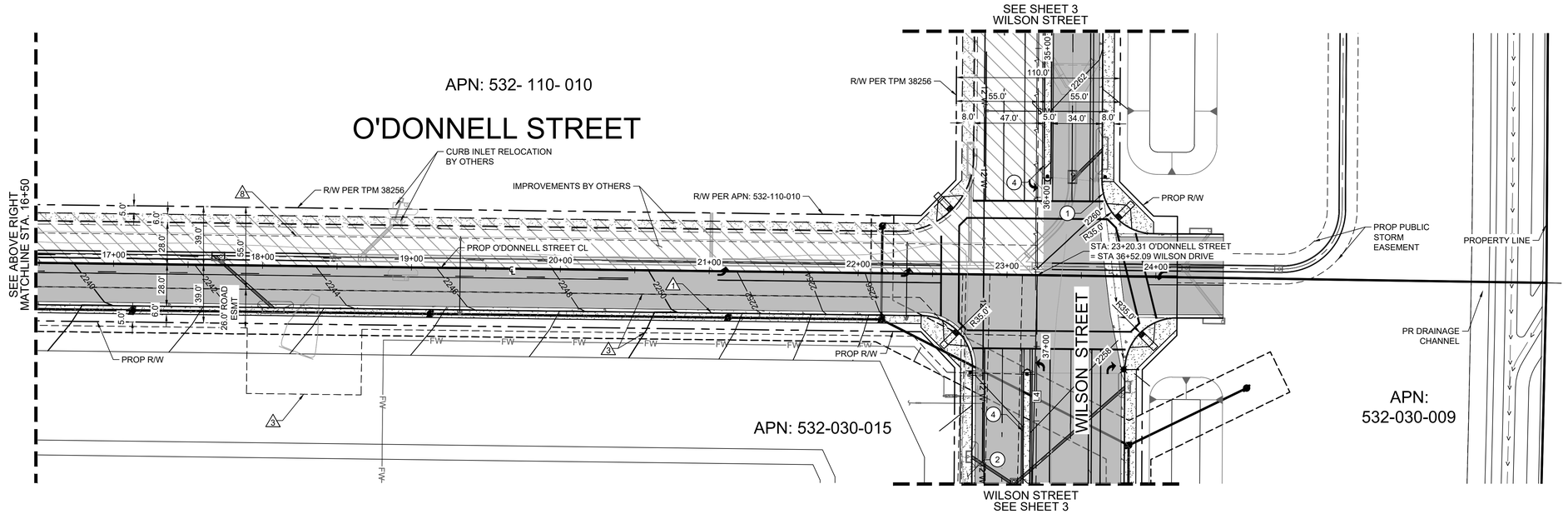
BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
WILSON STREET
STA 48+50 - STA 63+08.04

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 4 OF 29

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SEE SHEET 3
WILSON STREET



LEGEND

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PRELIMINARY STREET IMPROVEMENT NOTES

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4. PROPOSED CENTER ROAD MEDIAN PER CITY OF BANNING STANDARD DRAWING ST-101.1.

EASEMENTS

1. EXISIITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISIITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

WILSON STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L4	500.00'	S89°39'25"E		

O'DONNELL STREET GEOMETRIC DATA

	LENGTH	LINE/CHORD DIRECTION	R	T
L7	520.52'	N0°42'27"E		

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP

UNDERGROUND SERVICE ALERT
CALL BEFORE YOU DIG
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

PRELIMINARY
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Prepared for Concept Plan submittal
Not for construction purposes or permits.
Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Exp. 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

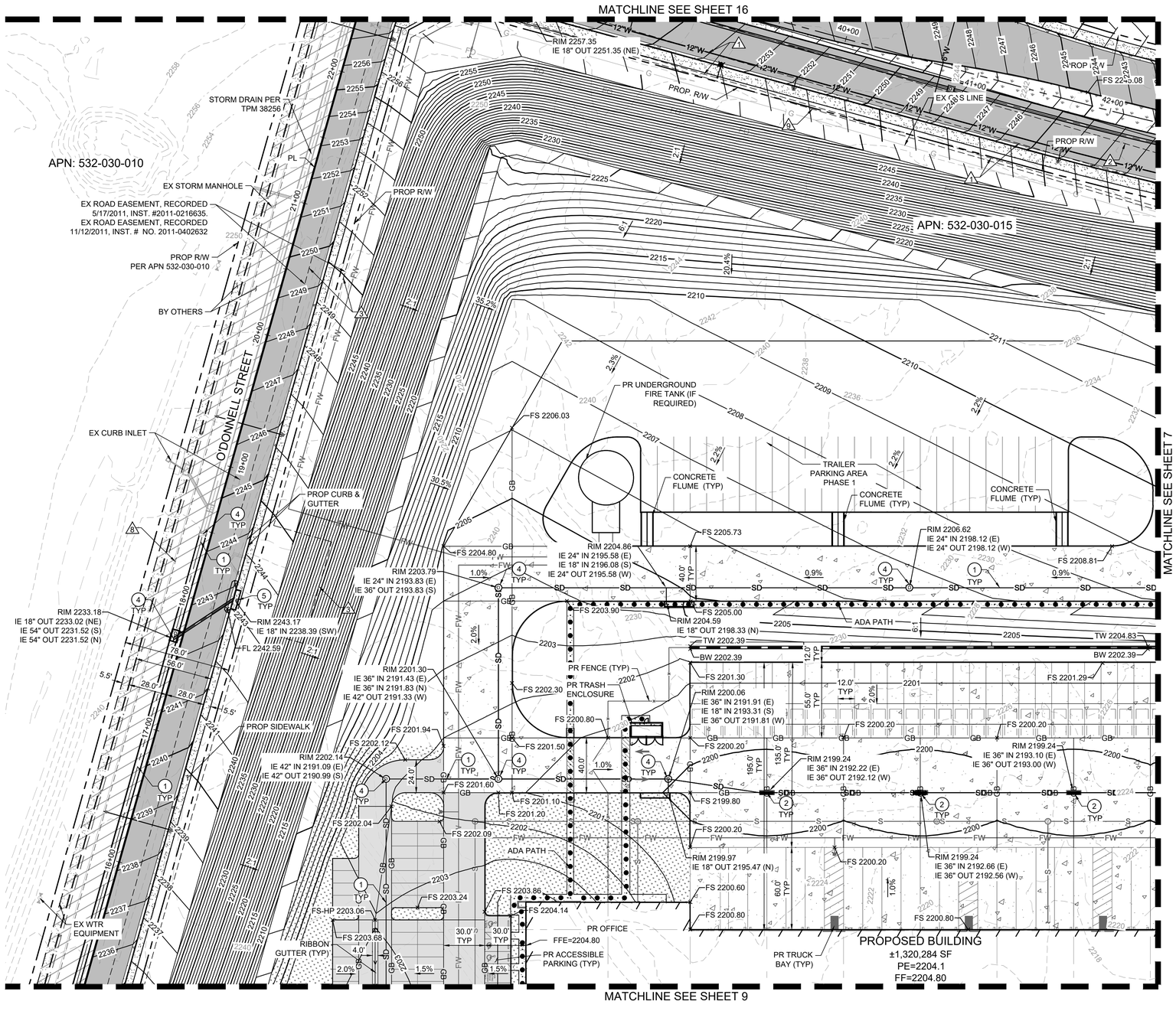
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

O'DONNELL STREET
STA 10+00 - STA 23+21

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 5 OF 29

Plotted By:Perez, Luis Sheet Set:BANNING LOGISTICS PRELIM Layout:16 O'DONNELL STREET July 03, 2024 04:57:46pm K:\RIV_LDEV\194456002 - banning logistics\CAD\preliminary\Preliminary Street Improvements - Wilson.dwg
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LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- GRADING DAYLIGHT
- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT - LIGHT
- ASPHALT PAVEMENT - MEDIUM
- ASPHALT PAVEMENT - HEAVY
- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
2. PROPOSED STORM INLET
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
8. EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/3/2024 DATE

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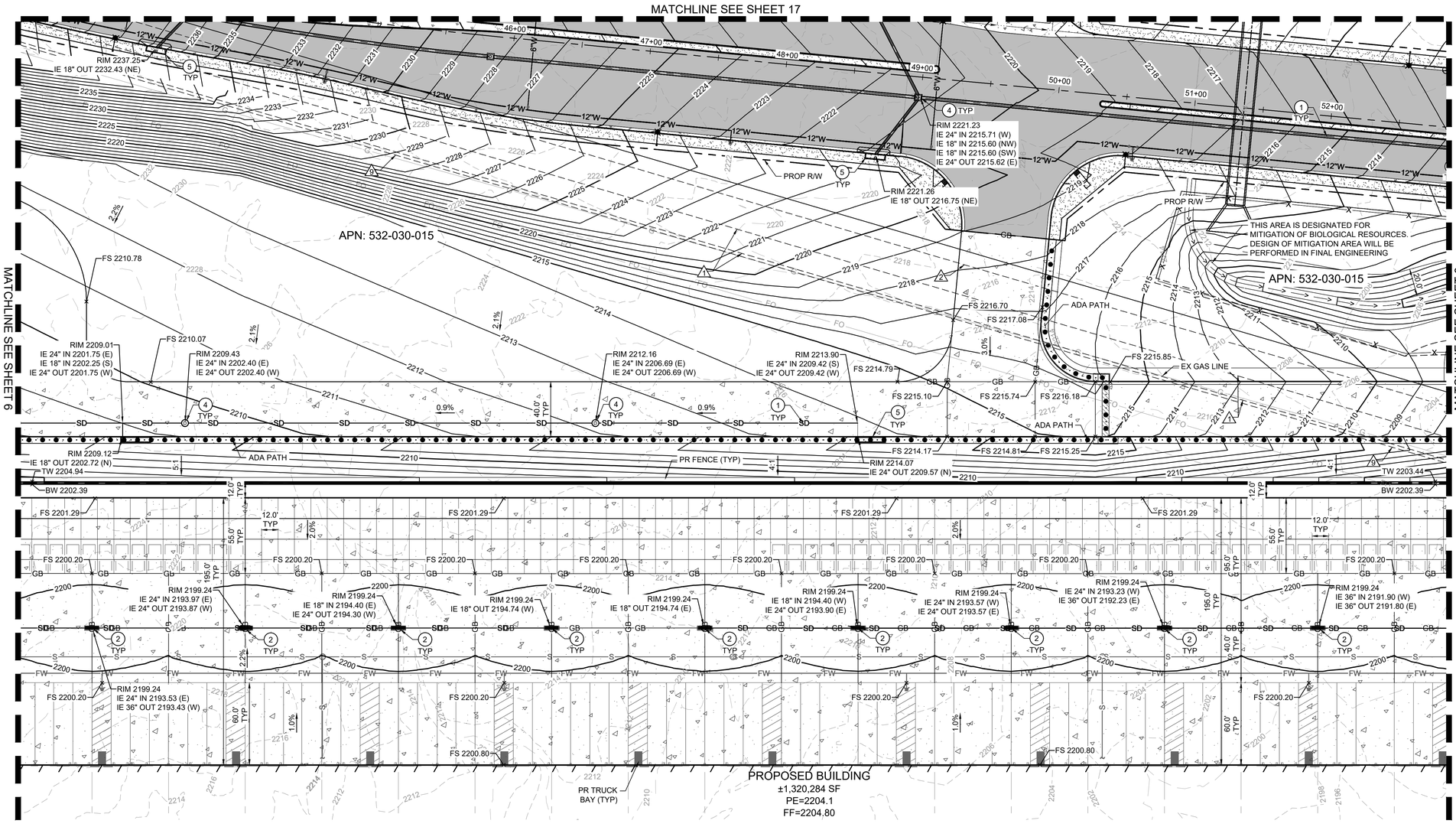
IN THE OFFICE OF EUGENE D. COWAN III
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 6 OF 29

1020



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
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- EASEMENT
- PATH OF TRAVEL
- FENCE
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- EXISTING CONTOUR
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- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
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EASEMENTS

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2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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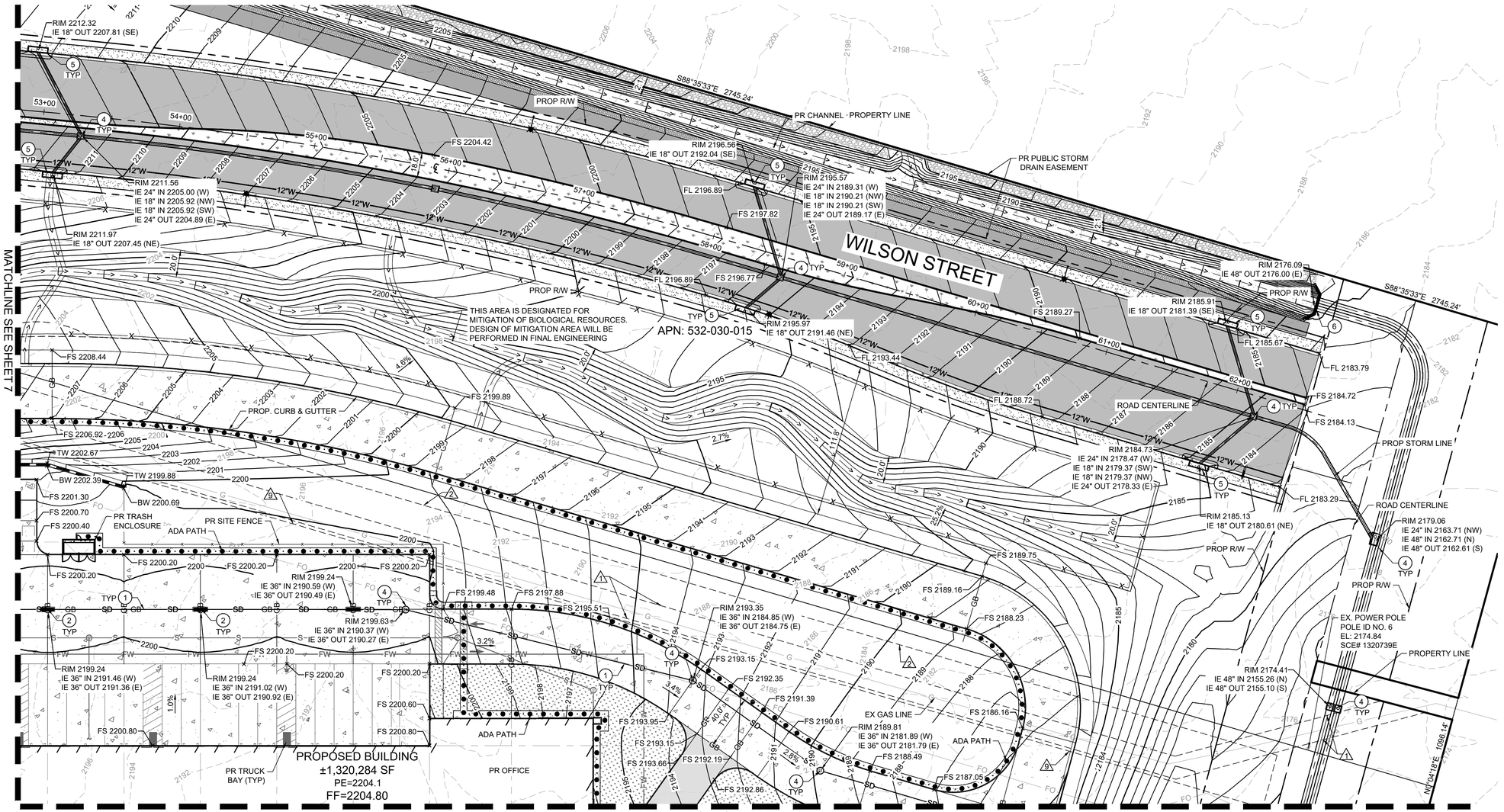
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 7 OF 29

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6. PROPOSED HEADWALL

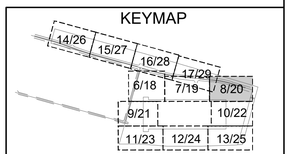
EASEMENTS

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2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 8 OF 29

1022

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MATCHLINE SEE SHEET 6

APN: 532-030-010

ODONNELL STREET

PROP R/W

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635. EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

PROP R/W

PL

IMPROVEMENTS BY OTHERS

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EXISTING POWER POLE OUTSIDE PROPERTY LIMITS (2223.54EL) SCE#: 1645758E

EX. 40' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

PROPOSED BUILDING
±1,320,284 SF
PE=2204.1
FF=2204.80

PR ACCESSIBLE PARKING (TYP)

FFE=2204.80

RIM 2202.48
IE 42" IN 2190.41 (N)
IE 18" IN 2195.97 (NW)
IE 42" OUT 2190.31 (S)

PR EV PARKING (TYP)

FFE=2204.80

RIBBON GUTTER (TYP)

RIM 2202.02
IE 18" OUT 2195.80 (SE)

RIM 2202.29
IE 42" IN 2189.82 (N)
IE 18" IN 2195.58 (NW)
IE 48" OUT 2189.72 (S)

FFE=2204.80

ADA PATH

FFE=2204.80

PR EV PARKING (TYP)

RIBBON GUTTER (TYP)

RIM 2202.02
IE 18" OUT 2195.73 (SE)

RIM 2202.30
IE 48" IN 2189.10 (IN)
IE 18" IN 2195.50 (NW)
IE 48" OUT 2189.00 (S)

EX. POWER POLE
POLE ID NO. 1
EL: 2216.48
SCE# 1320733E

FFE=2204.80

PR ACCESSIBLE EV PARKING (TYP)

PR ACCESSIBLE PARKING (TYP)

FFE=2204.80

MATCHLINE SEE SHEET 11

LEGEND

- PROPERTY BOUNDARY
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PRELIMINARY GRADING IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
2. PROPOSED STORM INLET
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISIITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

GRAPHIC SCALE IN FEET
0 20 40 80

NORTH

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
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REVISIONS

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Kimley»Horn
Signed: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
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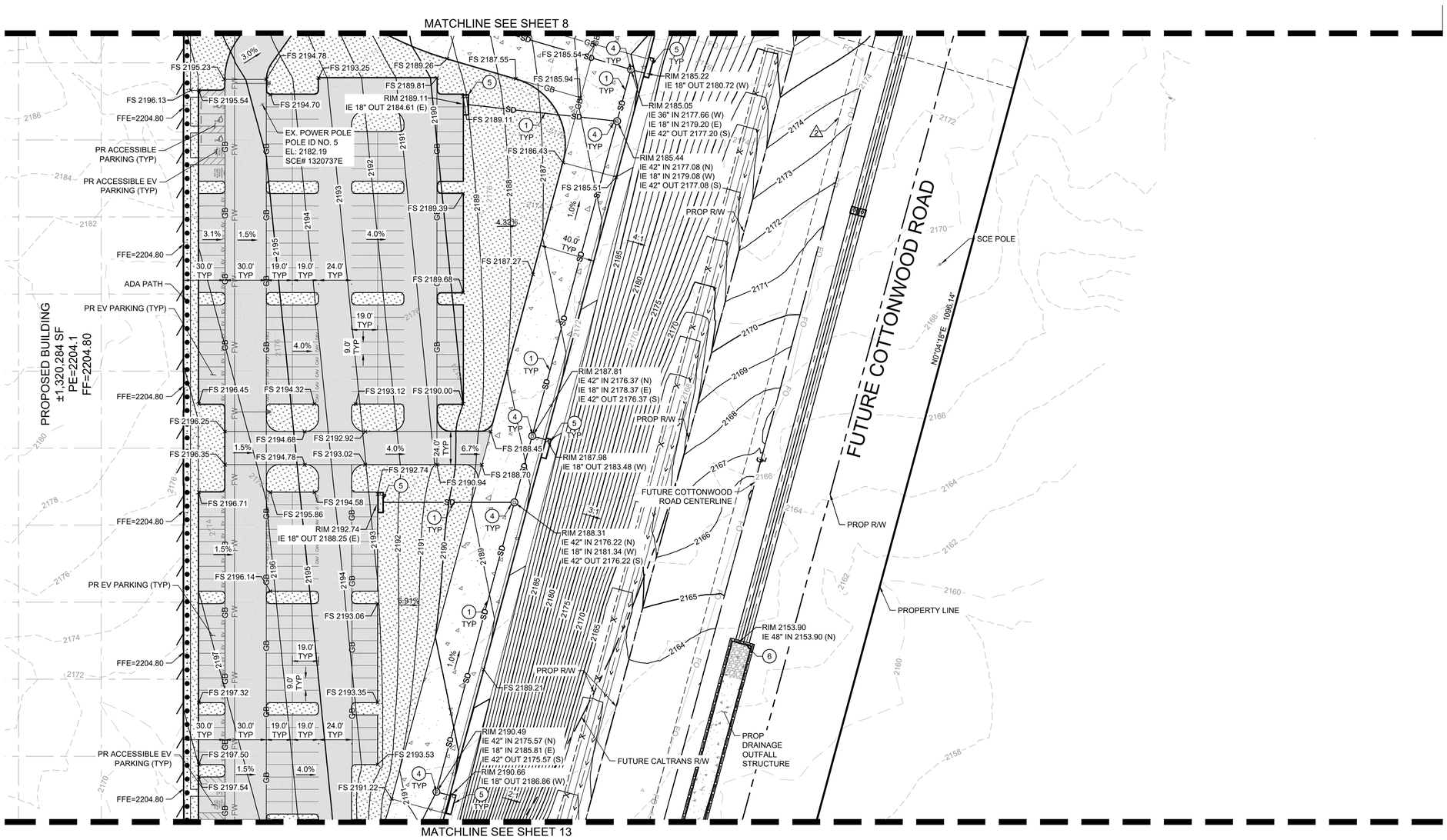
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 9 OF 29

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PRELIMINARY STORM IMPROVEMENT NOTES

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6. PROPOSED HEADWALL

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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EUGENE D. COWAN III, RCE # 86803 — DATE

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P.E. No. 86803 Date 7/8/2024

CITY OF BANNING

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SENIOR CIVIL ENGINEER — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24
PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

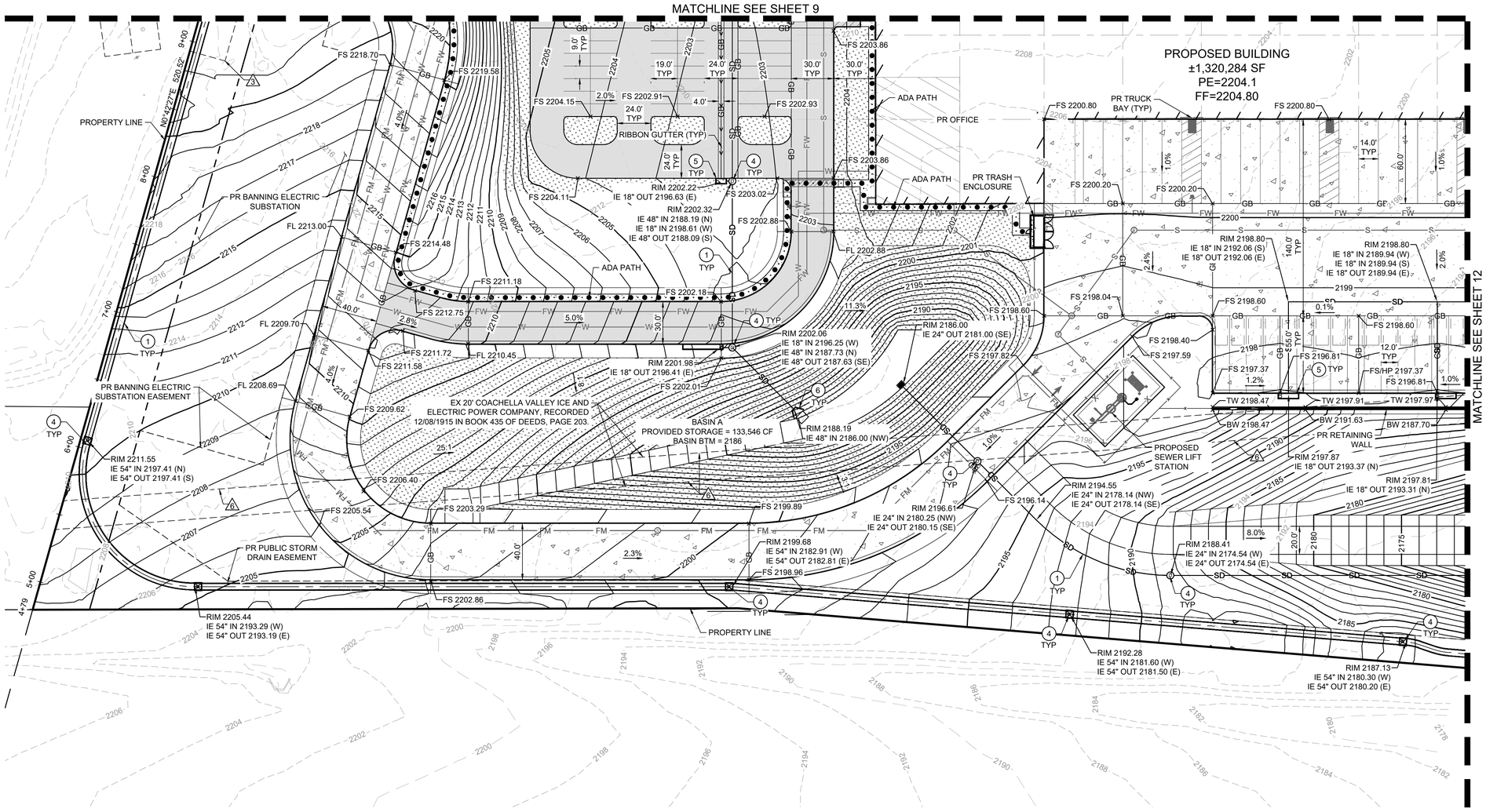
PRELIMINARY DESIGN DR21-7017

GRADING PLAN 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 10 OF 29

1024

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EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

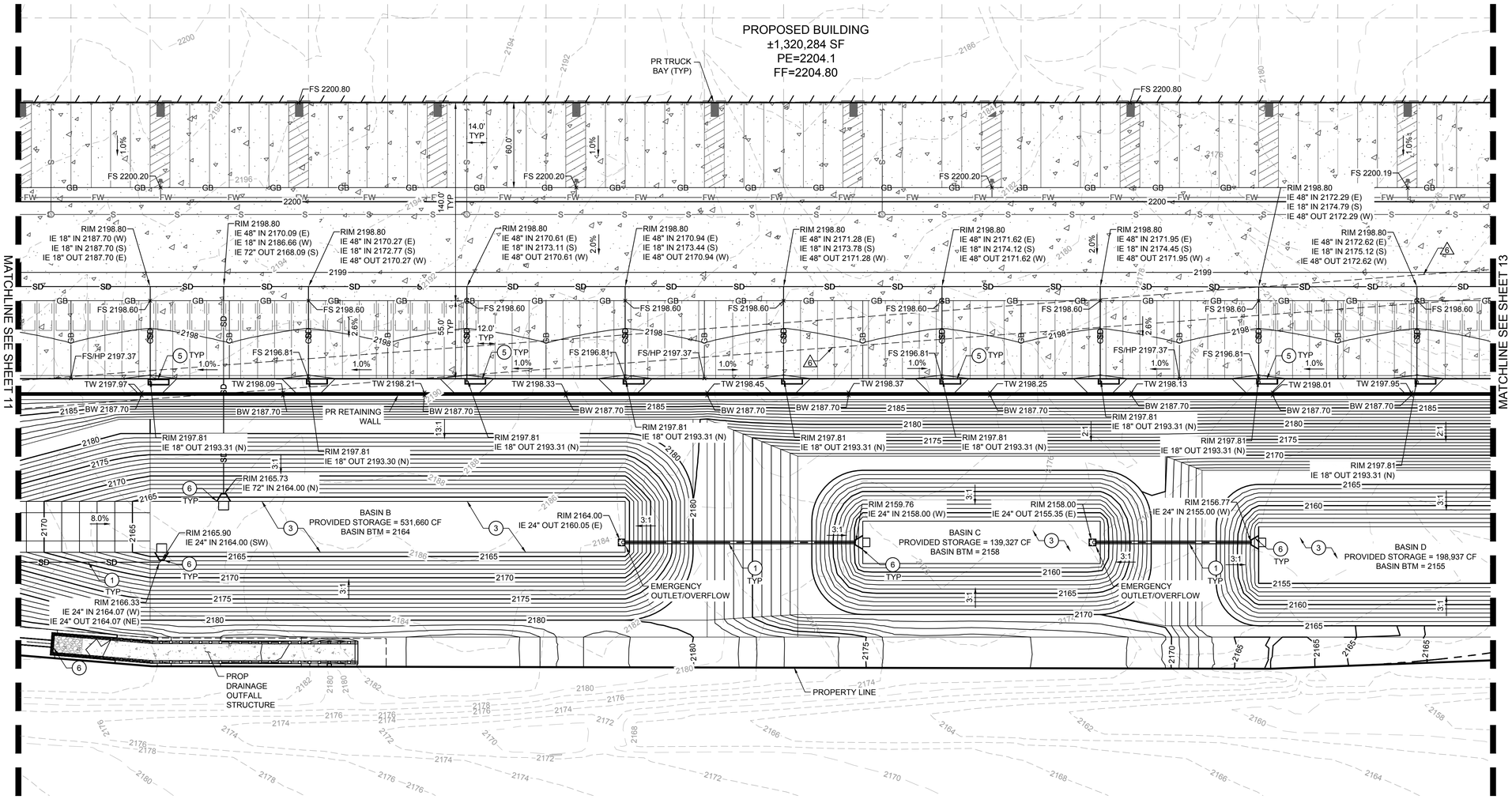
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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/3/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 6

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 11 OF 29

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LEGEND

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- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- PATH OF TRAVEL
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- GRADING DAYLIGHT
- GRADE BREAK LINE
- RIDGE LINE
- STORM LINE
- ASPHALT PAVEMENT - BY OTHERS
- ASPHALT PAVEMENT - LIGHT
- ASPHALT PAVEMENT - MEDIUM
- ASPHALT PAVEMENT - HEAVY
- CONCRETE PAVEMENT
- CONCRETE PAVEMENT - HEAVY
- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
3. PROPOSED INFILTRATION BASIN
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

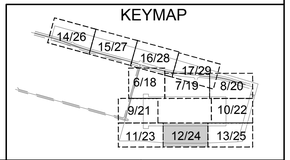
EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 — DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
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Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

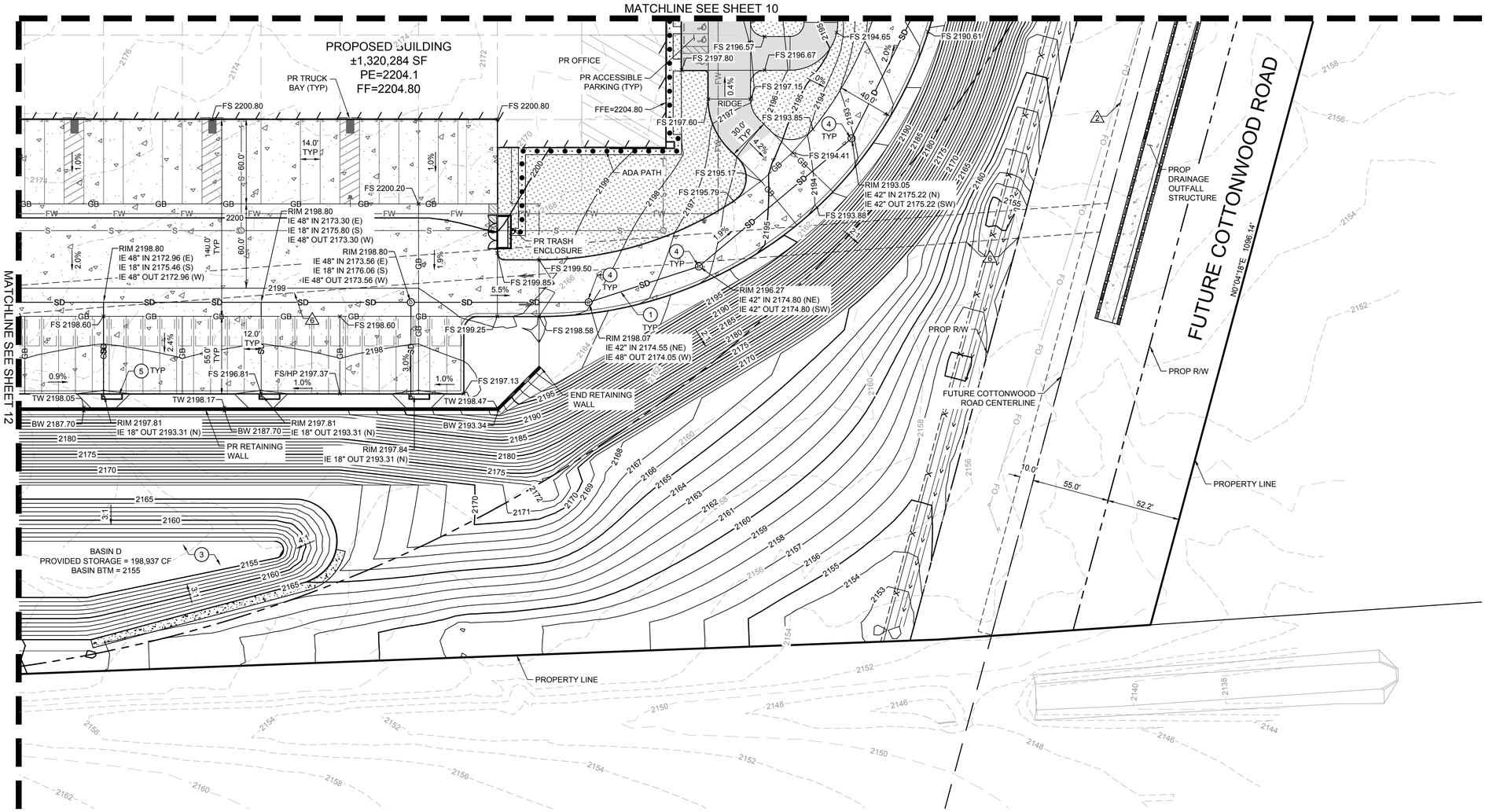
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APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 7

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 12 OF 29

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1026



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- CONCRETE SIDEWALK
- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
3. PROPOSED INFILTRATION BASIN
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

EASEMENTS

2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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11/5/2024
EUGENE D. COWAN III, RCE # 86803 DATE

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SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
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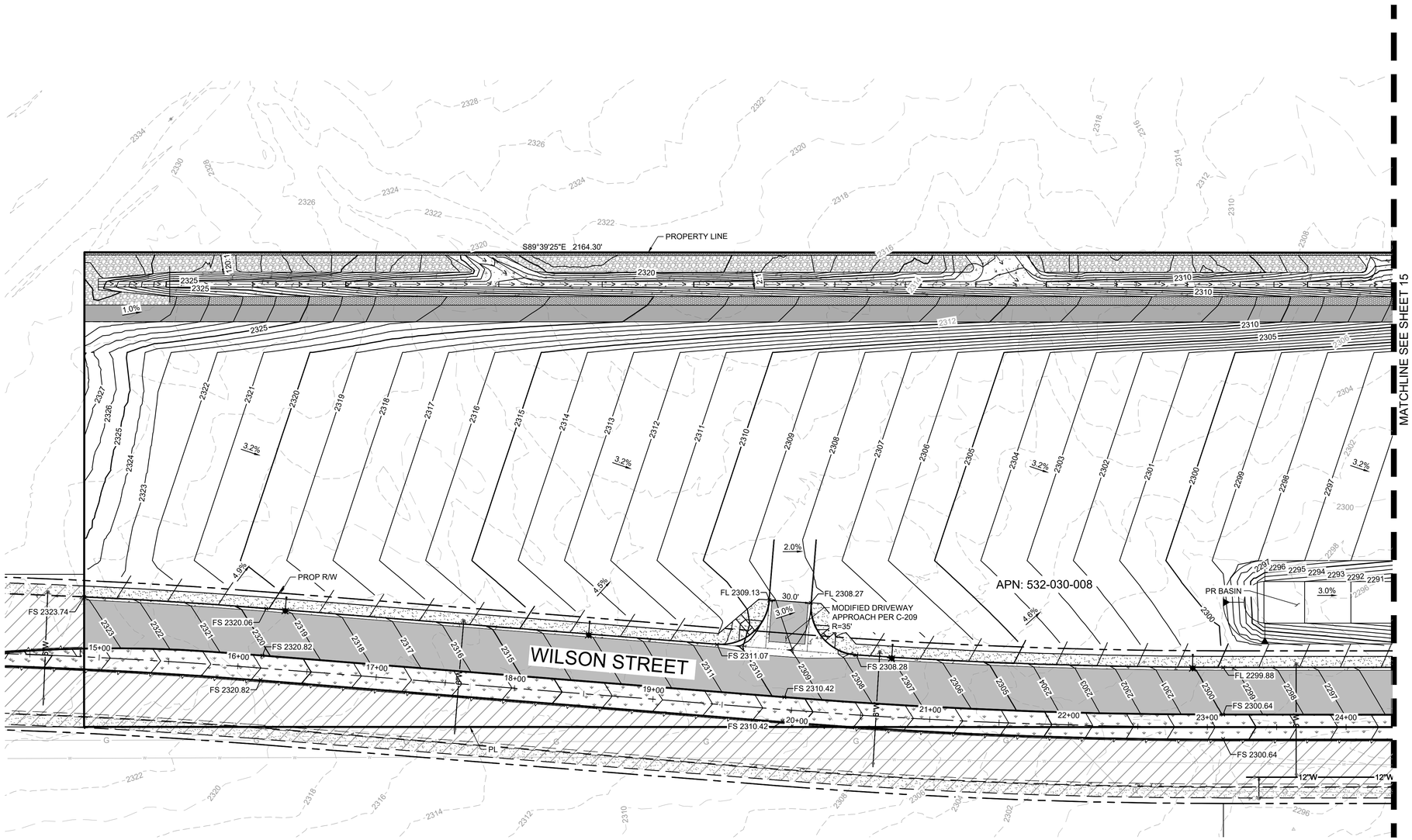
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 8

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 13 OF 29

1027

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PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
5. PROPOSED STORM CURB INLET

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/15/2024 DATE

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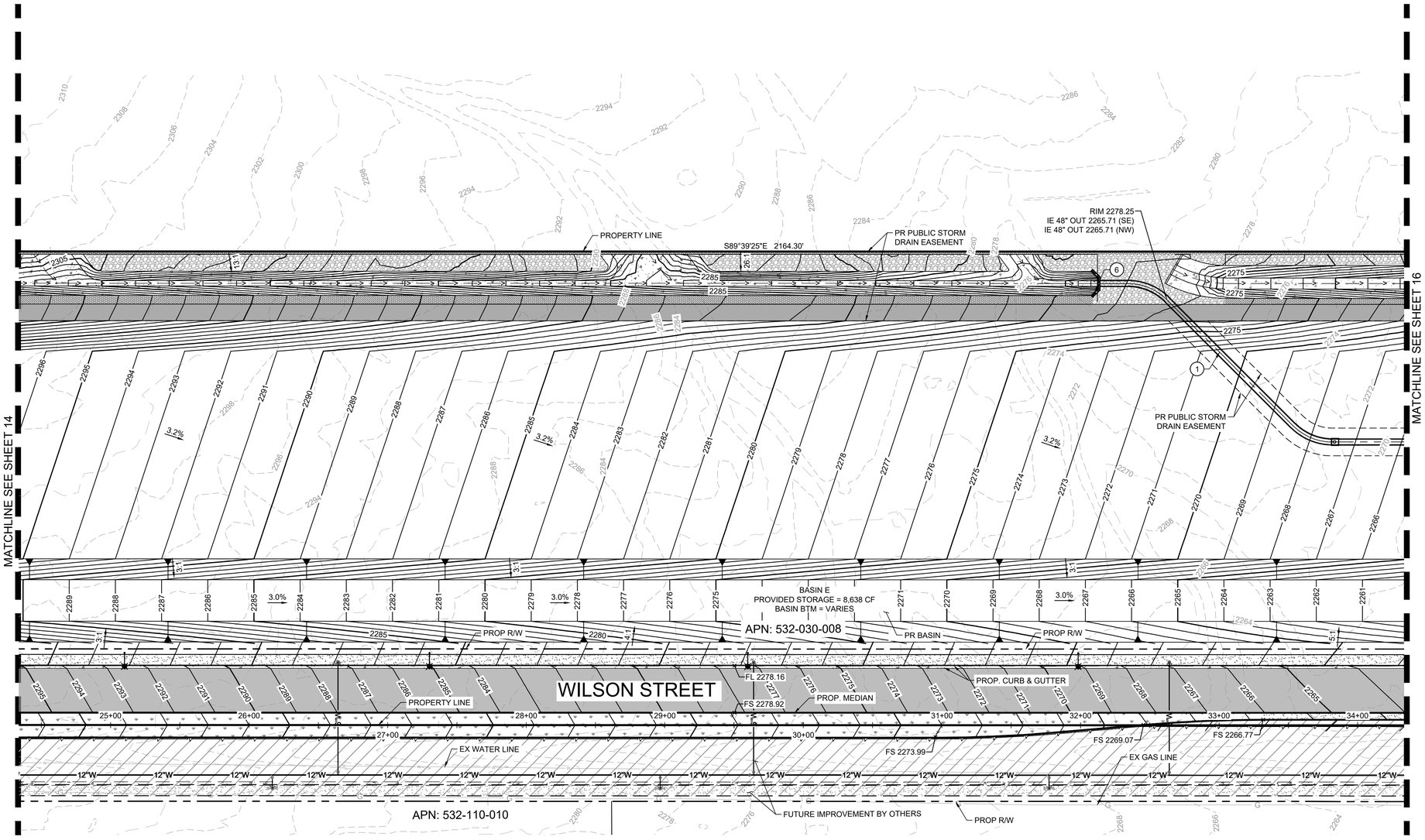
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P.E. No. 86803 Date: 7/15/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 9

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 14 OF 29

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- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
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PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/15/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/15/2024

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
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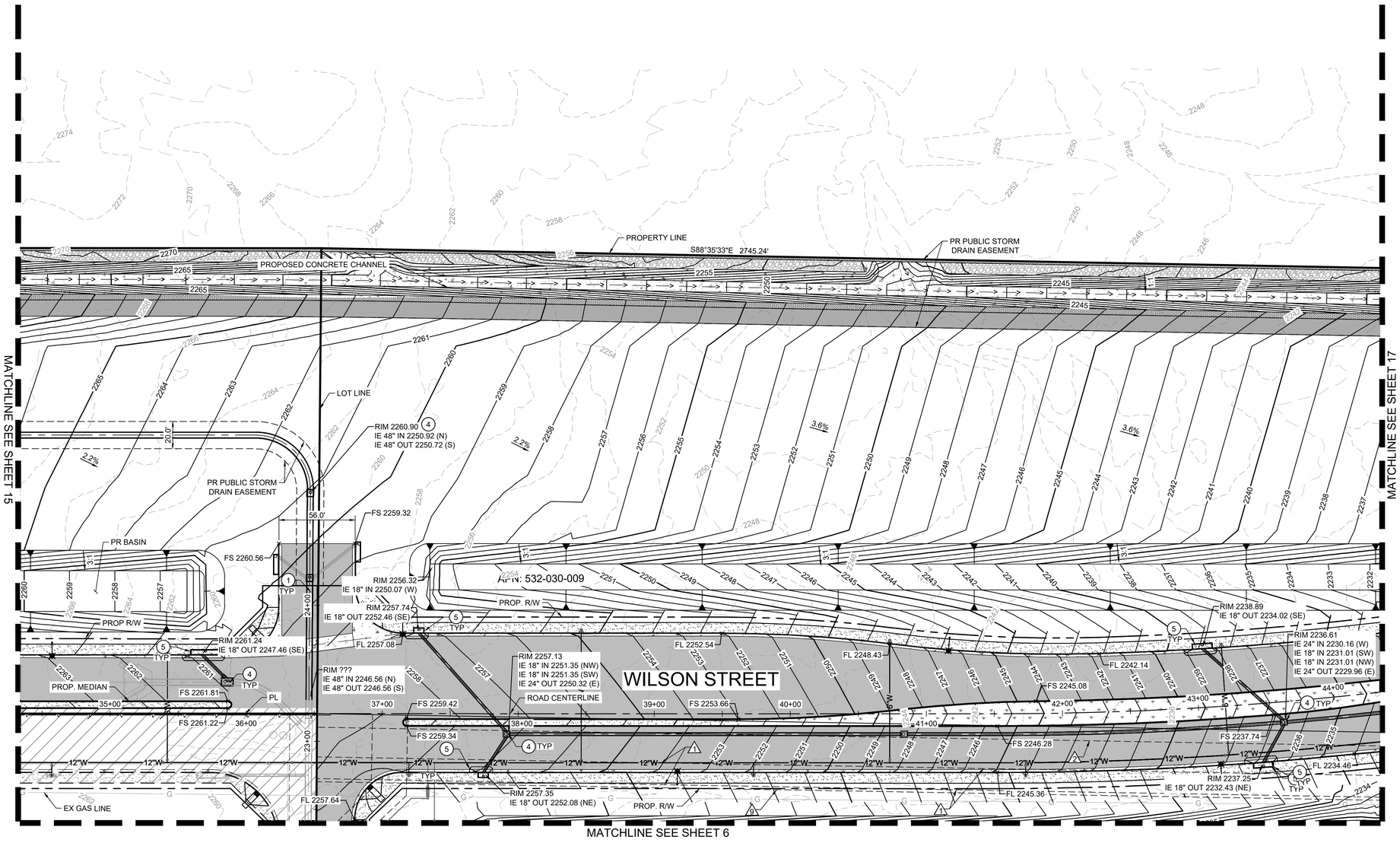
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

GRADING PLAN 10

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 15 OF 29

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- LANDSCAPE
- LANDSCAPE
- STORM DRAIN STRUCTURE
- SEWER MANHOLE
- FIRE HYDRANT

PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET
6. PROPOSED HEADWALL

EASEMENTS

1. EXISIITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISIITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
3. EXISIITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 DATE

SUBMITTED BY:
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120 S. CENTRAL AVENUE, SUITE 500
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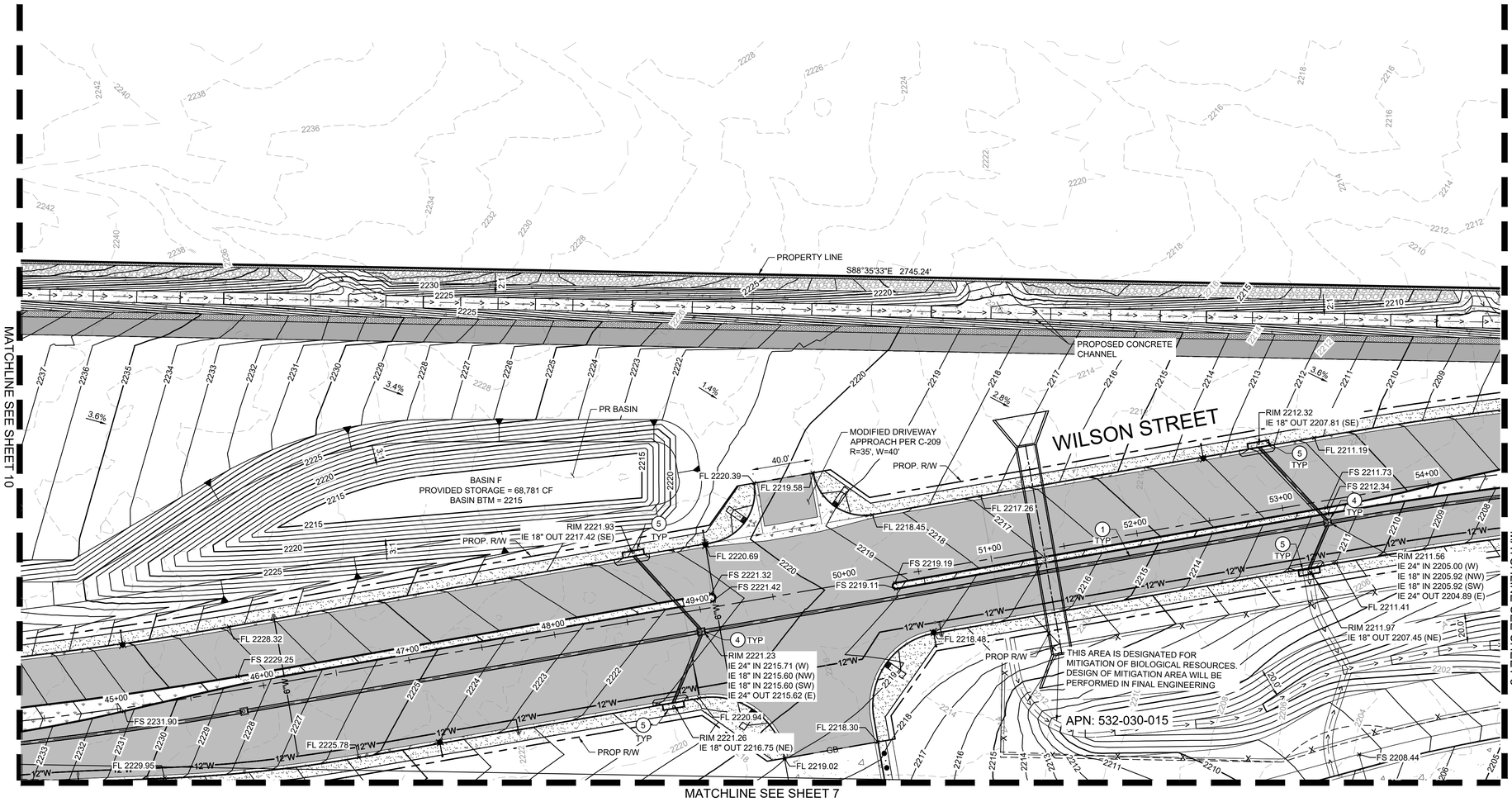
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P.E. No. 86803 Date 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 11

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 16 OF 29

1030



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
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PRELIMINARY STORM IMPROVEMENT NOTES

1. PROPOSED STORMDRAIN PIPE
4. PROPOSED STORMDRAIN MANHOLE
5. PROPOSED STORM CURB INLET

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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ST. LOUIS, MO 63105

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P.E. No. 86803 Date 7/8/2024

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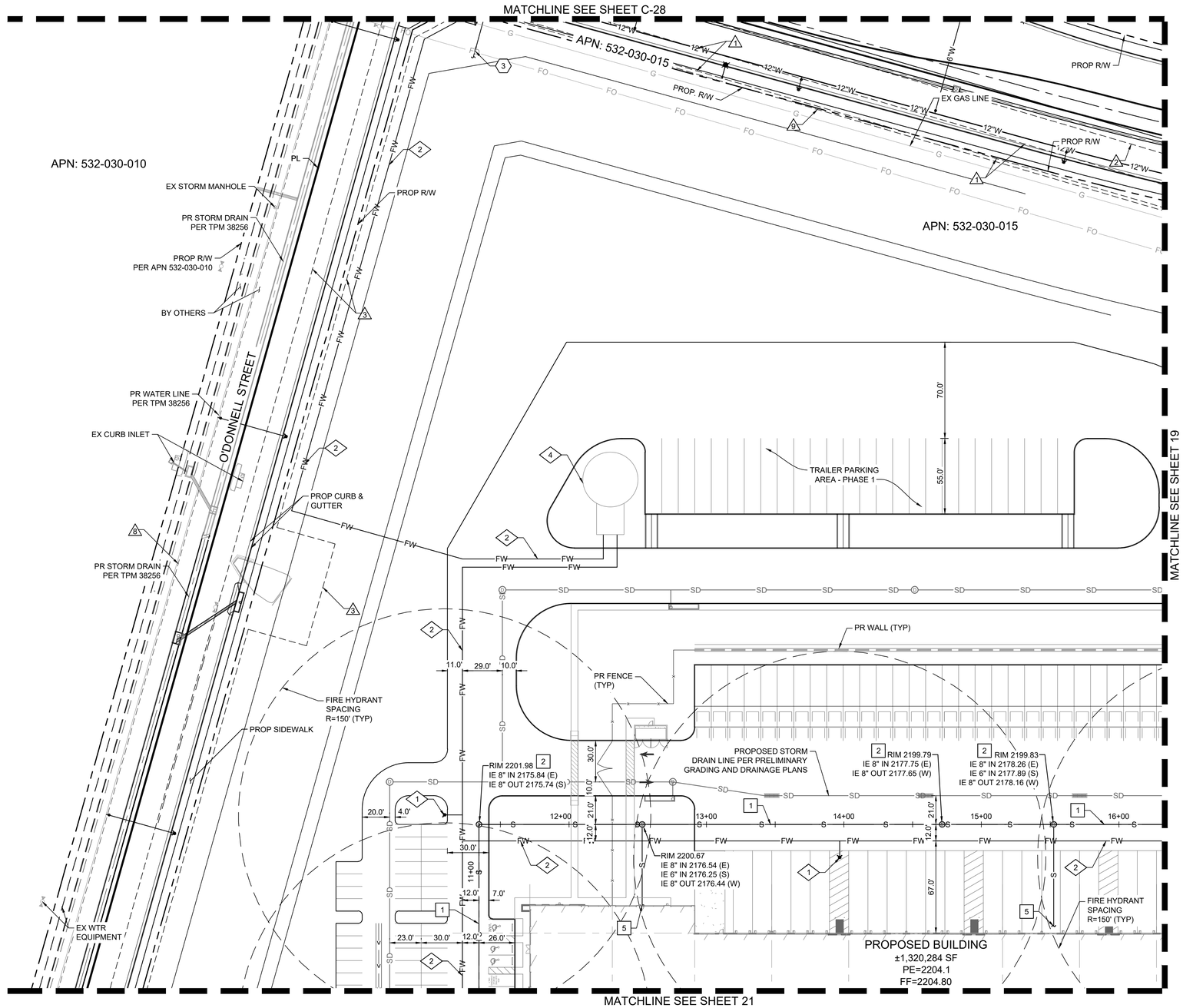
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
GRADING PLAN 12

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 17 OF 29

1031

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- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

WATER NOTES

3 PROPOSED 2" IRRIGATION WATER METER AND BACKFLOW

5 PROPOSED 12" WATER PIPE

FIRE WATER NOTES

1 PROPOSED FIRE HYDRANT

2 PROPOSED FIRE PIPE

4 PROPOSED FIRE TANK (IF REQUIRED)

SANITARY SEWER NOTES

1 PROPOSED SEWER PIPE

2 PROPOSED SEWER MANHOLE

5 PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1 EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.

2 EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.

3 EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.

8 EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

9 EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
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EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 18 OF 29

1032

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MATCHLINE SEE SHEET 29

MATCHLINE SEE SHEET 18

MATCHLINE SEE SHEET 20

PROP R/W

PROPOSED STORM DRAIN LINE PER PRELIMINARY GRADING AND DRAINAGE PLANS

PR WALL (TYP)

2 RIM 2200.01
IE 8" IN 2179.88 (E)
IE 6" IN 2179.51 (S)
IE 8" OUT 2179.78 (W)

2 RIM 2199.85
IE 8" IN 2181.50 (E)
IE 8" OUT 2181.40 (W)

2 RIM 2199.97
IE 8" IN 2182.97 (E)
IE 6" IN 2182.60 (S)
IE 8" OUT 2182.87 (W)

FIRE HYDRANT SPACING R=150' (TYP)

12"W 6"W 34.0' 4.0' 21.0' 12.0' 67.0'

17+00 18+00 19+00 20+00 21+00 22+00 23+00 24+00 25+00 26+00

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:

Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:

SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

EUGENE D. COWAN III
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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

CITY OF BANNING

RECOMMENDED BY:
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SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

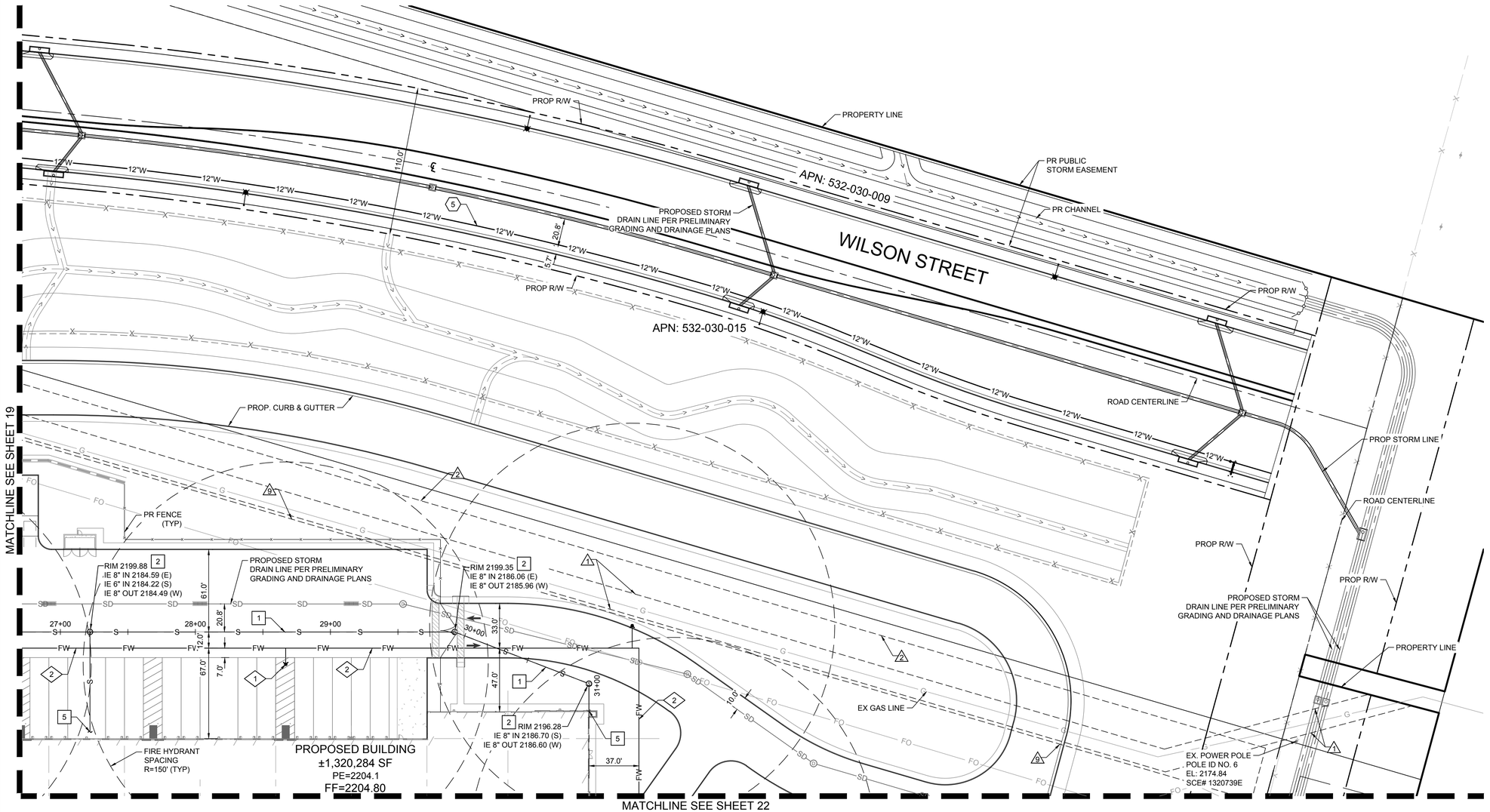
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 19 OF 29

1033



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

1. EXISIITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISIITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISIITING EASEMENT NO. 2018-0219574.

WATER NOTES

5. PROPOSED 12" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

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P.E. No. 86803 Date: 7/8/2024

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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 20 OF 29

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MATCHLINE SEE SHEET 18

APN: 532-030-010

O'DONNELL STREET

PR WATER LINE PER TPM 38256

PROP R/W

PL

IMPROVEMENTS BY OTHERS

PR SEWR LINE PER TPM 38256

EXISTING POWER POLE OUTSIDE PROPERTY LIMITS (2223.54EL) SCE#: 1645758E

RIM 2222.66 IE 8" IN 2219.40 (E)

RIM 2217.47 IE 8" IN 2216.74 (SE) IE 8" OUT 2216.74 (W)

RIM 2203.73 IE 8" IN 2174.22 (N) IE 8" OUT 2174.12 (S)

RIM 2203.79 IE 8" IN 2172.60 (N) IE 8" OUT 2172.50 (S)

PROPOSED STORM DRAIN LINE PER PRELIMINARY GRADING AND DRAINAGE PLANS

PROPOSED BUILDING ±1,320,284 SF PE=2204.1 FF=2204.80

FIRE HYDRANT SPACING R=150' (TYP)

EX. POWER POLE POLE ID NO. 1 EL: 2216.48 SCE# 1320733E

MATCHLINE SEE SHEET 23

LEGEND

PROPERTY BOUNDARY
PROPERTY LINE / RIGHT-OF-WAY
CENTERLINE
SETBACK
EASEMENT
FENCE
RETAINING WALL
BUILDING OUTLINE
STORM LINE
SEWER LINE
WATER LINE
FIRE WATER LINE
IRRIGATION LINE
PROPOSED INFILTRATION BASIN
STORM DRAIN STRUCTURE
STORM DRAIN INLET
SEWER MANHOLE
SEWER CLEANOUT
FIRE HYDRANT
BACKFLOW PREVENTOR
FIRE DEPARTMENT CONNECTION
FIRE POST INDICATOR VALVE
SECTIONAL CONTROL VALVE
WATER VALVE
BENDS
BUILDING CONNECTION
POINT OF CONNECTION

WATER NOTES

1. PROPOSED 4" WATER PIPE
2. PROPOSED 4" WATER METER AND BACKFLOW

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE
3. PROPOSED FIRE BACKFLOW PREVENTOR

SANITARY SEWER NOTES

2. PROPOSED SEWER MANHOLE
3. PROPOSED FORCE MAIN
6. PROPOSED SEWER CLEANOUT

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
7. EXISTING 20.0' ELECTRICAL EASEMENT FOR SOUTHERN CALIFORNIA EDISON COMPANY.
8. EXISITING 16' ROAD DEDICATION TO THE CITY OF BANNING.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
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Kimley»Horn
Signed: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

CITY OF BANNING
RECOMMENDED BY:
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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

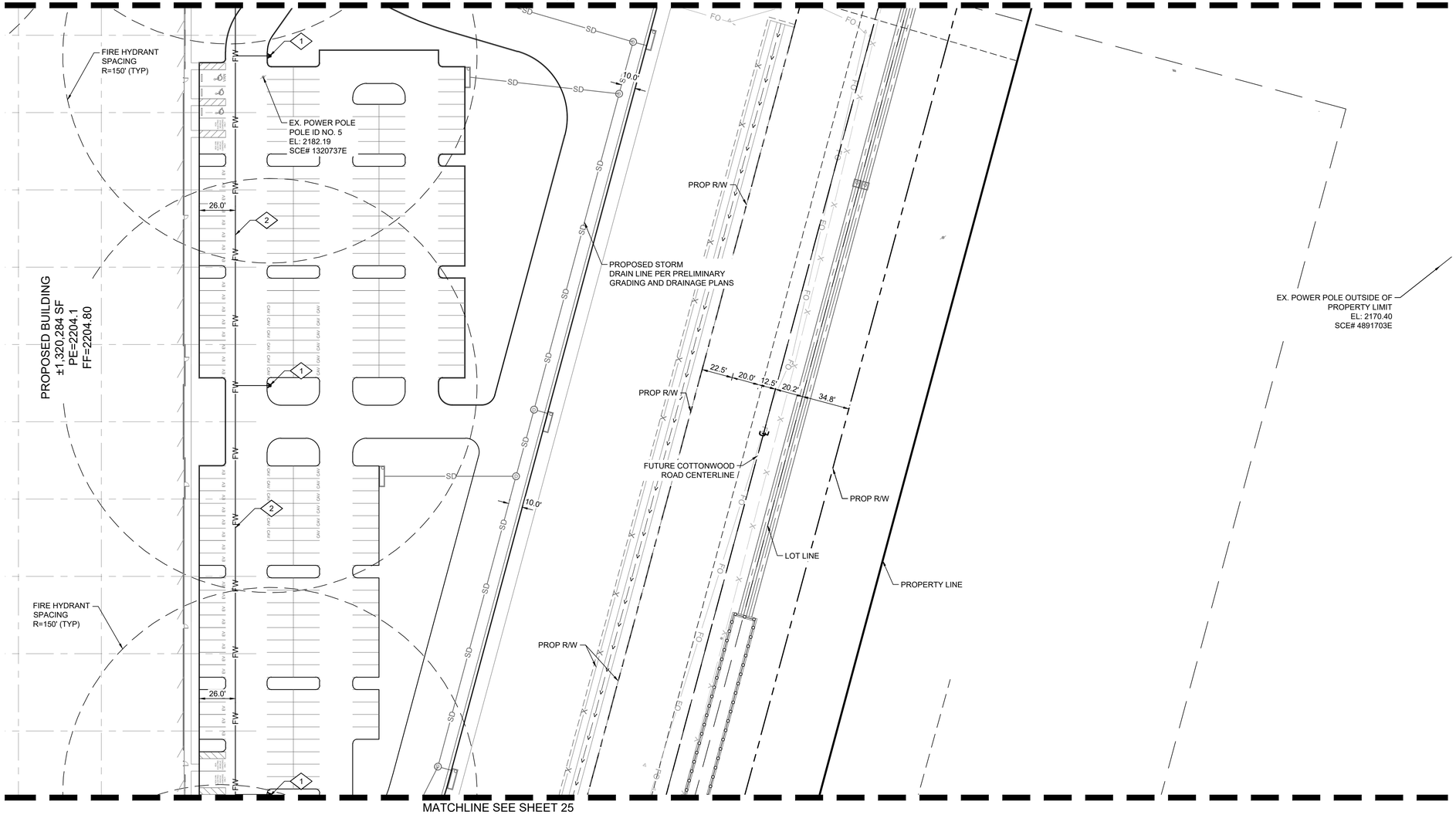
PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 21 OF 29

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MATCHLINE SEE SHEET 20



MATCHLINE SEE SHEET 25

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

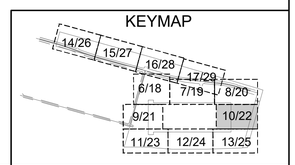
FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

CITY OF BANNING

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APPROVED BY:
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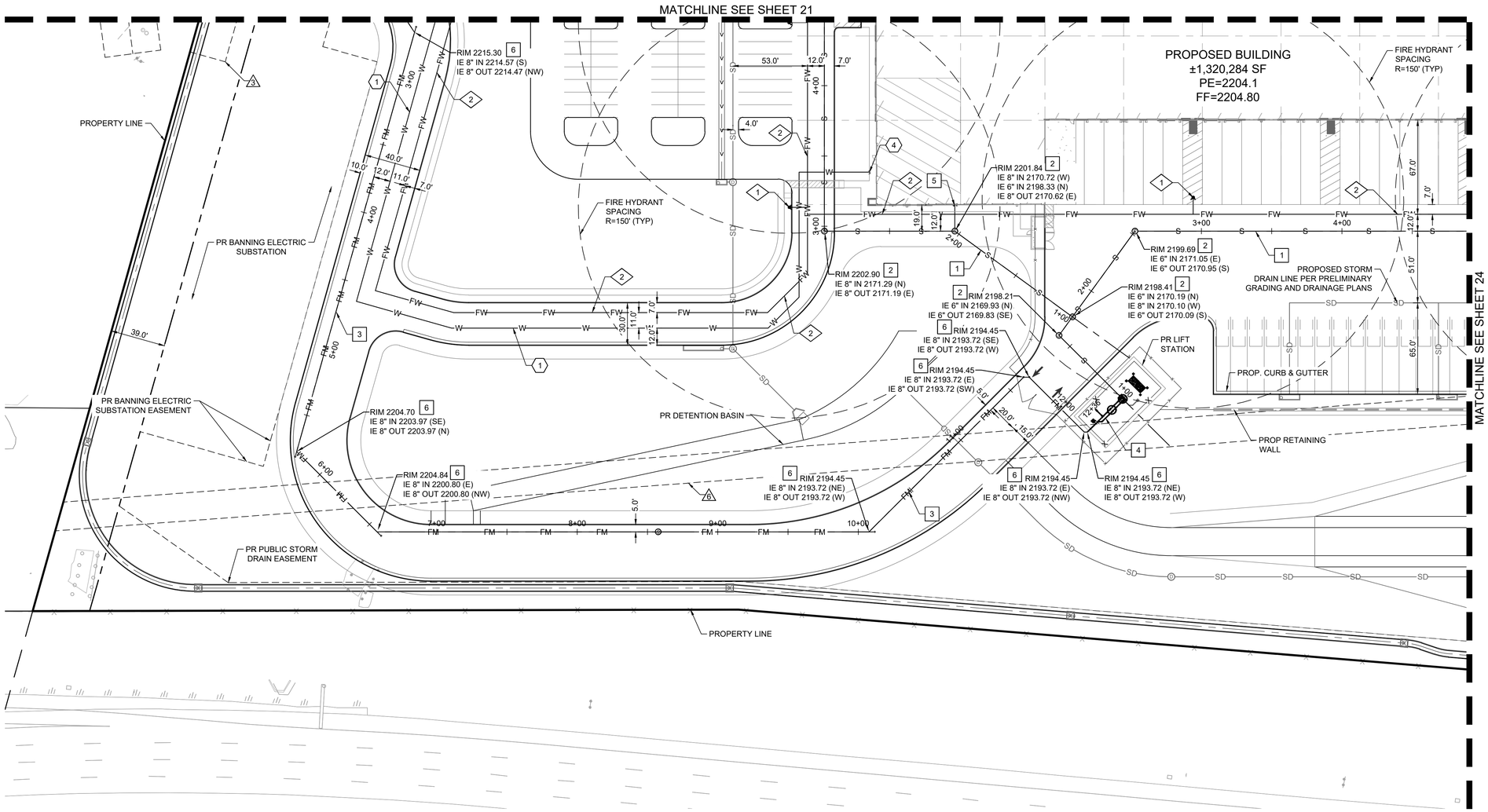
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 22 OF 29

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LEGEND

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- EASEMENT
- FENCE
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- BUILING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

WATER NOTES

1. PROPOSED 4" WATER PIPE
4. PROPOSED WATER POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
3. PROPOSED FORCE MAIN
4. PROPOSED SEWER LIFT STATION
5. PROPOSED SEWER POINT OF CONNECTION
6. PROPOSED SEWER CLEANOUT

EASEMENTS

3. EXISTING 20.0'(VARIES) STREET CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT.
6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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PHONE: 951-543-9868
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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
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120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

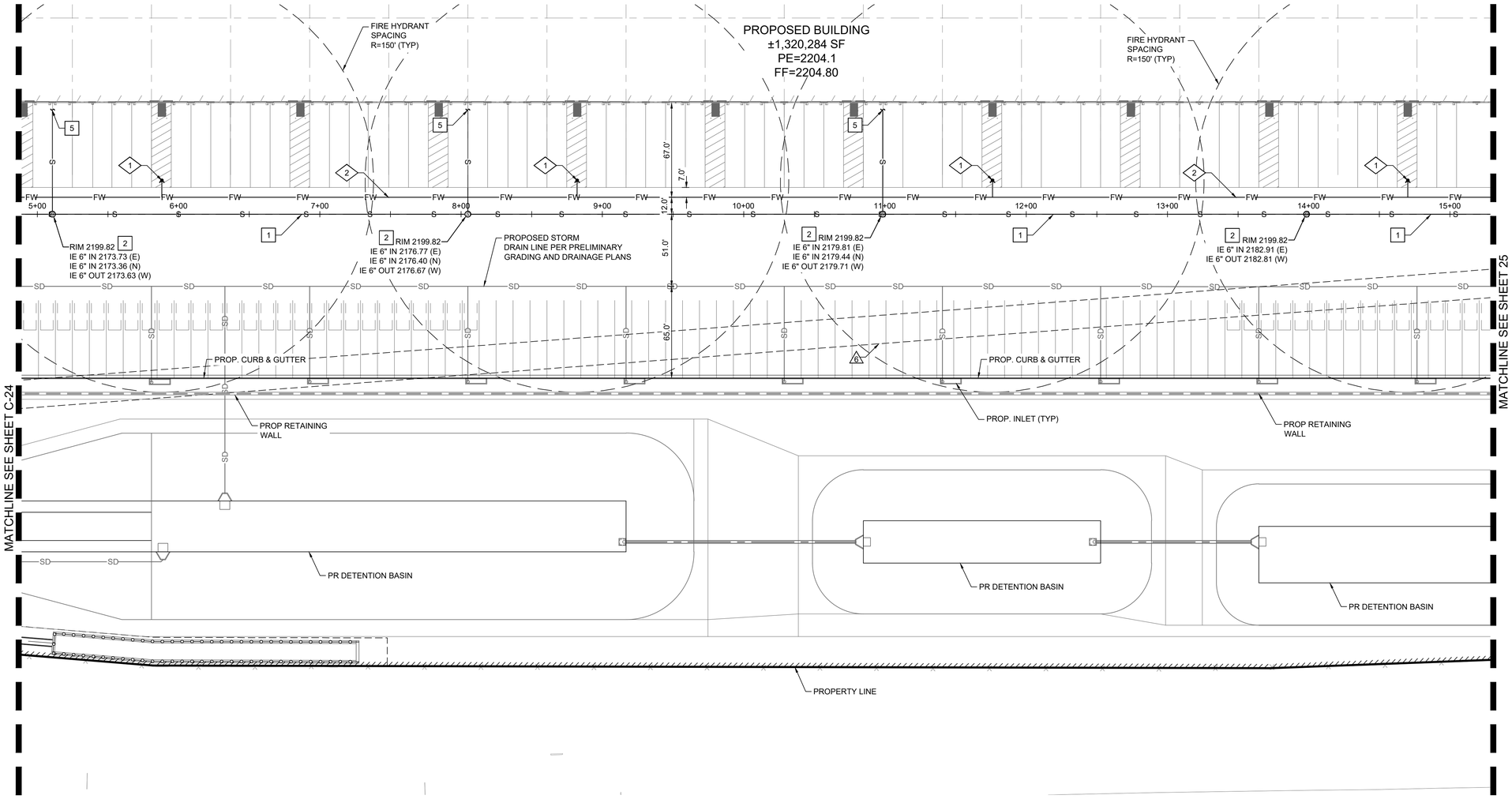
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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

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KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 6

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 23 OF 29

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LEGEND

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- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
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- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29 6/18 7/19 8/20 9/21 10/22 11/23 12/24 13/25

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
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Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

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SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
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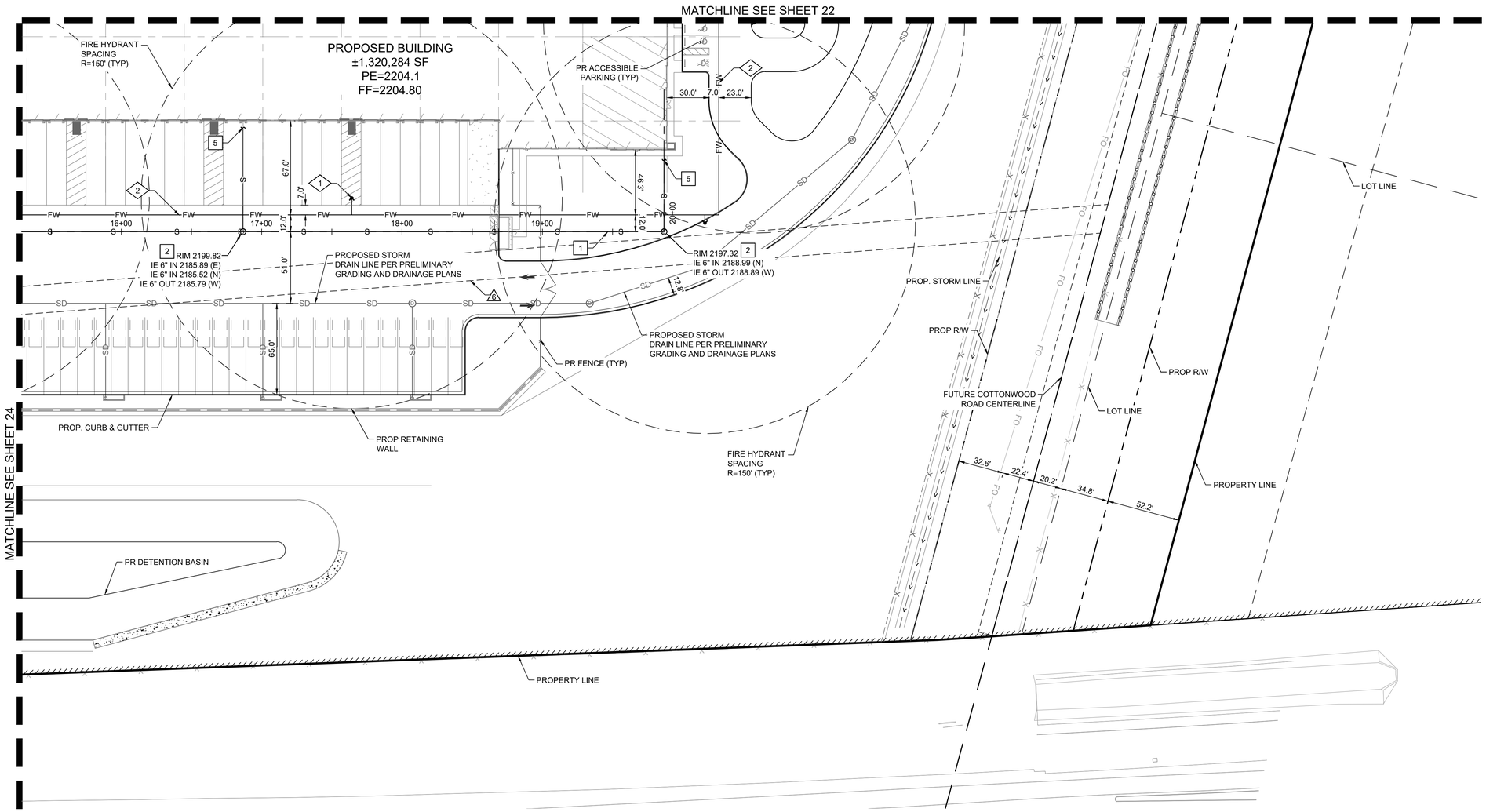
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 7

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 24 OF 29

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LEGEND

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- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

FIRE WATER NOTES

1. PROPOSED FIRE HYDRANT
2. PROPOSED FIRE PIPE

SANITARY SEWER NOTES

1. PROPOSED SEWER PIPE
2. PROPOSED SEWER MANHOLE
5. PROPOSED SEWER POINT OF CONNECTION

EASEMENTS

6. EXISTING 20' PUBLIC UTILITY EASEMENT FOR COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY.

GRAPHIC SCALE IN FEET
0 20 40 80

NORTH

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
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No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
7/8/2024
EUGENE D. COWAN III, RCE # 86803 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

EUGENE D. COWAN III
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Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 7/8/2024

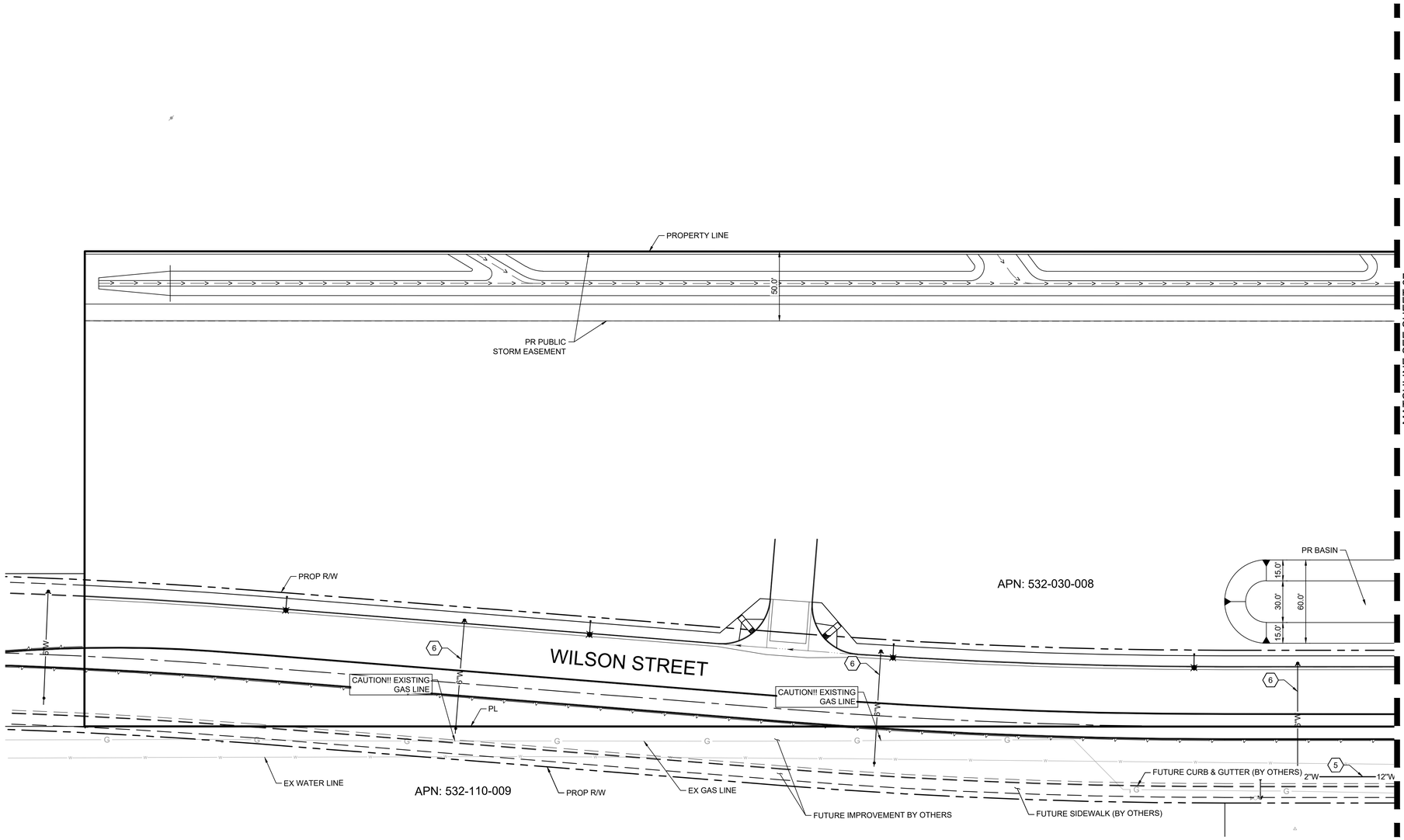
CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 DATE
SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 8

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 25 OF 29

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1039



LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- SETBACK
- EASEMENT
- FENCE
- RETAINING WALL
- BUILDING OUTLINE
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER LINE
- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- SEWER MANHOLE
- SEWER CLEANOUT
- FIRE HYDRANT
- BACKFLOW PREVENTOR
- FIRE DEPARTMENT CONNECTION
- FIRE POST INDICATOR VALVE
- SECTIONAL CONTROL VALVE
- WATER VALVE
- BENDS
- BUILDING CONNECTION
- POINT OF CONNECTION

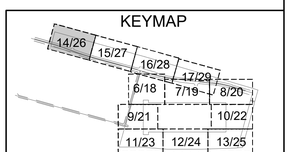
WATER NOTES

5. PROPOSED 12" WATER PIPE
6. PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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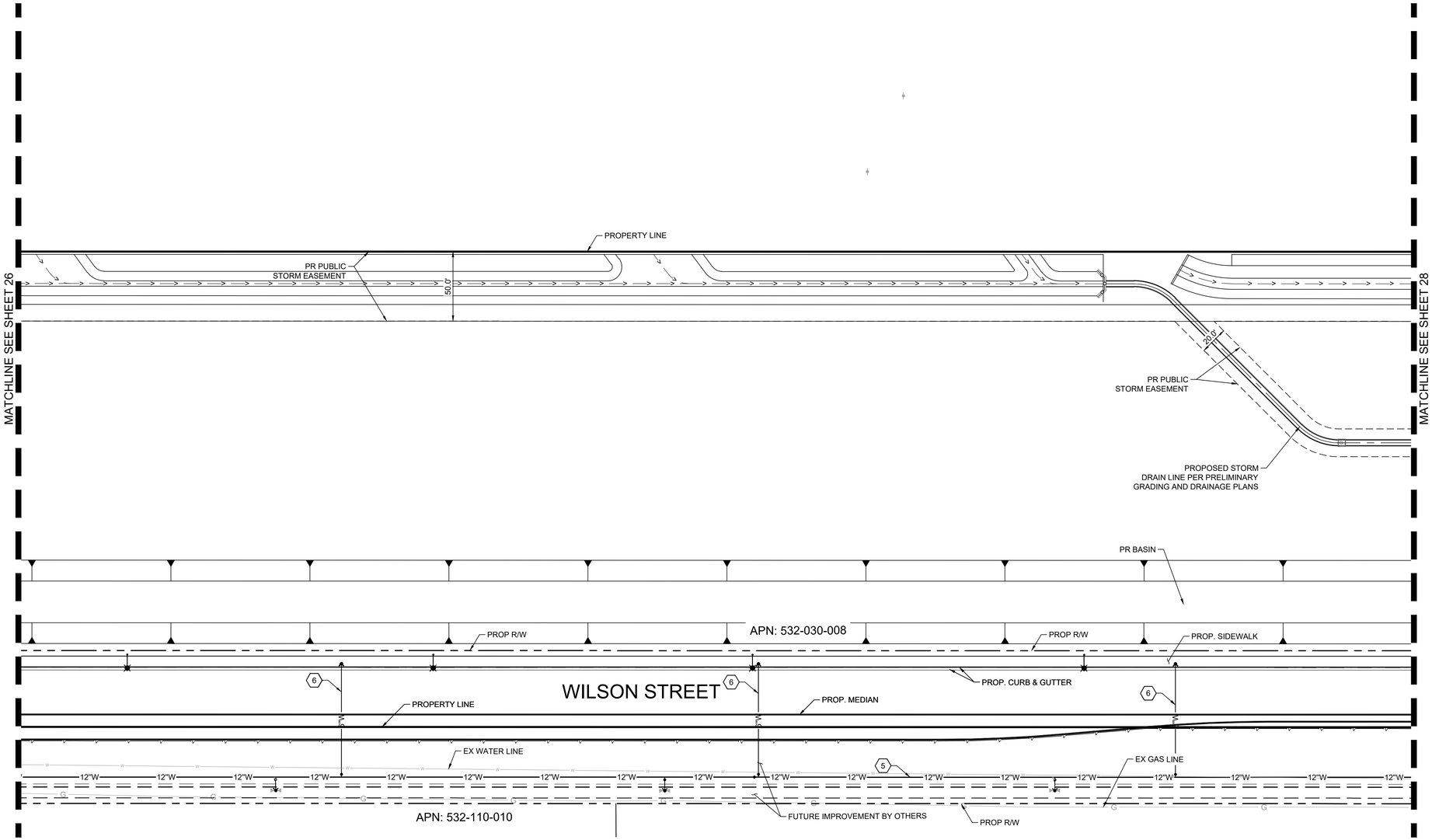
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Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 9

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 26 OF 29

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- IRRIGATION LINE
- PROPOSED INFILTRATION BASIN
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- STORM DRAIN INLET
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- POINT OF CONNECTION

WATER NOTES

5 PROPOSED 12" WATER PIPE

6 PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
6/18 7/19 8/20
9/21 10/22
11/23 12/24 13/25

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PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
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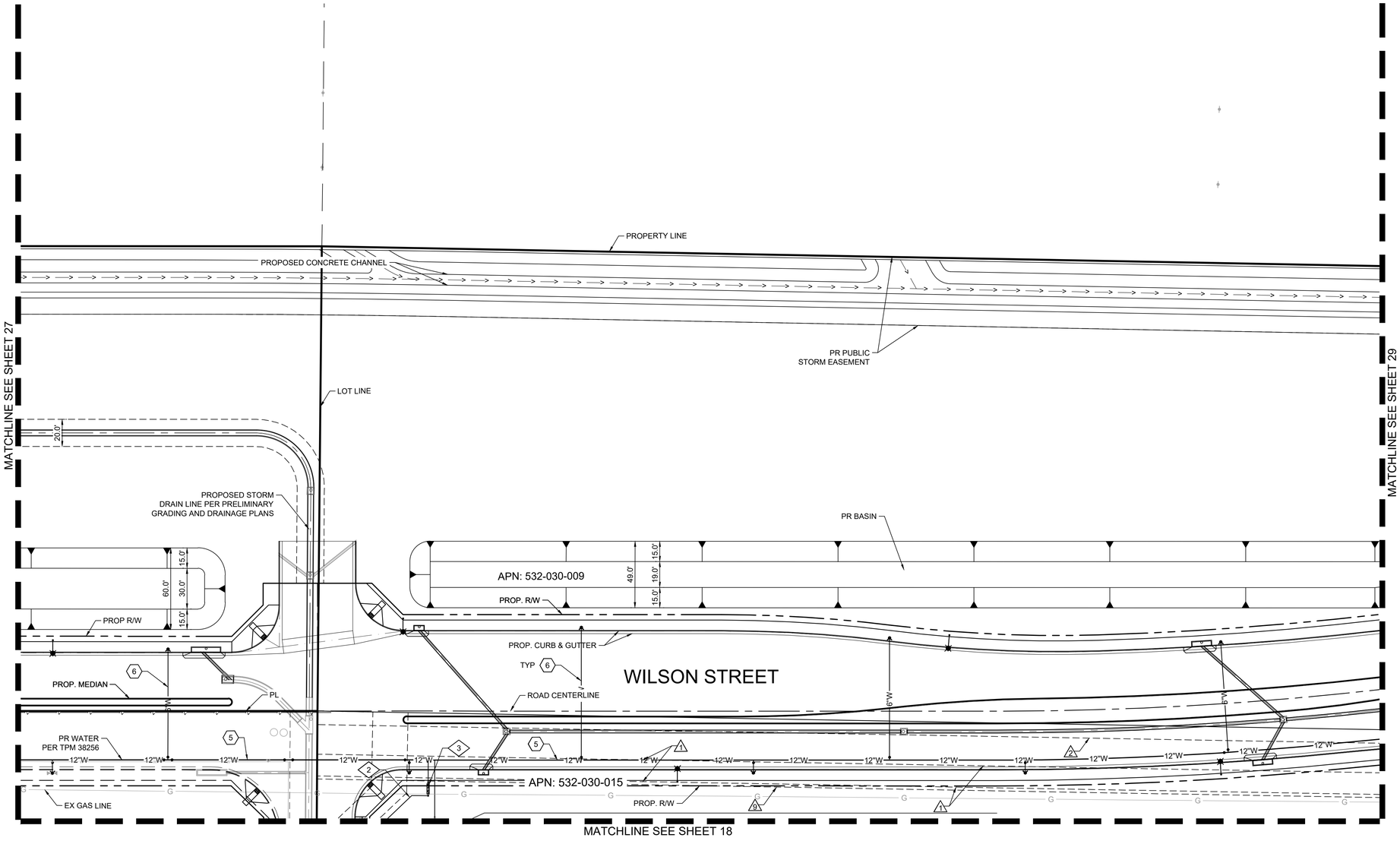
BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

UTILITY PLAN 10

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 27 OF 29

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LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
SETBACK	
EASEMENT	
FENCE	X X
RETAINING WALL	
BUILDING OUTLINE	
STORM LINE	SD
SEWER LINE	S S
WATER LINE	W W
FIRE WATER LINE	FW FW
IRRIGATION LINE	IRR
PROPOSED INFILTRATION BASIN	
STORM DRAIN STRUCTURE	D
STORM DRAIN INLET	
SEWER MANHOLE	S
SEWER CLEANOUT	
FIRE HYDRANT	
BACKFLOW PREVENTOR	
FIRE DEPARTMENT CONNECTION	
FIRE POST INDICATOR VALVE	
SECTIONAL CONTROL VALVE	
WATER VALVE	
BENDS	
BUILDING CONNECTION	
POINT OF CONNECTION	

EASEMENTS

1. EXISITING 16' EASEMENT FOR SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.
2. EXISITING COMMUNICATION SYSTEMS EASEMENT FOR US SPRINT COMMUNICATIONS COMPANY.
9. EXISITING EASEMENT NO. 2018-0219574.

WATER NOTES

5. PROPOSED 12" WATER PIPE
6. PROPOSED 6" WATER PIPE

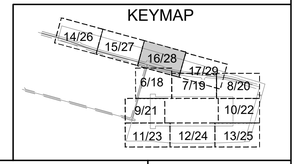
FIRE WATER NOTES

2. PROPOSED FIRE PIPE
3. PROPOSED FIRE BACKFLOW PREVENTOR

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP



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RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 7/8/2024 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

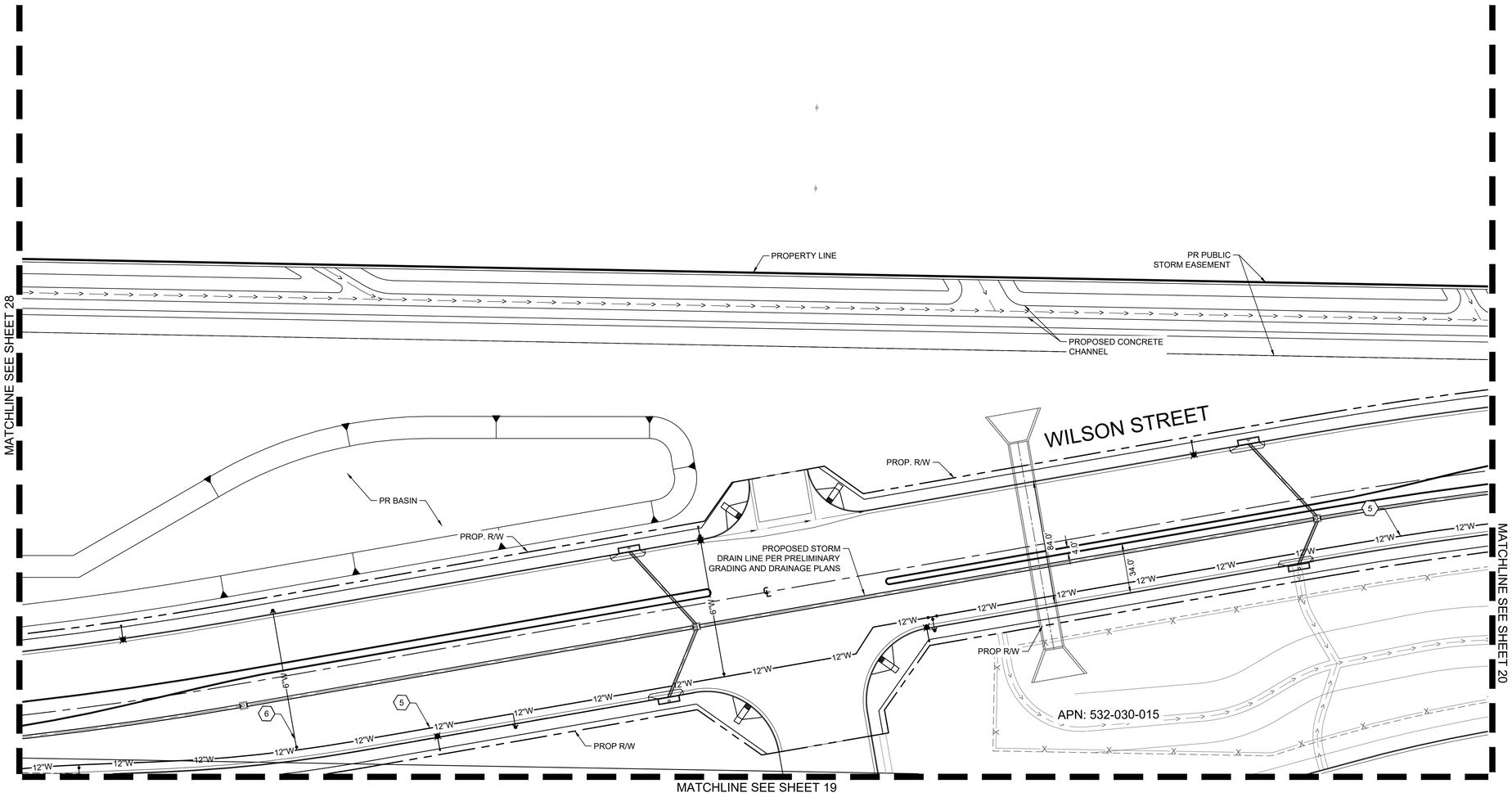
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Kimley»Horn
Engineer: EUGENE D. COWAN III
P.E. No. 86803 Date: 7/8/2024

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SENIOR CIVIL ENGINEER
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 11

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 28 OF 29

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WATER NOTES

5 PROPOSED 12" WATER PIPE

6 PROPOSED 6" WATER PIPE

NORTH

GRAPHIC SCALE IN FEET
0 20 40 80

KEYMAP
14/26 15/27 16/28 17/29
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7/8/2024
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ST. LOUIS, MO 63105

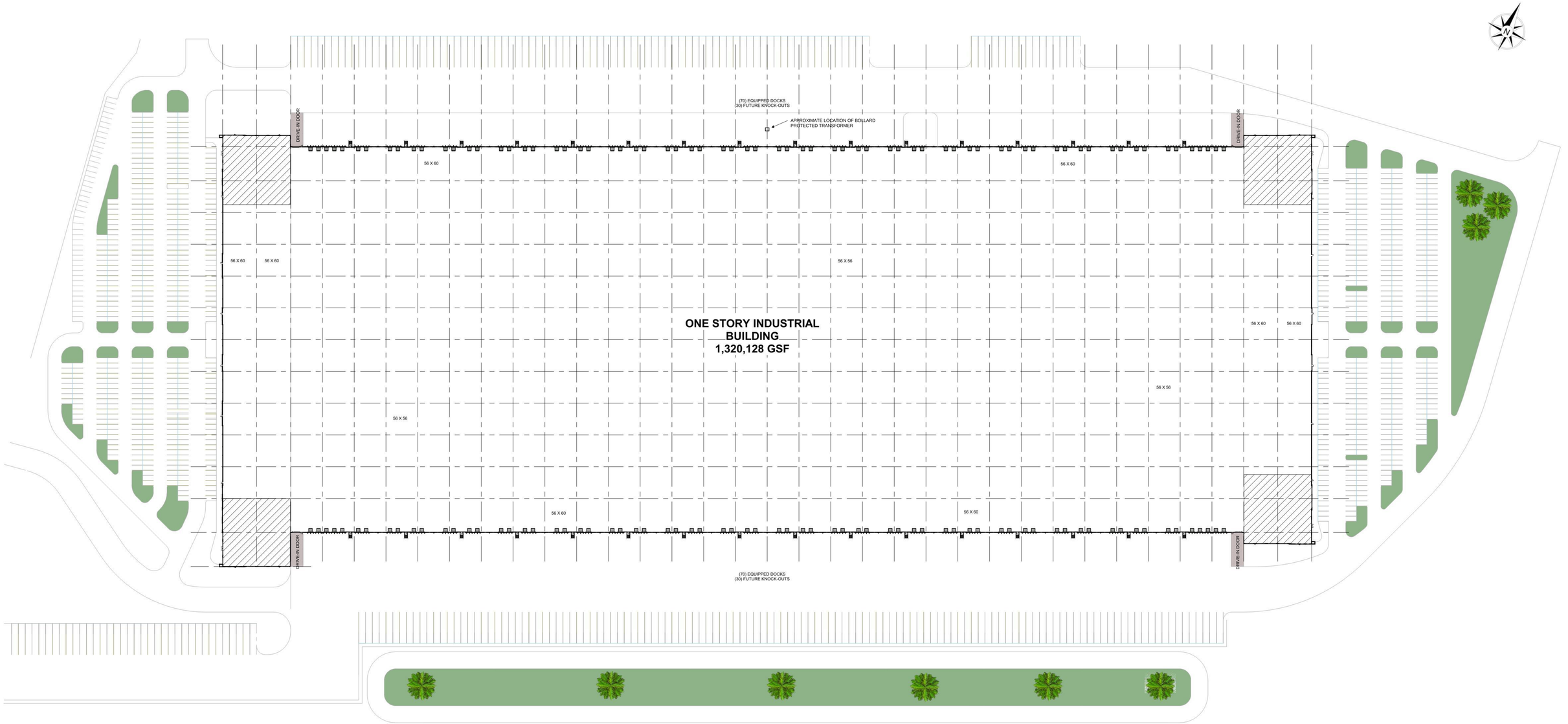
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SENIOR CIVIL ENGINEER
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ARTURO VELA, RCE # 75696, EXP. 05/30/24 DATE
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BANNING COMMERCE CENTER
PRELIMINARY DESIGN DR21-7017
UTILITY PLAN 12

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 29 OF 29

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FLOOR PLAN - SCALE 1" = 70'-0"

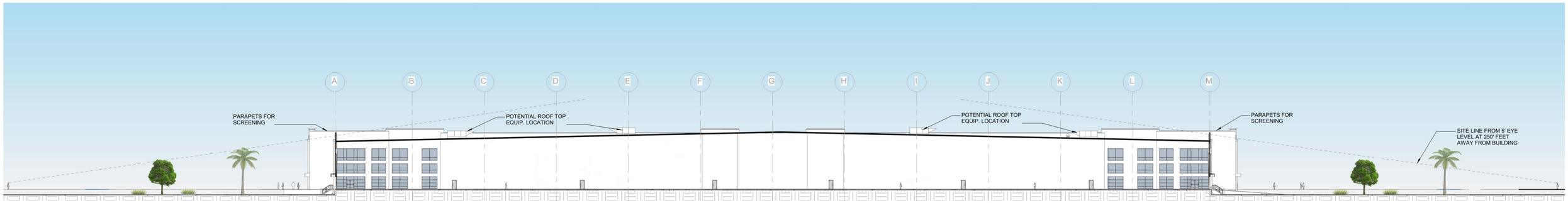
Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

FLOOR PLAN	22383.00	12 / 08 / 2022

SANSONE group

gray



NORTH / SOUTH BUILDING SECTION - SCALE 1" = 30'-0"

SW 7005
Pure White
Interior / Exterior
Location Number: 255-C1

PT-1
WALLS / VERTICAL ACCENTS

SW 6256
Serious Gray
Interior / Exterior
Location Number: 234-C5

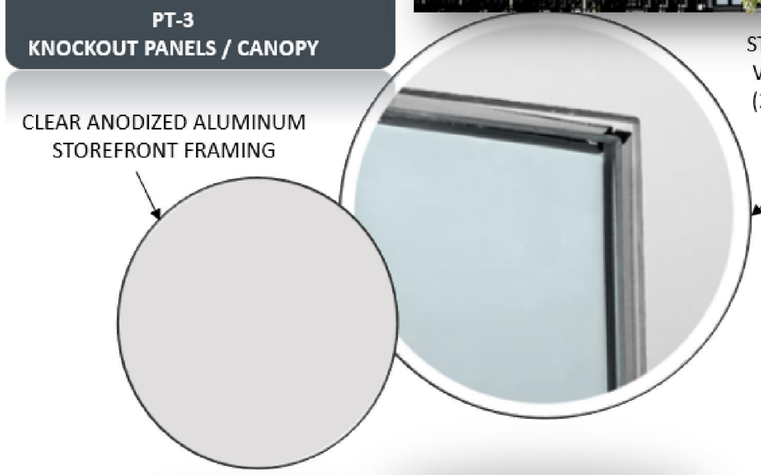
PT-2
ACCENT WALLS / BANDS

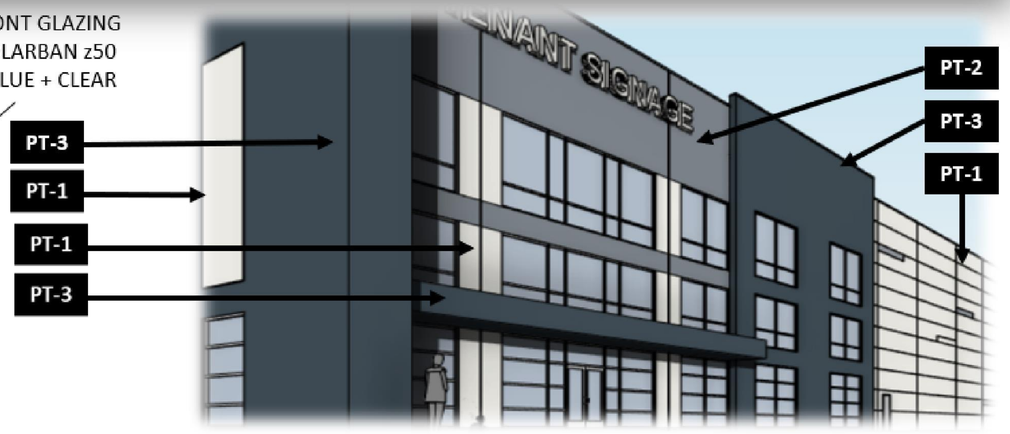
SW 7615
Sea Serpent
Interior / Exterior
Location Number: 234-C7

PT-3
KNOCKOUT PANELS / CANOPY

BANNING COMMERCE CENTER
EXTERIOR FINISH BOARD
12.08.2022







Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

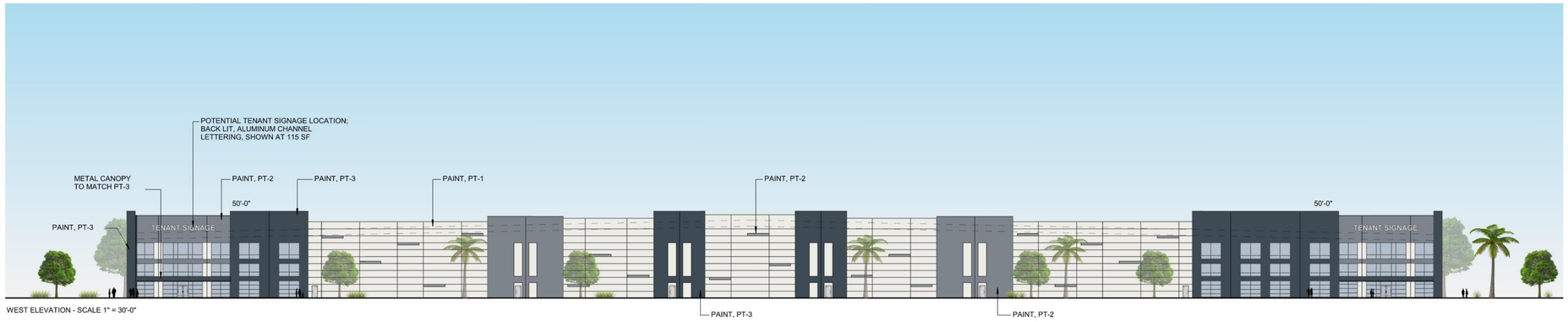
BUILDING SECTION & FINISH BOARD

22383.00

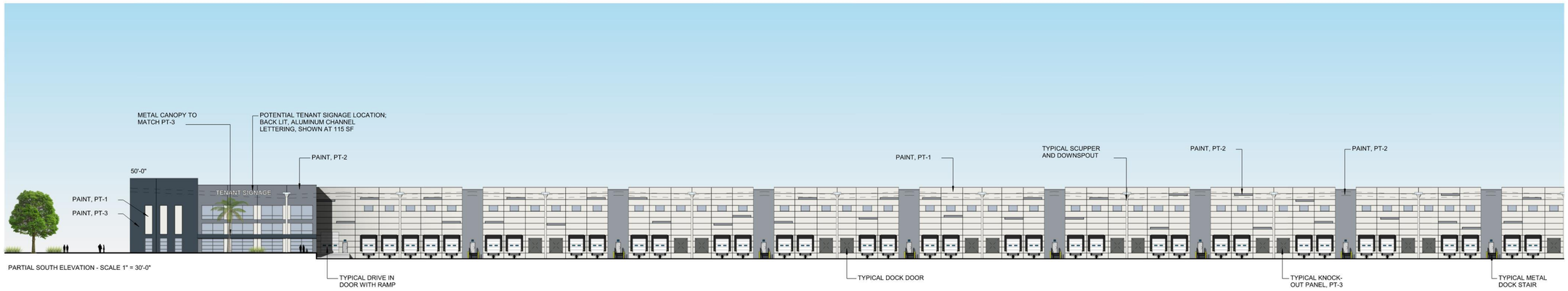
12 / 08 / 2022

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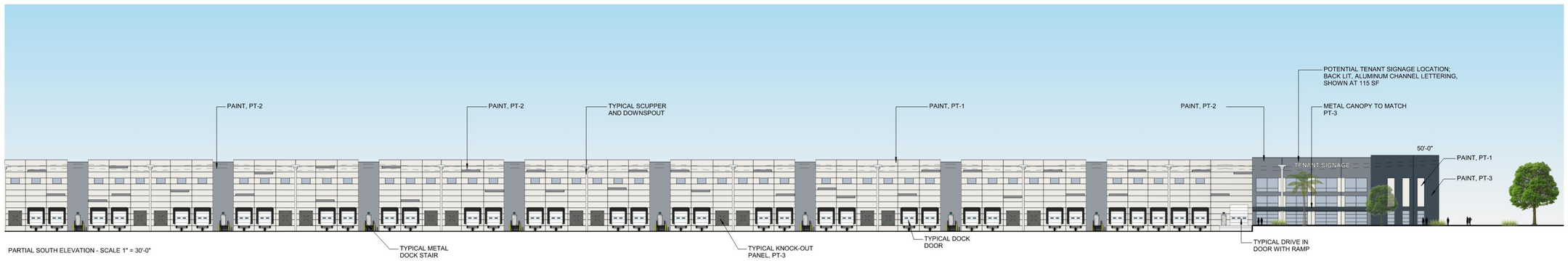
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WEST ELEVATION - SCALE 1" = 30'-0"



PARTIAL SOUTH ELEVATION - SCALE 1" = 30'-0"



PARTIAL SOUTH ELEVATION - SCALE 1" = 30'-0"

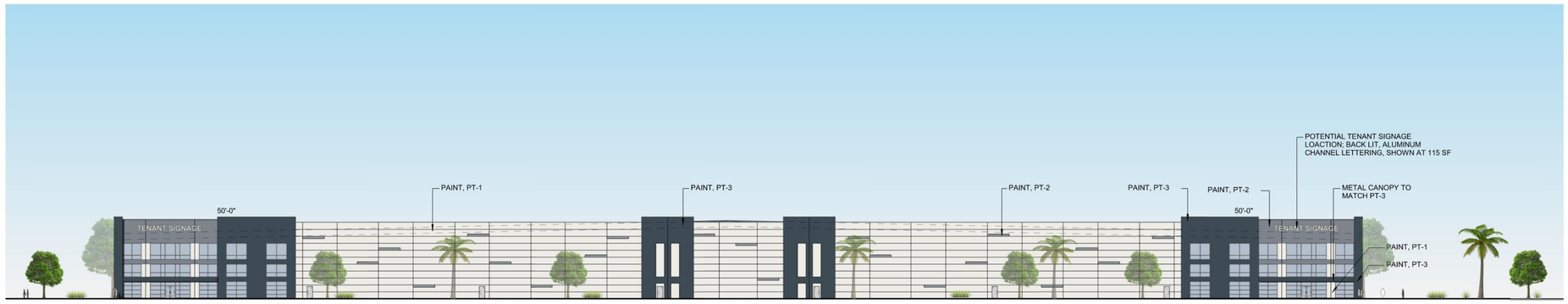
Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

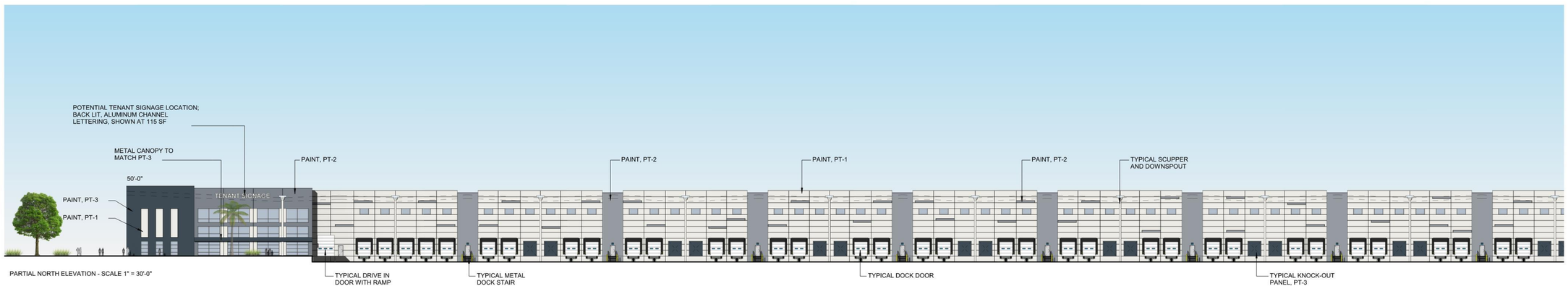
ELEVATIONS | 22383.00 | 12 / 08 / 2022

SANSONE group

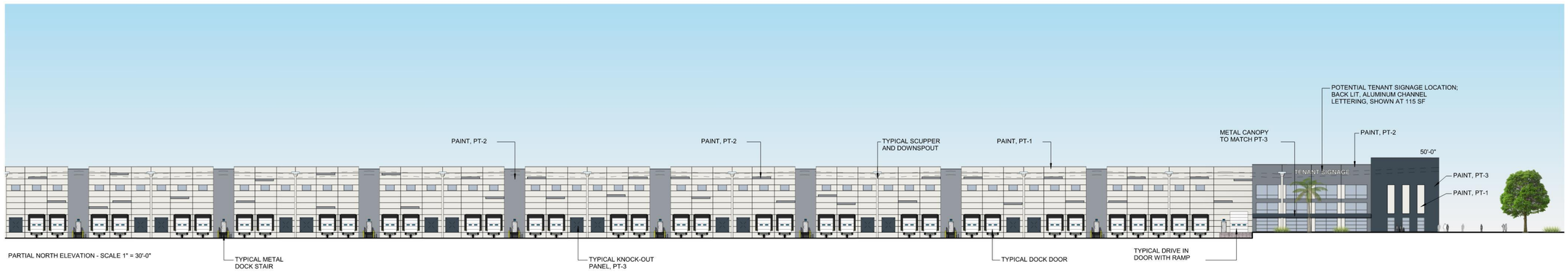
gray



EAST ELEVATION - SCALE 1" = 30'-0"



PARTIAL NORTH ELEVATION - SCALE 1" = 30'-0"



PARTIAL NORTH ELEVATION - SCALE 1" = 30'-0"

Banning Commerce Center

First Industrial Way and Wilson Street; Banning, CA 92220

ELEVATIONS | 22383.00 | 12 / 08 / 22

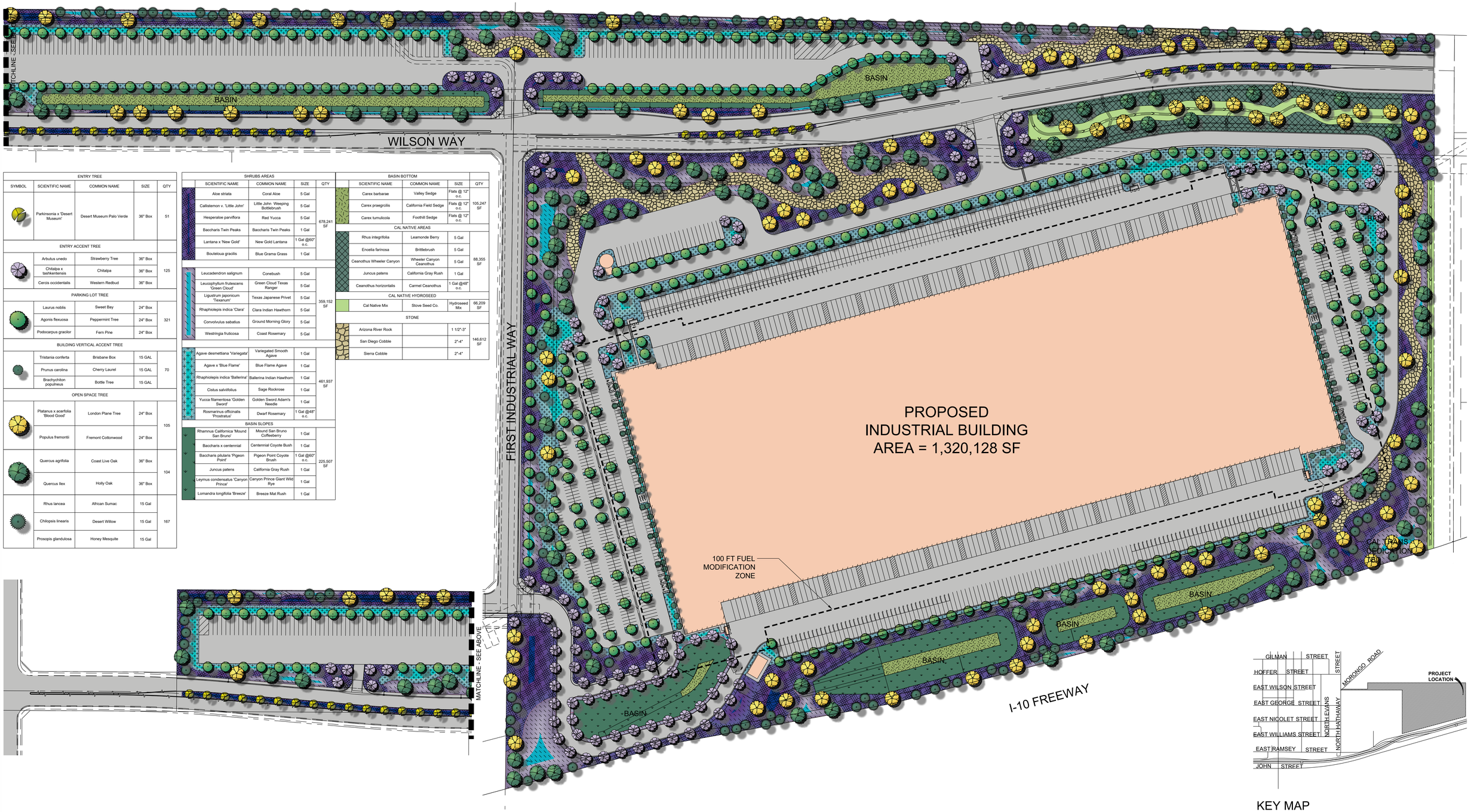
SANSONE group

gray

ENTRY TREE				
SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Parkinsonia x 'Desert Museum'	Desert Museum Palo Verde	36" Box	51
ENTRY ACCENT TREE				
	Arbutus unedo	Strawberry Tree	36" Box	125
	Chitalpa x tashkentensis	Chitalpa	36" Box	
	Cercis occidentalis	Western Redbud	36" Box	
PARKING LOT TREE				
	Laurus nobils	Sweet Bay	24" Box	321
	Agonis flexuosa	Peppermint Tree	24" Box	
	Podocarpus gracilor	Fern Pine	24" Box	
BUILDING VERTICAL ACCENT TREE				
	Tristania conferta	Brisbane Box	15 GAL	70
	Prunus carolina	Cherry Laurel	15 GAL	
	Brachychiton populneus	Bottle Tree	15 GAL	
OPEN SPACE TREE				
	Platanus x acerfolia 'Blood Good'	London Plane Tree	24" Box	105
	Populus fremontii	Fremont Cottonwood	24" Box	
	Quercus agrifolia	Coast Live Oak	36" Box	104
	Quercus Ilex	Holly Oak	36" Box	
	Rhus lancea	African Sumac	15 Gal	167
	Chilopsis linearis	Desert Willow	15 Gal	
	Prosopis glandulosa	Honey Mesquite	15 Gal	

SHRUBS AREAS				
	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Aloe striata	Coral Aloe	5 Gal	678,241 SF
	Callistemon v. 'Little John'	Little John 'Weeping Bottlebrush	5 Gal	
	Hesperaloe parviflora	Red Yucca	5 Gal	
	Baccharis Twin Peaks	Baccharis Twin Peaks	1 Gal	
	Lantana x 'New Gold'	New Gold Lantana	1 Gal @60" o.c.	
	Bouteloua gracilis	Blue Grama Grass	1 Gal	
	Leucadendron salignum	Conebush	5 Gal	359,152 SF
	Leucophyllum frutescens 'Green Cloud'	Green Cloud Texas Ranger	5 Gal	
	Ligustrum japonicum 'Texanum'	Texas Japanese Privet	5 Gal	
	Rhaphiolepis indica 'Clara'	Clara Indian Hawthorn	5 Gal	
	Convolvulus sabatius	Ground Morning Glory	5 Gal	
	Westringia fruticosa	Coast Rosemary	5 Gal	
	Agave desmettiana 'Variegata'	Variegated Smooth Agave	1 Gal	461,937 SF
	Agave x 'Blue Flame'	Blue Flame Agave	1 Gal	
	Rhaphiolepis indica 'Ballerina'	Ballerina Indian Hawthorn	1 Gal	
	Cistus salvifolius	Sage Rockrose	1 Gal	
	Yucca filamentosa 'Golden Sword'	Golden Sword Adam's Needle	1 Gal	
	Rosmarinus officinalis 'Prostratus'	Dwarf Rosemary	1 Gal @48" o.c.	
BASIN SLOPES				
	Rhamnus Californica 'Mound San Bruno'	Mound San Bruno Coffeeberry	1 Gal	225,507 SF
	Baccharis x centennial	Centennial Coyote Bush	1 Gal	
	Baccharis pilularis 'Pigeon Point'	Pigeon Point Coyote Brush	1 Gal @60" o.c.	
	Juncus patens	California Gray Rush	1 Gal	
	Leymus condensatus 'Canyon Prince'	Canyon Prince Giant Wild Rye	1 Gal	
	Lomandra longifolia 'Breeze'	Breeze Mat Rush	1 Gal	

BASIN BOTTOM				
	SCIENTIFIC NAME	COMMON NAME	SIZE	QTY
	Carex barbarae	Valley Sedge	Flats @ 12" o.c.	105,247 SF
	Carex praegricilis	California Field Sedge	Flats @ 12" o.c.	
	Carex tumulicola	Foothill Sedge	Flats @ 12" o.c.	
CAL NATIVE AREAS				
	Rhus integrifolia	Leamonde Berry	5 Gal	88,355 SF
	Encelia farinosa	Brittlebrush	5 Gal	
	Ceanothus Wheeler Canyon	Wheeler Canyon Ceanothus	5 Gal	
	Juncus patens	California Gray Rush	1 Gal	
	Ceanothus horizontalis	Carmel Ceanothus	1 Gal @48" o.c.	
CAL NATIVE HYDROSEED				
	Cal Native Mix	Stove Seed Co.	Hydroseed Mix	66,209 SF
STONE				
	Arizona River Rock		1 1/2"-3"	146,612 SF
	San Diego Cobble		2"-4"	
	Sierra Cobble		2"-4"	



KEY MAP

NORTH 0' 120' 240' 360'

SANSONE BANNING INDUSTRIAL

CONCEPTUAL LANDSCAPE PLAN

PREPARED FOR SANSONE GROUP

bmla LANDSCAPE ARCHITECTURE

310 NORTH JOY STREET | CORONA, CA 92879
T: 951.737.1124 | F: 951.737.6551

120 SOUTH CENTRAL, SUITE 500 ST. LOUIS, MO 63105 PH:(314) 727-6664

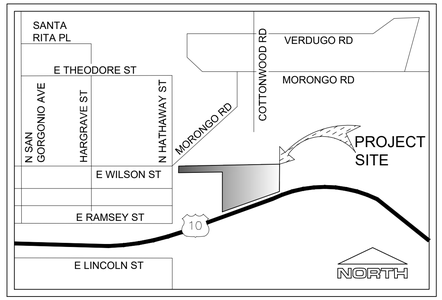
12/06/22

TENTATIVE PARCEL MAP NO. 38576

BANNING COMMERCE CENTER

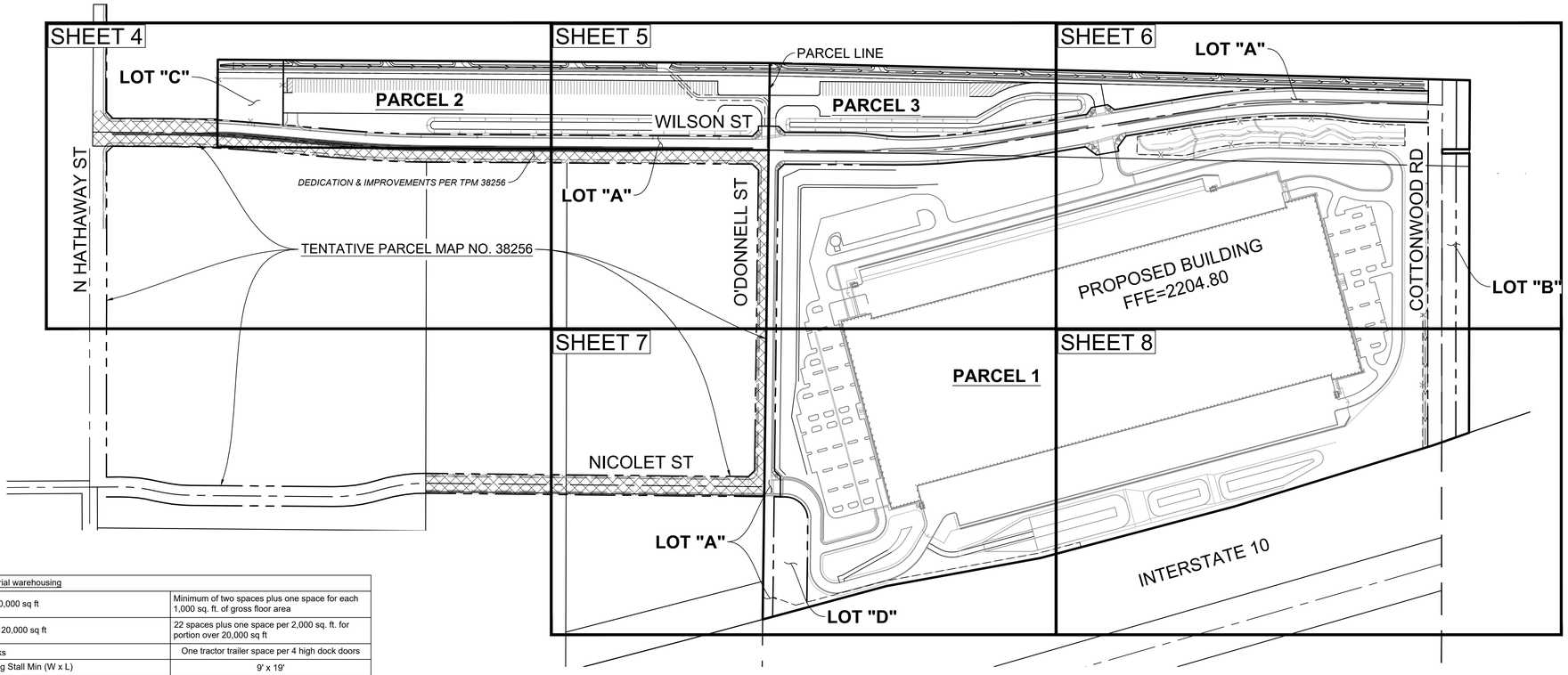
CITY OF BANNING, CA

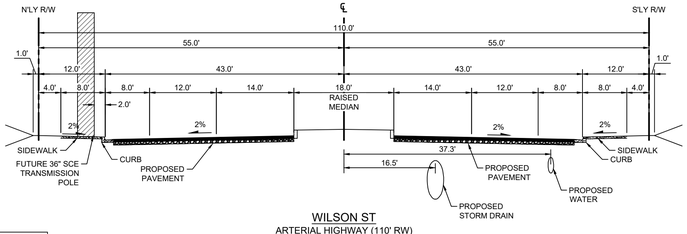
November 4, 2024



VICINITY MAP

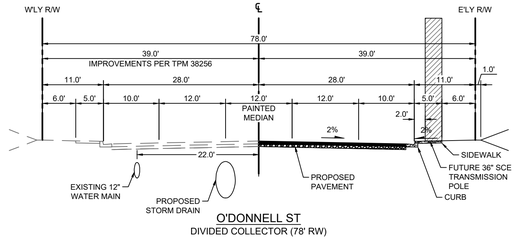
NOT TO SCALE





WILSON ST

ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST

DIVIDED COLLECTOR (78' RW)

OWNER(S):

PARCEL 1:
LLOYD L. FIELDS
PARCEL 2 & 3:
VULCAN IRON & STEEL CO INC.
425 CASTLE PL
BEVERLY HILLS, 90210

DEVELOPER

SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, 93105

SURVEYOR:

KIMLEY-HORN AND ASSOCIATES, INC.
1100 TOWN AND COUNTRY RD., SUITE 700
ORANGE, CA 92868
PH: 657.452.0200
CONTACT: JEFF LENHER, PLS.

CIVIL ENGINEER:

KIMLEY-HORN AND ASSOCIATES, INC.
3880 LEMON ST, SUITE 420
RIVERSIDE, CA 92501
PH: 619.744.0144
CONTACT: DAVIE COWAN, P.E.

BENCHMARK NOTE:

NATIONAL GEODETIC SURVEY (NGS)
BENCHMARK NO. DX1081, BEING A 3-1/2"
BRASS DISK IN 6"X6" CONCRETE POST
STAMPED "CA603 91 681968" AT 41 FEET
NORTH OF THE NORTH RAIL OF RAILROAD.
ELEVATION: 2242.57'
DATUM: NAVD 88

UTILITY INFORMATION:

STORM:	CITY OF BANNING	(951) 922-3185
SEWER:	CITY OF BANNING	(951) 922-3185
TELECOMM:	SPRINT	(800) 521-0579
WATER:	CITY OF BANNING	(951) 922-3185
ELECTRIC:	SOUTHERN CALIFORNIA EDISON	(800) 611-1911
ELECTRIC:	CITY OF BANNING	(951) 922-3185
GAS:	SOUTHERN CALIFORNIA GAS COMPANY	(800) 858-5601

SITE INFORMATION

ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
N HATHAWAY ST	Arterial Highway	85-95 (Varies)
Cottonwood Rd	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St	Divided Collector	78
O'Donnell St	Divided Collector	78
PARCEL SUMMARY		**ACRES**
PARCEL 1 (PROPOSED BUILDING PARCEL)		89.50
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		12.36
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT "B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
LOT "C" CITY UTILITY LOT		1.45
LOT "D" CITY UTILITY LOT		1.34

ZONING INFORMATION

General Plan Land Use & Zoning	BP - Business Park
Existing Use	Vacant
Industrial Development Standards (Table 17.12.030)	
Min. Front Setback (Feet)	10
Min. Rear Setback (Feet)	0
Min. Side Yard Setback (Feet)	0
Min. Street Side (Feet)	10
Max. Bldg. Coverage (%)	75
Maximum Height (stories/feet)	50
Fence/Wall Height (ft.)	8
Industrial Parking Requirements (Table 17.28.040B)	
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.

Industrial warehousing	
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft
Trucks	One tractor trailer space per 4 high dock doors
Parking Stall Min (W x L)	9' x 19'
Parking Lot Aisle Min	24'

PARKING REQUIRED

Total Auto Parking Required	**802**
Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82

PARKING PROVIDED

Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
TOTAL AUTO PARKING PHASE 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

SHEET INDEX

NO.	TITLE
1	COVER SHEET
2	LEGAL DESCRIPTION & EX EASEMENTS
3	EX PROJECT BOUNDARY
4	MAP SHEET - 1
5	MAP SHEET - 2
6	MAP SHEET - 3
7	MAP SHEET - 4
8	MAP SHEET - 5
9	SITE PHASING

NORTH

GRAPHIC SCALE IN FEET

0 125 250 500

UNDERGROUND SERVICE ALERT

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TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:

Kimley»Horn

KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803

11/4/2024
DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:

KEVIN SIN, RCE #71299, EXP 12/31/23
SENIOR CIVIL ENGINEER — DATE

APPROVED BY:

ARTURO VELA, RCE # 75696, EXP. 05/30/24
PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

COVER SHEET

W.O. No. DR21-7017

CIP No.

PROJECT No.

SHEET 1 OF 9

Plotted By:Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:Layout 1 November 04, 2024 04:10:07pm K:\RIV_LDEV\194456002 - Banning Logistics\CAD\TPM\BANNING-TPM-COVER.dwg
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LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THOSE CERTAIN PARCELS OF LAND LOCATED WITHIN THE MORONGO INDIAN RESERVATION, LOCATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING THOSE PORTIONS OF SECTION 1, 2 AND 12 OF TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, AS SHOWN ON THE OFFICIAL PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 489.00 FEET TO A LINE PARALLEL WITH AND 489.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 2, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID PARALLEL LINE NORTH 00°21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 2164.30 FEET TO THE EASTERLY LINE OF SAID SECTION 2;

THENCE CONTINUING ALONG THE EASTERLY PROLONGATION OF SAID PARALLEL LINE SOUTH 88°36'14" EAST 107.02 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 270.81 FEET TO THE NORTHERLY LINE OF A STRIP OF LAND 16.50 FEET IN WIDTH, EXCEPTED FROM GRANT DEED REC. 10/7/2004 AS DOC. NO. 2004-0797131, OFFICIAL RECORDS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA (DEPT. OF INT. FILING 582 173Y07);

THENCE ALONG SAID NORTHERLY LINE SOUTH 89°47'09" WEST 107.00 FEET TO THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID WESTERLY LINE SOUTH 00°17'18" WEST 16.50 FEET TO THE SOUTHERLY LINE OF THE AFOREMENTIONED 16.50 FOOT STRIP;

THENCE ALONG SAID SOUTHERLY LINE NORTH 89°47'09" EAST 107.00 FEET TO A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 1;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°17'18" WEST 52.58 FEET TO THE SOUTH LINE OF SAID SECTION 1, SAID POINT IS LOCATED ON A LINE PARALLEL WITH AND 107.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID SECTION 12;

THENCE ALONG SAID PARALLEL LINE SOUTH 00°03'26" WEST 1044.17 FEET TO THE NORTHERLY LINE OF THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED AUGUST 19, 1963 AS INST. NO. 87113 AND THAT CERTAIN FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 26, 1967 AS INST. NO. 84776, BOTH OF OFFICIAL RECORDS OF SAID COUNTY OF RIVERSIDE. SAID NORTHERLY RIGHT OF WAY LINE BEING DEPICTED CALTRANS RIGHT-OF-WAY MAP NO. 984524 FILED IN BOOK 204 PAGE 91 OF CALTRANS RIGHT-OF-WAY MAPS AND CALTRANS RIGHT-OF-WAY MAP NO. 452194 FILED IN BOOK 205 PAGE 263 OF CALTRANS RIGHT-OF-WAY MAPS, BOTH ON FILE IN THE MISC. RECORDS OF THE OFFICE OF THE COUNTY SURVEYOR OF SAID COUNTY OF RIVERSIDE;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY SOUTH 71°02'58" WEST 113.17 FEET TO THE WESTERLY LINE OF SAID SECTION 2;

THENCE ALONG SAID WESTERLY LINE OF SECTION 12 NORTH 00°03'26" EAST 1081.36 FEET TO THE SOUTHEAST QUARTER OF THE AFOREMENTIONED SECTION 12;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SECTION 2 NORTH 88°36'14" WEST 2641.66 FEET TO THE SOUTH QUARTER CORNER OF SECTION 2;

THENCE ALONG THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2 NORTH 89°40'06" WEST 2161.30 FEET TO THE TRUE POINT OF BEGINNING;

RESERVING THEREFROM AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 SOUTH 89°40'06" EAST 2583.30 FEET TO A POINT 67.00 FEET WESTERLY OF THE SOUTH QUARTER CORNER OF SAID SECTION 2, SAID POINT IS THE TRUE POINT OF BEGINNING;

THENCE NORTH 00° 21'44" EAST 342.00 FEET TO A LINE PARALLEL WITH 342.00 FEET NORTHERLY OF SAID SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 89°40'06" EAST 69.98 FEET TO A LINE PARALLEL WITH AND 342.00 FEET NORTHERLY OF THE SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID PARALLEL LINE SOUTH 88°36'14" EAST 30.02 FEET;

THENCE SOUTH 00°21'44" WEST 342.06 FEET TO THE AFOREMENTIONED SOUTHERLY LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2;

THENCE ALONG SAID SOUTHERLY LINE NORTH 88°36'14" WEST 33.02 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 2;

THENCE ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2 NORTH 89°40'06" WEST 66.98 FEET TO THE TRUE POINT OF BEGINNING.

APN: 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028 AND 532-090-030

PARCEL 2:

THAT PORTION OF THE NORTHEAST ¼ OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY, LYING NORTHERLY OF THAT CERTAIN PORTION OF SAID NORTHEAST ¼ CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED OCTOBER 11, 1961, AS INSTRUMENT NO. 87046 IN BOOK 2997, PAGE 542, OFFICIAL RECORDS.

EXCEPTING THEREFROM, ALL RIGHT, TITLE AND INTEREST IN AND TO ALL HYDROCARBONS, MINERALS, GEOTHERMAL RESOURCES, AND MINERAL ORES OF EVERY KIND AND CHARACTER, METALLIC OR OTHERWISE, SOLID, LIQUID OR GAS AND WHETHER OR NOT HEREAFTER KNOWN TO SCIENCE OR INDUSTRY, NOT KNOWN TO EXIST OR HEREAFTER DISCOVERED UPON, WITHIN OR UNDERLYING THE SURFACE OF SAID LAND AS SHOWN IN DEED RECORDED JANUARY 28, 1987 AS INSTRUMENT NO. 24458 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

APN: 532-110-015

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR ROAD PURPOSES UPON, OVER AND ACROSS THAT PORTION OF THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, INCLUDED WITHIN A STRIP OF LAND 20 FEET WIDE, THE NORTHERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF THE SAID NORTHWEST ¼, DISTANT ALONG SAID EAST LINE SOUTH 0°41'41" WEST 1359.31 FEET FROM A ¾ INCH IRON PIPE AND BRASS CAP MARKED "U.S.G.L.O. 1917" SET FOR THE NORTH ¼ CORNER OF SAID SECTION;

THENCE NORTH 89°25'57" WEST, 1319.31 FEET TO THE WEST LINE OF THE SAID EAST ½.

ALSO THAT PORTION OF THE WEST 20 FEET OF SAID EAST ½ LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE ABOVE DESCRIBED 20 FOOT STRIP.

EXCEPT THAT PORTION LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST LINE OF SAID EAST ½, DISTANT ALONG SAID WEST LINE SOUTH 0°25'01" WEST 1041.97 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THAT CERTAIN LINE HEREINABOVE DESCRIBED AS HAVING A BEARING OF NORTH 89°25'57" WEST;

THENCE NORTHEASTERLY ALONG 545 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY FROM A TANGENT BEARING NORTH 56°01'51" EAST, THROUGH AN ANGLE OF 1°46'36", A DISTANCE OF 16.90 FEET;

THENCE NORTH 54°15'15" EAST 50 FEET, AS CREATED IN DEED RECORDED JUNE 10, 1968 AS INSTRUMENT NO. 53726, OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER:

PARCEL 1: 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030
PARCEL 2: 532-110-015

GROSS LAND AREA:

PTR PARCEL 1: 41.11AC.
PTR PARCEL 2: 90.22 AC.
TOTAL: 131.33 AC.

EASEMENTS/EXCEPTIONS/ENCUMBRANCES

SEE TITLE COMMITMENT BY FIRST AMERICAN TITLE INSURANCE COMPANY, ORDER NO. NCS-1070768-STLO, DATED FEBRUARY 22, 2022. ITEMS LISTED BELOW ARE SHOWN IN THE TITLE COMMITMENT AND PLOTTABLE ITEMS ARE DENOTED THUS: # WITH LOCATIONS KEYED THE SAME HEREON.

16. THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "AMENDMENT TO EASEMENT" RECORDED MAY 19, 1998 AS INSTRUMENT NO. 201617 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2Y; BLANKET IN NATURE.

17. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "RESOLUTION NO. 2000-287 (SUMMARILY VACATING ALL THOSE STREETS WITHIN THE MORONGO BAND OF MISSION INDIAN RESERVATION IN THE CABAZON AREA)" RECORDED DECEMBER 21, 2000 AS INSTRUMENT NO. 2000-507556 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; ILLEGIBLE, NOT PLOTTED.

18. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED DEED TO RESTRICTED INDIAN LAND RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219571 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; BLANKET IN NATURE.

19. THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED DEED TO RESTRICTED INDIAN LAND RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219572 OF OFFICIAL RECORDS.
AFFECTS:PARCEL 1; BLANKET IN NATURE.

20 RIGHTS, RIGHT OF WAY, RESERVATIONS AND EXCEPTIONS IN THE PATENT RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219574 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; PLOTTED HEREON.

21 AN EASEMENT IN FAVOR OF THE CITY OF BANNING, A MUNICIPAL CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, FOR THE PURPOSE OF GRANT OF RIGHT OF WAY AND INCIDENTAL PURPOSES, RECORDED MAY 30, 2018 AS INSTRUMENT NO. 2018-0219575 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 1; PLOTTED HEREON.

25 AN EASEMENT IN FAVOR OF COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY FOR THE PURPOSE OF PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 08, 1915 IN BOOK 435 OF DEEDS, PAGE 203.
AFFECTS: PARCEL 2; PLOTTED HEREON.

26. AN EASEMENT IN FAVOR OF METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FOR THE PURPOSE OF PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED DECEMBER 21, 1933 IN BOOK 147, PAGE 561 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; BLANKET IN NATURE.

27 AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA GAS COMPANY FOR THE PURPOSE OF EITHER OR BOTH POLE LINES, CONDUITS, OR UNDERGROUND FACILITIES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 13, 1950 IN BOOK 1210, PAGE 543 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

28 ABUTTERS RIGHTS OF INGRESS AND EGRESS TO OR FROM INTERSTATE HIGHWAY 10 HAVE BEEN RELINQUISHED IN THE DOCUMENT RECORDED OCTOBER 11, 1961 AS INSTRUMENT NO. 87046 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

29 AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR THE PURPOSE OF BOTH POLE LINES, CONDUITS OR UNDERGROUND FACILITIES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 19, 1966 AS INSTRUMENT NO. 103125 OF OFFICIAL RECORDS,
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

30 AN EASEMENT IN FAVOR OF SOUTHERN PACIFIC LAND COMPANY, A CORPORATION FOR THE PURPOSE OF PRIVATE ROADS AND INCIDENTAL PURPOSES, RECORDED JUNE 10, 1968 AS INSTRUMENT NO. 53726 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

31. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS IN THE DOCUMENT RECORDED JANUARY 28, 1987 AS INSTRUMENT NO. 24458 OF OFFICIAL RECORDS, WHICH PROVIDE THAT A VIOLATION THEREOF SHALL NOT DEFEAT OR RENDER INVALID THE LIEN OF ANY FIRST MORTGAGE OR DEED OF TRUST MADE IN GOOD FAITH AND FOR VALUE, BUT DELETING ANY COVENANT, CONDITION, OR RESTRICTION, IF ANY, INDICATING A PREFERENCE, LIMITATION, OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, MILITARY STATUS, DISABILITY, HANDICAP, VETERAN OR MILITARY STATUS, GENETIC INFORMATION NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (P) OF SECTION 12955, OR ANCESTRY, TO THE EXTENT THAT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE APPLICABLE STATE OR FEDERAL LAWS. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

32 AN EASEMENT IN FAVOR OF US SPRINT COMMUNICATIONS COMPANY, NEW YORK FOR THE PURPOSE OF COMMUNICATION SYSTEM, INGRESS AND EGRESS AND INCIDENTAL PURPOSES, RECORDED JANUARY 30, 1987 AS INSTRUMENT NO. 26358 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

33 THE TERMS AND PROVISIONS CONTAINED IN THE DOCUMENT ENTITLED "NOTICE OF PERMISSION TO USE REAL PROPERTY" RECORDED FEBRUARY 24, 2009 AS INSTRUMENT NO. 2009-0086755 OF OFFICIAL RECORDS.
AFFECTS: PARCELS 1 AND 2; PLOTTED HEREON.

34 AN OFFER OF DEDICATION IN FAVOR OF THE CITY OF BANNING, A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, AND ITS SUCCESSORS OR ASSIGNS FOR THE PURPOSE OF PUBLIC ROAD STREET, HIGHWAY, AND UTILITY PURPOSES AND INCIDENTAL PURPOSES, RECORDED OCTOBER 08, 2010 AS INSTRUMENT NO, 2010-0485664 OF OFFICIAL RECORDS.
AFFECTS: PARCEL 2; PLOTTED HEREON.

35 THE TERMS, PROVISIONS AND EASEMENT(S) CONTAINED IN THE DOCUMENT ENTITLED "STREET CONSTRUCTION AND MAINTENANCE AGREEMENT" RECORDED MAY 17, 2011 AS INSTRUMENT NO. 2011-0216635 OF OFFICIAL RECORDS.
DOCUMENT(S) DECLARING MODIFICATIONS THEREOF RECORDED SEPTEMBER 12, 2011 AS INSTRUMENT NO. 2011-0402632 OF OFFICIAL RECORDS

36. AFFECTS: PARCEL 2; PLOTTED HEREON.

THE FACT THAT THE LAND LIES WITHIN THE BOUNDARIES IF THE MERGED DOWNTOWN AND MIDWAY REDEVELOPMENT PROJECT AREA, AS DISCLOSED BY VARIOUS DOCUMENTS OF RECORD.
AFFECTS: PARCELS 1 AND 2; BLANKET IN NATURE.

Plotted By:Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:LEGAL DESCRIPTION & EX EASEMENTS November 04, 2024 04:10:19pm K:\RIV_LDE\193445002 - Banning Logistics\CAD\TPM\BANNING-TPM-EX MAP.dwg
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No.		APPR.	DATE

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KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
Eugene D. Cowan III
EUGENE D. COWAN III, RCE # 86803
11/4/2024
DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, SENIOR CIVIL ENGINEER — EXP 12/31/23 — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, PUBLIC WORKS DIRECTOR/CITY ENGINEER — EXP. 05/30/24 — DATE

BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
LEGAL DESCRIPTION & EX EASEMENTS

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 2 OF 9

FLOOD NOTE:

FEMA FLOOD PANEL NO. 06065C0837G, BEARING EFFECTIVE DATE OF AUGUST 28, 2008, AND COMMUNITY NUMBER 060246 SHOWS THE FOLLOWING FLOOD ZONES TO BE WITHIN PROPERTY:

- ZONE X- AREAS DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOOD PLANE.
- ZONE A- SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD.
- ZONE D- AREAS IN WHICH FLOOD HAZARDS ARE UNDETERMINED, BUT POSSIBLE.

SUPPLEMENTAL PLAT OF PORTION OF SECTIONS 1, 2, AND 12
RECORDED JUNE 30, 2017 AS FILE NO.
CA27003050010E00513

APN: 532-030-005
OWNER: USA MORONGO INDIAN RES 532

LOT 42
APN: 532-030-007
OWNER: USA MORONGO INDIAN RES 532

LOT 41
APN: 532-030-006
OWNER: USA MORONGO INDIAN RES 532

APN: 532-080-009
OWNER: FIELD LLOYD L

FEMA ZONE "X"

FEMA ZONE "A"

PTR PARCEL 1
41.11 ACRES

PTR PARCEL 2
90.220 ACRES

PTR PARCEL 3
INSTR.NO.53726,O.R.
REC. 6/10/1968

LOT 43

S89°39'25"E 2164.30'

S88°35'33"E 2745.24'

N00°22'25"E 342.00'

N89°39'25"W 2161.24'

N'LY OF SECTION 11

S88°40'04"E 2641.65'

N89°48'04"E 107.00'

N00°17'59"E 16.50'

N00°17'59"E 270.81'

S89°48'04"W 107.03'

LOT 82

LOT 83

TRACT 10

APN: 532-090-027
OWNER: USA
MORONGO BAND
CAHUILLA MISSION
INDIANS

TRACT 11

APN: 532-090-029
OWNER: USA
MORONGO BAND
CAHUILLA MISSION
INDIANS

LOT 21

LOT 22

PTR PARCEL 1

N00°04'18"E 1096.1'

N00°04'07"E 2641.85'

N00°04'07"E 1081.42'

R.O.S. 155/42

R.O.S.

79/19

N71°03'06"E 38.56'

N71°03'06"E 259.48'

N72°30'35"E 809.39'

1550.43'

N75°07'50"E 790.84'

N79°41'49"E 613.28'

N74°52'19"E 502.17'

N00°42'27"E 1840.83'

N00°42'27"W 2668.32'

N00°42'27"E 827.49'

APN: 532-110-001
OWNER: FR HATHAWAY

APN: 532-110-009
OWNER: FR HATHAWAY

APN: 532-110-010
OWNER: FR HATHAWAY

APN: 532-110-008
OWNER: FR HATHAWAY

APN: 532-110-012
OWNER: CITY OF BANNING

NORTH HATHAWAY STREET

EAST RAMSEY STREET

INTERSTATE HIGHWAY 10
CONVEYED TO THE STATE OF CALIFORNIA BY DEED IN
BOOK 2997, PAGES 542-545, O.R.

SOUTHERN PACIFIC RAILROAD

NW 1/4

NE 1/4

11/24

70/67

R.O.S.

S89°11'03"E 2670.98'

NORTH

GRAPHIC SCALE IN FEET
0 100 200 400

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PLANS PREPARED BY:

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3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:

KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:

ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

EX PROJECT BOUNDARY

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 3 OF 9

1051

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APN: 532-030-007
OWNER: USA MORONGO INDIAN RES 532

LOT "C"
1.45 AC

PARCEL 2
12.36 AC

LOT "A"
12.02 AC

PR BANNING ELECTRIC SUBSTATION

S89°39'25"E 2164.24'
1907.21'
257.04'
N00°22'25"E 206.41'
N00°19'32"E 254.68'
S89°39'27"E 222.74'
S89°39'27"E 300.00'
S89°39'27"E 221.87'
R=4055.00' L=189.13'
R=4055.00' L=132.40'
R=4000.00' L=317.17'
R=3945.00' L=312.81'
R=3945.00' L=312.76'
R=4000.00' L=317.12'
R=4055.00' L=321.48'
125.50' N
251.65'
S85°06'52"E 377.15'
S89°39'25"E 820.59'
S89°39'25"E 1277.65'
S89°39'25"E 1340.65'
S89°39'25"E 1277.15'
105.50'
110.0'
55.0'
3.2%
2.8%
3.4%
CL
RW
PR WATER
PR RW
PR 12" WATER LINE
12"W
EX SO. CAL GAS LINE
EX WATER LINE

DEDICATION & IMPROVEMENTS PER TPM 38256

WILSON STREET
Arterial Highway (110' RW)

APN: 532-110-009
OWNER: FR HATHAWAY

N HATHAWAY ST
Arterial Highway (110' RW)

APN: 532-110-001
OWNER: FR HATHAWAY

TENTATIVE PARCEL MAP NO. 38256

LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
EASEMENT	
FENCE	X X
PROPOSED CONTOUR	100 99
EXISTING CONTOUR	100 99
STORM LINE	SD
SEWER LINE	S S
WATER LINE	W W
FIRE WATER	FW FW
IRRIGATION LINE	IRR IRR
STORM DRAIN STRUCTURE	
STORM DRAIN INLET	
EXISTING OVERHEAD LINE	OHE
EXISTING UNDERGROUND ELECTRIC LINE	E E
EXISTING SEWER LINE	S S
EXISTING STORM DRAIN LINE	SD SD
EXISTING WATER LINE	W W
EXISTING NATURAL GAS LINE	G G
EXISTING SEWER STRUCTURE	Ⓢ
EXISTING STORM DRAIN STRUCTURE	Ⓓ
EXISTING FIRE HYDRANT	
TPM 38256 - BY OTHERS	

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

MATCHLINE. SEE SHEET 5

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WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING
RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
MAP SHEET - 1

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 4 OF 9

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APN: 532-030-007
OWNER: USA MORONGO INDIAN RES 532

APN: 532-030-006
OWNER: USA MORONGO INDIAN RES 532

EX BOUNDARY LINE

PR PUBLIC STORM DRAIN EASEMENT

PR BASIN

PARCEL 2
12.36 AC

PARCEL 3
9.41 AC

PR BASIN

WILSON STREET
Arterial Highway (110' RW)

PR RW

PR 12" WATER LINE

EX SCE GAS LINE

PR WATER

PR STORM DRAIN

EX 50' RIGHT OF WAY, RESERVATIONS, RECORDED 5/30/2018, INST. # 2018-0219574

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX 16' SOUTHERN CALIFORNIA GAS COMPANY EASEMENT, RECORDED 12/13/1950 IN BOOK 1210, PAGE 543.

LOT "A"
12.02 AC

DEDICATION & IMPROVMENTS PER TPM 38256

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

O'DONNELL STREET
Divided Collector (78' RW)

PARCEL 1
89.50 AC

ADA PATH

PR STORM DRAIN

TENTATIVE PARCEL MAP NO. 38256

APN: 532-110-010
OWNER: FR HATHAWAY

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER
- IRRIGATION LINE
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- EXISTING OVERHEAD LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING NATURAL GAS LINE
- EXISTING SEWER STRUCTURE
- EXISTING STORM DRAIN STRUCTURE
- EXISTING FIRE HYDRANT
- TPM 38256 - BY OTHERS

PROPOSED BUILDING
FFE=2204.80

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

MATCHLINE. SEE SHEET 4

MATCHLINE. SEE SHEET 6

MATCHLINE. SEE SHEET 7

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EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

MAP SHEET - 2

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 5 OF 9

1053

APN: 532-030-006
OWNER: USA MORONGO INDIAN RES 532

EX BOUNDARY LINE

PARCEL 3
9.41 AC

PR BASIN

PR PUBLIC STORM DRAIN EASEMENT

RW

WILSON STREET
Arterial Highway (110' RW)

CL

PR RW

PR STORM DRAIN

LOT "A"
12.02 AC

PR WATER

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX 16' SOUTHERN CALIFORNIA GAS COMPANY EASEMENT, RECORDED 12/13/1950 IN BOOK 1210, PAGE 543.

ADA PATH

EX SCE GAS LINE

EX 50' RIGHT OF WAY, RESERVATIONS, RECORDED 5/30/2018, INST. # 2018-0219574

PARCEL 1
89.50 AC

PR SEWER

PR FIRE WATER

LOT "B"
3.57 AC

LOT "B"
0.32 AC

EX PROPERTY LINE

APN: 532-080-009

LOT "B"
1.32 AC

COTTONWOOD RD
Arterial Highway (110' RW)

APN: 532-090-027
OWNER: USA MORONGO BAND CAHUILLA MISSION INDIANS

PR PUBLIC STORM DRAIN

PROPOSED BUILDING
FFE=2204.80

MATCHLINE. SEE SHEET 8

MATCHLINE. SEE SHEET 6

LEGEND

- PROPERTY BOUNDARY
- PROPERTY LINE / RIGHT-OF-WAY
- CENTERLINE
- EASEMENT
- FENCE
- PROPOSED CONTOUR
- EXISTING CONTOUR
- STORM LINE
- SEWER LINE
- WATER LINE
- FIRE WATER
- IRRIGATION LINE
- STORM DRAIN STRUCTURE
- STORM DRAIN INLET
- EXISTING OVERHEAD LINE
- EXISTING UNDERGROUND ELECTRIC LINE
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING NATURAL GAS LINE
- EXISTING SEWER STRUCTURE
- EXISTING STORM DRAIN STRUCTURE
- EXISTING FIRE HYDRANT
- TPM 38256 - BY OTHERS

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GRAPHIC SCALE IN FEET
0 30 60 120

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EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

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CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

MAP SHEET - 3

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 6 OF 9

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MATCHLINE. SEE SHEET 5

TENTATIVE PARCEL MAP NO. 38256

LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
EASEMENT	
FENCE	X X
PROPOSED CONTOUR	100 99
EXISTING CONTOUR	100 99
STORM LINE	SD
SEWER LINE	S S
WATER LINE	W W
FIRE WATER	FW FW
IRRIGATION LINE	IRR
STORM DRAIN STRUCTURE	
STORM DRAIN INLET	
EXISTING OVERHEAD LINE	OHE
EXISTING UNDERGROUND ELECTRIC LINE	E E
EXISTING SEWER LINE	S S
EXISTING STORM DRAIN LINE	SD SD
EXISTING WATER LINE	W W
EXISTING NATURAL GAS LINE	G G
EXISTING SEWER STRUCTURE	
EXISTING STORM DRAIN STRUCTURE	
EXISTING FIRE HYDRANT	
TPM 38256 - BY OTHERS	

TENTATIVE PARCEL MAP NO. 38256

APN: 532-110-008
OWNER: FR HATHAWAY

APN: 532-110-012
OWNER: CITY OF BANNING

O'DONNELL STREET
Divided Collector (78' RW)

NICOLET ST
Divided Collector (78' RW)

DEDICATION & IMPROVEMENTS PER TPM 38256

RW PER TPM 38256
CL PER TPM 38256
RW PER TPM 38256
78.0'
39.0'
39.0'
N89°25'11"W 1264.69'
N89°25'11"W 1327.55'
N89°25'11"W 1327.46'

EX. 30' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

EX. 40' WIDE SOUTHERN PACIFIC LAND COMPANY EASEMENT, RECORDED 10/19/1966, INST. # 53726

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/12/2011, INST. # NO. 2011-0402632

EX ROAD EASEMENT, RECORDED 10/08/2010, INST. #2010-0485664.

EX ROAD EASEMENT, RECORDED 5/17/2011, INST. #2011-0216635.
EX ROAD EASEMENT, RECORDED 11/1212011, INST. # NO. 2011-0402632

S00°42'27"W 1179.06'
S00°42'27"W 1320.31'
S00°42'27"W 1179.57'
S00°42'27"W 481.52'
S00°42'27"W 470.54'
N00°42'27"E 343.86'

S45°38'38"W 33.90'
S44°21'22"E 33.98'
S07°34'49"W 77.98'
R=89.00'
L=139.52'
N89°18'39"W, 19.88'
S89°25'11"E 24.23'

PR STORM DRAIN
PR FIRE WATER
PR SEWER
PR RW
PR WATER
PR PUBLIC STORM DRAIN EASEMENT
PR BANNING PUBLIC SEWER LIFT STATION
PR CL
ADA PATH
460.5'

LOT "A"
12.02 AC

LOT "D"
1.34 AC

PARCEL 1
89.50 AC

PROPOSED BUILDING
FFE=2204.80

PR BASIN

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203.

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203. TO BE VACATED

N75°07'50"E 790.84'
N79°41'49"E 613.28'
N74°52'19"E 502.17'
323.24'
138.39'
40.54'

INTERSTATE 10

MATCHLINE. SEE SHEET 8

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

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APPROVED BY:
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BANNING COMMERCE CENTER
TENTATIVE PARCEL MAP NO. 38576
MAP SHEET - 4

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 7 OF 9

1055

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MATCHLINE. SEE SHEET 6

MATCHLINE. SEE SHEET 7

PROPOSED BUILDING
FFE=2204.80

PARCEL 1
89.50 AC

LOT "B"
3.57 AC

LOT "B"
1.32 AC

COTTONWOOD RD
Arterial Highway (110' RW)

APN: 532-090-029
OWNER: USA MORONGO BAND CAHUILLA MISSION INDIANS

ADA PATH

PR STORM DRAIN

PR SEWER

EX 20' COACHELLA VALLEY ICE AND ELECTRIC POWER COMPANY, RECORDED 12/08/1915 IN BOOK 435 OF DEEDS, PAGE 203. TO BE VACATED

EX 10' SPRINT COMMUNICATIONS COMPANY, RECORDED 01/30/1987, INST. # 26358

EX PROPERTY LINE

FUTURE CALTRANS R/W (NO FORMAL APPROVALS)

PR RW

CL

PR BASIN

EX. PROPERTY LINE

INTERSTATE 10

N72°50'35"E 809.39'

N75°07'50"E 790.84'

N00°04'07"E 1099.85'

N00°04'07"E 1081.42'

N00°04'07"E 1062.36'

N00°04'18"E 1096.14'

N71°03'06"E 151.93'

789.98'

258.7'

110.0'

55.0'

55.0'

58.18'

38.56'

19.41'

LEGEND

PROPERTY BOUNDARY	
PROPERTY LINE / RIGHT-OF-WAY	
CENTERLINE	
EASEMENT	
FENCE	X X
PROPOSED CONTOUR	100 99
EXISTING CONTOUR	100 99
STORM LINE	SD SD
SEWER LINE	S S
WATER LINE	W W
FIRE WATER	FW FW
IRRIGATION LINE	IRR IRR
STORM DRAIN STRUCTURE	
STORM DRAIN INLET	
EXISTING OVERHEAD LINE	OHE
EXISTING UNDERGROUND ELECTRIC LINE	E E
EXISTING SEWER LINE	S S
EXISTING STORM DRAIN LINE	SD SD
EXISTING WATER LINE	W W
EXISTING NATURAL GAS LINE	G G
EXISTING SEWER STRUCTURE	S
EXISTING STORM DRAIN STRUCTURE	D
EXISTING FIRE HYDRANT	
TPM 38256 - BY OTHERS	

NORTH

GRAPHIC SCALE IN FEET
0 30 60 120

CONCEPTUAL GRADING & UTILITIES SHOWN FOR REFERENCE ONLY

UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
Kimley»Horn
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM

PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN

EUGENE D. COWAN III, RCE # 86803 — 11/4/2024 DATE

SUBMITTED BY:

REGISTERED PROFESSIONAL ENGINEER — EUGENE DAVIS COWAN III — No. 86803 — CIVIL — STATE OF CALIFORNIA

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23 — DATE
SENIOR CIVIL ENGINEER

APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

MAP SHEET - 5

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 8 OF 9

1056

Plotted By:Cowan, Davie Sheet Set:BANNING LOGISTICS PRELIM Layout:MAP SHEET - 5 November 04, 2024 04:12:07pm K:\RIV_LDEV\194450\02 - Banning Logistics\CAD\TPM\BANNING-TPM-MAPSHEETS.dwg
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PHASE 1

PHASE 1

PHASE 2

WILSON ST

DEDICATION & IMPROVEMENTS PER TPM 38256

TENTATIVE PARCEL MAP NO. 38256

O'DONNELL ST

COTTONWOOD DR

PHASE 1

PROPOSED BUILDING

NICOLET ST

INTERSTATE 10

LEGEND

PHASE 1

PHASE 2

NOT A PART

NORTH

GRAPHIC SCALE IN FEET

0 75 150 300

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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:

Kimley»Horn

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RIVERSIDE, CA 92501
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SENIOR CIVIL ENGINEER

APPROVED BY:

ARTURO VELA, RCE # 75696, EXP. 05/30/24 — DATE
PUBLIC WORKS DIRECTOR/CITY ENGINEER

BANNING COMMERCE CENTER

TENTATIVE PARCEL MAP NO. 38576

SITE PHASING

W.O. No. DR21-7017

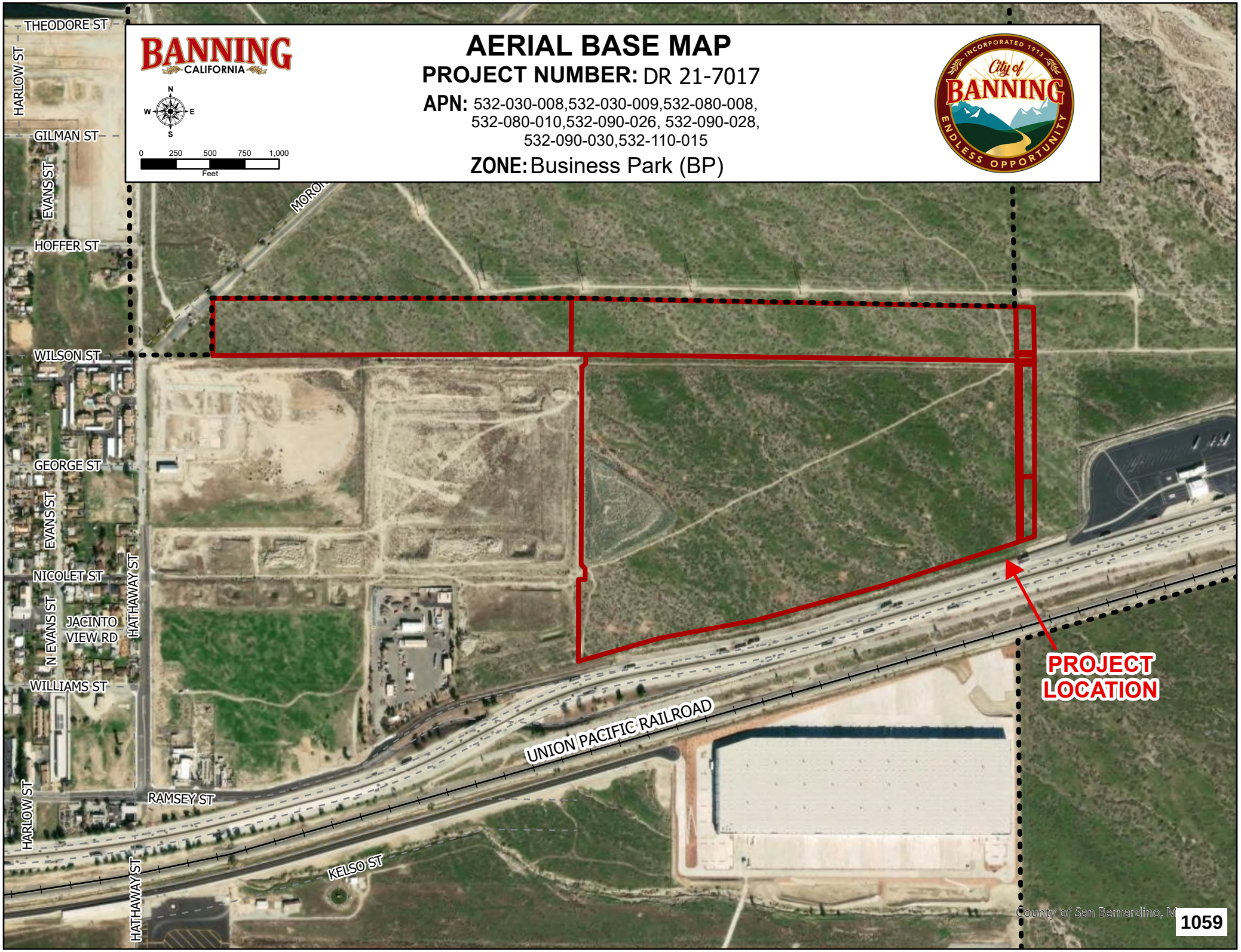
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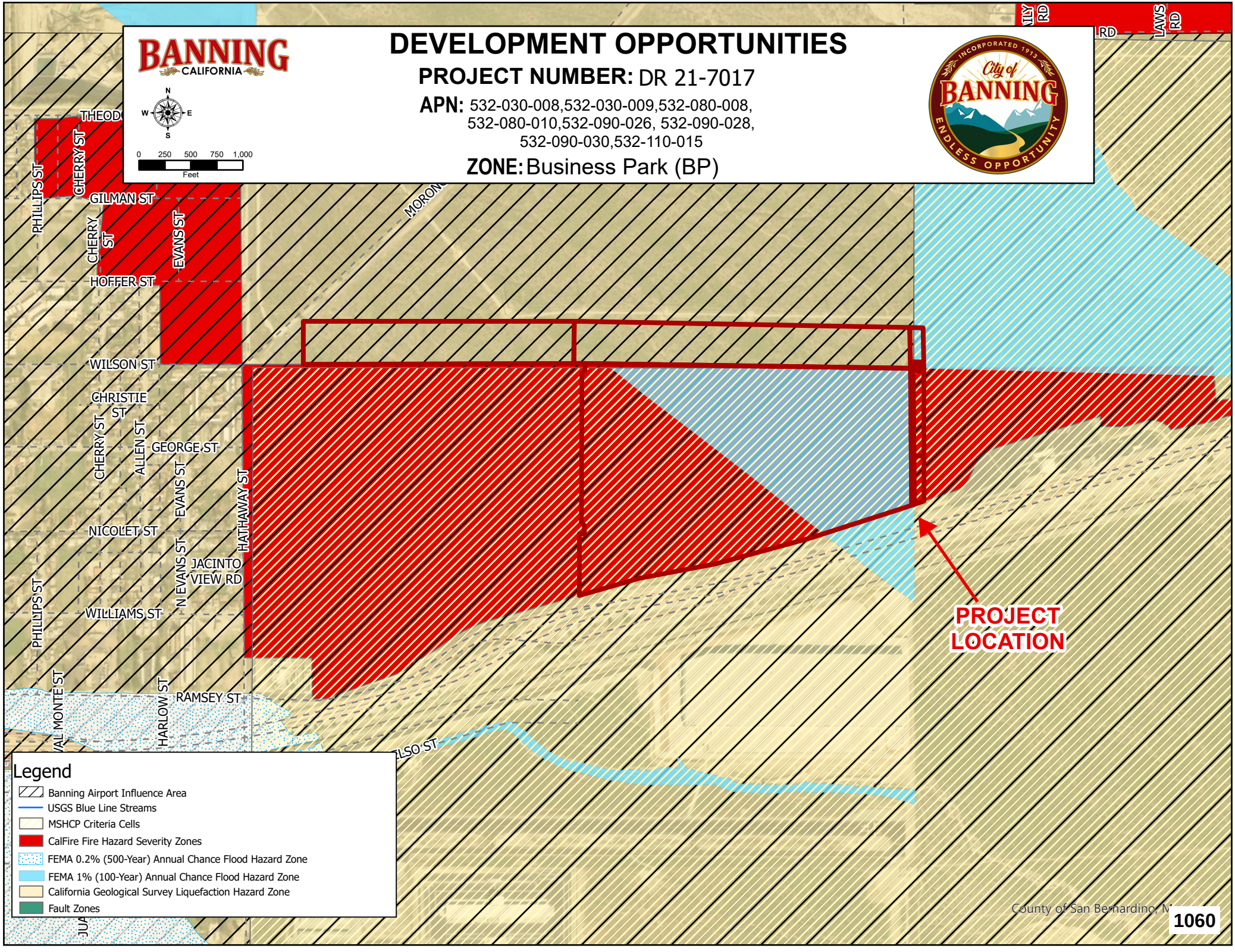
PROJECT No.

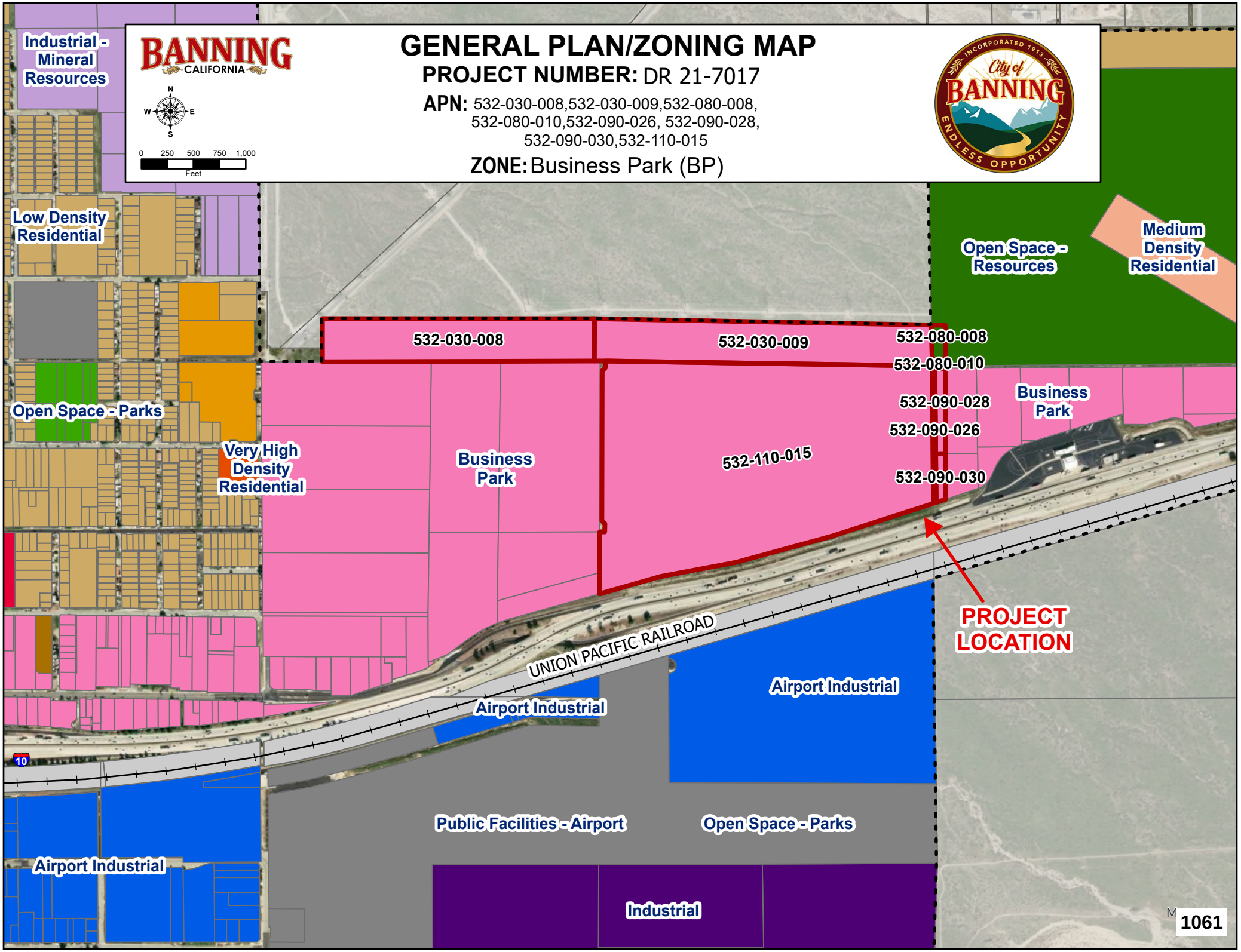
SHEET 9 OF 9

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BANNING
CALIFORNIA
VICINITY MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
0 250 500 750 1,000
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
REPP
SANTIAGO RD
SULLIVAN RD
MORONGO RD
THEODORE ST
GILMAN ST
HOFFER ST
WILSON ST
CHRISTIE ST
NICOLET ST
WILLIAMS ST
RAMSEY ST
KELSO ST
JOHN ST
LINCOLN ST
ALMOND ST
BLANCHARD ST
PHILLIPS ST
CHERRY ST
HARLOW ST
EVANS ST
ALLEN ST
ALMOND WAY
HATHAWAY ST
JUAREZ ST
PROJECT LOCATION
County of San Bernardino, M
1058


BANNING
CALIFORNIA
AERIAL BASE MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
0 250 500 750 1,000
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
THEODORE ST
HARLOW ST
GILMAN ST
EVANS ST
HOFFER ST
WILSON ST
GEORGE ST
EVANS ST
NICOLET ST
N EVANS ST
JACINTO VIEW RD
HATHAWAY ST
WILLIAMS ST
HARLOW ST
RAMSEY ST
HATHAWAY ST
KELSO ST
UNION PACIFIC RAILROAD
PROJECT LOCATION
County of San Bernardino, M
1059


BANNING
CALIFORNIA
DEVELOPMENT OPPORTUNITIES
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
N
W
E
S
0 250 500 750 1,000
Feet
THEOD
CHERRY ST
PHILLIPS ST
GILMAN ST
CHERRY ST
EVANS ST
HOFFER ST
MORON
WILSON ST
CHRISTIE ST
CHERRY ST
ALLEN ST
GEORGE ST
EVANS ST
HATHAWAY ST
NICOLET ST
N EVANS ST
JACINTO VIEW RD
PHILLIPS ST
WILLIAMS ST
MONTE ST
HARLOW ST
RAMSEY ST
LSO ST
RD
LAWS RD
PROJECT LOCATION
Legend
Banning Airport Influence Area
USGS Blue Line Streams
MSHCP Criteria Cells
CalFire Fire Hazard Severity Zones
FEMA 0.2% (500-Year) Annual Chance Flood Hazard Zone
FEMA 1% (100-Year) Annual Chance Flood Hazard Zone
California Geological Survey Liquefaction Hazard Zone
Fault Zones
County of San Bernardino, M
1060


BANNING
CALIFORNIA
GENERAL PLAN/ZONING MAP
PROJECT NUMBER: DR 21-7017
APN: 532-030-008,532-030-009,532-080-008,
532-080-010,532-090-026, 532-090-028,
532-090-030,532-110-015
ZONE: Business Park (BP)
0 250 500 750 1,000
Feet
City of BANNING
INCORPORATED 1913
ENDLESS OPPORTUNITY
Industrial - Mineral Resources
Low Density Residential
Open Space - Resources
Medium Density Residential
532-030-008
532-030-009
532-080-008
532-080-010
532-090-028
532-090-026
532-090-030
532-110-015
Business Park
Open Space - Parks
Very High Density Residential
Business Park
UNION PACIFIC RAILROAD
PROJECT LOCATION
Airport Industrial
Airport Industrial
10
Public Facilities - Airport
Open Space - Parks
Airport Industrial
Industrial
1061

FISCAL IMPACT ANALYSIS
FOR
BANNING COMMERCE CENTER

June 2024

Prepared By:

DPFG
DEVELOPMENT PLANNING & FINANCING GROUP

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Appendices:

Appendix A – Project Site Plan
Appendix B – Fiscal Impact Analysis Tables
Appendix C – Economic Benefit Analysis Tables

1. Project Description

Banning Commerce Center ("Project") is a proposed industrial development of approximately 127 acres. The Project is currently located in the City of Banning, adjacent to the Interstate 10 Freeway. The Project is anticipated to be comprised of approximately 1,300,000 square feet of industrial warehouse and distribution. A table detailing the Land Use Assumptions for the Project is included below and a Project Site Plan has been included in Appendix A for the reader's reference.

LAND USE ASSUMPTIONS

Industrial			
Probable Tenant Type	**Bldg. SF**	**Estimated Assessed Value per SqFt (a)**	**Total Assessed Value**
Building 1	1,320,284	$ 213	$ 281,220,492
Subtotal Industrial	**1,320,284**	**$ 213**	**$ 281,220,492**

Total Project Assessed Value	$ 281,220,492

Footnote:
(a) Estimated assessed value per SqFt per Appendix B Table 3.

2. Purpose of Fiscal Impact Analysis

This Fiscal Impact Analysis ("FIA") has been prepared to determine the estimated fiscal impacts on the City of Banning ("City") general fund in connection with the proposed development of the Project. The reader should be aware that the FIA contains estimates or projections of the Project's future revenue and cost impacts on the City and actual fiscal results may vary from estimates because events and circumstances may occur in a manner that is different than projected in the FIA. The primary purpose of this FIA is to estimate the Project's net fiscal impact on the City's General Fund upon build-out, as further detailed in the report and appendices. In addition to estimating the net fiscal impacts of the Project, this FIA provides includes an Economic Benefit Analysis ("EBA") which uses IMPLAN. The IMPLAN model is used to predict the economic consequences of a development project within a local economy and measures the direct, indirect and induced effects in terms of economic output, employment, and earnings within the local region.

3. Benefits Summary

The Project will result in multiple types of benefits to the City, both in the form of recurring benefits, which will continue to occur annually beyond the Project's buildout, as well as non-recurring benefits in the form of one-time payments and the creation of additional construction jobs during the Project's construction period. In addition to these

benefits, which are discussed and elaborated on later in this FIA, it should be noted that there are potentially other various benefits that this report does not address.

3.1 Temporary (Construction Related) Jobs Created

In addition to the recurring and non-recurring revenues generated by the Project, the site is also estimated to generate approximately **1,926** annual full time equivalent construction related jobs during the 1-year construction period, per the IMPLAN analysis. These temporary construction jobs are in addition to the estimated permanent employees generated at buildout by the Project.

3.2 FIA Summarization

At buildout, the Project is anticipated to generate a surplus of **$505,215** to the City's General Fund (in 2024 dollars) on an annual recurring basis, as detailed in Section 6.

4. FIA Limiting Conditions

The FIA is subject to the following limiting conditions:

- The FIA contains an analysis of recurring revenues and costs to the City from development of the Project. The FIA is based on estimates, assumptions, and other information developed from DPFG's research and experience.

- The sources of information and basis of the estimates are stated herein. While we believe the sources of information are reliable, DPFG does not express an opinion or any other form of assurance on the accuracy of such information.

- The analysis of recurring revenues and cost impacts to the City contained in the FIA is not considered to be a "financial forecast" or a "financial projection" as technically defined by the American Institute of Certified Public Accountants. The word "projection" used within this report relates to broad expectations of future events or market conditions.

- Since the analyses contained herein are based on estimates and assumptions which are inherently subject to uncertainty and variation depending on evolving events, DPFG cannot represent that results will definitely be achieved. Some assumptions inevitably will not materialize and unanticipated events and circumstances may occur; therefore, the actual results achieved may vary from the projections.

5. General Sources of Information and Methodology Used in FIA

The FIA was prepared to estimate the allocable revenue and cost impacts to the City's general fund ("General Fund") as a result of the Project's development. The FIA uses a combination of case study methods and multiplier methods to estimate Project impacts.

When projecting fiscal impacts using a multiplier method, the FIA determines per capita/employee impacts by applying the appropriate multiplier to the Project's land use assumptions. The Per Capita-and-Employee-Multiplier Method involves dividing a cost or revenue figure by the number of residents and 50% of all employees working in the

City, and then multiplying that number by the number of residents projected for the Project at buildout. This method assumes that recurring costs and revenues will result from the Project at the same rates that currently prevail within the City, with each employee counted as one-half of a resident to reflect the relative significance of employees (i.e. non-residential land uses) in generating City public services costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts. The multipliers were calculated using data from the City and the U.S. census. Where appropriate, City Budget data is adjusted to account for expected marginal increases when the nature of the cost or revenue item contains a fixed component that is not anticipated to change based on population growth from the Project. All cost and revenue factors are projected in 2024 dollars, and are not adjusted for inflation, based on the assumption that the relative impacts of inflation in future years will be offsetting.

Information used in preparing the FIA was obtained from the following primary sources: (1) City of Banning Recommended Budget FY 2024-25 and 2025-26; (2) Sansone Group ("Developer"); (3) California Employment Development Department (employment information); (4) County of Riverside Auditor-Controller's Office (Fiscal Year 2023-2024 share of the basic tax information and assessments); (5) U.S. Census Bureau (population data); (6) U.S. Bureau of Labor Statistics (household expenditure data and persons per household); (7) Landvision; (8) Urban Land Institute's Dollars & Cents of Shopping Centers; and (9) CBRE Research (Market Data).

The FIA Appendix B is organized as follows:

Appendix	Table	Description
B	1	Fiscal Impact Analysis Summary
B	2	Population and Employment Data
B	3	Estimated Commercial Uses Property Value Using Income Method
B	4	Land Use and Assessed Value Assumptions
B	5	Post-ERAF Share of the Basic Tax Calculation
B	6	Property Taxes In Lieu of Vehicle License Fee ("VLF")
B	7	Other Recurring Revenues
B	8	Recurring Expenditures
B	9	Permanent Employment

The EBA Appendix C is organized as follows:

Appendix	Table	Description
B	1	Economic Benefit Analysis Summary
B	2	Construction Period Impacts
B	3	Ongoing Annual Impacts
B	4	Top 10 Industries Affected during Construction Period
B	5	Top 10 Industries Affected from Ongoing Annual Operations from Commercial Site

The following table shows the key demographic assumptions used in the FIA:

	City	Project
Population	31,213 (a)	-
Employees	10,600 (b)	880
Residents + 50% Employees	36,513 (c)	440 (c)

Footnotes:

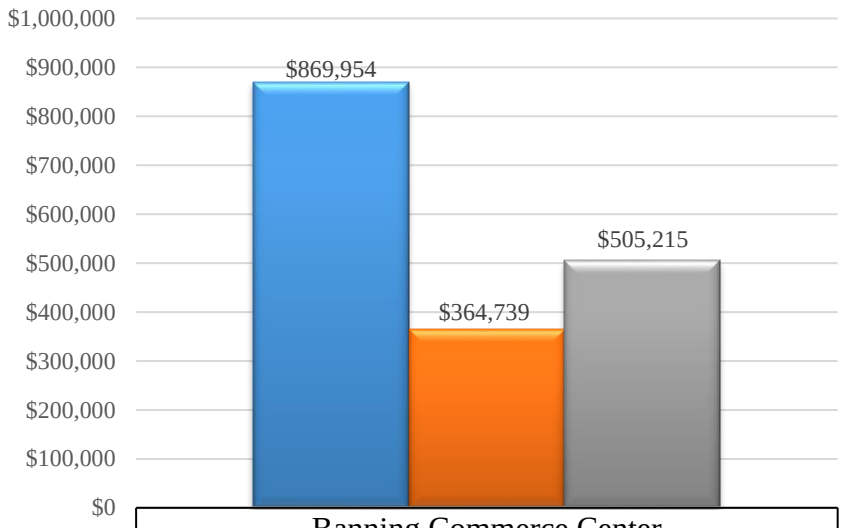
(a) Per the E-5 City / County Population and Housing Estimates report published by the California Department of Finance dated 1/1/2024.

(b) Per State of California, Employment Development Department April 2024 estimate.

(c) The Per Capita-and-Employee Multiplier Method represents the total service population for the City and Project respectively, as each employee is counted as one-half of a resident to reflect their relative impact in generating City public service costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts.

6. FIA Summary and Conclusions

The FIA examines the financial impact the Project will have at buildout on the General Fund. The Project will generate additional revenue for the General Fund primarily through increased property taxes, property taxes in-lieu of vehicle license fees, and sales taxes. The additional costs incurred to the General Fund as a result of the Project are less than the additional revenues generated and consist primarily of police and fire services. The Project's direct impact to the General Fund at buildout is summarized in the chart below:



	Banning Commerce Center
Total Recurring Revenues	$869,954
Total Recurring Expenditures	$364,739
Net Fiscal Surplus (Deficit)	$505,215

As seen in the chart, the Project is anticipated to generate a **$505,215** surplus to the City on an annual basis once the Project is fully developed.

OVERALL ANNUAL RECURRING SUMMARY

Fiscal Impact Annual Summary			
Annual Recurring Revenues:			
Property Tax	$	455,179	Table 5
Property Tax in-lieu of Vehicle License Fees		335,565	Table 6
Other Revenues		79,210	Table 7
Total Recurring Revenue	**$**	**869,954**	
Annual Recurring Expenditures:			
City Council	$	1,893	Table 8
City Manager		7,667	Table 8
Economic Development		2,446	Table 8
Personnel		3,266	Table 8
City Clerk		1,365	Table 8
Elections		343	Table 8
City Attorney		4,427	Table 8
TV Government Access		1,309	Table 8
Fiscal Services		12,246	Table 8
Purchasing		4,212	Table 8
Police		146,236	Table 8
Dispatch		16,544	Table 8
Animal Control		6,184	Table 8
Animal Shelter		796	Table 8
Fire		48,010	Table 8
Building and Safety		24,853	Table 8
Code Enforcement		8,582	Table 8
Planning		19,581	Table 8
Engineering		23,574	Table 8
Building Maintenance		2,884	Table 8
Parks		7,454	Table 8
Recreation		3,107	Table 8
Aquatics		10,848	Table 8
Day Care		454	Table 8
Senior Center		2,122	Table 8
Central Services		-	Table 8
Community Enhancement		771	Table 8
Public Information		1,453	Table 8
Grants Management		2,113	Table 8
Total Recurring Expenditures	**$**	**364,739**	
Net Annual Fiscal Surplus (Deficit)	**$**	**505,215**	

7. FIA Recurring Revenues

7.1 Property Tax

In addition to other ad valorem charges imposed by various local agencies, land owners in the State of California ("State") are required to pay annual property taxes of 1% on the assessed value of their property pursuant to Proposition 13. Each City in California is divided into tax rate areas ("TRA"). After the basic 1% property tax is collected by the County, the tax is allocated to various local agencies based on each agency's share of the basic tax within the property's applicable TRA.

The TRA's the Project is located within is TRA 001-004. Per the Riverside County Auditor-Controller the City is entitled to 16.18582804% of the base 1.00% ad-valorem property tax. The breakdown and estimated assessed value by TRA is detailed in Appendix B, Table 5. In total, the Project is anticipated to generate **$455,179** per year in property taxes.

7.2 Property Tax In-Lieu of Vehicle License Fees ("VLF")

In May 2004, Governor Schwarzenegger proposed a swap of City and City VLF revenue for additional property tax share as part of a budget agreement between the State and local governments. The swap was included in the 2004 budget package. Under this legislation, property tax in-lieu of VLF is allocated to Cities and Counties pursuant to a complex formula involving each agency relative share of assessed value. For new development which is projected to occur after annexation, VLF will be accrued by the City. The property tax in-lieu of VLF revenue that will be generated by the Project can be estimated by determining the (i) percentage growth in the total assessed value of the City attributable to the Project, and multiplying by (ii) the property tax in-lieu of VLF revenue of $4,150,349 expected to be received by the City in fiscal year 2024/25 per the Recommended 2024/25 Budget. Based on these calculations, the Project is anticipated to generate **$335,565** annually in property tax in-lieu of VLF revenue per Appendix B, Table 6.

Annual City Property Taxes In Lieu of VLF			
FY 2024/25 In Lieu VLF Allocation to City	$	4,150,349	(a)
FY 2023/24 City Assessed Value		3,478,202,536	(b)
Total Project Assessed Value		281,220,492	(c)
AV Growth from Project		8.085%	(d)
Annual City Property Taxes In Lieu of VLF	$	335,565	

Footnotes:

(a) Per City of Banning Preliminary FY 2024-25 and 2025-26 two year budget.

(b) Per County of Riverside Assessor's Office 2023/2024 Assessment Roll published 7/10/2023.

(c) Per Table 4.

(d) Estimated increase to City assessed value due to construction of site.

7.3 Other Revenues

The City receives various other revenues analyzed under the FIA. These include (i) Franchise Fees, (ii) Fines and Forfeitures, (iii) Licenses and Permits, and (iv) Charges for Services, among other recurring revenues. These revenues have been estimated using the appropriate multiplier against the City budgeted revenues for each respective revenue category. Accordingly, total annual "other" revenues are anticipated to be **$79,210** at build-out per Appendix B, Table 7.

8. FIA Recurring Costs

8.1 General Government

General Government services cost includes City Council, City Manager, Economic Development, Human Resources, City Clerk, Elections, City Attorney, and TV Government Access. The FIA assumes an estimated 50% marginal increase for these costs as they do not have a 1:1 relationship with population growth (i.e., majority of costs are fixed, not variable). Accordingly, using a Per Capita & 50% Employee Multiplier general government costs are anticipated to be **$22,716** at buildout as shown Appendix B, Table 8.

8.2 Finance

The Finance cost category includes services related to the collection and investment of City monies, accounting, budgeting, and financial reporting. Using a Per Capita & 50% Employee Multiplier, total Finance costs are anticipated to be **$16,459** at buildout as shown in Appendix B, Table 8.

8.3 Law Enforcement

The Sheriff department will be responsible for providing police protection services to the Project. To estimate the Project's impact on police service costs, the FIA uses a Per Capita & 50% Employee Multiplier of $332.28 for Police and $37.59 for Dispatch based on the City's police service budget. Based on this multiplier, total annual police service costs for the Project are estimated to be **$162,780** at buildout as shown Appendix B, Table 8.

8.4 Animal Control

The Animal Control cost category includes services related to the shelter and care for animals. Using a Per Capita & 50% Employee Multiplier, total Animal Control costs are anticipated to be **$6,979** at buildout as shown in Appendix B, Table 8.

8.5 Fire and Life Safety

It is anticipated that the current station's service area will be capable of serving the Project. To estimate the Project's impact on fire service costs the FIA uses a Per Capita & 50% Employee Multiplier of $109.09 for Fire and $56.47 for Building Safety. Based on this multiplier, total annual fire service costs are estimated to be **$72,864** at buildout as shown in Appendix B, Table 8.

8.6 Development Services

The Development Services cost category includes services related to Code Enforcement, Planning, Engineering, Building Maintenance, Parks and Recreation. Using a Per Capita

& 50% Employee Multiplier, total Development Services costs are anticipated to be **$65,181** as shown in Appendix B, Table 8.

8.7 Community Services

The Community Services cost category includes services related to Aquatics, Day Care, Senior Center, Central Services, and Community Enhancement. Using a Per Capita Multiplier, total Community Services costs are anticipated to be **$17,760** at buildout as shown in Appendix B, Table 8.

9. Economic Benefit Analysis

We have also analyzed the Project using IMPLAN. IMPLAN is the most widely employed and accepted regional economic analysis software for predicting economic impacts. The IMPLAN model is used to predict the economic consequences of a development project within a local economy and measures the direct, indirect and induced effects in terms of economic output, employment, and earnings within the local region.

A key concept to understand about the IMPLAN economic impact analysis is that one form of economic activity almost always stimulates other economic activities. The total economic impact of a specific project or event on a study area is the sum of the direct, indirect and induced impacts. The direct economic activity stemming from the Project stimulates subsequent indirect and induced impacts to the local economy.

The three components of economic impact are further described below:

1. *Direct Impact*: Represents the initial change in the economy attributable to the development of the Project which occurs directly on the Project site.

2. *Indirect Impact*: Represents the impact on local industries as a result of inter-industry purchases as the economy responds to new demand of the directly affected industries. This impact represents the additional rounds of economic activity that occur as a consequence from the direct impacts, specifically through the production of goods and services required to support businesses directly impacted. For example, as it relates to jobs, if a direct impact of a Project is the creation of construction jobs on-site as a result of building new homes, then an indirect impact would be the creation of jobs in the lumber industry as result of the contractor's purchase of lumber to construct those homes.

3. *Induced Impact*: Represents the impact to the local economy as a result of the increased household spending due to additional labor income generated, specifically through the purchase of goods and/or services required to meet consumer demand generated by the Project's residents and employees.

The specific economic impacts evaluated in this analysis are **employment** and **labor income**.

Employment: Represents the number of jobs produced in the economy.

Labor Income: Represents the total value of all forms of employment income paid throughout the local economy.

These economic impacts are driven by economic activity generated directly at the Project site as well as the related flow of economic activity in the specified region. In this case, the defined geographic region is the County of Riverside and the economic activities generating impacts are the construction of the Project, the annual ongoing activities of the new businesses located in the Project, and new local spending by the Project's residents. Accordingly, this analysis evaluates the direct, indirect and induced effects of the Project at two separate times: (i) a one-time evaluation of direct, indirect, and induced effects during the construction of the Project ("**Construction Period Impacts**") and (ii) the ongoing annual direct, indirect, and induced effects at buildout ("**Ongoing Annual Impacts**"). The IMPLAN data set used for this analysis is in 2024 dollars.

The "Construction Period" commences upon initial site development and ends upon completion of all industrial structures. Per the Developer, the Construction Period is expected to be approximately 1 year. Direct inputs were comprised of Hard Costs of approximately $138,629,820 which includes the vertical construction and Soft Costs of approximately $59,412,780 which includes other costs associated with the Project for a total anticipated development cost of approximately $198,042,600. Construction of the Project will contribute to the creation of new direct, indirect, and induced jobs County-wide. Direct jobs created during the Construction Period consist of the employees constructing the Project, whereas the indirect and induced jobs created during this phase relate to (i) the other industries that need to produce additional goods and services to meet the demand from contractors/businesses directly involved in the construction of the Project and (ii) discretionary spending of the construction employees.

Labor income during the construction period includes employment compensation and benefits paid to workers. The direct effect on labor income during the Construction Period is comprised of labor income paid to construction employees on site. The indirect effect on labor income includes the income of those employees of businesses providing goods and services to the contractors/businesses working directly on the site. The induced effect on labor income is comprised of the income of employees working at businesses that experience growth from the discretionary spending of the direct and indirect employees. Overall, the Project is estimated to generate $118,786,000 in labor income over the Construction Period.

Ongoing annual direct effects represent the anticipated economic effects of the Project once the site is stabilized. Ongoing annual direct effects on employment relate to the employees working at the Project, whereas the indirect and induced jobs created during this phase relate to the other industries that produce goods and services that support the new businesses of the Project and local spending by the new employees and residents of the Project. The project is anticipated to create approximately 880 full-time equivalent employees. Full-time equivalent employees for the Project were based on occupancy and

the square feet per employee estimates according to the anticipated tenant type. Because IMPLAN's definition of employment includes "all jobs" (i.e., full-time, part-time, and seasonal), IMPLAN industry sector conversion factor of .938 for warehousing. This resulted in a total direct employee (i.e., total "headcount" jobs) of approximately 939 employees.

The direct effect on labor income during the Permanent Ongoing Period includes the labor income paid to on-site employees of the Project. The indirect and induced effects on labor income consist of the income of those employees associated with businesses that service the Project, as well as the income of the new employees generated by the increased demand for goods and services from the Project. Overall, the Project is estimated to generate approximately $86,032,000 annually in labor income.

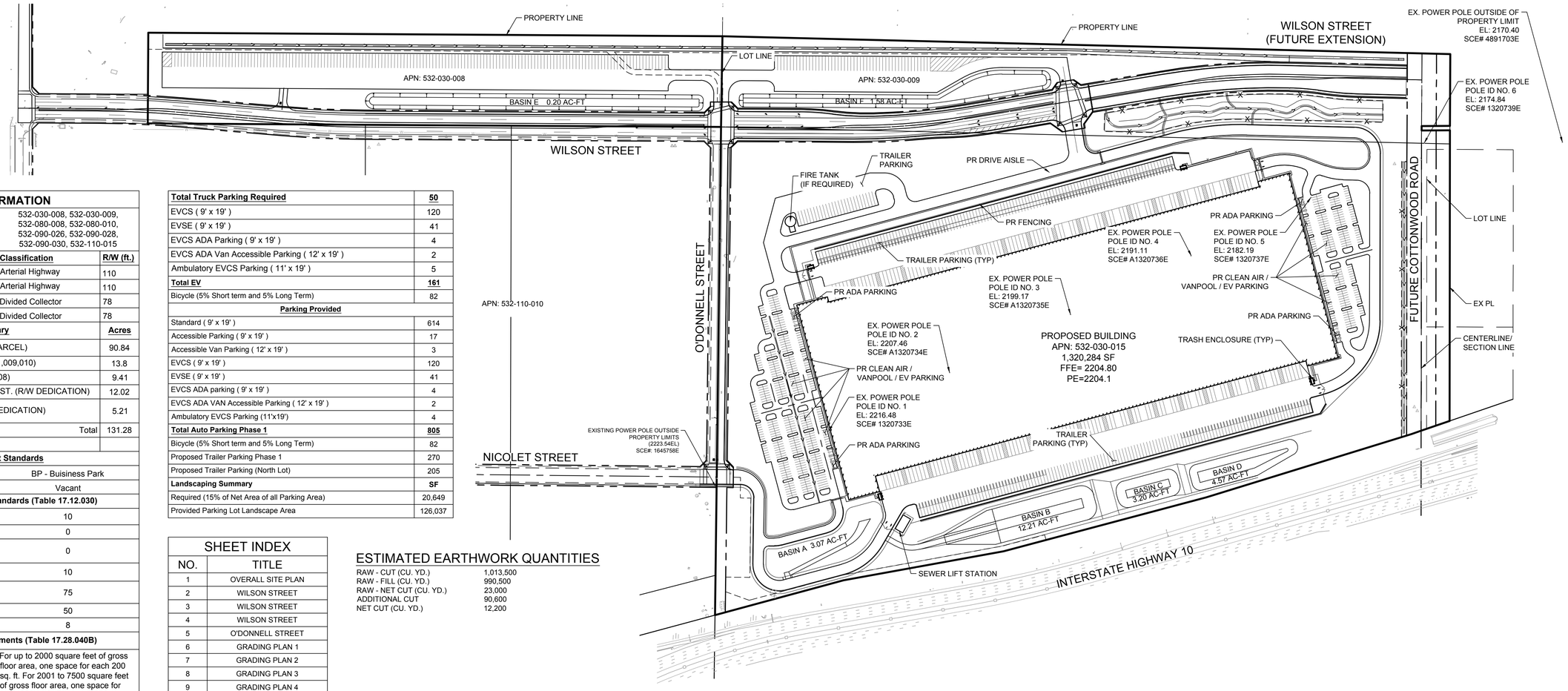
Our analysis uses conservative metrics drawn from the County of Riverside market conditions and our industry knowledge and experience. It should be noted, however, that market conditions may change between now and when the Project is anticipated to open. Accordingly, as the information, estimates, and assumptions used in the analysis are inherently subject to uncertainty and variation depending on evolving events (e.g., market conditions, government regulations, etc.), the estimates presented herein are subject to change.

10. Glossary of Defined Terms and Acronyms

Budget	City of Banning Recommended Budget FY 2024/25 and 2025/26
City	City of Banning
Developer	Sansone Group
DPFG	DPFG, LLC
FIA	Fiscal Impact Analysis
General Fund	City of Banning General Fund
Project	Banning Commerce Center
State	State of California
TRA	Tax Rate Area
VLF	Vehicle License Fees

Appendix A

BANNING COMMERCE CENTER
PRELIMINARY DESIGN (30%)
DESIGN REVIEW DR21-7017



SITE INFORMATION		
ASSESSOR'S PARCEL NUMBER (APN)	532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015	
Public Roads	**Classification**	**R/W (ft.)**
Cottonwood Rd (Future)	Arterial Highway	110
Wilson St	Arterial Highway	110
E Nicolet St (By Others)	Divided Collector	78
O'Donnell St (By Others)	Divided Collector	78
Parcel Summary		**Acres**
PARCEL 1 (PROPOSED BUILDING PARCEL)		90.84
PARCEL 2 (N'LY OF APN 532-110-001,009,010)		13.8
PARCEL 3 (WEST OF APN 532-080-008)		9.41
LOT "A" / WILSON ST. & O'DONNELL ST. (R/W DEDICATION)		12.02
LOT"B" / COTTONWOOD RD. (R/W DEDICATION)		5.21
	Total	131.28
Development Standards		
Zone	BP - Buisiness Park	
Existing Use	Vacant	
Industrial Development Standards (Table 17.12.030)		
Min. Front Setback (Feet)	10	
Min. Rear Setback (Feet)	0	
Min. Side Yard Setback (Feet)	0	
Min. Street Side (Feet)	10	
Max. Bldg. Coverage (%)	75	
Maximum Height (stories/feet)	50	
Fence/Wall Height (ft.)	8	
Industrial Parking Requirements (Table 17.28.040B)		
General Offices	For up to 2000 square feet of gross floor area, one space for each 200 sq. ft. For 2001 to 7500 square feet of gross floor area, one space for each 250 sq ft. For over 7500 square feet of gross floor area, one space for each 300 sq ft.	
Industrial Warehousing		
1—20,000 sq ft	Minimum of two spaces plus one space for each 1,000 sq. ft. of gross floor area	
Over 20,000 sq ft	22 spaces plus one space per 2,000 sq. ft. for portion over 20,000 sq ft	
Trucks	One tractor trailer space per 4 high dock doors	
Parking Stall Min (W x L)	9' x 19'	
Parking Lot Aisle Min	24'	
Landscaping		
Landscaping, Screening and Shading. A minimum of 15 percent of the net area of all parking areas shall be landscaped		
At least one 24 inch box tree for every four spaces shall be included in the development of the overall landscape program.		
Parking Required		
Total Auto Parking Required		**802**

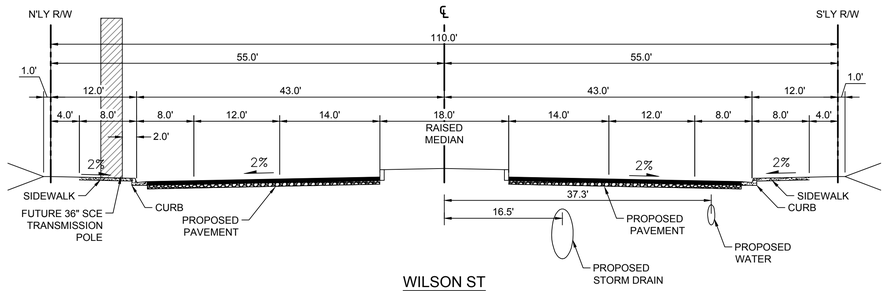
Total Truck Parking Required	**50**
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA Parking (9' x 19')	4
EVCS ADA Van Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11' x 19')	5
Total EV	**161**
Bicycle (5% Short term and 5% Long Term)	82
Parking Provided	
Standard (9' x 19')	614
Accessible Parking (9' x 19')	17
Accessible Van Parking (12' x 19')	3
EVCS (9' x 19')	120
EVSE (9' x 19')	41
EVCS ADA parking (9' x 19')	4
EVCS ADA VAN Accessible Parking (12' x 19')	2
Ambulatory EVCS Parking (11'x19')	4
Total Auto Parking Phase 1	**805**
Bicycle (5% Short term and 5% Long Term)	82
Proposed Trailer Parking Phase 1	270
Proposed Trailer Parking (North Lot)	205
Landscaping Summary	**SF**
Required (15% of Net Area of all Parking Area)	20,649
Provided Parking Lot Landscape Area	126,037

SHEET INDEX

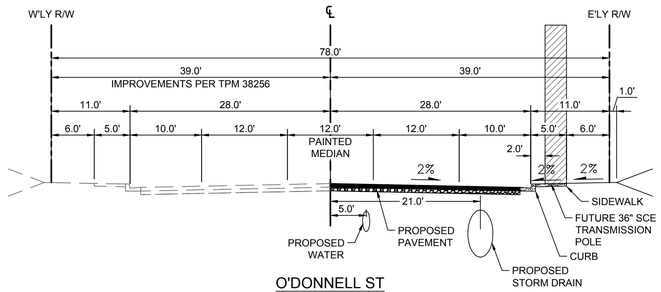
NO.	TITLE
1	OVERALL SITE PLAN
2	WILSON STREET
3	WILSON STREET
4	WILSON STREET
5	O'DONNELL STREET
6	GRADING PLAN 1
7	GRADING PLAN 2
8	GRADING PLAN 3
9	GRADING PLAN 4
10	GRADING PLAN 5
11	GRADING PLAN 6
12	GRADING PLAN 7
13	GRADING PLAN 8
14	GRADING PLAN 9
15	GRADING PLAN 10
16	GRADING PLAN 11
17	GRADING PLAN 12
18	UTILITY PLAN 1
19	UTILITY PLAN 2
20	UTILITY PLAN 3
21	UTILITY PLAN 4
22	UTILITY PLAN 5
23	UTILITY PLAN 6
24	UTILITY PLAN 7
25	UTILITY PLAN 8
26	UTILITY PLAN 9
27	UTILITY PLAN 10
28	UTILITY PLAN 11
29	UTILITY PLAN 12

ESTIMATED EARTHWORK QUANTITIES

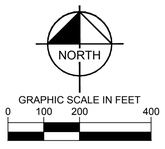
RAW - CUT (CU. YD.)	1,013,500
RAW - FILL (CU. YD.)	990,500
RAW - NET CUT (CU. YD.)	23,000
ADDITIONAL CUT	90,600
NET CUT (CU. YD.)	12,200



WILSON ST
ARTERIAL HIGHWAY (110' RW)



O'DONNELL ST
DIVIDED COLLECTOR (78' RW)



UNDERGROUND SERVICE ALERT
call: TOLL FREE
1-800-422-4133
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REVISIONS

No.		APPR.	DATE

PLANS PREPARED BY:
KIMLEY-HORN AND ASSOCIATES, INC.
3801 UNIVERSITY AVE., SUITE 300
RIVERSIDE, CA 92501
PHONE: 951-543-9868
WWW.KIMLEY-HORN.COM
PREPARED UNDER THE SUPERVISION OF: DAVIE COWAN
EUGENE D. COWAN III, RCE # 86803 — 10/5/2023 DATE

SUBMITTED BY:
SANSONE GROUP
120 S. CENTRAL AVENUE, SUITE 500
ST. LOUIS, MO 63105

[PRINT DATE] 10/05/2023 [PRINT TIME]
FOR REVIEW ONLY
Prepared for Concept Plan submittal
Not for construction purposes or permits.
Kimley»Horn
Engineer EUGENE D. COWAN III
P.E. No. 86803 Date 10/5/2023

CITY OF BANNING

RECOMMENDED BY:
KEVIN SIN, RCE #71299, EXP 12/31/23, SENIOR CIVIL ENGINEER — DATE
APPROVED BY:
ARTURO VELA, RCE # 75696, EXP. 05/30/24, PUBLIC WORKS DIRECTOR/CITY ENGINEER — DATE

BANNING COMMERCE CENTER

PRELIMINARY DESIGN DR21-7017

OVERALL SITE PLAN

W.O. No. DR21-7017
CIP No.
PROJECT No.
SHEET 1 OF 29

1076

Plotted By:Backlund, Mandy Sheet Set:BANNING LOGISTICS PRELIM Layout:1 PG October 05, 2023 04:44:04pm K:\RIV_LDEV\194455002 - banning logistics\CAD\preliminary\Grading Plan - Cover.dwg
This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Appendix B

Table 1
Banning Commerce Center
Fiscal Impact Analysis Summary

Preliminary Draft

Fiscal Impact Annual Summary			
Annual Recurring Revenues:			
Property Tax	$	455,179	Table 5
Property Tax in-lieu of Vehicle License Fees		335,565	Table 6
Other Revenues		79,210	Table 7
Total Recurring Revenue	**$**	**869,954**	
Annual Recurring Expenditures:			
City Council	$	1,893	Table 8
City Manager		7,667	Table 8
Economic Development		2,446	Table 8
Personnel		3,266	Table 8
City Clerk		1,365	Table 8
Elections		343	Table 8
City Attorney		4,427	Table 8
TV Government Access		1,309	Table 8
Fiscal Services		12,246	Table 8
Purchasing		4,212	Table 8
Police		146,236	Table 8
Dispatch		16,544	Table 8
Animal Control		6,184	Table 8
Animal Shelter		796	Table 8
Fire		48,010	Table 8
Building and Safety		24,853	Table 8
Code Enforcement		8,582	Table 8
Planning		19,581	Table 8
Engineering		23,574	Table 8
Building Maintenance		2,884	Table 8
Parks		7,454	Table 8
Recreation		3,107	Table 8
Aquatics		10,848	Table 8
Day Care		454	Table 8
Senior Center		2,122	Table 8
Central Services		-	Table 8
Community Enhancement		771	Table 8
Public Information		1,453	Table 8
Grants Management		2,113	Table 8
Total Recurring Expenditures	**$**	**364,739**	
Net Annual Fiscal Surplus (Deficit)	**$**	**505,215**	

Table 2
Banning Commerce Center
Population and Employment Data

Preliminary Draft

	City	Project
Population	31,213 (a)	-
Employees	10,600 (b)	880
Residents + 50% Employees	36,513 (c)	440 (c)

Footnotes:

(a) Per the E-5 City / County Population and Housing Estimates report published by the California Department of Finance dated 1/1/2024.

(b) Per State of California, Employment Development Department April 2024 estimate.

(c) The Per Capita-and-Employee Multiplier Method represents the total service population for the City and Project respectively, as each employee is counted as one-half of a resident to reflect their relative impact in generating City public service costs or City revenues. This multiplier method is a widely accepted standard of estimating per capita and employee impacts.

Table 3
Banning Commerce Center
Estimated Commercial Uses Property Value Using Income Method

Preliminary Draft

		Industrial
Gross Square Feet		1,320,284
Less: Non-leasable Space @ 10%	(a)	-
Leasable Square Feet		1,320,284
REVENUE		
Average Monthly NNN Rental Rate per s.f.	(b)	$ 1.36
Total Scheduled Annual NNN Rents		$ 21,547,035
EXPENSES		
Vacancy (%)	(b)	5.90%
Vacancy ($)		$ 1,271,275
Unreimbursed Expenses (vacant space)	(c)	4,055,152
Total Expenses		$ 5,326,427
NET OPERATING INCOME		$ 16,220,608
CAP RATE	(d)	5.75%
TOTAL VALUE		**$ 282,097,528**
VALUE PER GROSS SQUARE FOOT		**213.66**
VALUE PER GROSS SQUARE FOOT (ROUNDED)		**213.00**

Footnotes:
(a) Analysis estimates that all of the building will be leaseable.
(b) Industrial rental rate per CBRE Inland Empire Industrial, Q1 2024 Report.
(c) Operating Expenses for Warehouse and Office estimated at 20.0% of revenue.
(d) Commercial Retail cap rate per CBRE North America Cap Rate Survey Second Half 2023 for Stabilized Retail property in the Inland Empire. Industrial cap rate per CBRE North America Cap Rate Survey First Half 2023 for Class A Stabilized Industrial property in Southern California

Table 4
Banning Commerce Center
Land Use and Assessed Value Assumptions

Preliminary Draft

Industrial			
Probable Tenant Type	**Bldg. SF**	**Estimated Assessed Value per SqFt (a)**	**Total Assessed Value**
Building 1	1,320,284	$ 213	$ 281,220,492
Subtotal Industrial	**1,320,284**	**$ 213**	**$ 281,220,492**

Total Project Assessed Value	$ 281,220,492

Footnotes:
(a) Commercial estimated value per square foot per Table 3.

Table 5
Banning Commerce Center
Post-ERAF Share of the Basic Tax Calculation

Preliminary Draft

Within City of Banning - Agency	TRA (a) 001-004
01-1001 General Fund	11.40688011%
02-2051 City of Banning	**16.18582804%**
03-0801 Banning Unified School	31.30536200%
03-9201 Mt San Jacinto Jr College	3.16649900%
03-9896 Riv. Co. Office of Education	3.26869100%
04-1351 Flood Control Admin	0.18757802%
04-1365 Flood Control Zone 5	3.91467110%
04-4005 Summit Cemetery District	1.49751903%
04-4391 San Gorgonio Pass Mem Hospital	1.61320200%
04-4455 Banning Library District	3.55788820%
04-5171 San Gorgonio Pass Water Agency Debt Service	2.83346403%
ERAF Fund	21.06241747%
Total	100.00000000%
Project Acres (b)	127
% of Total	100.00%
Total City General Fund	**16.1858%**
Total Assessed Value	**$ 281,220,492**
Base 1% Ad-Valorem Tax	**1.00%**
Base Commercial Ad-Valorem Revenue	**$ 2,812,205**
City of Banning Allocation	**$ 455,179**

Footnotes:

Source: Fiscal Year 2023-24 Share of the Basic Tax per Riverside County Auditor-Controller's Office, Property Tax Division.

(a) Shares of the basic tax that are received by the City highlighted in bold print.

(b) TRA and acreage data per LandVision, 6/3/2024.

Table 6
Banning Commerce Center
Property Taxes In Lieu of Vehicle License Fee ("VLF")

Preliminary Draft

Annual City Property Taxes In Lieu of VLF			
FY 2024/25 In Lieu VLF Allocation to City	$	4,150,349	(a)
FY 2023/24 City Assessed Value		3,478,202,536	(b)
Total Project Assessed Value		281,220,492	(c)
AV Growth from Project		8.085%	(d)
Annual City Property Taxes In Lieu of VLF	$	335,565	

Footnotes:
(a) Per City of Banning Preliminary FY 2024-25 and 2025-26 two year budget.
(b) Per County of Riverside Assessor's Office 2023/2024 Assessment Roll published 7/10/2023.
(c) Per Table 4.
(d) Estimated increase to City assessed value due to construction of site.

Table 7
Banning Commerce Center
Other Recurring Revenues

Preliminary Draft

Revenue Category	City FY 2024/2025 Preliminary Operating Budget (a)	Marginal Increase	Adjusted Budget	Multiplier	Factor	Project Equivalent Persons	Project Revenues
Property Taxes	$ 4,470,859	100%	$ 4,470,859	Case Study - Table 5	N/A	-	$ -
Property Taxes In-Lieu of VLF	4,150,349	100%	4,150,349	Case Study - Table 8	N/A	-	-
Sales and Use Tax	6,374,284	100%	6,374,284	Case Study - Table 9	N/A	-	-
Franchise Tax	545,000	100%	545,000	Per Capita & 50% Employee	14.93	440	6,569
Transient Occupancy Tax	1,250,000	100%	1,250,000	N/A	N/A	-	-
Other Taxes	645,000	100%	645,000	Per Capita & 50% Employee	17.66	440	7,774
Business License	210,000	100%	210,000	Per Capita & 50% Employee	5.75	440	2,531
Licenses and Permits	7,047,655	0%	-	Per Capita & 50% Employee	0.00	440	-
Transfers In	4,029,280	0%	-	Per Capita & 50% Employee	0.00	440	-
Sales and Service Charges	1,224,480	100%	1,224,480	Per Capita & 50% Employee	33.54	440	14,759
Miscellaneous Income	2,180,315	100%	2,180,315	Per Capita & 50% Employee	59.71	440	26,280
Intergovernmental	1,401,924	50%	700,962	Per Capita & 50% Employee	19.20	440	8,449
Charges for Services	785,631	100%	785,631	Per Capita & 50% Employee	21.52	440	9,469
Contributions	280,400	100%	280,400	Per Capita & 50% Employee	7.68	440	3,380
Use of Money and Property	307,600	0%	-	Per Capita & 50% Employee	0.00	440	-
Fines and Forfeitures	261,830	0%	-	Per Capita & 50% Employee	0.00	440	-
Other Income	350,000	0%	-	Per Capita & 50% Employee	0.00	440	-
Total	$ 35,514,607		$ 22,817,280				$ 79,210

Footnotes:
(a) Per City of Banning FY 24-25 and 25-26 Biennial Budget Report dated June 25, 2024 on the City of Banning OpenGov Budget webpage.

Table 8
Banning Commerce Center
Recurring Expenditures

Preliminary Draft

Expenditure Category	City FY 2024/2025 Preliminary Operating Budget (a)	Marginal Increase	Adjusted Budget	Multiplier	Factor	Project Equivalent Persons	Project Cost
City Council	$ 314,176	50%	$ 157,088	Per Capita & 50% Employee	4.30	440	$ 1,893
City Manager	1,272,226	50%	636,113	Per Capita & 50% Employee	17.42	440	7,667
Economic Development	405,808	50%	202,904	Per Capita & 50% Employee	5.56	440	2,446
Personnel	541,931	50%	270,966	Per Capita & 50% Employee	7.42	440	3,266
City Clerk	226,563	50%	113,282	Per Capita & 50% Employee	3.10	440	1,365
Elections	56,923	50%	28,462	Per Capita & 50% Employee	0.78	440	343
City Attorney	734,531	50%	367,266	Per Capita & 50% Employee	10.06	440	4,427
TV Government Access	217,149	50%	108,575	Per Capita & 50% Employee	2.97	440	1,309
Subtotal - General Government	3,769,307		1,884,654				22,716
Fiscal Services	2,032,056	50%	1,016,028	Per Capita & 50% Employee	27.83	440	12,246
Purchasing	698,953	50%	349,477	Per Capita & 50% Employee	9.57	440	4,212
Subtotal - Finance	2,731,009		1,365,505				16,459
Police	12,132,673	100%	12,132,673	Per Capita & 50% Employee	332.28	440	146,236
Dispatch	1,372,582	100%	1,372,582	Per Capita & 50% Employee	37.59	440	16,544
Subtotal - Law Enforcement	13,505,255		13,505,255				162,780
Animal Control	513,060	100%	513,060	Per Capita & 50% Employee	14.05	440	6,184
Animal Shelter	66,000	100%	66,000	Per Capita & 50% Employee	1.81	440	796
Subtotal - Animal Control	579,060		513,060				6,979
Fire	3,983,246	100%	3,983,246	Per Capita & 50% Employee	109.09	440	48,010
Building and Safety	2,061,968	100%	2,061,968	Per Capita & 50% Employee	56.47	440	24,853
Subtotal - Fire and Life Safety	6,045,214		6,045,214				72,864
Code Enforcement	712,005	100%	712,005	Per Capita & 50% Employee	19.50	440	8,582
Planning	1,624,538	100%	1,624,538	Per Capita & 50% Employee	44.49	440	19,581
Engineering	1,955,816	100%	1,955,816	Per Capita & 50% Employee	53.56	440	23,574
Building Maintenance	239,301	100%	239,301	Per Capita & 50% Employee	6.55	440	2,884
Parks	1,236,855	50%	618,428	Per Capita & 50% Employee	16.94	440	7,454
Recreation	515,548	50%	257,774	Per Capita & 50% Employee	7.06	440	3,107
Subtotal - Development Services	6,284,063		5,407,862				65,181
Aquatics	900,009	100%	900,009	Per Capita & 50% Employee	24.65	440	10,848
Day Care	75,278	50%	37,639	Per Capita & 50% Employee	1.03	440	454
Senior Center	352,043	50%	176,022	Per Capita & 50% Employee	4.82	440	2,122
Central Services	-	100%	-	Per Capita & 50% Employee	-	440	-
Community Enhancement	127,979	50%	63,990	Per Capita & 50% Employee	1.75	440	771
Public Information	241,166	50%	120,583	Per Capita & 50% Employee	3.30	440	1,453
Grants Management	350,539	50%	175,270	Per Capita & 50% Employee	4.80	440	2,113
Subtotal - Community Services	2,047,014		1,177,659				17,760
Total	$ 34,960,922		$ 29,899,208				$ 364,739

Footnotes:
(a) Per the City of Banning Citywide Preliminary Biennial Budget FY 2024-25 and FY 2025-26 on the City Council agenda dated May 28, 2024.

Table 9
Banning Commerce Center
Permanent Employment

Preliminary Draft

Industrial			
Tenant Type (a)	**Bldg. SqFt / Acre**	**Estimated SqFt per Employee (b)**	**Estimated Employees**
Building 1	1,320,284	1,500	880
Subtotal Industrial	**1,320,284**	**1,500**	**880**

Total Employees	**880**

Footnotes:

(a) Per Table 4.

(b) Estimated employees per square foot per the United States Green Building Council default occupancy count and review of various data sources. Estimated employees represent full time equivalent ("FTE") employees. Actual employee count, including part-time and seasonal employees, may result in a potentially higher total headcount value.

Table 1
Banning Commerce Center
Fiscal Revenue and Economic Benefit Analysis Summary

Draft

IMPLAN Results Summary

Average Annual Construction Period Impacts 2-Year Construction Period (a)

Jobs	Labor Income
Direct Effect: 1,372	Direct Effect: $ 89,527,000
Indirect Effect: 214	Indirect Effect: $ 12,922,000
Induced Effect: 340	Induced Effect: $ 16,337,000
Average Annual Number of Jobs: 1,926	**Average Annual Labor Income: $ 118,786,000**

Permanent Annual Ongoing Impact (b)

Jobs	Labor Income
Direct Effect: 939	Direct Effect: $ 59,677,000
Indirect Effect: 289	Indirect Effect: $ 14,826,000
Induced Effect: 239	Induced Effect: $ 11,529,000
Average Annual Number of Jobs: 1,467	**Average Annual Labor Income: $ 86,032,000**

Cumulative Construction Period Impacts 2-Year Construction Period

Cumulative Labor Income
$ 118,786,000

Footnotes:
(a) See Table 2 for support and detailed description of categories.
(b) See Table 3 for support and detailed description of categories.

Table 2
Banning Commerce Center
Construction Period Impacts

Average Annual Jobs Created During Construction Period (a)

Employment Impact	Jobs	Description
Direct Effect	**1,372**	Represents direct onsite construction-related jobs.
Indirect Effect	**214**	Represents jobs created as a result of new business to business spending in the local economy.
Induced Effect	**340**	Represents jobs created as a result of spending by new direct and indirect employees in the local economy.
Total	**1,926**	

Average Annual Labor Income Generated During Construction Period (a)

Labor Income Impact	Labor Income	Description
Direct Effect	**$ 89,527,000**	Represents direct onsite construction labor income.
Indirect Effect	**12,922,000**	Represents labor income generated as a result of new business to business spending in the local economy.
Induced Effect	**16,337,000**	Represents labor income generated as a result of spending by new direct and indirect employees in the local economy.
Total	**$ 118,786,000**	

Cumulative Labor Income Generated During Construction Period (a)

Labor Income Impact	Labor Income	Description
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Indirect Effect	**12,922,000**	Represents labor income generated as a result of new business to business spending in the local economy.
Induced Effect	**16,337,000**	Represents labor income generated as a result of spending by new direct and indirect employees in the local economy.
Total	**$ 118,786,000**	

Footnotes:
(a) Calculated using IMPLAN, a nationally recognized economic modeling system. San Bernardino is the study area. Jobs are reported as all jobs (full-time, part-time, and seasonal).

Table 3
Banning Commerce Center
Ongoing Annual Impacts

Total Ongoing Annual Number of Jobs Created (a)

Employment Impact	Total Jobs	Description
Direct Effect (b)	**939**	Represents direct onsite jobs created by the operations of the new facilities.
Indirect Effect	**289**	Represents jobs created as a result of new business to business spending in the local economy.
Induced Effect	**239**	Represents jobs created as a result of spending by new direct and indirect employees in the local economy.
Total	**1,467**	

Total Ongoing Annual Labor Income Generated (a)

Labor Income Impact	Total Labor Income	Description
Direct Effect	**$ 59,677,000**	Represents labor income generated by the operations of the new facilities
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Total	**$ 86,032,000**	

Footnotes:
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Table 4
Banning Commerce Center
Top 10 Industries Affected during Construction Period

Top 10 Industries Affected during Construction Period Annually (a) (b)

Rank	Industry	Jobs
1	51 - Construction of new manufacturing structures	1,372
2	472 - Employment services	28
3	417 - Truck transportation	21
4	447 - Other real estate	27
5	396 - Wholesale - Other durable goods merchant wholesalers	16
6	477 - Landscape and horticultural services	13
7	453 - Commercial and industrial machinery and equipment rental and leasing	11
8	395 - Wholesale - Machinery, equipment, and supplies	9
9	421 - Couriers and messengers	13
10	455 - Legal services	9

Footnotes:

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(b) Jobs by Top Ten industries affected annually by the new construction and local spending during the construction period of 1 year.

Table 11
Banning Commerce Center
Top 10 Industries Affected from Ongoing Annual Operations from Commercial Site

Top 10 Industries Affected during Construction Period Annually (a)

Rank	Industry	Jobs
1	422 - Warehousing and storage	1,028
2	447 - Other real estate	69
3	472 - Employment services	36
4	421 - Couriers and messengers	18
5	476 - Services to buildings	9
6	534 - Other local government enterprises	8
7	475 - Investigation and security services	6
8	477 - Landscape and horticultural services	5
9	60 - Maintenance and repair construction of nonresidential structures	5
10	519 - Dry-cleaning and laundry services	5

Footnotes:

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Appendix C

Table 1
Banning Commerce Center
Fiscal Revenue and Economic Benefit Analysis Summary

Draft

IMPLAN Results Summary

Average Annual Construction Period Impacts 2-Year Construction Period (a)		Permanent Annual Ongoing Impact (b)	
Jobs	**Labor Income**	**Jobs**	**Labor Income**
Direct Effect: 1,372	Direct Effect: $ 89,527,000	Direct Effect: 939	Direct Effect: $ 59,677,000
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Induced Effect: 340	Induced Effect: $ 16,337,000	Induced Effect: 239	Induced Effect: $ 11,529,000
Average Annual Number of Jobs: 1,926	**Average Annual Labor Income: $ 118,786,000**	**Average Annual Number of Jobs: 1,467**	**Average Annual Labor Income: $ 86,032,000**

Cumulative Construction Period Impacts 2-Year Construction Period
Cumulative Labor Income: $ 118,786,000

Footnotes:
(a) See Table 2 for support and detailed description of categories.
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Footnotes:

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PLANNING COMMISSION - REGULAR MEETING

Council Chambers, 99 E Ramsey Street, Banning, CA

Wednesday, March 5, 2025 - 5:30 PM

MINUTES

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1. **CALL TO ORDER at 5:34 p.m.**
   1.1 PLEDGE OF ALLEGIANCE
   1.2 ROLL CALL

COMMISSIONERS	PRESENT	ABSENT
Castorena, Chris	X	
Dale, Kathleen	X	
Krick, Richard	X	
Rodriguez, Nathaniel	X	
Wilcox, Robert	X	

2. **SWEARING IN OF NEWLY APPOINTED OFFICIALS:**
   Kathleen Dale and Nathaniel Rodriguez were sworn in by the Administrative City Clerk and took the oath of office.

3. **PUBLIC COMMENTS:**
   - Stephen Beers, resident of Banning, asked for consideration to rebuild his home that was destroyed due to a fire in November 2023 in the Industrial Airport (AI) zone or to allow for a zone change to residential use considering that the majority of the street block consists of residential homes. He requested clarification on whether the property qualifies under the provisions of BMC Sec. 17.88.030 regarding non-conforming uses.
   - Inge Schuler, resident of Banning, said she was a member of the General Plan Advisory Committee. She said during the last Housing Element Update a portion of the City was changed without proper notification re-zoning a residential area to Industrial. She hopes that a change will be made and rectified with the new Housing Element update.
   - Council Member Miller and Council Member Barrington congratulated the newly appointed commissioners.
   - Council Member Barrington expressed support for Mr. Beers request, stating that she would like to see him rebuild his house.

4. **ELECTION OF OFFICERS AND APPOINTMENTS:**
   4.1 Planning Commission Selection of Presiding Officers.

A. Nominations for Chairperson

Commissioner Krick nominated Commissioner Wilcox to serve as Chairperson, which was second by Commissioner Rodriguez.

ACTION: Motion/Second (Krick/Rodriguez); Motion Carried 5-0 to select Wilcox for Chair.

B. Nominations for Vice-Chairperson

Commissioner Castorena nominated Commissioner Dale to serve as Vice-Chairperson, which was second by Commissioner Dale.

Commissioner Wilcox nominated Krick to serve as Vice-Chairperson, which was second by Commissioner Rodriguez.

ACTION: Motion/Second (Wilcox/Rodriguez); Motion Carried 3-2 (Commissioners Castorena and Dale opposed by vote in support of Commissioner Dale) passed to select Krick for Vice-Chair.

4.2 Discuss and Assign Two Planning Commissioners to Serve on the General Plan Advisory Committee (GPAC) for One Year.

ACTION: Motion/Second (Dale/Wilcox) to assign Commissioner Castorena to serve on the General Plan Advisory Committee (GPAC) for one year.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0) passed.

ACTION: Motion/Second (Wilcox/Rodriguez) to assign Commissioner Krick to serve on the General Plan Advisory Committee (GPAC) for one year.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0) passed.

5. <u>CONSENT AGENDA:</u>

5.1 Approval of the meeting minutes for February 5, 2025, Regular Planning Commission meeting.

Chair Wilcox opened public comments at 6:01 p.m.
No public comments

Chair Wilcox closed public comments at 6:02 p.m.

ACTION: Motion/Second (Wilcox/Krick) to approve the minutes.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 5-0-0) passed.

6. PUBLIC HEARINGS:

6.1 Consideration of a Conditional Use Permit (CUP) Application, Case No. CUP 24-0129, by KDR LLC to Allow a Religious Institution Located Within an Existing Commercial Building at 1735 W. Ramsey Street, Unit 101, Banning, CA 92220, in the Highway Serving Commercial (HSC) Zoning District (APN: 538-150-048).

Recommendation: Adopt Resolution 2025-02, Approving the Conditional Use Permit, Case CUP 24-0129, Subject to Conditions.

Commissioner Krick recused himself from this item due to owning a property adjacent to the project.

Mary Yaryan, Associate Planner, provided the staff report and she recommended the following revisions to the conditions of approval.

8. Sunday service attendance shall not exceed ~~57~~ 40 attendees unless additional parking is provided. If attendance exceeds this limit~~, the applicant shall either implement multiple service times or obtain an amendment to the Conditional Use Permit (CUP) to address the parking deficiency.~~

   8a. The applicant shall either implement multiple service times; or

   8b. Obtain an amendment to the Conditional Use Permit (CUP) to address the parking deficiency; or

   8c. Submit a Shared Parking Agreement, subject to the approval of the Community Development Director.

~~9. Upon approval, all conditions of approval shall be included on the front sheet of the plan set submitted for permit issuance.~~

Commissioners clarifying questions were addressed by staff.

Chair Opened Public Comments: 6:25 PM

- Dorrie Gartzke, Resident of Banning asked for clarification on the total square footage of unit 101. She said vehicles parking on Hays Street every Sunday may lead to potential problems.

Chair Closed Public Comments: 6:27 PM

ACTION: Motion/Second (Castorena/Dale) to Adopt Resolution 2025-02, Approving Conditional Use Permit 24-0129, with recommended revisions to the conditions of approval.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				
Dale	*X*				
Krick				*X*	
Rodriguez	*X*				
Wilcox		*X*			

(Motion Carried 3-1-1) passed.

6.2 Consideration of a Design Review Application (DR), Case No. PLN 24 -0010, to Allow for Office and Shop Space Within an Existing Building Located at 1910 E. Westward Avenue, and Including an Outdoor Heavy Equipment and Material Storage Lot Located on a Vacant Parcel at 1856 E. Westward Avenue, Within the Industrial Zoning District. The Two Parcels are Approximately 4.25 Net Acres (5.48 gross acres) in Combined Area (APN 532-160-006, - 007).

Recommendation: Continue this item to the next regularly scheduled Planning Commission Meeting on April 2, 2025

Emery Papp, Planning Manager, said the applicant has concerns on the conditions of approval by the Engineering Division regarding frontage improvements that need to be resolved, and issues related to the water quality management plan.

Staff recommend continuing this item to a date certain without noticing.

Chair Opened Public Comments: 6:41PM

No public comments

Chair Closed Public Comments: 6:41 PM

George Burrough, Applicant said they're working though minor comment responses with City staff and should be fully prepared by April 2nd.

ACTION: Motion/Second (Dale/Krick) to continue this item to the next regular scheduled Planning Commission Meeting on April 2, 2025.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena	*X*				

Dale	*X*
Krick	*X*
Rodriguez	*X*
Wilcox	*X*

(Motion Carried 5-0-0) passed.

6.3 Consideration of an Application by Sansone Group for the Banning Commerce Center Project Including Design Review, Case No. DR 21-7017, Tentative Parcel Map 38756 (Case No. TPM 38756), and a Development Agreement to Allow the Construction of an Approximately 1,320,284-Square -Foot (SF) Industrial Warehouse Building on Approximately 131.28 Acres of Land Located North of I-10 Freeway/East Ramsey Street, East of N. Hathaway Street, and Bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015. The Planning Commission Will Consider Whether to Recommend That the City Council Approve Case DR 21-7017, TPM 38756 and a Development Agreement Between the City and Sansone Group; Certify Final Environmental Impact Report (SCH No. 2022090102); and Adopt Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act

Recommendation: Adopt Planning Commission Resolution 2025-04, Recommending that the City Council Approve the Banning Commerce Center Project, including Design Review, Case No. DR 21- 7017, Tentative Parcel Map (TPM) No. 38756, and a Development Agreement to allow for the construction of an approximately 1,320,284 square-foot industrial warehouse building on approximately 131.28 acres of land located north of the I-10 Freeway/East Ramsey Street, east of N. Hathaway Street, and bisected by Wilson Street on Assessor's Parcel Numbers (APNs) 532-030-008, 532-030-009, 532-080-008, 532-080-010, 532-090-026, 532-090-028, 532-090-030, and 532- 110-015; certify Final Environmental Impact Report (SCH NO. 2022090102); and adopt Findings, a Statement of Overriding.

Emery Papp, Planning Manager, provided the staff report.

Commissioners clarifying questions were addressed by staff and the applicant team.

Jeff Greenwalt and Dave Hagan, Applicants with Sansone Group, presented the project to the Commission and introduced his group.

Chair Opened Public Comments: 10:26PM

- Robert Ramos, Jack Daily, Zack Strauss, Ralph, Salvador Armenta from LIUNA and Carpenter's Union spoke in support of the project, stating that Banning is a good place for this project, it will create local jobs, provide opportunities for good wages and benefits.

Chair Closed Public Comments: 10:36 PM

Commissioner Dale said she would not be in support of the motion, because she

does not have the information necessary to support the findings required to vote in favor of the motion. The missing items are: General Plan consistency regarding the Community Development Element Policies about a Specific Plan for this area, General Plan Vision Statement Policies regarding respecting the established neighborhoods and protecting wildlife habitat. There are concerns with the Design Review, compliance with Multiple Species Habitat Conservation Plan (MSHCP), findings regarding vehicular and pedestrian hazards, Airport Land Use Commission (ALUC) review not being complete, and the Environmental Impact Report (EIR) does not have true indication of cumulative impacts to the interchanges that will be used for this project and by the existing warehouse east of the airport.

ACTION: Motion/Second (Wilcox/Krick) to Adopt Resolution 2025-04, Recommending that the City Council conditionally approve the Banning Commerce Center Project, including Design Review, Case No. DR 21- 7017, Tentative Parcel Map (TPM) No. 38756, and a Development Agreement with added conditions of approval.

1. Negotiate City Attorney concerns on development agreement, including CFD credits, and other concerns.

2. Improve Hathaway St. to four lanes with parking (or wide shoulder) on westside of street and turn pockets at each intersection,

3. Best efforts to do local hire.

COMMISSIONERS	*YES*	*NO*	*ABSTAIN*	*RECUSE*	*ABSENT*
Castorena		*X*			
Dale		*X*			
Krick	*X*				
Rodriguez	*X*				
Wilcox	*X*				

(Motion Carried 3-2-0) passed.

7. ANNOUNCEMENTS AND REPORTS

7.1 DIRECTOR'S REPORT

Director Newell welcomed the new commissioners and announced that Emery Papp, Planning Manager, is leaving the City of Banning to accept a job promotion in another City.

7.2 COMMISSIONER REPORTS
None

8. DISCUSSION ITEMS

Commissioner Castorena – Increase notification radius and extend noticing to renters.

Director Newell said he will bring back these items for discussion and direction.

9. ANNOUNCEMENTS FROM LEGISLATIVE BODY MEMBERS

10. ITEMS FOR FUTURE AGENDAS

11. ADJOURNMENT

The meeting was adjourned at 12:22 AM

Minutes prepared by:

Sandra B. Calderon
Sandra B. Calderon
Planning Commission Secretary

These minutes have been prepared as Summary Minutes in accordance with City Council Resolution 2025-22 and Government Code Sections 36814, 40801, and 54953(c)(2).

The entire discussion of this meeting may be viewed here:
https://banninglive.viebit.com/watch?hash=E1ub3xeuPP5fcyEz

All documents related to this meeting are available here:
https://d3n9y02raazwpg.cloudfront.net/banningca/6d78dac7-76d8-11ef-9b71-005056a89546-38305488-93fe-4918-9dd7-c67857e7b6c7-1740705486.pdf

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Art Vela, Public Works Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-108, Authorizing the Submittal of a Grant Application Under the Bureau of Reclamation WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Program for Fiscal Year 2023 and for Fiscal Year 2024 for up to 25% of the Total Project Costs, Up To $30 Million, for the Wastewater Treatment Plant and Recycled Water Upgrades and Authorizing the City Manager to Executed Related Grant Agreement to Receive Funding**

RECOMMENDATION:

Adopt Resolution 2025-108.

BACKGROUND:

The City of Banning Wastewater Treatment Plant (WWTP), also known as the Water Reclamation Facility, provides for the collection, treatment, and disposal of municipal sewage. The City has recognized that the WWTP is in need of capacity and treatment improvements in order to keep up with the City's growth as well as to produce recycled water supply to bolster it's water supply portfolio and to meet impending wastewater effluent discharge quality permit requirements.

On December 13, 2022, the Utility Authority approved Resolution 2022-14UA, "Awarding a Professional Services Agreement to N2W Engineering to Provide Owner Advisor Services and Preliminary Engineering for the Wastewater Treatment Plant Improvement Project in a "Not-to-Exceed" amount of $1,576,430. Resolution 2022-14UA, attached hereto, provides additional background on the City's goal for improving the WWTP.

In anticipation of the Wastewater Treatment Plant and Recycled Water Upgrades project, amongst other reasons (i.e. increasing operating costs, capital improvements, debt service obligations and reserve balances), the City Council approved Ordinance 1587, adopting new water and wastewater rate schedules, which would increase rates for a five-year period (FY 2022/2023 to FY 2026/2027).

On February 25, 2025, City Council adopted Resolution 2025-30, "Awarding a Progressive Design- Build Agreement for Phase 1 to AECOM Lyles JV for Project No. 2022- 01W "Wastewater Treatment Plant and Recycled Water Upgrades" in the Amount of $3,998,627 and Approving a 10% Contingency for a Total Project Budget of $4,398,490." This project was kicked off on April 21, 2024.

2023 Title XVI Funding Opportunity

In September 2023, the Bureau of Reclamation (BOR) issued a new Notice of Funding Opportunity (NOFO) for grants under the WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Program

for fiscal years 2023 and 2024 (“Title XVI Program”). Through the Title XVI Program, BOR provides financial and technical assistance to local water agencies for the planning, design, and construction of water reclamation and reuse projects.

The Title XVI Program provides up to a maximum of 25% of the total cost of planning, design, and/or construction, up to a maximum of $30 million per project. To be eligible for funding under this NOFO, the project must have a completed Title XVI feasibility study submitted to BOR for review by November 7, 2023, for applications submitted under the first submittal period and by August 30, 2024, for applications submitted under the second submittal period. Completed feasibility studies must be found by BOR to meet all necessary requirements by February 7, 2024, for applications submitted under the first submittal period and by November 29, 2024, for applications submitted under the second submittal period.

A Feasibility Study was prepared by N2W Engineering, reviewed by staff and submitted prior to the November 7, 2023 deadline. On February 13, 2024, the City received notification that BOR approved the Feasibility Study on January 31, 2024.

The Title XVI Program allows applicants to apply for both fiscal year allocations. Awards for both fiscal years cannot collectively exceed the allowable funding (i.e. 25% or $30 Million).

City staff and N2W Engineering finalized a Title XVI Program grant application for the FY 2023 funding allocation and submitted the grant application prior to the deadline. Unfortunately, the City was notified that its grant application was not selected for funding.

An informative debrief meeting was held between City staff and BOR staff to understand where the FY 2023 grant application fell short. Following the debrief call, staff and N2W Engineering began working on an updated and improved grant application for the FY 2024 Title XVI Program funding opportunity ("FY 2024 Title XVI Grant Application"), which was later completed and submitted prior to the deadline (September 30, 2024).

On January 14, 2025, the City was notified that the FY 2024 Title XVI Grant Application was selected for funding with an award amount of $16,194,576.

JUSTIFICATION:

As part of the grant funding process, BOR requires that an official resolution be adopted by the applicant’s governing body committing the City to the financial and legal obligations associated with receipt of a financial assistance award. Additionally, the official resolution must identify the individual with legal authority to enter into an agreement; state that the governing body has reviewed and supports the application submitted; and that the City will work with BOR to meet established deadlines for entering into a grant or cooperative agreement.

City staff has been working alongside with BOR to get through the post award process. The last remaining item prior to the execution of a grant or cooperative agreement is the submittal of the official resolution, as required.

FISCAL IMPACT:

The approved Feasibility Study identifies a total project cost of $93,487,328 which was developed as a high level and conservative estimate for purposes of the Title XVI Program grant application. City staff and N2W Engineering have progressed in preliminary engineering efforts and research related to construction costs and has prepared refined cost estimates indicating projected costs of $64,778,302. If the City is awarded Title XVI Program funding, it would receive up to $16,194,576.

The Wastewater Treatment Plant and Recycled Water Upgrades project is anticipated to be funded as follows:

Funding Source	Estimated Funding Source Balance on 7/1/2025	Amount to be Allocated to WWTP Project
Fund 661 - Water Improvement Fund	$3,632,861.34	$3,085,000
Fund 680 - Wastewater Operation Fund	$7,991,840.23	$1,773,726
Fund 681 - Wastewater Improvement Fund	$11,035,587.18	$6,500,000
Fund 682 - Tertiary Fund	$8,375,653.38	$9,725,000*
Fund 683 - BUA Wastewater Fund	$2,500,000	$2,500,000
FY 2024 Title XVI Program Funds	$16,194,576	$16,194,576
Other Funding (IBank Loan or Revenue Bonds)	$25,000,000	$25,000,000
	TOTAL	$64,778,302

* The amount allocated to the project from the Tertiary Fund exceeds the estimated 7/1/2025 balance, although the amount allocated is what is expected to be available at the end of the three-year project; the Tertiary Fund generates approximately $450,000 per year.

The approved rate schedules included in Ordinance 1587 anticipated debt financing in the amount of $25,000,000 to cover the costs of the WWTP Improvement project. Debt financing will be discussed at the July 8, 2025 City Council meeting.

ALTERNATIVES:

Do not adopt Resolution 2025-108, which would make the City ineligible to receive Title XVI Program funding.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution_2025-108_BOR_Title_XVI_Grant_Agreement (1).docx
2. Final Banning WaterSMART Application.pdf
3. FY 2024 Title XVI Grant Award Letter.pdf
4. Attach X SR Resolution 2022-14 UA, Award Owner Advisor WWTP.pdf
5. SR 2025-30 Awarding PDB Contract.pdf

RESOLUTION 2025-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY'S GRANT APPLICATION FOR FUNDING FROM THE BUREAU OF RECLAMATION WATERSMART: TITLE XVI WIIN ACT WATER RECLAMATION AND REUSE PROGRAM FOR FISCAL YEAR 2023 AND FOR FISCAL YEAR 2024 FOR UP TO 25% OF THE TOTAL PROJECT COSTS, UP TO $30 MILLION, FOR THE WASTEWATER TREATMENT PLANT AND RECYCLED WATER UPGRADES AND AUTHORIZING THE CITY MANAGER TO EXECUTED RELATED GRANT AGREEMENT TO RECEIVE FUNDING

WHEREAS, the United States Bureau of Reclamation (USBR) has solicited applications for authorized projects for WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464; and

WHEREAS, the City of Banning will be upgrading its Wastewater Treatment Plant (WWTP), also known as the Water Reclamation Facility, to reduce the City's future reliance on imported water and to enhance groundwater recharge; and

WHEREAS, the City has recognized that its Wastewater Treatment Plant is in need of capacity and treatment improvements to keep up with the City's growth as well as to produce recycled water supply to bolster its water supply portfolio and to meet impending wastewater effluent discharge quality permit requirements; and

WHEREAS, the City desires to improve the WWTP to treat its wastewater and produce recycled water; and

WHEREAS, the City of Banning is seeking grant funding to further fund the design-build construction of the Project; and

WHEREAS, the City of Banning prepared and submitted a grant application to the WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464; and

WHEREAS, USBR has directed applicants to submit an official resolution adopted by the applicant's board of directors or governing body verifying 1) the identity of the official with legal authority to enter into an agreement, 2) the board of directors, governing body, or appropriate official who has reviewed and supports the application submitted, 3) the capability of the applicant to provide the amount of funding and/or in-kind contributions specified in the funding plan, and 4) that the applicant will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement.

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

SECTION 1. The City Manager, or his designee, is authorized to sign and submit all required information to the United States Bureau of Reclamation (USBR) to obtain a USBR WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464 for and on behalf of the City including, but not limited to, the execution of a grant agreement.

SECTION 2. The City Council has reviewed and supports the City's application for USBR Funding Opportunities R23AS00464 submitted by the 30th day of September 2024.

SECTION 3. The City Council has reviewed and supports the application for grants from Reclamation for the WaterSMART Title XVI WIIN Water Reclamation and Reuse Program.

SECTION 4. The City of Banning is able to provide the minimum 75% funding match specified in the funding plan.

SECTION 5. The City Manager, or his designee, is hereby authorized and directed to prepare the necessary data, conduct investigations, file such applications, and execute grant agreements with the USBR in association with this application process. The City of Banning will work with the USBR to meet established deadlines required for entering into a cooperative agreement to obtain the aforementioned grant funding.

SECTION 6. The City Manager, or his designee, is authorized to represent the City in carrying out the City's responsibilities under the grants agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

SECTION 7. The City Manager, or his designee, is authorized to make necessary budget adjustments, appropriations and transfers related to the Financial Assistance Application for grant agreement from USBR.

SECTION 8. The City Council authorizes the Director of Public Works to be the City Manager's designee.

SECTION 9. 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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-108, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

BANNING, CA
CRITICAL WASTEWATER TREATMENT RECYCLED WATER UPGRADES

Arturo Vela
Director of Public Works
99 East Ramsey Street
Banning, CA 92220
avela@banningca.gov
951-922-3134

SEPTEMBER 30, 2024

BUREAU OF RECLAMATION

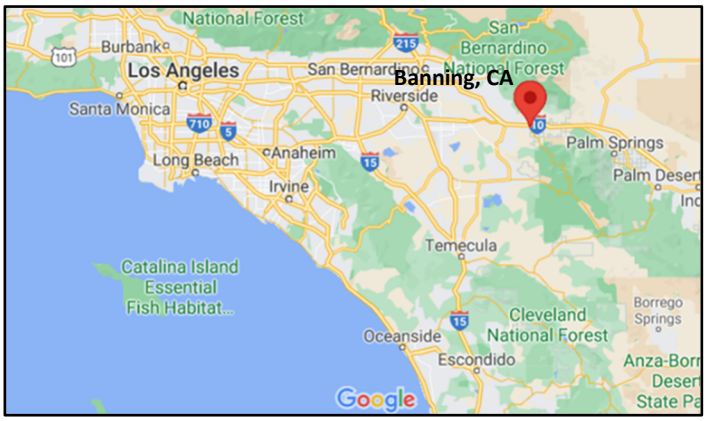
WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects
Fiscal Years 2023 and 2024
NOFO No. R23AS00464



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1. EXECUTIVE SUMMARY



DATE: SEPTEMBER 30, 2024

APPLICANT: CITY OF BANNING
COUNTY: RIVERSIDE
STATE: CALIFORNIA

PROJECT SUMMARY: The City of Banning (City) requests $16,194,575 from the WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse program for critical upgrades to its Wastewater Treatment Plant (WWTP) to produce valuable reclaimed water. This Project will address the urgent need to increase locally sourced water supplies by an estimated 2,470 AFY (2.2 MGD) with recycled water. This is exceptionally important to the economically disadvantaged communities that comprise Banning's population (31,680 residents)[1] giving them the **unprecedented opportunity to use every gallon of water twice**. Banning lies in the San Gorgonio Pass region of Southern California, approximately 85 miles east of downtown Los Angeles. The Project will upgrade the existing WWTP to provide tertiary treatment to meet both regional and California Title 22 recycled water quality requirements. The safe, clean water will serve high volume irrigation customers in Banning who currently use groundwater recharged by imported water. Additionally, it will provide vital regionally significant groundwater replenishment. Currently, the City relies on purchasing imported water from the San Gorgonio Pass Water Agency (SGPWA) for groundwater recharge. This will reduce the need for imported water, which is becoming an increasingly unreliable, diminishing water source. The Project is well aligned with goals and objectives identified in both the Banning Urban Water Management Plan (2020)[2], the San Gorgonio Integrated Regional Water Management Plan, and the Western Riverside County Subregional Climate Action Plan. By producing a new local, sustainable water supply source, the City will improve its drought resilience, climate adaptability, and its water management efficiency. The progressive design-build approach will enable Banning to complete the Project with significant cost savings and an expedited 3-year timeline. The proposed Project is not located on a federal facility and will not involve federal land.

REGIONALLY SIGNIFICANT BENEFITS

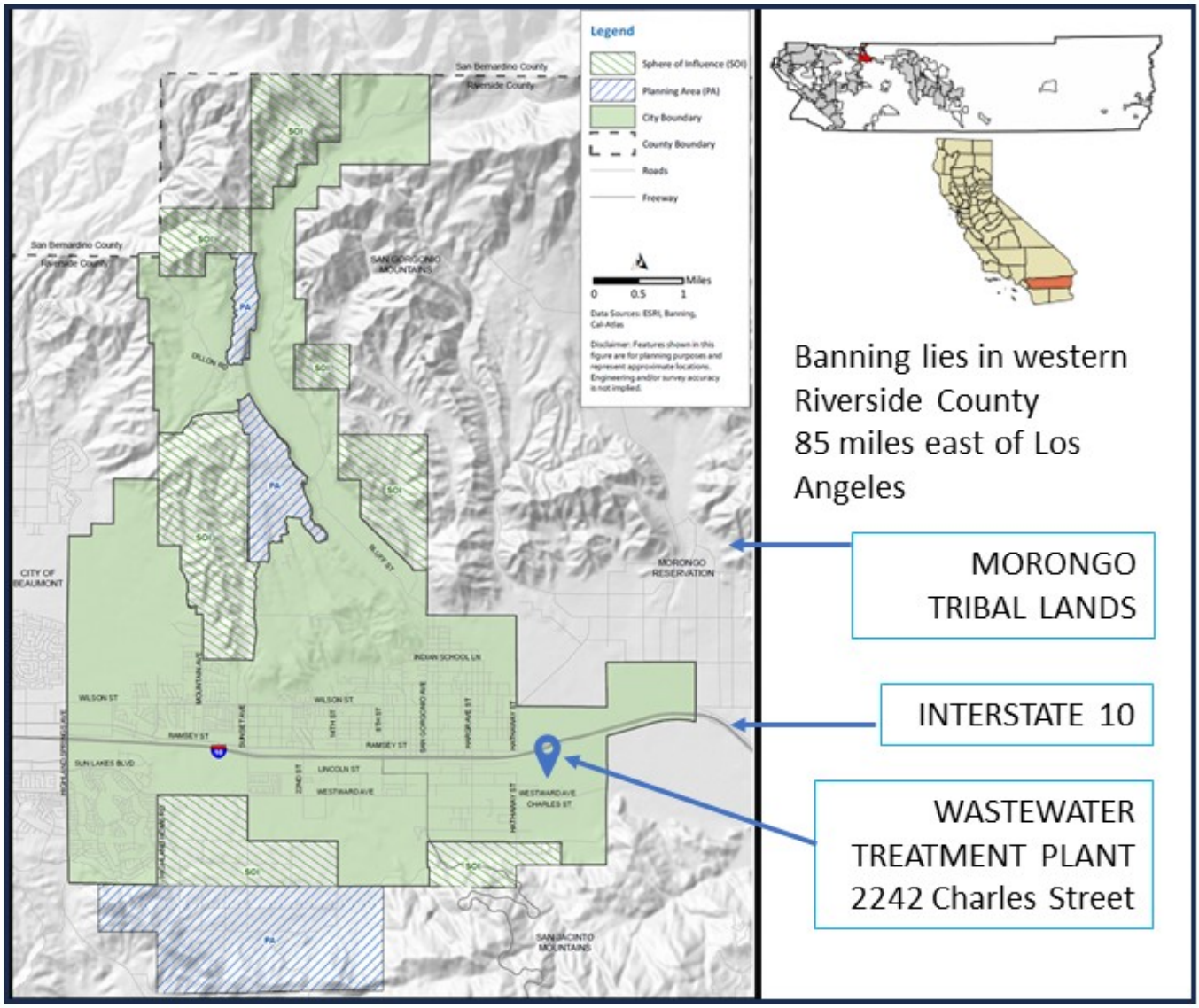
WATER QUALITY
SUPPLY RELIABILITY
GREEN SPACE SUSTAINABILITY
DROUGHT RESILIENCE
URBAN HEAT MITIGATION
EQUITY/JUSTICE
TRIBAL RESOURCES
COST SAVINGS
ENERGY SAVINGS
SOIL IMPROVEMENTS
QUALITY OF LIFE
GHG REDUCTIONS

[1] U. S. Census Bureau 2023
[2] link to Banning UWMP

2. PROJECT LOCATION

The City of Banning (City) is in southern California, northern Riverside County approximately 25 miles east of the City of Riverside and 85 miles east of downtown Los Angeles (see **Figure 1**). It lies within the jurisdiction of the Colorado Regional Water Quality Control Board (RWQCB), Region 7. The City encompasses 23.2 square miles and is bisected by Interstate 10 in the San Gorgonio Pass region at the gateway to the Coachella Valley. Banning is adjacent to the City of Beaumont on the west, the Morongo Band of Mission Indians reservation to the east, the San Bernardino Mountains to the north, and the San Jacinto Mountains to the south.

Figure 1. Project Location Map



3. PROJECT DESCRIPTION

Overview: The proposed multi-benefit Project will upgrade the existing WWTP to produce advanced tertiary treated recycled water. A portion of the water will be used to serve irrigation customers currently using groundwater recharged by imported water, and the rest will discharge to the City's percolation ponds for groundwater recharge. This will increase the supply and reliability of locally sourced non-potable water by an estimated 2,470 AFY (2.2 MGD). The U.S. Bureau of Reclamation approved the Project within the Wastewater Treatment Plant and Recycled Water Upgrades Feasibility Study on January 31, 2024[3].

3.1 Background Information

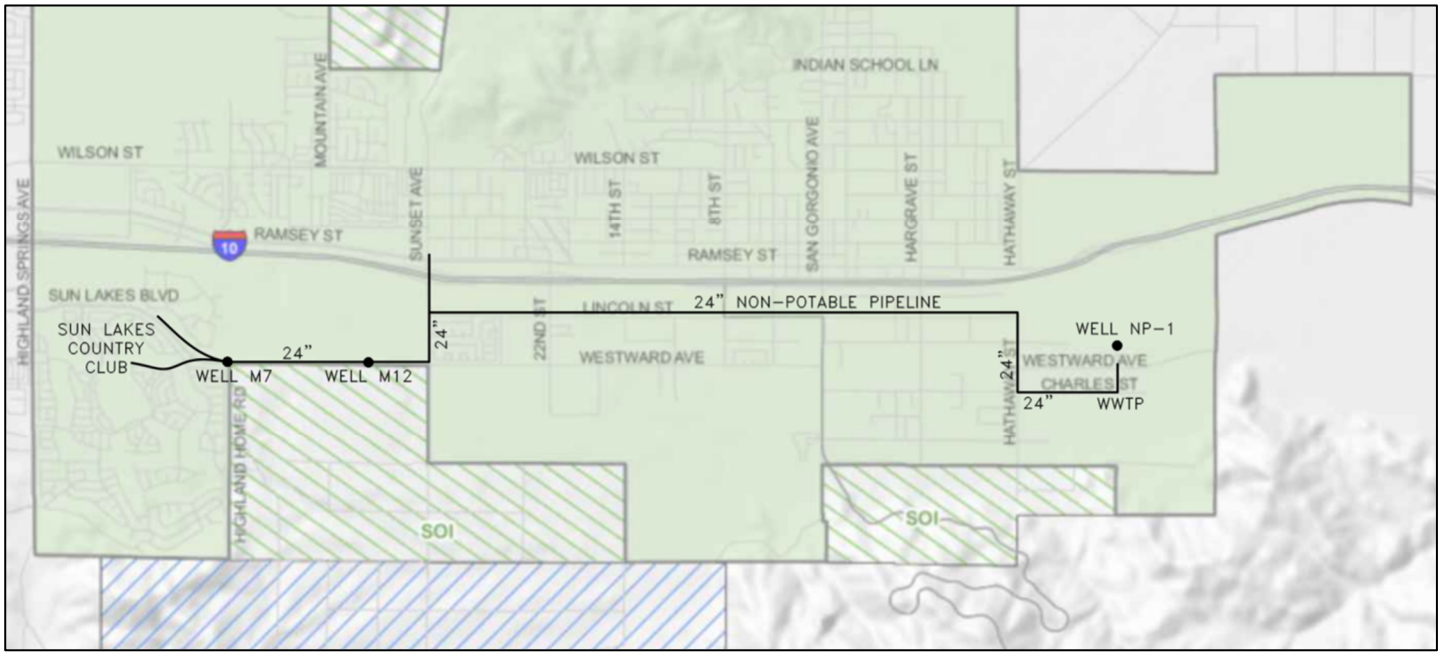
Climate Crisis

With climate change bringing unpredictable and severe variations in weather including droughts in California and the western United States, Banning will implement this Project to generate sustainable regional supplies to address future water supply challenges.

Existing Recycled and Non-Potable Water System

The City of Banning does not currently utilize any reclaimed water. The City's existing non-potable water system delivers water from two non-potable groundwater wells, Well M7 and M12, to Sun Lakes Golf Course for irrigation use. The City has finished construction of a 24-inch diameter pipeline to connect the existing non-potable water pipe to the WWTP, and has begun construction of two booster stations and storage tanks along this pipeline. See **Figure 2** for a map of this non-potable pipeline.

Figure 2. Project Location Map



[3] See **Appendix A** for the Signed Executed Memorandum from the Bureau of Reclamation approving the Feasibility Study. See **Appendix B** for the Feasibility Study.

City of Banning Wastewater Treatment Plant

The City's WWTP is currently rated at 3.6 MGD and is designed to treat wastewater to secondary standards. The generated wastewater is proportional to the City's population and the water used by its residents. The wastewater flows are metered at the influent point to the WWTP. Total wastewater collected in the City between 2018 and 2023 is shown in **Table 1**. The WWTP, located in the southeast corner of the City, collects the wastewater discharged from the City through a network of 112 miles of gravity sewer mains. The WWTP consists of preliminary treatment, primary treatment, secondary treatment, solids handling, and disinfection (currently not in use). Secondary effluent is discharged to 10 unlined evaporation/percolation ponds which recharges the Cabazon Groundwater Basin. This recharge is provided only through surface percolation, and no injection wells are used by the City. **Although the WWTP effluent is currently in compliance with discharge requirements, it requires significant upgrades to comply with pending water quality discharge limits set by the Regional Water Quality Control Board, as described below.** In addition, many of the facilities, including the existing trickling filters, which perform secondary treatment, have reached their end of life.

Table 1. Banning Wastewater Flows Collected

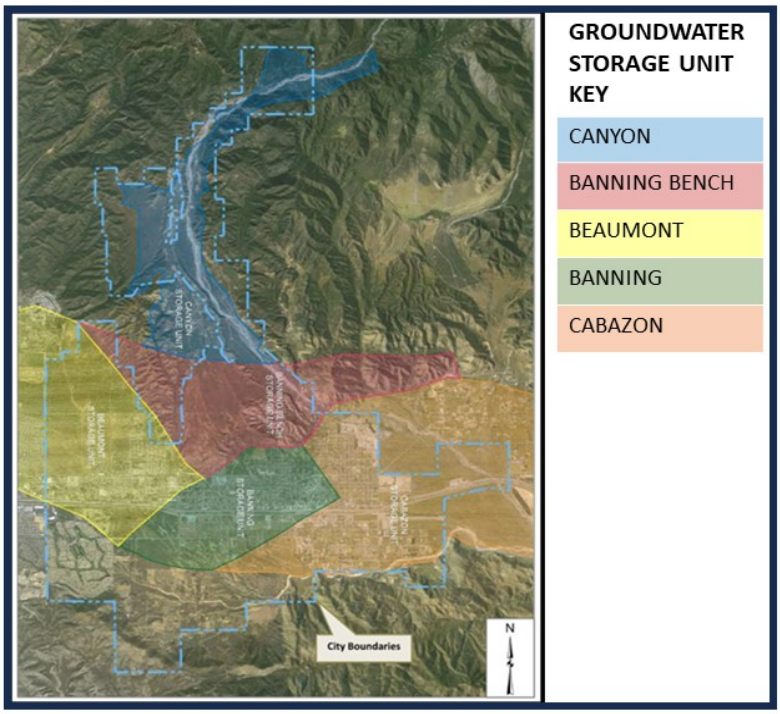
Year	Acre Feet per Year (AFY)	Million Gallons Per Day (MGD)
2018	2,259	2.02
2019	2,234	2.00
2020	2,185	1.95
2021	2,226	1.99
2022	2,307	2.06
2023	2,466	2.20

Regional Water Quality Control Board Order

In 2016, the Colorado River Basin Regional Water Quality Control Boad (RWQCB) adopted Waste Discharge Requirements (WDRs) Board Order R7-2016-0016 for the City of Banning, Wastewater Treatment Plant, Banning, Riverside County (Board Order). The Board Order requires the WWTP to remove constituents that present the greatest risk to groundwater quality including total nitrogen (TN), coliform, and total dissolved solids (TDS/salts). Currently, the average TN concentration in the WWTP effluent is 27 mg-N/L, well above the future TN limit of 10 mg-N/L specified in the Board Order. As a result, the RWQCB required the City to conduct a nitrogen removal analysis and summarize the findings in a technical report that included a tentative work plan and time schedule for the installation and implementation of nitrogen removal treatment alternatives. This final technical report was submitted to the RWQCB in 2020. In order to comply with these impending limits to continue discharging to the percolation ponds above the Cabazon Groundwater Basin, the City must upgrade the biological treatment system at the WWTP. The City proposes to upgrade the WWTP to recycled water

standards, in order to both meet the Board Order requirements as well as serve irrigation customers currently supplied with groundwater recharged by imported water.

Figure 3. Regional Groundwater Basin Beneficiaries (Banning, Beaumont and Cabazon)



3.2 Project Description

The proposed Project involves upgrading the existing City WWTP to California Code of Regulations, Title 22 Environmental Health (Title 22) standards for recycled water use. This includes constructing the following:

1. A membrane bioreactor (MBR) system to replace the existing trickling filters and secondary clarifiers for biological treatment
2. A chlorine contact tank to disinfect the water
3. A reverse osmosis (RO) system to further reduce TN and TDS levels
4. Evaporation ponds for the RO brine
5. Laterals along the existing non-potable water pipeline to serve recycled water to other City customers (including on-site signage and retrofits)
6. Other miscellaneous upgrades of the WWTP to improve the final effluent quality

The average effluent of the Banning WWTP in 2023 was 2.2 MGD, or 2,470 AFY. This flow rate will increase steadily over the next few years due to new developments in the City (e.g., the Atwell development with an estimated 4,000 homes). The new treatment facilities will be sized at 2.4 MGD capacity, allowing for a 0.2 MGD safety factor. A portion of the WWTP effluent will serve irrigation customers currently using groundwater recharged by imported water. This total future demand is 2,060 AFY (see **Table 2**). The remaining recycled water supply (410 AFY) from the WWTP will continue flowing to the existing percolation ponds for indirect potable reuse into the Cabazon Groundwater Basin. The Project is regionally significant because it will produce high quality advanced reclaimed water that meets standards for recharge in the Banning, Beaumont and Cabazon basins (see **Figure 3**).

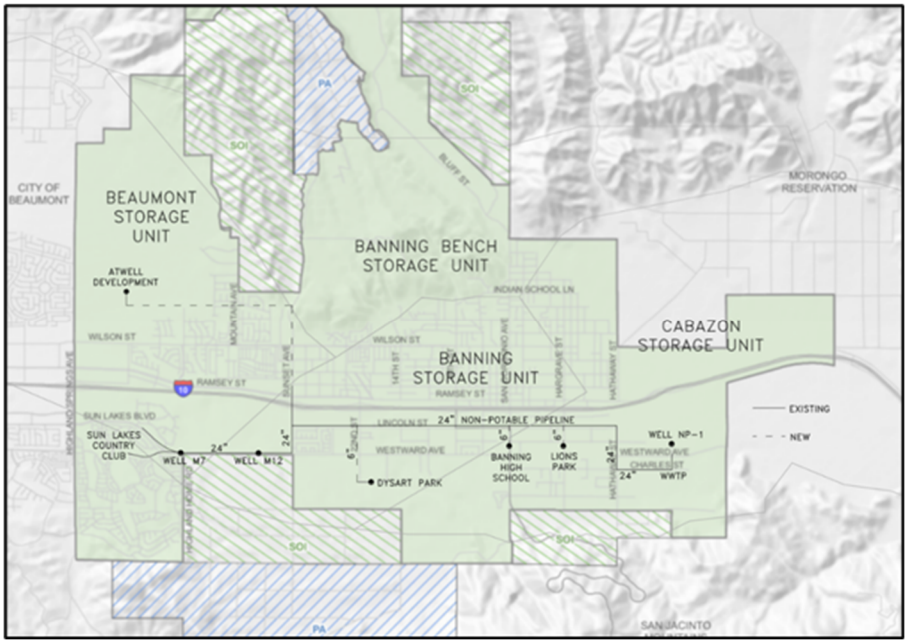
Other beneficiaries include the irrigation users who will convert to reclaimed water. Banning High School, Lions Park, Sun Lakes Golf Course, and Dysart Park are existing facilities currently serviced by the City. The Atwell housing development is under construction and is projected to be fully built within the next five to seven years. Banning High School, Dysart Park, and Lions Park lie above the Banning Storage Basin, while Sun Lakes Golf Course and the Atwell

development, the two customers with the highest demand, are located above the Beaumont Storage Basin. To serve customers over the Banning Storage Basin, the only requirement the WWTP effluent must meet is Title 22 regulations (which can be met with MBR treatment and chlorine disinfection). However, to serve customers over the Beaumont Basin, the recycled water must also comply with the Beaumont Basin's Maximum Benefit Objectives, which impose stricter regulations on TN and TDS levels; thus, the additional RO treatment step is included in the Project. See **Figure 4** for a map of the planned recycled water system.

Table 2. Future Recycled Water Use and Demand[4]

Future Recycled Water Users	Demand (AFY)	Demand (MGD)
Existing Irrigation Areas		
Banning High School	175	0.15
Lions Park	80	0.07
Sun Lakes Golf Course	865	0.77
Dysart Park	90	0.08
Subtotal	1,210	1.07
Phased Development In Progress		
Atwell Master Planned Community	850	0.76
Subtotal	850	0.76
Total	**2,060**	**1.83**

Figure 4. Planned City of Banning Recycled Water System



[4] 1f9eac_e3a40fb5e6a64240bcf9b5ca5c86035a.pdf (sgirwm.org)

By producing advanced recycled water from the WWTP as projected in **Table 3**, the City will not only reduce its reliance on imported water, but also improve groundwater quality in the Cabazon Groundwater Basin. Since 100% of the City's population is categorized as severely disadvantaged or disadvantaged, a reliable local supply of water will also support sustainability and economic development, which are dependent on the availability of water supplies.

Table 3. Current and Projected Recycled Water Production Use

Year	Produced / Used (AFY)	Produced / Used (MGD)
2024	0	0
2027	2,470/1,210	2.2/1.07
2030	2,690/2,060	2.4/1.83

3.3 Proposed Scope of Work

The City of Banning has developed the following scope of work to implement the Project.

Task 1: Environmental Reviews and Permitting California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation will be completed prior to initiation of construction of each component. The City does not anticipate that the Project will have negative impacts on endangered or threatened species, public health or safety, hydrology and regulated waters of the United States, or cultural resources. As such, the City will prepare an Initial Study/Mitigated Negative Declaration (IS/MND) for CEQA and expects that Reclamation will adopt a Finding of No Significant Impact (FONSI) for NEPA coverage for the Project. Permitting includes the application and receipt for all applicable permits for the Project, including construction permits. Anticipated permits are listed below.

1. State Water Resources Control Board Division of Drinking Water (DDW) Title 22 Engineering Permit
2. Regional Water Quality Control Board – Colorado River Basin General Permit (combining Non-Discharge National Pollutant Discharge Elimination System [NPDES], Waste Discharge Requirement [WDR], and Waste Recharge Requirements [WRR])
3. RWQCB Notice of Intent (NOI)
4. RWQCB Notice of Applicability (NOA)
5. DDW – Recycled Water Customer Conversion Approval
6. Air Quality Management District (AQMD)
7. CEQA (IS-MND)

A Title 22 Engineering Report is required to be submitted for approval by DDW to meet water quality standards for recycled water. After the design documents are finalized, the City will submit the necessary reports, analyses, and applications to obtain required permits from the RWQCB.

Task 2: Design Work under this task will include field investigations as well as preliminary and final design of the WWTP upgrades and conveyance.

Preliminary Design will include initial investigations consisting of an assessment and background research of the WWTP site. This assessment will evaluate and address the potential logistical issues, including but not limited to site access, available space for equipment, obstructions, above ground and underground utilities, and noise constraints.
A preliminary design report will be prepared that will summarize the evaluation of the WWTP site. The report will also include a planning-level estimate of contractor costs (i.e., engineer's estimate) and preliminary design drawings. The planning-level cost of contractor costs for the construction, development, and testing of the proposed WWTP upgrades will be prepared based on local conditions and recent Contractor cost estimates for similar projects.

Final Design will include 30%, 60%, 90%, and final design drawings and specifications for the following Project components: MBR system, chlorine contact tank, RO system, evaporation ponds, pipeline laterals to recycled water customers (including on-site signage and retrofits), and other miscellaneous upgrades of the WWTP.

Task 3: Construction Work under this task will include mobilization, shop drawings, construction, commissioning and start-up, testing, and demobilization. Construction comprises the bulk of the work to be completed under the Project. During this stage, a detailed schedule of values will be developed for the bid package, with specific line items showing anticipated units and unit quantities for the construction of each item. Bidding and construction of the WWTP upgrades will be performed, including equipment procurement and installation, commissioning, and start-up.
The City plans to conduct activities to keep the public informed and engaged as the Project progresses. Activities include community workshops, public meetings, and distribution of outreach material via social media outlets.

Task 4: Construction Administration Construction administration will span the construction duration of the Project. This task includes confirmation of compliance with permits, review of construction activities, inspection and environmental monitoring during construction, and other construction administration needs.

The Project will be operational within 3 years from the date of initiation (**Table 4**).

Table 4. Project Schedule

Milestone / Task / Activity	Planned Start Date	Planned Completion Date
1. CEQA Documentation/Permits	January 2025	December 2025
2. Design	January 2025	December 2025
3. Construction, Start-up, Testing, Commissioning	January 2026	September 2027
4. Construction Administration	January 2026	September 2027

4. EVALUATION CRITERIA

Evaluation Criterion 1—Water Supply (35 points)

Sub criterion No. 1a—Stretching Water Supplies (18 points)

1. How many acre-feet of water are expected to be made available each year upon completion of the Project?

An estimated 2,470 AFY (2.2 MGD) – the total average WWTP effluent – of locally-sourced non-potable recycled water will be made available each year upon completion of the Project. The expected annual non-potable water demand is 2,060 AFY (**Table 2**). The recycled water generated from this Project will satisfy this demand and "free up" both potable water and current non-potable well water that can now be permitted for drinking water use instead of irrigation. The breakdown of current water use by sector shows that irrigation makes up a significant percentage (more than 15%) of total current water use (see **Table 5**). Future phases of upgrades at the WWTP and population growth will generate an even greater volume of recycled water. **Table 5** does not capture the surplus recycled water that will be available for groundwater recharge.

Table 5. Recent and Projected Water Use by Sector (Acre Feet)[5]

Sector	2024 Demand/Use	2030 Demand/Use	2045 Demand/Use
Single Family Residential	3,637 (51.9%)	5,071	6,382
Multi-Family Residential	192 (2.7%)	103	130
Commercial	808 (11.5%)	2,548	3,206
Industrial/Government	861 (12.3%)	29	37
Public Water Systems	335 (4.8%)	0	0
Landscape Irrigation POTABLE	916 (13.1%)	0	0
Landscape Irrigation NON-POTABLE WELL	189 (2.7%)	0	0
Landscape Irrigation NEW RECYCLED WATER	**0**	**2,060**[6]	**3,245**[7]
Unaccounted Water (losses)	67 (1.0%)	1,630	2,052
Total Water Consumption	7,005	11,441	13,467
Water Service Area Population	31,179	45,235	66,400

[5] 2020 Banning Urban Water Management Plan
[6] Landscape irrigation currently sourced by potable and non-potable well sources for (parks, a golf course, school green spaces etc.) detailed in Table 2.
[7] Potential Regional recycled water Demand from the 2018 San Gorgonio Regional Integrated Water Management Plan

2. Will the Project reduce, postpone, or eliminate the development of new or expanded non-recycled water supplies?

Yes, the Project will reduce the development of new imported water supplies for groundwater recharge, as the City will rely solely on the new recycled water supply to meet their non-potable water demands. The reduction of imported water demand will be in a 1:1 ratio with the deliveries of recycled water. The City currently purchases non-potable imported water from the Sacramento-San Joquin River Delta (Bay Delta) in Northern California through the San Gorgonio Pass Water Agency (SGPWA). **Table 6** shows the City's last 6 years of imported water purchases. In 2021, no imported water was delivered due to a lack of supply from the Bay Delta caused by drought conditions, highlighting the unreliability of imported water deliveries. The City's imported water purchases are expected to increase due to new developments, unless offset by recycled water generated by the proposed Project.

Table 6. Imported Water

Year	Purchases (AF)
2018	500
2019	250
2020	250
2021	0
2022	35
2023	1,000

The imported water is used for recharging the City's groundwater supply, which the City relies on to meet the current water demands listed above in **Table 2**. Because new recycled water from the Project will serve the existing non-potable water customers in place of groundwater, the City's groundwater basins will no longer require this additional imported water recharge. This will reduce the City's need for imported water supplies by 1,210 AFY.

To meet the irrigation demands of the Atwell development, the City will need to purchase an additional 850 AFY. The new recycled water supply will offset this additional 850 AFY of imported water. **Therefore, this Project will enable the City to avoid purchasing a total of 2,060 (1,210 + 850) AFY of imported water to meet irrigation demands.**

3. Will the Project alleviate pressure on existing water supplies and/or facilities?

Yes. The City currently operates two non-potable groundwater wells, Wells M7 and M12 to meet the demands of the Sun Lakes Golf Course (see **Figure 5**). By supplementing groundwater with recycled water to supply Sun Lakes, the Project enables the City to convert **Wells M7 and M12 to be pumped and treated for potable water use.** This shift alleviates pressure on both wells, as they will no longer be required to meet the demands of Sun Lakes and can instead serve other existing or future potable water needs. As a result, the City will gain redundancy and reliability in its water production capacity.

The City's other non-potable customers, Banning High School, Dysart Park, and Lions Park are supplied with potable groundwater. By supplying recycled water to these customers instead of groundwater, the Project will reduce the demand on potable water supplies. With more potable water sources available, the need to construct new wells and storage reservoirs for the City's water system will also be eliminated.

By generating a new recycled water supply, it will reduce the strain on the City's groundwater basins, which would otherwise have been required to meet the needs of projects like Atwell. The Project does **not** incentivize or enable ***new*** irrigation areas but, will provide for valuable green space in existing, master-planned, "smart development" already underway.

Figure 5. Sun Lakes 55+ community with two 18-hole courses



RECYCLED WATER CREATES A WIN-WIN

The project will deliver recycled water to irrigate the 250-acre Sun Lakes site. The City's nearby wells can then be used to produce potable water.

4. What performance measures will be used to quantify actual benefits?

The following performance measures will be used to quantify the benefits of the Project:

- ***Improved WWTP final effluent quality*:** By installing an MBR system and RO facility at the WWTP, the final effluent of the WWTP will have significantly improved water quality, specifically in reduced TN and TDS concentrations, as the effluent must meet RWQCB Board Order requirements, Title 22 regulations, and the Beaumont Basin Maximum Benefit Objectives.
    - Measured by analyzers and sensors installed at the WWTP post RO treatment (the last stage of treatment) and monthly sampling to validate standards.
- ***Improved groundwater quality and recharge*:** The portion of WWTP effluent not used to serve irrigation customers will discharge to percolation ponds above the Cabazon Groundwater Basin. With the implementation of the new treatment systems (MBR and RO), the water discharging to the percolation ponds will be of much higher quality, resulting in improved groundwater quality in the Cabazon Basin.
    - Measured through quarterly sampling of these monitoring wells adjacent to the percolation ponds: R-1, MP-1, and C-6.
    - Recharge measured through excess not delivered to irrigation sites.

- ***Improved supply reliability:*** The Project will create a new, drought-resilient local recycled water supply that will greatly improve supply reliability. The City will have a total annual non-potable water demand of 2,060 AFY in the near future. Since this Project will create 2,470 AFY of advanced recycled water, this will meet 100% of this demand, increasing supply by 100% in addition to providing clean, purified recycled water for recharge.
    - Measured using a flowmeter at the distribution point of the WWTP.
- ***Production of recycled water:*** This Project will create 2,470 AFY of disinfected, advanced tertiary recycled water that will be used for direct non-potable reuse.
    - Quantified with flowmeter readings of the WWTP effluent flow.
- ***Delivery of recycled water*:** Once the Atwell development is complete, 2,060 AFY of recycled water from the WWTP will be delivered to recycled water customers.
    - Quantified with flowmeter readings at distribution points.

Sub criterion No. 1b—Contributions to Water Supply Sustainability (17 points)
Will the Project make water available to address a specific concern?

Water supply reliability

Currently, there is 0 AFY of recycled water produced by the City. All current non-potable needs are met by potable and non-potable groundwater recharged by imported water. This Project will create a new, reliable non-potable recycled water supply of 2,470 AFY from the WWTP effluent. This water supply can meet 100% of future (2,060 AFY total) non-potable needs in the City. Recycled water is considered a reliable water source for several reasons:

- **Consistency:** Unlike traditional water sources that can be heavily impacted by drought, recycled water is consistently available because it is derived from treated wastewater, which is continuously produced by communities. This is especially important in Banning which was severely impacted by the 2020 drought.
- **Local Supply:** Recycled water reduces dependence on imported water sources, which can be unreliable during drought conditions. California demands on limited imported water from the Colorado River and the Bay Delta are extreme. Many communities rely exclusively on these sources. This underscores the importance of Banning's ability to generate and maximize local water.
- **Sustainability:** By reusing water, Banning can conserve potable resources, ensuring that more water remains available for essential uses during drought periods.

Groundwater depletion

Currently, the City's largest non-potable water customers, Sun Lakes Golf Course, is supplied by groundwater Wells M7 and M12. Other existing non-potable water customers, including Banning High School, Dysart Park, and Lions Park, are supplied with potable groundwater. This Project involves replacing these groundwater sources with recycled water from the WWTP to meet customer demands. This alleviates pressure on the wells, thereby helping to prevent the

depletion of these groundwater sources. In addition, recycled water from the Project will be used to serve the new Atwell development that is currently being constructed, thus offsetting further depletion of groundwater.

Water quality issues

Currently, the existing WWTP process does not effectively remove nitrates from the wastewater to meet the impending RWQCB water quality limits. By upgrading the WWTP to include MBR and RO, this will reduce the total nitrogen (TN) in the effluent from 27 mg/L to 4 mg/L, allowing the City to meet the RWQCB requirements of 10 mg/L. In addition, through the RO system, total dissolved solids (TDS) in the water will decrease from 410 mg/L to 207 mg/L.

Since approximately 410 AFY of the treated WWTP effluent will be discharged to the percolation ponds over the Cabazon Groundwater Basin, the improved water quality of the water will allow the City to both meet RWQCB limits and alleviate rising nitrate and salt levels observed in the Region. This improved water quality discharged over the Cabazon Groundwater Basin is shown in **Table 7**.

Table 7. WWTP Effluent Water Quality Discharged into the Cabazon Groundwater Basin[8]

Constituent	Before the Project	After the Project
Total Nitrogen (TN)	27 mg/L	4 mg/L
Total Dissolved Solids (TDS)	410 mg/L	207 mg/L

Natural disasters impacting water supply infrastructure

Banning is extremely vulnerable to natural disasters that can severely impact water delivery infrastructure. This Project will create a new water supply that can be made available in the event of a natural disaster or emergency. For instance, the recycled water source can be used by firefighters to combat wildfires in the area. Access to recycled water will be from storage tanks and reservoirs.

Figure 6. Apple Fire August 2, 2020



[8] Values based on Biowin modeling of the proposed system

Banning has a significant border that interfaces with wildlands susceptible to fires that are becoming more frequent as the climate changes. The Apple Fire in 2020 proved just how vulnerable Banning and its water infrastructure are to wildfire impacts (see **Figures 6, 7, and 8**).

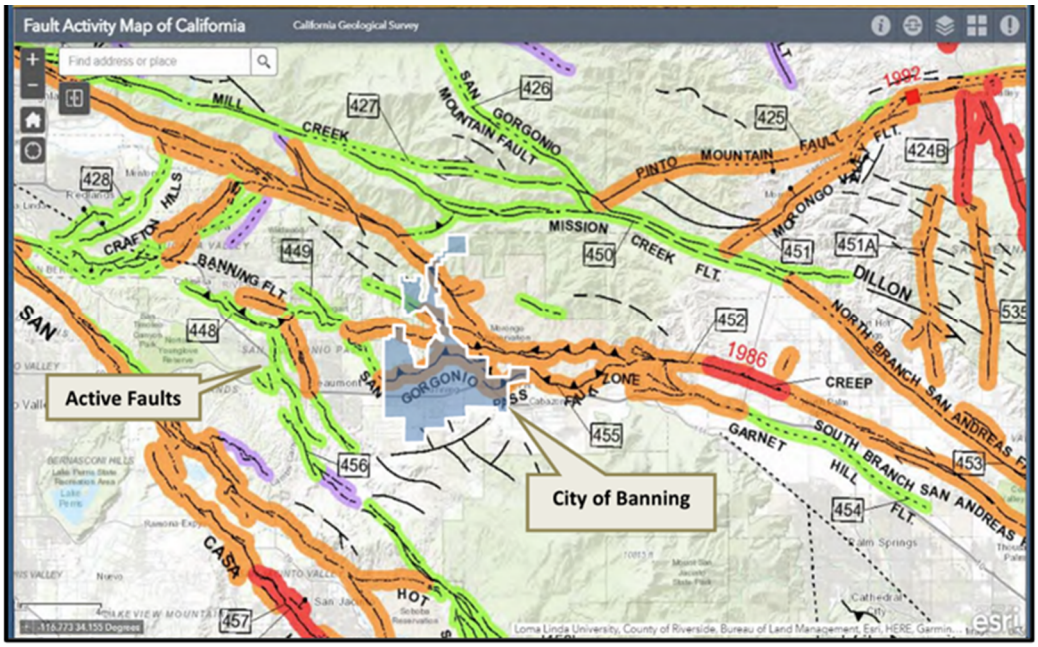
The fire also damaged two groundwater wells (8 and 10) and destroyed a critical water flume that conveys water to the unincorporated, disadvantaged communities of Banning Heights and the City of Banning. Drought conditions created tinder dry terrain in Banning and the surrounding landscape; the Apple Fire burned over 33,000 acres. The fire forced mandatory evacuations impacting more than 2,500 homes and 8,000 residents.

Figures 7 and 8. Whitewater flume Apple Fire damage



In addition, Banning lies in a seismically active landscape where earthquakes can impact imported water conveyance, including the canals used to deliver water into Southern California through the State Water Project (SWP). This Project will enable the City to rely less on imported water. Local water supplies could also be impacted but having more source options in the system gives Banning greater resilience to earthquake damage. According to the California Office of Emergency Services' online planning tool (My Plan) and the California Geological Survey's online earthquake hazards zone application (EQ Zapp), several faults, including the Banning Fault and portions of the San Gorgonio Fault Zone (orange lines below), are present within the City's sphere of influence (see **Figure 9**).

Figure 9. Fault Zones In and Near Banning[1]



Heightened competition for water supplies

The City purchases imported water from the SGPWA through the State Water Project. However, due to droughts and other factors, the availability of that water is expected to decrease, and competition is expected to increase. According to the Department of Water Resources' 2023 State Water Project Delivery Capability Report, State Water Project delivery capability is expected to reduce as much as 23% in the next 20 years.[9] This decrease in the future availability of surface water deliveries confirms the unsustainable nature of imported water and an urgency for reliable local supplies. This Project involves creating a drought-proof water supply that will reduce imported water purchases. This will protect the City from the effects of climate change and the resulting competition for imported water resources.

Availability of alternative supplies

Banning's Project also bolsters groundwater recharge with a continuous reliable source of recycled water, as opposed to the imported water which is currently used for recharge. Both groundwater and imported water are sources reliant on rainfall and therefore susceptible to climate change and droughts. This Project presents a valuable opportunity to create a reliable, local supply of non-potable water to supplement this unreliable alternative water supply.

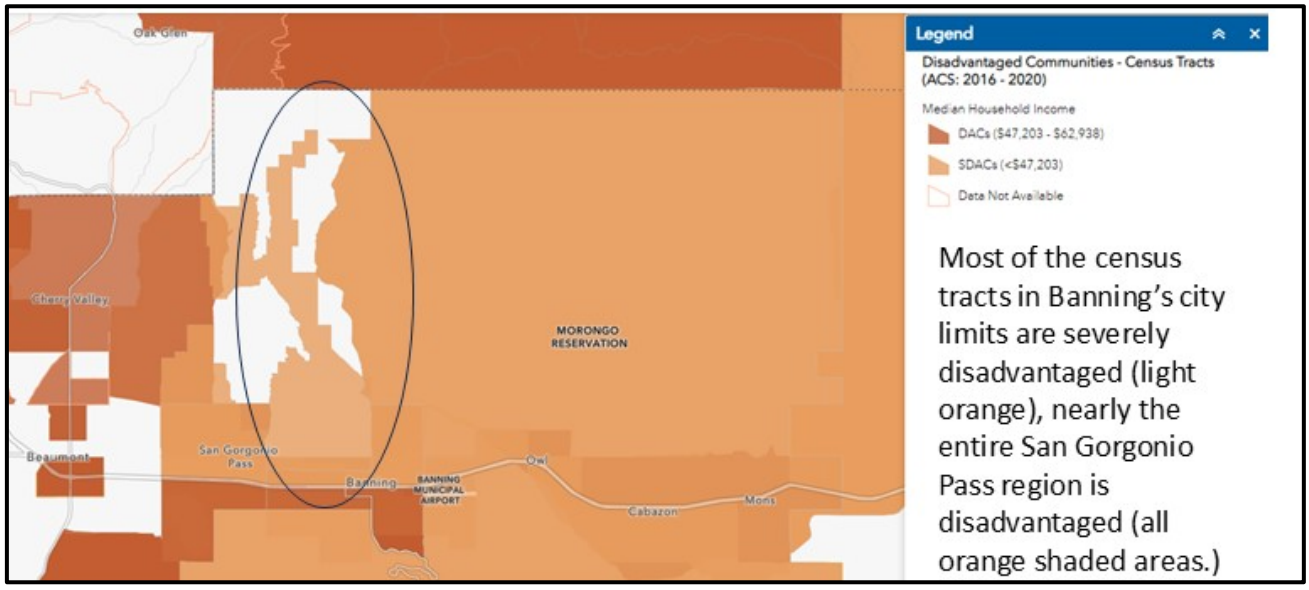
Cost-Effectiveness

Over time, investing in water recycling infrastructure will be more cost-effective than developing new water sources or imported water from northern California or the Colorado

[9] https://smartwatermagazine.com/news/california-department-water-resources/californias-state-water-project-may-see-a-23-decline

River. The cost to continue serving irrigation customers with groundwater recharged with imported water is $1,581/AF (see Evaluation Criterion 3 for more details) and is expected to increase in the foreseeable future. After the initial investment in the WWTP upgrades, Banning will be able to reliably produce recycled water for $1,287 per acre foot. These savings will allow Banning to keep water and wastewater rates lower for its customers who face significant economic burdens. Additionally, recycled water uses are not restricted during droughts, therefore the Sun Lakes Golf Course and other recreational areas will be sustained and usable, even during devastating dry periods. According to the California Department of Water Resources (DWR) Mapping Tool[10], Banning's population is categorized as 100% severely disadvantaged or disadvantaged. Severely disadvantaged communities such as Banning (shown in **Figure 10**) suffer from a combination of economic, health, and environmental burdens. These burdens include poverty, high unemployment, air and water pollution, presence of hazardous waste, and a high incidence of asthma and heart disease. Severely disadvantaged communities are also disproportionately affected by drought and water restrictions. The Project benefit area is the entirety of the City of Banning and its regional neighbors, including the Morongo Reservation, Beaumont, and Cabazon who are all water interdependent.

Figure 10. CA DWR Disadvantaged Communities Mapping tool



Will project help create additional flexibility to address drought?

Yes. This Project allows Banning to provide recycled water even during periods of drought, as it is generated from wastewater, a consistent and reliable source. Unlike alternative water supply options, such as surface and groundwater, that depend on precipitation for recharge, wastewater is generated continuously through domestic and industrial processes. This means that even during droughts, when groundwater sources may be limited, recycled water can still be produced and supplied. By relying on the constant supply of wastewater rather than groundwater or imported sources, the Project guarantees non-potable water supply reliability,

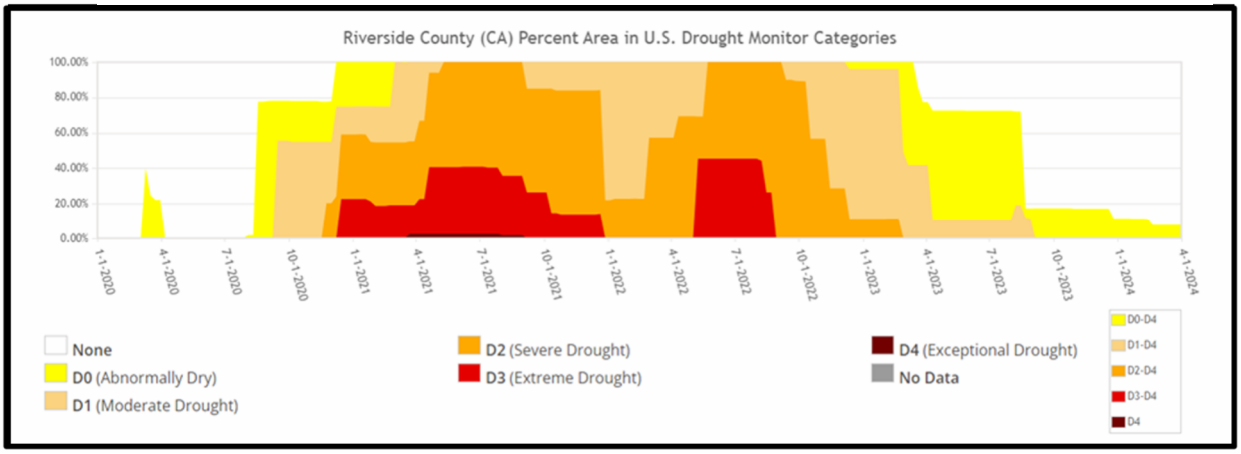
[10] https://gis.water.ca.gov/app/dacs/

bolstering available potable supplies and drought resiliency.

1. **Has the area served by the Project been identified by the United States Drought in the last 4 years?**

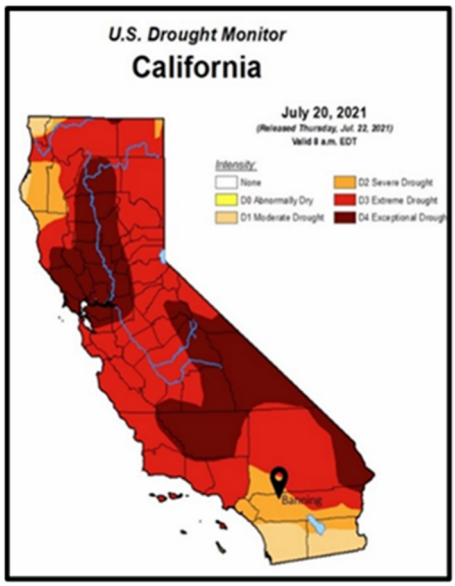
Yes. the United States Drought Monitor (**Figure 11)** reported Banning's service area and the entirety of Riverside County enduring severe drought (orange) in 2020, 2021, 2022, and 2023, extreme drought in 2020, 2021, and 2022 (red), and exceptional drought (brown) in 2021.

Figure 11 U.S. Drought Monitor Riverside County Drought Classification



In 2021, drought conditions escalated to catastrophic levels in California. Banning experienced severe drought, and conditions were even more dire with extreme and exceptional drought parching most of the state. As shown in **Figures 12 and 13**, summer 2021 drought conditions triggered the Westward Fire near Banning High School on August 25th, prompting numerous evacuations.

Figures 12 and 13. 2021 U.S. Drought Monitor[11] and Westward Fire in Banning[12]





[11] https://droughtmonitor.unl.edu/
[12] Photo credit NBC News Palm Springs City News Service

Severely disadvantaged communities like Banning disproportionately bear the consequences of drought. Banning residents suffer social, economic, and environmental drought impacts.

Social impacts include reduced income, reduced recreational activities, public safety threats, and depression and anxiety due to economic struggles and water insecurity. Additionally, drought-associated health problems related to increased heat, dust, and wildfire smoke have an undue effect on Banning residents, a population that already suffers with asthma rates that are higher than 89 percent of census tracts in California, and cardiovascular disease rates that are higher than 98 percent of California census tracts.

Economic impacts from droughts strike Banning residents particularly hard. Increased costs for food, water and electricity can be insurmountable for residents that have poverty-level median household incomes. Increased costs of imported water and reduced city water revenues have long-lasting budgetary impacts for the Banning Water and Wastewater Utilities Department, resulting in rate increases for end users. These increased costs add to the overwhelming burdens borne by disadvantaged residents. Finally, Banning residents have suffered from **environmental effects** of drought including low water levels and the resultant water restrictions, as well as decreased water and air quality and heightened risk of wildfires.

2. Has the area served by the Project been designated as a state drought disaster area in the last 4 years**?**

Yes, in the last four years, Riverside County, including the Banning service area, has been designated as a drought disaster emergency area by the State of California and the U.S. Department of Agriculture (USDA). In October 2021, with water conservation efforts continuing to fall short, Governor Gavin Newsom extended a drought emergency declaration statewide, adding eight counties that were previously excluded, including all of Southern California. The drought emergency proclamation continued statewide through 2022.[13] In March 2021, the USDA also designated Riverside County (including Banning) as a primary disaster area. USDA issued another drought declaration in the county in July 2022 reflecting worsening conditions. In March 2023, a local emergency proclamation was issued due to extreme weather including drought.

Evaluation Criterion 2—Environment and Water Quality (15 points)

1. Will the Project improve the quality of surface water or groundwater? If so, how?

Yes, the Project will improve groundwater quality but will not involve surface water. Upon completion of the Project, a portion of the WWTP effluent will serve irrigation demands to customers over the Beaumont and Banning Storage Basins. The rest will discharge to the existing percolation ponds to recharge the Cabazon Groundwater Basin.

The Project involves upgrading the biological treatment at the WWTP from Trickling Filters to an MBR system. MBR yields very high effluent water quality, leading to lower TN, BOD, and TSS levels. An RO system will also be implemented post MBR treatment to meet the Beaumont Basin Maximum Benefit Objectives, further lowering TN and TDS levels. As a result, the Project will contribute to improving the water quality of the groundwater in the Cabazon Groundwater

[13] https://cww.water.ca.gov/emergency-county

Basin. **Table 8** indicates the current Cabazon Basin quality compared to the new recycled water effluent quality. The improved water quality of the WWTP effluent will result in lower concentrations of both nitrate and salt concentrations in the recycled water compared to the current groundwater quality. Consequently, the water discharged across the Cabazon Basin will enhance overall groundwater quality conditions.

Table 8. Groundwater Basin Water Quality Improvements

Parameter (Units)	Current Cabazon Basin Water Quality	Future Cabazon Basin Water Quality
TN (mg/)	12	4
TDS (mg/L)	380	207

2. Will the Project improve effluent quality beyond levels necessary to meet State or Federal discharge requirements?

Yes, the Project will improve effluent quality beyond State discharge requirements. There are no Federal discharge requirements for non-potable recycled water. The City has the following three requirements for the water to meet: an impending RWQCB Board Order to continue discharging to the Cabazon Basin, Title 22 regulations to supply recycled water to customers, and Beaumont Basin Maximum Benefit Objectives to serve Sun Lakes Golf Course and the Atwell development. California's water recycling criteria outlined in Title 22, Code of Regulations includes requirements for turbidity, chlorine residual, coliform, and other constituents. However, only the regulations with TN and TDS limits are listed in the table below. As shown in **Table 9**, the Beaumont Basin has the most stringent regulations for TN and TDS, more so than the RWQCB and Title 22 regulations. As such, the expected water quality of the WWTP effluent will have better effluent quality than State requirements to accommodate for the TN and TDS Beaumont Basin requirements.

Table 9. Beaumont Groundwater Basin Water Quality Improvements

Parameter (Units)	Current WWTP Effluent Quality	Colorado Regional Water Quality Control Board Order	Beaumont Basin Maximum Benefit Objectives	Expected WWTP Effluent Quality
TN (mg/L)	27	10	5	4
TDS (mg/L)	410	500	330	207

Additionally, the Project's RO treatment system for wastewater effluent will also effectively reduce Hexavalent Chromium (Cr6). New State regulations will require water suppliers to reduce levels of Cr6. In addition to contaminating groundwater, the Cr6 is also present in wastewater. Cr6 is considered a toxic and carcinogenic substance, making its presence in all water, including wastewater, a significant environmental concern. Typically, RO systems can remove up to 90-99% of Cr6. Additionally, studies and reports from the Environmental Protection Agency also indicate similar removal efficiencies. This is significant. The Project will

improve groundwater quality by recharging underground supplies with cleaner water that contains reduced levels of Cr6.

Figure 14. Proposed Location of Brine Evaporation Ponds



For the brine management of the RO system, brine evaporation ponds will be constructed on City property near the percolation ponds. The expected brine flow is 0.084 MGD, assuming partial blending and a recovery rate of 93%. This will require approximately 15 acres of salt evaporation ponds and 10 mechanical evaporators. These evaporation ponds will be subject to regulation under the California Code of Regulations, Title 27 Environmental Protection (27 CCR), Division 2 Solid Waste. To comply with this regulation, the design of the evaporation ponds will include several layers of protection and monitoring capabilities. See **Figure 14** pond locations. The City will also be looking into optimizing brine management by connecting into the Santa Ana Watershed Project Authority (SAWPA) Inland Empire brine line through the City of Beaumont.

3. Will the Project improve flow conditions in a natural stream channel? If so, how?

Yes. This Project benefits extend north to the Bay Delta, as it will decrease purchases of imported water supplies drawn from the Sacramento-San Joaquin Delta (Bay Delta) by 2,060 AFY. **This helps improve flow conditions in the natural stream channels of the Bay Delta.** Impacts from withdrawals occur due to the change of river flow by pumping, capture within pumping equipment, and increased saltwater intrusion due to pumping. A decrease in water imported through the SWP could help to alleviate these pressures on the Bay Delta ecosystem and restore habitat for non-listed species.

4. Will the Project restore or enhance habitat for non-listed species? If so, how?

Yes, recycled water will help sustain important urban green spaces and protect other ecosystems by reducing the need to extract water from aquifers, ultimately benefitting non-listed species in the San Gorgonio/Coachella Valley region. These functional turf and park areas play a crucial role in restoring and enhancing habitats for non-listed species. Urban green spaces, such as parks, gardens, and turf areas offer essential habitats for a variety of species, including pollinators, birds, and small mammals. These areas can support native species by providing food, shelter, and breeding grounds. Green spaces also act as corridors that connect fragmented habitats, allowing species to move and disperse more freely across urban landscapes. This connectivity is vital for maintaining genetic diversity and healthy populations.

Green spaces help mitigate urban stressors like pollution and heat islands, creating more favorable conditions for wildlife. They also provide refuges where species can thrive despite the challenges of urban environments. Urban green spaces are not just for human enjoyment; they are vital for supporting and enhancing urban species biodiversity.

In addition, recent droughts resulted in reduced flows into the Bay Delta. With continued exports for water supply, there has been an overall reduction in aquatic habitat availability and higher contaminant concentrations from agricultural runoff in both the Sacramento and San Joaquin River systems. Therefore, since this Project reduces importing water from the Bay Delta, the Project will help enhance the habitat for all affected species by allowing it to become more resilient to changing climate patterns. The 2013 Bay Delta Conservation Plan[14] identified over 30 non-listed species potentially impacted by withdrawals from that system through the SWP. These non-listed species will benefit from the reduction of imported water, as many species rely on this habitat for ecologic function at various life stages.

5. Will the Project provide water or habitat for federally listed threatened or endangered species? If so, how?

Yes, because this Project sustains urban green spaces, several federally protected species in Riverside County will reap habitat benefits. The parks, recreation areas, and tree canopies irrigated with recycled water will enhance habitat connectivity by creating wildlife corridors that link fragmented habitats in Banning with the densely developed Southern California landscape. They allow species to move more freely and maintain genetic diversity. Critically, the Pacific Flyway, a major north-south route for migratory birds in America, extends from Alaska to Patagonia passes through Banning. Many birds travel through California, including areas like Banning, as they migrate between their breeding and wintering grounds. These irrigated green areas also provide essential refuge and shelter for wildlife offering a safe haven from urban threats like traffic, pollution, and drought. Green spaces support a variety of plants and insects that provide food resources. Riverside County protected species that will benefit from sustainable landscaped areas include the Stephens and San Bernardino Kangaroo rat, California Gnatcatcher, and Quino Checkerspot Butterfly.

This Project will also produce non-potable water supplies that will directly offset imported water from the Bay Delta. This will result in additional water left in the Bay Delta that can support native habitats for federally listed or endangered species.

Evaluation Criterion 3—Economic Benefits (25 points)

Subcriterion No. 3a—Cost Effectiveness (15 points)

1. Reclamation will calculate the cost per acre-foot of water produced by the Project.

Project Construction will begin in 2025, and it is estimated that approximately $6,211,260 will be completed by the end of this first year, about 12% of the total construction cost. 55% ($28,468,275) of the total construction cost will be completed in 2026, and the remaining 33% ($17,080,965) in 2027. The Opinion of the Construction Cost (OPCC) estimate was developed using the American Associations of Cost Engineers guidelines and recommendations. The OPCC was completed by the City's Owner's Engineer consultant following AACE Class 4 cost

[14] Public Draft, Bay Delta Conservation Plan: Executive Summary (ca.gov)

estimating methodology. The estimate was developed based on industry standards, and adjusted to the anticipated Project's complexity, with market conditions and cost escalation at the time of the estimate. The total OPCC was estimated to be $51,760,500. **Table 10** allocates construction costs by year.

Table 10. Estimated Construction Cost per Year, in 2024 dollars

Calendar Year	Cost
2025	$6,211,260
2026	$28,468,275
2027	$17,080,965
Total	**$51,760,500**

(a) The total estimated or actual costs to plan and design the Project.

Table 11 details the planning and design costs of the Project. The design is expected to be completed within one year by December 2025. Construction Management tasks will occur in 2026 and 2027, the two years during which most construction will take place.

Table 11. Total Planning and Design Costs by Year, in 2024 dollars

Year	Planning or Design Activity	Cost
2025	Predesign, Final Design, and CEQA	$3,923,235
2026-2027	Construction Management	$3,205,630
Total		**$7,128,865**

Since the Project development is in the planning stage and the contract for performing design has not yet been executed by the City, the cost estimate methodology for the design and construction management services are based on percentages of construction costs. Design costs were estimated at 7% of the construction cost (2% for predesign and 5% for final design). These percentages were confirmed by the 2023 California Multi-Agency Benchmarking Study (see **Table 12**). Based on Table 1.1 of this guide, design tasks are typically no more than 25% of the total construction cost for Water/Wastewater Facilities and construction management is typically no more than 24%. The $300,000 environmental cost is based on the City's estimated contract value for the development of an Initial Study-Mitigated Negative Declaration (IS-MND).

Table 12. 2023 California Multi-Agency Benchmarking Study, in 2023 dollars[15]

Type	Design	Construction Management	Total Project Delivery	Median Total Construction Cost	Number of Projects
Municipal Facilities	21%	14%	35%	1.54	77
Parks	28%	21%	50%	1.19	52
Pipe Systems	17%	20%	37%	1.63	205
Streets	27%	27%	54%	1.71	155
Wastewater & Water Facilities	**25%**	**24%**	**50%**	**1.98**	**58**
ALL TYPES	23%	22%	44%	1.64	548

(b) The estimated expected average annual operation and maintenance costs for the life of the Project.

Average annual operation and maintenance (O&M) costs for the Project components are presented in **Table 13** and are based on estimates provided by the City's Owner's Engineer consultant, who developed them based on similar projects and planning-level estimates. The unit electricity cost assumed for this estimate was $0.20/KWh. As shown in the table, total annual O&M costs in 2024 dollars for the Project are projected to be approximately $2,853,350.

Table 13. Average Annual O&M Costs, in 2024 dollars

Project Component	Estimated Annual O&M Cost
Labor	$1,242,000
Power	$1,577,600
Chemicals	$33,750
Total O&M Costs	**$2,853,350**

(c) The year the Project has or is expected to begin to deliver reclaimed water.

As shown in **Table 14**, the Project will be completed and delivering reclaimed water in 2027.

Table 14. Project Schedule

Milestone / Task / Activity	Start Date	Completion Date
1. CEQA Documentation/Permits	January 2025	December 2025
2. Design	January 2025	December 2025
3. Construction, Start-up, Testing, Commissioning	January 2026	September 2027
4. Construction Administration	January 2026	September 2027

[15] California Multi-Agency CIP Benchmarking Study | Bureau of Engineering (lacity.gov)

(d) The Projected life (in years) that the Project is expected to last. Note: this should be measured from the time the Project starts delivering water.

The Project has an expected 50-year project life; this includes treatment equipment and recycled water pipeline laterals. The Project is expected to be completed in 2027, with the first full year of delivery in 2028. The Project is therefore expected to last through 2077, at a minimum.

(e) All estimated replacement costs by year as shown in Table 5. If there are multiple replacement costs in one (1) year, or at the same interval, please total them and put them on one line with the year or interval.

Like the average O&M costs presented in **Table 13** replacement costs for the Project components are based on planning level estimates from the Owner's Engineer consultant and budgetary manufacturer's quotations. Replacement costs and timing are presented in **Table 15**, and replacement frequency is assumed to begin in 2028, the first full year of recycled water delivery. It shall be noted that the estimated replacement costs are presented in 2024 dollars without any escalation.

Table 15. Replacement Cost Timing, in 2024 dollars

Replacement Requirement	Frequency	Year(s)	Cost
Spare Parts / Replacements	Every year	Every Year from 2028 to 2077	$326,475
RO Membrane Replacement and MBR Membrane Replacement	Every 5 years	2033, 2038, 2043, 2048, 2053, 2058, 2063, 2068, 2073, 2078	$2,200,000

(f) The maximum volume of water (in acre-feet) that is expected to be produced annually upon completion of the Project.

At Project completion, the City's WWTP will produce **2,470 AFY of recycled water**. However, as City development grows and WWTP influent increases, more water will continually be made available for recycled water use. This is not a growth-inducing Project, but due to low housing costs and economic development land availability, Banning's population is expected to increase.

2. Reclamation will calculate the cost per acre-foot for the Project using the information requested in question No. 1 and compare it to the non-reclaimed water alternative, and any other water supply options that the applicant identifies to evaluate the cost effectiveness of the Project.

Without the Project, the City would continue to supply non-potable customers with groundwater supply. Non-potable groundwater wells, including M7 and M12, could not be converted to potable wells, as they would need to be used to meet Sun Lakes Golf Course's demands. This would contribute to the depletion of the City's groundwater supply.

The City would also keep relying on imported Bay Delta water to recharge the City's groundwater basins to meet the demands of the Sun Lakes Golf Course (and the Atwell development, in the near future). However, imported water is expected to become increasingly unreliable due to its vulnerability to droughts and heightened competition.

The City has also recently discovered Chromium VI in their wells. On March 28, 2022, the California Division of Drinking Water (DDW) released a draft Cr6 maximum contaminant level (MCL) of 10 µg/L. Approximately eight existing City-owned wells, one future City-owned well designated Well C8, and two co-owned wells have Cr6 concentrations above the draft MCL. Without this Project, the City would need to invest in treating all eleven active wells to continue serving the City's customers. However, since this Project involves reducing groundwater reliance for recycled water, the Project would allow the City additional time to construct treatment facilities at these wells and lessen the financial impact on its rate payers.

This "Do Nothing" Alternative is Alternative 1 (further described in the Section below).

However, the primary driver for this proposed Project is compliance with impending RWQCB Board Order regulations. The City cannot "Do Nothing," as the WWTP must be upgraded to meet the new TN limit.

a. Provide the cost per acre-foot of other water supply alternatives that could be implemented by the non-Federal Project sponsor in lieu of the Project.

The alternative water supply that the City would use in place of recycled water is groundwater recharged by imported water. This corresponds to the "Do Nothing" Alternative (Alternative 1), as the City would maintain its current supply of groundwater to its non-potable customers. As mentioned previously, the City is expected to import an average of 2,060 AFY of water, once the Atwell development is complete. The total cost to continue serving irrigation customers with groundwater recharged by imported water is $1,581/AF, which includes the $399/AF for the cost of imported water, $432/AF for the electrical pumping costs associated with imported water delivery, $300/AF for maintenance of facilities associated with imported water recharge, and $450/AFY for Cr6 treatment (further described in the sections below).

As shown in **Table 16**, **the cost to produce recycled water in Banning is less than using groundwater recharged with imported water.**

Table 16. Cost Efficiency

RECYCLED WATER VS. GROUNDWATER COST PER ACRE FOOT			
Recycled Water	$1,287	**Groundwater Recharged by Imported SGPWA Water**	$1,581

a. If available, provide the cost per acre-foot of one water supply project with similar characteristics to the Project.

One alternative that the City could implement is incorporating indirect potable reuse over the Banning Basin in addition to non-potable reuse. Instead of the WWTP effluent that is not used to meet recycled water demands discharging to the percolation ponds (as proposed in the Project), the remaining effluent would flow to a groundwater aquifer, North Basin, for indirect potable reuse. Currently, the WWTP effluent that recharges the Cabazon Groundwater Basin through the percolation ponds is not entirely extracted by Banning - the percolated water flows to other water agencies located downgradient. By percolating to new basins upgradient of the

Banning groundwater storage unit, this will keep groundwater recharge within the City's wells. This "North Basin" option is further known as Alternative 2.

North Basin is in the northeastern part of the City boundary. This site is not owned by the City. Since the site has been mined and a large pit exists, it is assumed that minimal earthwork will be required. The site improvements included as part of this analysis include a berm on all four sides of the basin, a berm to create two cells for operational flexibility, basin piping, maintenance ramps, security, and monitoring equipment. Since the potential recharge basin is at a higher elevation than the WWTP, an 800 HP pump and 15,000 feet of 16-inch diameter pipeline will be required to convey water from the WWTP to the recharge basin. The City will also need to add monitoring wells and lysimeters. This option would have a cost per acre foot of $1,778, assuming a yield of 2,470 AFY (same as the proposed Project) and an annual cost of $4,391,025.

b. Discussion of the degree to which the Project is cost-effective.

Under Alternative 1, the City would "Do Nothing." The estimated yield is 2,060 AFY—the total non-potable demand (Atwell full buildout). Annual and O&M costs are based on the cost of imported water, electrical pumping costs and maintenance costs associated with imported water delivery, and Cr6 treatment costs. The unit cost (in $/AF) equals annual cost / annual yield. However, as mentioned previously, Alternative 1 is not viable, as the impending RWQCB Board Order requires a biological treatment upgrade of the WWTP to achieve the minimum TN limits.

The capital cost for Alternative 2 is $80,036,200. This alternative would allow the City to achieve the objectives of the proposed Project (also referred to as Alternative 3) in addition to retaining water within the City's wells and extraction sites. However, due to the additional site work, pumps, and piping required to deliver water to the North Basin, the overall capital, O&M, annual, and therefore unit cost of this alternative is high relative to Alternatives 1 ("Do Nothing") and 3 ("Proposed Project"). Currently, the City is unable to implement this alternative because of limited available funds. However, this could become a potential future project once the City secures the necessary funding. See a cost comparison of the alternatives in **Table 17**. As shown in the table, the proposed Project has the lowest unit cost per AF.

Table 17. Monetary Analysis

Alternatives	Estimated Annual Yield (AFY)	Capital Cost ($)	O&M Cost ($/year)	Annual Cost ($/year)	Unit Cost ($/AF)
Alternative 1 (Do Nothing)	2,060	$0	$3,256,860	$3,256,860	$1,581
Alternative 2 (North Basin)	2,470	$80,036,200	$3,901,200	$4,391,025	$1,778
Alternative 3 (Proposed Project)	2,470	$64,778,300	$2,853,350	$3,179,825	$1,287

Also, Banning is utilizing a progressive design-build approach which offers several cost and pragmatic efficiencies as described below.

- **Integrated design and construction** allow for better collaboration between engineers, contractors, and stakeholders. This leads to more innovative solutions and streamlines processes.
- **Flexibility** to accommodate adjustments during the Project based on real-time feedback and evolving requirements leads to more efficient use of resources and time.
- **Cost and time savings** completes projects faster and often at a lower cost compared to traditional methods. This has proven to be particularly beneficial for complex projects like tertiary treatment upgrades.
- **Enhanced quality control** occurs with involvement of the design team during construction to ensure the Project adheres to the intended design specifications and quality standards.
- **Improved risk management** with the collaborative nature of progressive design-build, potential risks are identified and mitigated earlier in the Project implementation, reducing the likelihood of costly delays and rework.

A progressive design build success story comes from the Mel Leong Treatment Plant in San Fransisco where upgraded wastewater treatment processes and construction of a new recycled water treatment facility documented the efficiencies mentioned above, resulting in a successful upgrade that met regulatory requirements and improved water quality[16].

Subcriterion No. 3b—Economic Analysis and Project Benefits (10 points)

1. Summarize the economic analysis performed for the Project including information on the Project's estimated benefits and costs.

(a) Quantified and monetized costs, including expected capital, operations and maintenance costs.

Table 18 summarizes the capital, O&M, and foreseeable replacement costs of the Project. These costs have been described in detail under *Subcriterion 3a;* total capital cost includes a contingency of 10%. The present value of these costs over the 50-year lifetime of the Project is estimated to be $569M in future cost and $181M in present cost (assuming an inflation rate of 3.75% and nominal discount rate of 5%), as seen in **Appendix C**.

Table 18. Monetary Summary of the Selected Alternative

Estimated Annual Yield (AFY)	Capital Cost	O&M Cost	Annual Cost ($/year)	Unit Cost ($/AF)	50-Year Future Cost	50-Year Present Cost
2470	$64,778,300	$2,853,350	$3,179,825	$1,287	$569,777,670	$181,380,020

[16] Mel Leong Treatment Plant Upgradeshttps://www.walshgroup.com/ourexperience/water/wastewatertreatmentplants/melleongtreatmentplantupgrades.html and https://pmaconsultants.com/projects/mel-leong-industrial-waste-treatment-plant/.

(b) Quantified and monetized Project benefits includes those that can be quantified and expressed as a monetized benefit per acre-foot.

A significant financial benefit for the City with this Project is the reduction of costs associated with purchasing imported water. The current cost of imported water from the Sacramento-San Joaquin Delta is $399 per AF. Including the cost for pumping ($432/AF) and maintenance ($300/AF), the total cost per AF is $1,131. If the Project is not constructed, the City will need to purchase approximately 2,060 AFY of imported water per year (Atwell full buildout). Therefore, this reduction in imported water purchases would result in $1,131 AF * 2,060 AFY = $2,329,860 per year of savings.

In addition to imported water costs, this Project will also offset some of the costs associated with treating Chromium VI (Cr6). The City contracted Hazen Sawyer to conduct a Cr6 Treatment and Compliance Study, recommending an approach for the City to comply with this MCL. According to this study[17], it will cost the City $300-$600 AFY in operations and maintenance of treatment facilities to remove Cr6 in the City's water supply. Since this Project will supply recycled water to non-potable water customers instead of groundwater, the City will save money for not having to treat the water delivered to its non-potable water customers. The total expected recycled water demand is 2,060 AFY. This Cr6 treatment avoidance would in turn save the City approximately $450 AF * 2,060 AFY = $927,000 per year.

Therefore, the total cost savings of the Project is $2,329,860 (imported water) + $927,000 (Cr6 treatment) = $3,256,860 per year. Assuming the life cycle of the Project to be 50 years, this will save the City a total of $460M in future cost and $112M in present cost over 50-year period (assuming an inflation rate of 3.75% and nominal discount rate of 5%). See **Appendix C** for details.

Cost savings are critically important in a severely disadvantaged community like Banning. In 2022, the City Council and rate payers supported and approved a significant rate increase to provide partial funding for the improvements of the WWTP and recycled water upgrades. Unfortunately, the rate increase is not sufficient to fully fund the costs that escalate significantly each year. The rate increase is a financial burden to the City's lower-income residents. However, they approved the higher rates, recognizing the City's water challenges and showing the willingness of Banning customers to help pay for the reliability of valuable recycled water.

(c) A comparison of the Project's quantified and monetized benefits and costs.

The main cost benefits of the Project are the imported water and Cr6 costs offset by the new recycled water supplies described in the section above.

Compared to Alternatives 1 and 2, the proposed Project (Alternative 3) offers the lowest unit cost per AF. With the anticipated increase in imported water prices, the unit cost for Alternative 1 is only expected to rise further. While the City aims to implement indirect potable reuse for the North Basin site as outlined in Alternative 2, the associated costs make

[17] http://banning.ca.us/DocumentCenter/View/4622/Chromium-6-Study-2016

it financially unfeasible at this time. Alternative 3 enables the City to comply with upcoming RWQCB limits and supply recycled water to irrigation customers currently relying on groundwater replenished by imported water, all within a more manageable budget and lower cost per AF.

Another cost benefit of the Alternative 3 is that it maximizes the value of the City's investments in new recycled water infrastructure. The City has already constructed a backbone pipeline from the WWTP to Sun Lakes Golf Course, and is currently beginning the construction for storage facilities and booster stations to send recycled water through the backbone pipeline to the Golf Course. Alternative 1 would not utilize these facilities since no recycled water would be generated.

2. Describe any economic benefits of the Project that are difficult to quantify and/or monetize.

Qualitative benefits resulting from the Project are significant and include environmental justice/equity, recreation, quality of life, climate change mitigation, and positive environmental outcomes. This is a regionally significant project that will have long term benefits and provides equity to underserved, overburdened and low-income residents.

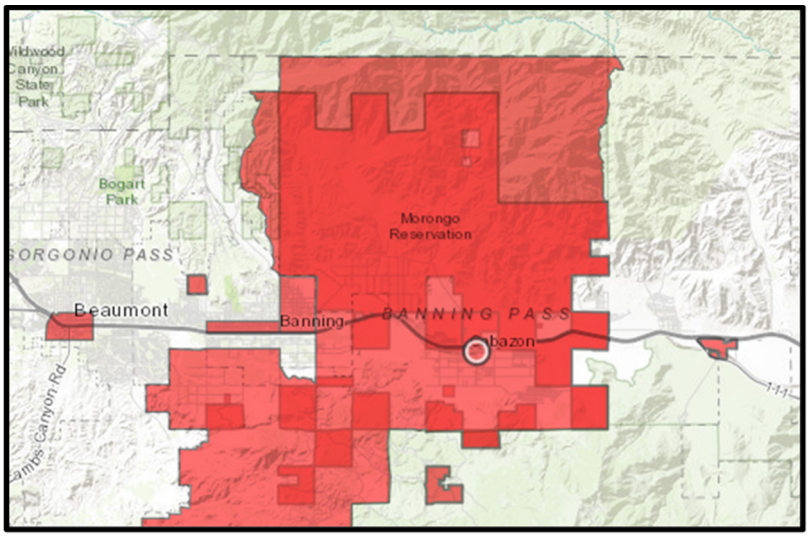
Regional Significance and Environmental Justice: The Project will benefit the disadvantaged residents within and outside of the Banning City limits. The City of Cabazon and Morongo Band of Mission Indians (MBMI) both pump water from the Cabazon Groundwater Basin. The California Office of Environmental Health Hazard Assessment (OEHHA) identifies these jurisdictions as disadvantaged communities (red shaded areas shown in **Figure 15**)[18]. One of the main benefits of the Project is meeting RWQCB limits to discharge WWTP effluent to the percolation ponds over the Cabazon Basin. Upgrading the WWTP with MBR and RO will treat the WWTP effluent to meet the RWQCB TN requirements. Through these upgraded treatment processes, groundwater quality in the Cabazon Basin will improve. Enhanced water management will benefit the customers over the Cabazon Basin as they will receive higher quality water that can be delivered with reduced costs.

Rate Stability: The Project will help stabilize water rates for the City of Banning by utilizing recycled water for non-potable purposes, reducing the strain on existing potable groundwater supplies. This decreases the need for costly infrastructure, such as new production wells and Cr6 treatment facilities, which could otherwise raise water rates. Recycled water is also less expensive per acre-foot than imported water, lowering overall operating costs. These savings, over time, will help keep water rates more predictable. Additionally, the Project enhances long-term water security, providing a reliable local supply that can buffer the City from droughts or shortages that might lead to significant rate increases.

Greenhouse Gas Removal: The Project will reduce imported water purchases by 2,060 AFY. As further described in Evaluation Criterion 4, this will enable the City to reduce their energy consumption of transporting imported water over long distances, decreasing total emissions per year by 565.47 MTCO2e. Recycled water will help the City promote local water sustainability, contributing to climate change mirigation efforts.

[18] https://oehha.ca.gov/calenviroscreen/sb535

Figure 15. OEHHA Disadvantaged Communities Mapping Tool



Superior Nitrate Management: Since treatment systems at the existing WWTP do not effectively remove nitrate from wastewater, this Project significantly improves nitrate management by reducing the amount of nitrate that percolates into the groundwater. This helps the City meet regulatory requirements, while also mitigating the rising nitrate levels observed in some wells in the region.

Cr6 Removal: The Project's RO treatment system for wastewater effluent will effectively remove Cr6. This provides significant value by recharging groundwater supplies with cleaner water that contains reduced levels of Cr6. Case studies show that for large-scale municipal systems, the total cost to reduce Cr6 levels in drinking water is substantial. For example, Glendale, California, has spent approximately $9 million on research and implementation of Cr6 removal technologies that included installation, operation, and maintenance[19]. With the project, Banning is making a proactive advancement toward addressing Cr6.

Sustaining Urban Green Spaces: This Project is critically important because it sustains important green spaces that are highly beneficial to urban/developed areas. The Project will supply irrigation water to more than 508 acres of open space and landscape areas (see **Table 19**). As more and more residents in the drought stricken Southern California area remove lawns and landscaping in their own yards, these public green areas become even more critical to the community. Recycled water users are not subject to restrictions during periods of droughts. Urban green spaces provide a wide range of benefits, including:

1. **Environmental**:
    - **Air Quality Improvement**: Trees and plants absorb pollutants and produce oxygen, improving air quality.
    - **Temperature Regulation**: Green spaces help mitigate the urban heat island effect by providing shade and cooling the air through evapotranspiration.
    - **Water Management**: Green areas can reduce runoff and improve water quality by filtering rainwater.
2. **Health**:
    - **Physical Activity:** Parks and trails encourage physical activities like walking, jogging, and cycling, promoting overall health.

[19] Hexavalent Chromium Removal: Research Project Report to the California Department of Public Health (clu-in.org)

- **Mental Well-being:** Access to green spaces has been linked to reduced stress, improved mood, and better mental health. These spaces provide venues for socializing, which can enhance community cohesion and reduce feelings of isolation.

3. **Economic**:
   - **Property Values:** Proximity to green spaces is known to increase property values**.**
   - **Tourism and Recreation:** Parks and recreational areas can attract visitors, boosting local economies.
4. **Biodiversity**:
   - **Habitat for Wildlife:** Urban green spaces provide habitats for various species, supporting biodiversity within cities**.**
5. **Aesthetic and Cultural Value**:
   - Beauty and Serenity: Green spaces enhance the visual appeal of urban areas and provide serene environments for relaxation.
   - Cultural and Recreational Activities: Green spaces often host cultural events, sports, and recreational activities, enriching community life.

Table 19. Urban Green Acreage Sustained with Reclaimed Water

Site	Acres
Sun Lakes Golf Course- Two 18-hole courses with turf, shrubs, shade trees, and ponds.	250
Atwell development- A master-planned residential community with open spaces, parks, greenways and trails.	210
Dysart Park- Open green spaces, mature trees, walking trails, wildlife habitat, playground and recreation areas, rodeo, music, and community festivals.	20
Banning High School- Sports fields (turf), landscaped areas with trees, shrubs and outdoor gathering spaces for students, staff, and visitors.	23
Lion's Park- Baseball/softball diamonds, walking path, soccer fields, children's playing and picnic areas. City has plans to expand Lion's Park with 7.5 acres of soccer fields.	5
Total Acreage Preserved & Sustained	**508**

Evaluation Criterion 4—Presidential and Department of the Interior Priorities (15 Points)

Points will be awarded based on the extent the project will reduce climate pollution; increase resilience to the impacts of climate change; protect public health; and conserve our lands, waters, oceans, and biodiversity.

The Project will enhance the City's resilience to climate change impacts and conserve water by establishing a local, drought-proof supply of recycled water. This will enable the conversion of non-potable groundwater wells to potable water use, thereby serving additional needs, and reducing the need for imported water, which can be redirected to other cities in need. Reliance on groundwater recharged by imported water leaves the City vulnerable to threats such as rising temperatures, reduced rainfall, diminished surface water supply, and wildfires (see **Table**

20). In contrast, the Project's recycled water, sourced from the City's wastewater, remains available even when groundwater and surface water sources are limited due to these factors, as wastewater will always remain a constant supply of water.

This Project will also improve overall public health by providing high quality water to the Cabazon Groundwater Basin. The new treated water from the WWTP will have higher water quality than is currently discharged to the basin. This will enhance the overall groundwater basin quality which will benefit the general health of all end users that pump water from this basin.

Table 20. Climate Change Impact Mitigation

Climate Change Impact	Project Mitigation
Temperature- Earth's average surface temperature has increased by 2 degrees with the most warming occurring in the most recent 40 years.	The Project **sustains urban green spaces** that are proven to lessen urban heat island effects with shade trees, permeable surfaces, and evapotranspiration which helps cool the air by converting liquid water into vapor, which absorbs heat.
Rainfall- Climatologists predict a 10-20% reduction in rainfall in Southern California in the coming decades.	Recycled water is not impacted by declining precipitation and **provides a reliable source** when wells run dry.
Flooding- extreme weather events like the atmospheric river that flooded Banning in 2020 are expected to increase in frequency.	Permeable surfaces in urban green spaces that capture runoff in developed areas are critically important to mitigate flooding. The Project **ensures the long-term preservation** of valuable park and open spaces.
Wildfires- the number of large wildfires (more than 1,000 acres burned) has more than doubled since 1970s.	Recycled water provides another source for **fighting fires**. Post fire, it can aid in **restoration** with new vegetation.

Additionally, since the Project will reduce the delivery of imported water from the Bay Delta, this will also support the fish and other wildlife within the hydrologic system of the Bay Delta. It will also enhance ecological resilience to climate change by reducing greenhouse gas emissions associated with the transportation and treatment of imported water supplies, as further described in the section below.

Combating the Climate Crises: E.O. 14008: project will address the impacts of climate change and help combat the climate crisis.

The City of Banning is doing its part to tackle the climate crisis at home by implementing a Project that reduces greenhouse gas emissions. In order to quantify the benefits of recycled water with the reduction on imported water demand, the City relied on data provided by the SGPWA and Department of Water Resources (DWR) for the energy and emissions associated with importing one acre foot of water. Using a 5-year average of SWP data from 2019-2023 to average year-to-year variability and account for the long-term trend toward lower emissions

factors, DWR calculated a factor for Greenhouse gasses (GHG)/megawatt-hours (MWh) measured by Metric Tons of Carbon Dioxide equivalents. Based on these inputs, 0.0602 MtCO2e of pollution is generated for every MWh. Multiplying this factor by the SGPWPA's kWh/AF factor from the "State Water Project Energy Intensity of Water Supplies" provides the GHG/AF. For the San Gorgonio Pass, this factor is as follows:

4559kWh/AF * 0.0602 MtCO2e/MWh* 1 MWh/1000 KWh= **0.2745 MtCO2e (GHG)/AF**
Multiplying this amount by the anticipated imported water purchases of 2,060 AFY, this equals a total of 565.47 MTCO2e of greenhouse gases. Since the City will reduce their imported purchases by 2,060 AFY through this Project, the City will thereby decrease emissions by **565.47 MTCO2e.** ***The Project's energy savings reduces GHGs by 565,470 kilograms (kg) or approximately 1,246,647 pounds (lbs) of CO_2e.***

Does the proposed project contribute to climate change resiliency in other ways not described above?

Figure 16. Lions Park shows signs of climate-related soil stress (brown patches)



An additional significant benefit that has not been discussed previously is the mitigation of hydrophobic soil caused by frequent cycles of drought and extreme heat. All the irrigation sites show some signs of "drought damage," brown patches in turf, and dead and dying trees and shrubs. Aeriel photos of Lions Park show brown patches that are evidence of hydrophobic soil (see **Figure 16**). Drought conditions and heatwaves in Southern California Drought can significantly contribute to the development of hydrophobic soil through several mechanisms:

Soil Drying: During prolonged droughts, soil becomes extremely dry and causes organic compounds in the soil, such as plant oils and waxes, to coat soil particles, creating a water-repellent layer. Droughts also diminish microbial activity that plays a role in increasing the hydrophobic organic compounds.
Microbial Activity Reduction: Drought conditions reduce soil moisture, which in turn diminishes microbial activity. Microbes play a crucial role in breaking down organic matter. When their activity decreases, the accumulation of hydrophobic organic compounds increases[1].
Increased Soil Temperature: Higher soil temperatures exacerbate the breakdown of organic matter into hydrophobic substances. These substances then coat soil particles, making them repel water.
Soil Compaction: Lack of moisture leads to soil compaction, reducing pore spaces and making it harder for water to infiltrate. This compaction can further enhance the hydrophobic properties of the soil.

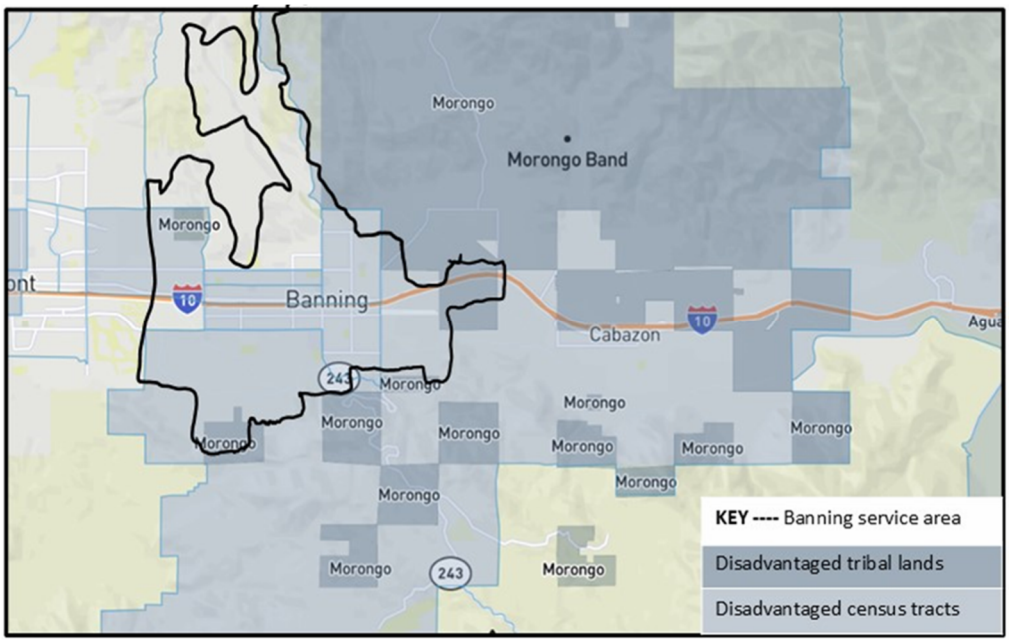
Vegetation Loss: As parched vegetation begins to die off, they stop producing organic matter inputs into the soil. This leads to a decrease in soil structure and an increase in hydrophobic conditions.

These factors combined make it difficult for water to penetrate the soil, leading to runoff and erosion when rain finally does occur. This cycle can perpetuate the hydrophobic condition of the soil, making it a persistent problem. However, recycled water irrigation mitigates this climate induced hydrophobic soil problem[20]. The high nutrient content of recycled water is a natural solution to revitalize hydrophobic soil. Recycled water often contains essential nutrients like nitrogen, phosphorus, and potassium. When applied to hydrophobic soil, these nutrients can help improve soil fertility and support plant growth[4]. The organic matter in recycled water can help improve the soil structure over time. This can reduce the hydrophobic properties of the soil, making it more receptive to water and nutrient absorption[4]. Recycled water can introduce beneficial microorganisms into the soil. These microbes can help break down organic matter, releasing nutrients that plants can absorb more easily[4]. Regular applications of recycled water help maintain consistent moisture levels in the soil, preventing it from becoming too dry and hydrophobic. By leveraging these benefits, **the Project will enhance the overall health and productivity of hydrophobic soils at all the green space destinations, making them more fertile for turf and tree growth and more resilient to climate crisis stressors**.

Points will be awarded based on how the project serves disadvantaged, underserved, or Tribal communities.

Based on the data from the U.S. Climate and Economic Justice Screening Tool shown in **Figure 17**, census tracts in Banning and surrounding areas meet the definition of overburdened and underserved disadvantaged communities (shown in light gray). Federally Recognized Tribes, including the adjacent Morongo Band of Mission Indians (MBMI) reservation also meets the definition (shown in darker gray). Producing a reliable local supply of water will support economic development, quality of life, and cost of living support which is dependent on the availability of water supplies. The City of Banning service area includes land owned by the MBMI, as shown in **Figure 17.**

Figure 17. Climate and Economic Justice Screening Tool



[20] https://extension.sdstate.edu/impacts-drought-soil-water-forage-and-livestock-grazing-systems.

MBMI is one of the Cabazon Groundwater Basin users and will therefore benefit from the improved effluent quality at the City's percolation ponds. With the new upgraded treatment process, nitrate and salt concentrations in the WWTP effluent will reduce from 27 mg/L to 4 mg/L and 410 mg/L to 207 mg/L, respectively. In addition, this Project will reduce the amount of imported water from the SWP delivered to the City by approximately 2,060 AFY. This will allow more potable water to be available to meet the obligations for Local Water and Supplemental Water deliveries to Tribes in the Region.

Points will be awarded based on the extent to which the Project will honor the Federal government's commitments to Tribal Nations.

The Project will produce higher quality effluent that will discharge to the percolation ponds near the WWTP site, improving groundwater quality in the Cabazon Groundwater Basin for end users, including MBMI and the customers of the Cabazon Water District. Once Atwell development is built, an estimated 2,060 AFY of recycled water will be delivered to Banning customers and 410 AFY will be discharged to the percolation ponds over the Cabazon Basin. As more recycled water becomes available, higher water volumes will be discharged to the percolation ponds, improving water quality and the availability of water. This Project will also improve public health and safety for the MBMI by providing better quality water with lower nitrate and salt contents than is currently discharged over the Cabazon Basin.

Does the proposed project support Reclamation's Tribal trust responsibilities or an activity with a Tribe?

The Project does not support Reclamation's Tribal trust responsibilities or a Reclamation activity with a Tribe.

Evaluation Criterion 5— Reclamation's Obligations and Watershed Perspective (10 Points)

Subcriterion No. 5a— Reclamation's Legal and Contractual Water Supply Obligations (5 points)

Explain how the Project relates to Reclamation's mission and/or serves a Federal interest.

The Project supports the Bureau of Reclamation (USBR) mission to "manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public." The Project reduces pressure on existing groundwater supplies and reduces imported water purchases, which includes "federal water" from Reclamation sources. This protects important water resources that can be used by Reclamation to help fulfill legal or contractual obligations. The Project also offers a drought-proof and dependable water source while benefiting the environment by decreasing reliance on imported water.

Subcriterion No. 5b— Watershed Perspective (5 points)

1. Explain how the project will relate to a regional or state water or an integrated resource management plan?

The Project supports various local, regional and state integrated water resources management plans and planning efforts, including the California Water Plan and California Department of Water Resources Sustainable Groundwater Management Act.

2023 Draft California Water Plan (CWP) Update has seven objectives, recommendations, and actions for advancing the themes and strategies to make California more resilient to climate resilience and water equity for all Californians. The Project addresses the following objectives:

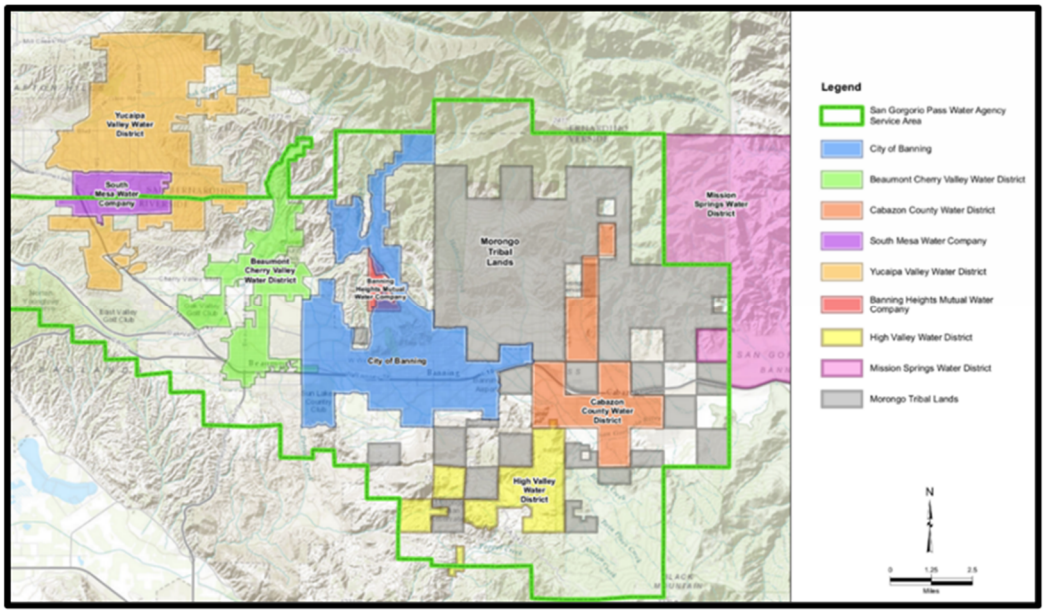
- **Support watershed resilience planning and implementation**
  The City is planning ahead for potential climate change impacts and competition for resources by creating sustainable, drought-resilient water supplies that are independent of climate patterns as well as interregional jurisdictions.
- **Improve resilience of State, Federal, and regional "backbone" water infrastructure**
  Banning is reducing the need for imported water in the drought-susceptible region and investing in existing infrastructure which supports smart growth in developed areas.
- **Advance equitable outcomes in water management**
  The Project relieves disadvantaged residents from paying higher costs for water. Rate hikes have a disproportionate burden on lower income households. The CA Department of Water Resources identifies the entire region as disadvantaged or severely disadvantaged.
- **Support and learn from Tribal water and resource management practice**
  The Project embodies Native American values and a deep respect for water resources and reciprocity, giving back to nature. It provides direct water quality benefits to the Cabazon Groundwater Basin and the region's tribal residents who depend on it.

The California State Legislature passed the **Sustainable Groundwater Management Act** (SGMA) in 2014 by establishing new requirements for groundwater management in medium and high priority groundwater basins. The Project supports the SGMA by providing valuable groundwater recharge, increasing water supply resilience, mitigating the impacts of over-drafted groundwater supplies, and reducing ground water dependence. See Sections 8.31, 8.32, and 8.33 on pages 43 and 44 in **Appendix B**.

2. Explain how the project will meet water supply needs of a large geographic area, region, or watershed.

The San Gorgonio IRWM Region was formed in 2016 and includes the City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, High Valleys Water District, Riverside County Flood Control and Water Conservation District, Morongo Tribal Lands, and the San Gorgonio Pass Water Agency; collectively known as the San Gorgonio IRWM Regional Water Management Group (RWMG) (see **Figure 18**).

Figure 18. City of Banning San Gorgonio Pass Water Agency Service Area



The RWMG embarked on the development of its 2018 IRWM Plan to not only meet the requirements for participation in the statewide IRWM Program, but to also articulate the needs, goals, objectives, strategies and projects that are unique to the San Gorgonio Region. The 2018 IRWM Plan, which took input from several stakeholder meetings, was supported by three separate yet integrated technical studies: the Water Supply Reliability Study, the San Gorgonio Regional Recycled Water Study, and the San Gorgonio Integrated Watershed and Groundwater Model Technical Memorandum.

To effectively manage the San Gorgonio Region's water resources, the San Gorgonio IRWM Plan identified ten (10) goals. The Project directly supports the following goals:

Objective #1: Increase Regional Supply Availability and Reliability (see **Table 21**)

The Project directly addresses these objectives and performance measures by implementing regionally significant recycled water initiatives, supporting affordable agreements to enhance reliability of importable water, maximizing local groundwater recharge and storage.

Table 21. Objectives and Performance Measures for Goal #1

IRWM Plan Objectives	Performance Measure
1A: Implement regional recycled water projects within the Region and support local recycled water projects.	Number of recycled water projects implemented and or AFY of recycled water recharged or delivered within the region as reported in UWMP or other project documents.
1B: Support affordable investments and agreements between local and external agencies to enhance the reliability of imported water through the Region.	Number of implemented transfers and agreements planned and/or AFY water delivered to water providers with the Region as reported in UWMPs.
1C: Maximize the use of groundwater supplies, including local storage of imported water.	Number of implemented projects and AFY of additional groundwater recharge as reported in UWMPs.

Objective #4: Decrease Impacts to Groundwater Quality

While this IRWM Plan goal focuses specifically on the removal of septic systems, its overarching goal is the reduction of nitrates, which the Project will accomplish.

Objective #8: Support Disadvantaged Communities (DACs) and Maintain Water Affordability

The Project enhances the reliability of the City's water supply by developing a drought-resistant source of recycled water to supplement the City's current water supply to severely disadvantaged, disadvantaged, and tribal users.

Table 22. Objectives and Performance Measures for Objective #8

IRWM Plan Objectives	Performance Measure
8: Seek funding opportunities to ensure all communities have access to a reliable water supply and adequate wastewater treatment.	Number of grant proposals submitted by and on behalf of DACs and/or amount of funds received to benefit DACS within the Region.

Objective #10: Adaptation and Mitigation to Climate Change
The Project will offset the potable water demands currently met with imported water deliveries from the SWP.

3. Will the Project promote collaborative partnerships with multiple stakeholders representing diverse interests?

This Project will discharge high-quality effluent into a major groundwater basin—the Cabazon Groundwater Basin—thereby enhancing water quality for all agencies within the regional groups that draw from this basin.
By upgrading the WWTP with MBR and RO treatment, the effluent that percolates into the Cabazon Groundwater Basin will have significantly reduced nitrates and salts. Therefore, users downgradient that pump water from this basin, including the City of Cabazon and MBMI, will have higher quality drinking water than is currently in the Basin.
To further promote collaboration, the City will also host quarterly update meetings with the stakeholders (recycled water customers), neighboring groundwater jurisdictions, and tribal leaders.

4. Will the project include public outreach and opportunities for the public to learn about the project? Explain.

The City will conduct the following outreach activities to increase publicity for the proposed Project:

1. Community workshops
- Interactive workshops where residents can learn about the Project, ask questions, and provide input. This can include presentations, Q&A sessions, and small group discussions.

2. Public meetings
- Regularly scheduled meetings for the community to be updated on the Project's progress and all to garner public comment.

3. General education
- Distribute brochures, fact sheets, and FAQs that explain the benefits and safety of recycled water.

4. Website page
- Dedicate a page on the City's website with detailed information about the Project, educational resources, and opportunities for public engagement.

5. Updates via social media (i.e., Facebook and Instagram)
- Share Project updates, educational content, and respond to public inquiries.

END OF 40 PAGE TECHNICAL REPORT

5. PROJECT BUDGET

5.1 Funding Plan

The total cost of the Project is estimated at $64,778,300. Under this NOFO, the City is therefore requesting $16,194,575, which would be 25% of the Project cost. Remaining costs will be covered by non-federal funding sources to provide the minimum 75% funding match. **Table 23** includes more detail regarding the funding contributions by source for the Project.

Table 23. Funding Contributions by Source

Funding Source	Amount
Non-Federal Entities	
City of Banning	$48,583,726.50
Federal Entities	
Requested Reclamation Funding	$16,194,575.50
Total Cost	$64,778,302.00

The City's cost share will be provided by the City's Water Operations and Wastewater Operations Funds. There is a current fund balance in the Water Operations Fund of $17.5M and a fund balance in the Wastewater Operations Fund of $3.7M. In addition to operating and capital revenues related to rates, the City has continued to charge a monthly Tertiary Surcharge of $2.72/month per account to fund capital improvements at the wastewater treatment plant. The Wastewater Tertiary Fund has a fund balance of $7.7M of which $7M would be allocated to the Proposed Project. Additionally, the City has the capability to fund projects through either cash payment or debt issuance. See Section 9.4, pages 49-51, in **Appendix B** for more details on the City's Project Funding Plan.

City staff time will not be documented as a Project cost. Invoices will be provided to Reclamation following grant award, or at Reclamation's request. The City anticipates that the Project's costs will be incurred by September 30, 2027. All Project costs are presented in **Table 24**.

The construction cost of $51,760,500 listed in **Table 24** is based on the Opinion of the Construction Cost (OPCC) estimate developed using the American Associations of Cost Engineers guidelines and recommendations. The OPCC was completed by the City's Owner's Engineer consultant following the AACE Class 4 cost estimating methodology. The estimate was developed based on the industry standards, adjusted to the anticipated Project's complexity, and market conditions and cost escalation at the time of the estimate. This construction cost does not include any additional soft costs, such as CEQA and Permitting, Planning and Design, Construction Administration, and overall Project contingencies. Section 5 of this application covers all of these additional costs and provides the estimating methodology.

The variance between the total construction cost of $51,760,500 listed in **Table 24** and the total construction cost of $70,490,400 that was developed in the 2023 Feasibility Study (**Appendix B**, Section 4.3, page 31) is due to the value engineering and scope optimization performed by the City and City's Owner's Engineer consultant.

5.2 Budget Narrative

A detailed explanation of the costs incurred under each budget category is included in **Table 24**.

Salaries and wages

The City will account for its staff time for this Project as part of its normal operating costs and will not be tracking or submitting staff time for match or reimbursement. As such, these costs are not included in the total Project cost. Contractor salaries and wages are included in the contractor costs, under the Construction section of the proposed budget.

Key Personnel for the Project will include staff from the City of Banning, along with project managers for each of the consultants and contractors hired to support the Project. The Program Manager for the Project is Arturo Vela, Director of Public Works for the City of Banning.

Compliance with Reporting Requirements will be completed through combined efforts of the Program Manager, Administrator, and Finance Specialist, and is expected to require a combined total of 30 hours per submittal. Each submittal is anticipated to include a Financial Report and an Interim Program Performance Report. Submittals are expected to be provided quarterly. The Final Program Performance Report is expected to require an additional 60 hours for the final Project and evaluation.

Table 24. Project's Overall Costs

BUDGET ITEM DESCRIPTION	COMPUTATION			Recipient	Reclamation	TOTAL COST
	Price/Rate	Unit	Quantity			
SALARIES AND WAGES						
Not applicable				$ -	$ -	$ -
					Subtotal	**$ -**
FRINGE BENEFITS - See proposal in official file for detailed calculations						
Not applicable		percent		$ -	$ -	$ -
					Subtotal	**$ -**
EQUIPMENT - Leased Equipment use rate + hourly wage/salary x est. hours for assisted activity—Describe equipment to be purchased, unit price, # of units for all equipment to be purchased or leased for assisted activity: Do not list contractor supplied equipment here.						
Not applicable				$ -	$ -	$ -
			Subtotal	$ -	$ -	**$ -**
SUPPLIES/MATERIALS - Describe all major types of supplies/materials, unit price, # of units, etc., to be used on this assisted activity.						
Not applicable				$ -	$ -	$ -
					Subtotal	**$ -**
CONTRACTUAL/ CONSTRUCTION - Explain any contracts or sub-Agreements that will be awarded, why needed. Explain contractor qualifications and how the contractor will be selected.						
City of Banning WWTP Upgrades						
Task 1: CEQA						
CEQA (bio, cultural, air quality & IS/MND)	$180,000	LS	1.0	$ 135,000	$ 45,000	$ 180,000
Permitting	$120,000	LS	1.0	$ 90,000	$ 30,000	$ 120,000
					Subtotal	**$ 300,000**
Task 2: Design						
Preliminary Design	$1,035,210	% of cost	2.0%	$ 776,408	$ 258,803	$1,035,210
Final Design	$2,588,025	% of cost	5.0%	$ 1,941,019	$ 647,006	$2,588,025
					Subtotal	**$ 3,623,235**
Task 3: Construction						
RO System	$ 4,726,700	LS	1.0	$ 3,545,025	$ 1,181,675	$ 4,726,700
Brine Drying Beds and Evaporators	$ 5,471,700	LS	1.0	$ 4,103,775	$ 1,367,925	$ 5,471,700
MBR Facility	$ 34,874,100	LS	1.0	$ 26,155,575	$ 8,718,525	$ 34,874,100
Primary Clarifier	$ 1,866,300	LS	1.0	$ 1,399,725	$ 466,575	$ 1,866,300
Chlorine Tank	$ 1,284,800	LS	1.0	$ 963,600	$ 321,200	$ 1,284,800
Ferric Sulfate Feed/Storage System	$ 286,200	LS	1.0	$ 214,650	$ 71,550	$ 286,200
Pipeline Laterals	$ 3,250,700	LS	1.0	$ 2,438,025	$ 812,675	$ 3,250,700
					Subtotal	**$ 51,760,500**
Task 4: Construction Admin						
Construction Management and Inspection	$3,105,630	% of cost	6.0%	$ 2,329,223	$ 776,408	$ 3,105,630
Environmental Monitoring and Support during Construction	$100,000	LS	1.0%	$ 75,000	$ 25,000	$ 100,000
					Subtotal	**$ 3,205,630**
OTHER - List any other cost elements necessary for your project; such as extra reporting, or contingencies in a construction contract.						
Contingency (10% of project cost)	$5,888,937	% of cost	10.0%	$ 4,416,702	$ 1,472,234	$ 5,888,937
					Subtotal	**$ 5,888,937**
TOTAL DIRECT COSTS:				**48,583,726**	**16,194,575**	**$ 64,778,302**
INDIRECT COSTS -						
Not applicable						$ -
TOTAL ESTIMATED PROJECT/ACTIVITY COSTS:						**$ 64,778,302**

Fringe benefits

Like salaries and wages, fringe benefits for employees as they relate to the Project will be accounted for by the City through normal operating costs. As a result, incurred fringe benefit costs related to the Project will not be sourced from grant funds. Contractor fringe benefits are incorporated into contractor billing rates under the Construction section of the proposed budget.

Travel

Travel costs related to the Project will not be sourced from grant funds. All City staff travel costs incurred over the duration of the Project will be absorbed by the City as normal operating costs. Contractor travel costs are incorporated into contractor costs under the Construction section of

the proposed budget. All reimbursable travel costs will be reimbursed at a rate consisted with federal allowance.

Construction contractors are anticipated to participate in weekly or bi-weekly in-person meetings with City of Banning Staff, including the Project Manager and Project Engineer. Construction contractors are anticipated to be local, and no mileage reimbursement, flights, car rentals, hotels, or per diem anticipated.

Travel expenses are incorporated into consultants' fee estimates, and any travel costs billed to the grant will be consistent with applicable state or federal rates.

Equipment

Equipment costs for the Project are incorporated into the Contractor costs under the Construction section of the proposed budget.

Supplies and Materials

Supplies and materials costs for the Project are incorporated into the Contractor costs under the Construction section of the proposed budget.

Construction

As indicated in the Budget Table (**Table 24**), the Project will include support from consultants and contractors. The Project's design consultant will be procured in Winter of 2024. Construction-related soft costs (i.e., Design and Construction Administration) have been confirmed by percentage methodology guidelines outlined in the 2023 California Multi-Agency CIP Benchmarking Study shown in **Table 25**.

Table 25. 2023 California Multi-Agency Benchmarking Study, in 2023 dollars[21]

Type	Design	Construction Management	Total Project Delivery	Median Total Construction Cost	Number of Projects
Municipal Facilities	21%	14%	35%	1.54	77
Parks	28%	21%	50%	1.19	52
Pipe Systems	17%	20%	37%	1.63	205
Streets	27%	27%	54%	1.71	155
Wastewater & Water Facilities	**25%**	**24%**	**50%**	**1.98**	**58**
ALL TYPES	23%	22%	44%	1.64	548

[21] California Multi-Agency CIP Benchmarking Study | Bureau of Engineering (lacity.gov)

Task 1: CEQA and Permitting – It is assumed that the Project will require preparation of CEQA (CEQA Plus) documentation by developing an Initial Study/Mitigated Negative Declaration (IS/MND), based on the Project footprint of less than 20 acres. At minimum, three technical studies are to be conducted to support the IS/MND:

1. Biological Resources report that allows for federal consultation with U.S. Fish & Wildlife under the Endangered Species Act
2. Cultural Resources report that allows for federal consultation with the State Historical Preservation Office under the National Historic Preservation Act
3. AB 52: Tribal Consultation
4. Air Quality Modeling report that allows for federal approvals under the Clean Air Act.

Compilation of a complete IS/MND that addresses the above-referenced federal laws and all other federal cross-cutters includes preparation of a public review draft, circulation and noticing, and preparation of a final IS/MND. Total CEQA costs are estimated at $180,000. Additional costs anticipated to be incurred by the City over the duration of this Project include permitting fees totaling an estimated $120,000.

Task 2: Design – Design level of effort is estimated at 7% of the construction cost, confirmed by the percentage methodology guidelines outlined in the 2023 California Multi-Agency CIP Benchmarking Study. The activities for the Project are shown in **Table 24.**

Task 3: Construction – Construction costs were estimated based on the American Association of Cost Engineers Class 4 guidelines utilizing various factors, such as market conditions, cost escalation, and construction level of difficulties. The estimate will be validated after the receipt of the bid results during the contractors' procurement process. The estimated construction cost is $51,760,500.

Task 4: Construction Administration

1. Construction Administration – Estimated at 6% of the construction cost, confirmed by the percentage methodology guidelines outlined in the 2023 California Multi-Agency CIP Benchmarking Study.
2. Environmental Monitoring and Support during Construction – Estimated at $100,000.

Environmental and Regulatory Compliance Costs

Costs incurred under this budget category have already been accounted for under Permitting and Construction.

Other Expenses

Additional costs incurred by the City include a contingency of 10% of the overall Project cost.

Indirect costs

The City does not anticipate that the Project will require any indirect costs that will not otherwise be recovered or accounted for under other proposed budget categories.

6. ENVIRONMENTAL AND CULTURAL RESOURCES COMPLIANCE

The City does not anticipate that the Project will have significant impacts on endangered or threatened species, public health or safety, hydrology and water quality, regulated waters of the United States, or cultural resources. The City also does not anticipate that the Project will have significant environmental effects as defined by State and Federal environmental laws. As such, the City will prepare a Negative Declaration to obtain CEQA coverage and expects that USBR will adopt a Finding of No Significant Impacts (FONSI) to obtain NEPA coverage for the Project. The City completed an Initial Study-Mitigated Negative Declaration (IS-MND) in October 2007. The 2007 IS-MND covered significant elements of the current proposed Project. The findings of the 2007 IS-MND were either "Less Than Significant Impact" or "No Impact". The 2007 IS-MND provided a basis for the following sections, but the City will conduct an IS-MND for the new proposed Project.

- **Will the proposed project impact the surrounding environment (e.g., soil [dust], air, water [quality and quantity], animal habitat)? Please briefly describe all earth-disturbing work and any work that will affect the air, water, or animal habitat in the project area. Please also explain the impacts of such work on the surrounding environment and any steps that could be taken to minimize the impacts.**

Air Quality:

Around 17 acres of excavation activities will be required for construction of the Project.

An air quality analysis will be completed as part of the CEQA analysis. Project construction will comply with local air quality requirements. Typical dust control measures, such as watering and reducing off-road vehicle speeds, will be employed. Project operations will be evaluated for consistency with the State greenhouse gas reduction targets found in AB 32 and SB 32. Emissions from operation of the proposed facilities are not expected to exceed applicable significant thresholds.

Biological Resources:

Construction of the Project facilities is not expected to impact biological resources. Biological resources will be surveyed prior to design, and sensitive species and their habitats will be avoided in the Project design. The Project is not expected to impact wetlands or waters of the U.S. as regulated by U.S. Army Corps of Engineers, RWQCB, and California Department of Fish and Wildlife. The Project will comply with the adopted Habitat Conservation Plans and Natural Community Conservation Plans.

The Project is not anticipated to affect biological resources, as all O&M activities will be constrained to the WWTP site. Operations will be sustainable and will have no impact on riparian and aquatic habitats.

Hydrological Impacts:

Hydrologic impacts, including erosion and siltation during construction of the proposed facilities would be minimized through compliance with existing regulations, including enrollment in an NPDES construction general permit, completion of a storm water pollution prevention plan, and implementation of required BMPs.

The City will characterize the RO brine discharge to evaporation beds to verify the quality of the solids before final disposal.

The proposed Project is not within the 100-year floodplain. During the design, this conclusion will be confirmed.

Noise:

Construction noise is considered a nuisance and is regulated by the City's Noise Ordinance. The majority of construction activities for the Project will be in the vicinity of the WWTP site which is located in an isolated part of the City. Construction equipment will be fitted with approved mufflers and other measures may be utilized to comply with the existing regulations.

The City will ensure all Project components comply with mitigation measures identified to further reduce impacts. It is expected that impacts to hydrology and water quality as well as animal habitats would be less than significant with the incorporation of mitigation measures, while air quality impacts would be significant and unavoidable. As described above, a project-level air quality analysis will be conducted to determine air quality impacts resulting from the Project. Mitigation measures will be incorporated as necessary to reduce impacts to the extent feasible.

- **Are you aware of any species listed or proposed to be listed as a Federal threatened or endangered species, or designated critical habitat in the project area? If so, would they be affected by any activities associated with the proposed project?**

The City is currently not aware of any species listed or proposed to be listed as a Federal threatened or endangered species nor any designated critical habitats in the Project area. The Project will comply with the adopted Habitat Conservation Plans and Natural Community Conservation Plans. Operation of the Project is not anticipated to affect biological resources, as all O&M activities will be constrained to the WWTP site. The City will carry out all mitigation measures identified and required by the CEQA analysis to minimize impacts to special-status species and critical habitats. At the project-level, a biological resources assessment will be conducted to identify Project activities that may further adversely affect special-status species. Such findings will be incorporated into the analysis to identify actions that minimize any additional impacts to special-status species or designated critical habitats to the extent feasible.

- **Are there wetlands or other surface waters inside the project boundaries that potentially fall under CWA jurisdiction as "Waters of the United States"? If so, please describe and estimate any impacts the proposed project may have.**

There are no wetlands or surface water inside the Project boundaries that potentially fall under the CWA jurisdiction as "Waters of the United States", and therefore, no wetlands or surface water will be impacted by the Project. All Project components will comply with applicable permitting requirements if impacts to jurisdictional waters are to occur.

- **When was the water delivery system constructed?**

The initial water system was developed in the early 1900's and has continued until today.

- **Will the proposed project result in any modification of or effects to, individual features of an irrigation system (e.g., headgates, canals, or flumes)? If so, state when those features were constructed and describe the nature and timing of any extensive alterations or modifications to those features completed previously.**

The Project will not result in any modification to the individual features of an irrigation system, e.g., headgates, canals, or flumes.

- **Are any buildings, structures, or features in the irrigation district listed or eligible for listing on the National Register of Historic Places? A cultural resources specialist at your local Reclamation office or the State Historic Preservation Office can assist in answering this question.**

No buildings, structures, or features located within the Project area are listed or eligible for listing on the National Register of Historic Places. The City does not anticipate that the Project will have any adverse effects on historic properties.

- **Are there any known archeological sites in the proposed project area?**

There are currently no known archeological sites within the Project area. However, because the Project includes excavation, there is the potential that the Project may impact archaeological resources. A Phase 1 Archeological Resources Assessment will be conducted at the project-level. A Phase 2 Archeological Resources Assessment will be conducted if resources are identified during the Phase 1 assessment. Based on findings from the Phase 1 and 2 assessments, mitigation measures will be identified in the CEQA/NEPA analysis to reduce impacts to archeological resources.

Cultural resources will be surveyed prior to design and the Project will be designed to avoid any potential identified cultural sites. Onsite construction monitoring mitigation may be necessary to ensure that discovery of any previously unidentified archeological resources is handled appropriately. The City will comply with California Assembly Bill 52 regarding formal consultation with Native American tribes about the proposed Project. Archeological sensitivity training for construction personnel and the presence of a qualified archeological monitor to supervise all excavations activities will be included as a mitigation measure. The archaeologist will have the authority to temporarily halt or redirect ground-disturbing activity, if necessary.

- **Will the proposed project have a disproportionately high and adverse effect on low income or minority populations?**

The Project is not anticipated to have a disproportionately high or adverse effect on low income or minority populations. The Project will directly increase the amount of available recycled water to the City, and therefore provide benefits to all customers within the service area. The entire City of Banning is categorized as a severely disadvantaged or disadvantaged community.

- **Will the proposed project limit access to, and ceremonial use of, Indian sacred sites or result in other impacts on Tribal lands?**

The City does not anticipate any impacts to sacred sites or tribal lands related to the Project. However, to comply with California Assembly Bill 52 regarding formal consultation with Native American tribes about the proposed Project, the City will implement additional mitigation in the CEQA/NEPA analysis to minimize potential impacts to sacred sites or tribal lands, as needed.

- **Will the proposed project contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area?**

It is not anticipated that Project will contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species. The Project will take place primarily in disturbed, developed, and ornamental plant-covered areas and will not disturb native vegetated communities. Therefore, it is unlikely that the Project will cause the introduction of non-native invasive species within and surrounding the pPoject area.

7. REQUIRED PERMITS OR APPROVALS

Permits and approvals required for the completion of the Project are listed below. Although this list includes all permits known to be required for this Project, additional permit requirements may be identified as the design progress. All required permits and approvals will be obtained prior to beginning construction.

1. State Water Resources Control Board Division of Drinking Water (DDW) Title 22 Engineering Permit
2. Regional Water Quality Control Board – Colorado River Basin General Permit (combining Non-Discharge National Pollutant Discharge Elimination System [NPDES], Waste Discharge Requirement [WDR], and Waste Recharge Requirements [WRR])
3. RWQCB Notice of Intent (NOI)
4. RWQCB Notice of Applicability (NOA)
5. DDW – Recycled Water Customer Conversion Approval
6. Air Quality Management District (AQMD)
7. CEQA (IS-MND)

A Title 22 Engineering Report is required to be submitted for approval by DDW to meet water quality standards for recycled water. After the design documents are finalized, the City will submit the necessary reports, analyses, and applications to obtain required permits from the RWQCB. As mentioned in Section 6, the City will prepare a Negative Declaration to obtain CEQA coverage for the Project in parallel with Project design.

8. OVERLAP OR DUPLICATION OF EFFORT STATEMENT

There is no overlap between the Project and any other active or anticipated proposals or projects in terms of activities, costs, or commitment of key personnel. The proposal submitted for consideration under this program does not in any way duplicate any proposal or project that has been or will be submitted for funding consideration to any other potential funding source.

9. CONFLICT OF INTEREST DISCLOSURE STATEMENT

There are no actual or potential conflicts of interest that exist at the time of submission.

10. UNIFORM AUDIT REPORTING STATEMENT

The City of Banning will submit a Single Audit report for FY 2024, prior to the grant award.

11. SF-LLL: DISCLOSURE OF LOBBYING ACTIVITIES

This section is not applicable to the City of Banning's Project, as the City has not made or agreed to make payments to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action.

12. LETTERS OF SUPPORT

The City has received letters of support for the Project from the following organizations:

- Rosilicie Ochoa Bogh, California State Senator
- Laphonza Butler, United States Senator
- Raul Ruiz, United States House Representative
- Yxstian Gutierrez, District 5 Commissioner of the County of Riverside
- Paula Rasmussen, Executive Officer, Colorado River Basin RWQCB

Copies of these letters are provided as **Appendix D** of this application.

13. OFFICIAL RESOLUTION

A City Council resolution (see **Appendix E** for draft) in support of the Project is being planned for adoption in December 2024.

Per Section D.2.2.11 of the NOFO, the official resolution may be submitted prior to the award date, if an applicant is selected, after the application deadline.

14. LETTERS OF FUNDING COMMITMENT

The third-party cost share currently is not anticipated for the Project.

15. REFERENCES

Carollo Engineers, Inc. 2*018 Integrated Master Plan*. March 2018.
City of Banning Water/Wastewater Utilities Department. *Initial Study/Mitigated Negative Declaration*. October 2007.
Stantec Consulting, Inc., et al*. California Multi-Agency CIP Benchmarking Study*. December 2023.
West Yost & Associates Engineering, Inc. and John Robinson Consulting, Inc. *2020 Urban Water Management*. June 2021.
Woodward & Curran, Inc. *San Gorgonio Region Recycled Water Study*. February 2018.

Appendix A – Signed Executive Memorandum

United States Department of the Interior

BUREAU OF RECLAMATION
Southern California Area Office
27226 Via Industria, Suite A
Temecula, CA 92590

IN REPLY REFER TO:
SCAO-5000
4.4.15

VIA ELECTRONIC MAIL ONLY

Mr. Arturo Vela, P.E.
Director of Public Works
City of Banning
99 East Ramsey Street
Banning, CA 92220

Subject: City of Banning: Wastewater Treatment Plant and Recycled Water Upgrades Feasibility Study

Dear Mr. Vela:

The Bureau of Reclamation is pleased to inform you that the City of Banning's Wastewater Treatment Plant and Recycled Water Upgrades Feasibility Study has been found to be in accordance with our Directives and Standards (D&S), *Title XVI Water Reclamation and Reuse Program and Desalination Construction Program Feasibility Study Review Process* (WTR 11-01), and therefore it meets the requirements of a feasibility study as defined under Section 4009(a) of Public Law 114-322. Enclosed for your information is a copy of the formal memorandum approved on January 31, 2024.

These findings will be included in the next transmittal to Congress of feasibility study review findings under section 4009 of the Water Infrastructure Improvements for the Nation Act.

Should you have any questions, please contact Viranousack (Alex) Soubannarath, Program Analyst (*Title XVI Coordinator*), at 951-695-5310 or vsoubannarath@usbr.gov. Individuals in the United States, who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunication relay services.

Sincerely,

JOHN SIMES

Digitally signed by JOHN SIMES
Date: 2024.02.10 15:51:41 -08'00'

John E. Simes, Jr.
Area Manager

Appendix B – Feasibility Study (Appendices not included)

City of Banning

Wastewater Treatment Plant and Recycled Water Upgrades Feasibility Study (Revision 1)

January 5, 2024



N2W Engineering, Inc.
3240 El Camino Real, Suite 150, Irvine, CA 92602
T 714.716.1711
info@n2weng.com

Prepared by: Iris Jimenez and Jamal Awad

Reviewed by: James Wang



EXECUTIVE SUMMARY

The City of Banning (City) has prepared this feasibility study to support a grant application for WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464. This study evaluates the feasibility of upgrading the City's Wastewater Treatment Plant (WWTP) to tertiary disinfected recycled water standards for non-potable reuse under the terms of the U.S. Bureau of Reclamation (USBR) Water Reclamation and Reuse (Title XVI) program. This study is structured to follow the Bureau of Reclamation Manual, Directives and Standards, "WTR 11-01."

The existing WWTP consists of preliminary treatment, primary treatment, secondary treatment, solids handling, disinfection (currently not in use), and evaporation/percolation ponds. The WWTP effluent is currently in compliance with discharge requirements, but it requires significant upgrades to comply with impending water quality discharge limits by the Regional Water Quality Control Board (RWQCB). In addition, the Trickling Filters, which perform secondary treatment, have reached their end of life. WWTP effluent discharges to percolation ponds that recharge into the Cabazon Groundwater Basin but is not entirely extracted by Banning - the percolated water flows to other water agencies located downgradient.

The proposed Wastewater Treatment Plant and Recycled Water Upgrades Project (Project) evaluated by this study consists of three phases: I) upgrading the existing WWTP to recycled water standards and building pipelines to connect the WWTP to customers currently using ground water from non-potable wells, II) building pipelines to connect the WWTP to the future recycled water customers, and III) building pipelines to connect the WWTP to a groundwater recharge basin upgradient of the Cabazon storage unit. Phase I will be implemented in the near term, and Phases II and III will be implemented in the long-term. Phases II and III are not included in this Feasibility Study for clarity. The City has only requested funding for Phase I in the WaterSMART funding application but will seek additional funding for Phases II and III in the future and will provide an updated Feasibility Study at that time.

Currently, there are no non-potable recycled water uses that have been implemented in the City. By implementing both project components, non-potable reuse and indirect potable reuse, the supply and usage of locally sourced non-potable water supply will increase by an estimated 4,035 AFY (3.6 MGD) of recycled water.

The City relies upon purchasing water from the San Gorgonio Pass Water Agency (SGPWA) for groundwater recharge. The increased supply of local non-potable water supplies produced from this Project would decrease demands on the SGPWA, and on its supplier, the California State Water Project, thereby reducing diversions from natural watercourses in the Sacramento-San Joaquin Delta. The Project also provides non-quantifiable benefits including improving non-potable water supply reliability and drought resiliency.

1. INTRODUCTION

1.1 Prelude

The proposed Wastewater Treatment Plant and Recycled Water Upgrades Project (Project) is the subject of this feasibility study, which supports a grant application for WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464. This study is structured to follow the Bureau of Reclamation Manual, Directives and Standards, "WTR11-01," which was intended for reclamation projects. The purpose is to evaluate Project feasibility under the terms of the U.S. Bureau of Reclamation (USBR) Water Reclamation and Reuse (Title XVI) program.

The Project evaluated by this study involves upgrading the existing Wastewater Treatment Plant (WWTP) at the City of Banning (City) to Title 22 standards for recycled water use.

At this time, effluent from the WWTP meets the effluent water quality discharge requirements. However, the WWTP will not be able to meet the impending discharge limits proposed by the Colorado River Basin Regional Water Quality Control Boad (RWQCB). In addition, many treatment facilities at the plant have reached the end of their useful life. WWTP effluent is currently discharged to percolation ponds that recharge into the Cabazon Groundwater Basin but is not entirely extracted by Banning - the percolated water flows to other water agencies located downgradient.

By replacing existing equipment with new facilities that can treat the water to tertiary disinfected recycled water standards, the WWTP effluent can be used to meet current and future non-potable water demands in the City. This allows the City to both meet the impending RWQCB requirements as well as benefit from their WWTP effluent. These benefits include reducing the City's reliance on imported water and improving the reliability of groundwater for drinking water purposes. Since the City is considered a Disadvantaged Community, a reliable local supply of water will also support City growth and economic development, which are dependent on the availability of water supplies.

1.2 Non-Federal Project Sponsor

The City of Banning is serving as the non-federal project sponsor. The City was incorporated as a Charter City in 1913, pursuant to the California Constitution Article XI and the California Government Code and is governed by an elected five-member council. It is a full-service city, providing water and wastewater services through its Water and Wastewater Utilities Department, under the purview of the City Council.

1.3 Study Area and Project Map

The City of Banning is in the northwestern portion of Riverside County, approximately 25 miles east of downtown Riverside and approximately 30 miles west of the City of Palm Springs. The City

is bounded by the San Bernardino Mountains to the north; Cherry Valley to the northwest; the City of Beaumont to the west and southwest; unincorporated County area to the south; the San Jacinto Mountains to the southeast; and the Morongo Band of Mission Indians and unincorporated community of Cabazon to the east. The City's total land area is 14,848 acres or 23.2 square miles. See Figure 1 on the following page for a map of the City boundaries.

The City's water service area comprises 100 percent of the population residing within the City limits, and a small unincorporated area of Riverside County. The City's Water Service Area comprises about 16,908 acres or 26.4 square miles.

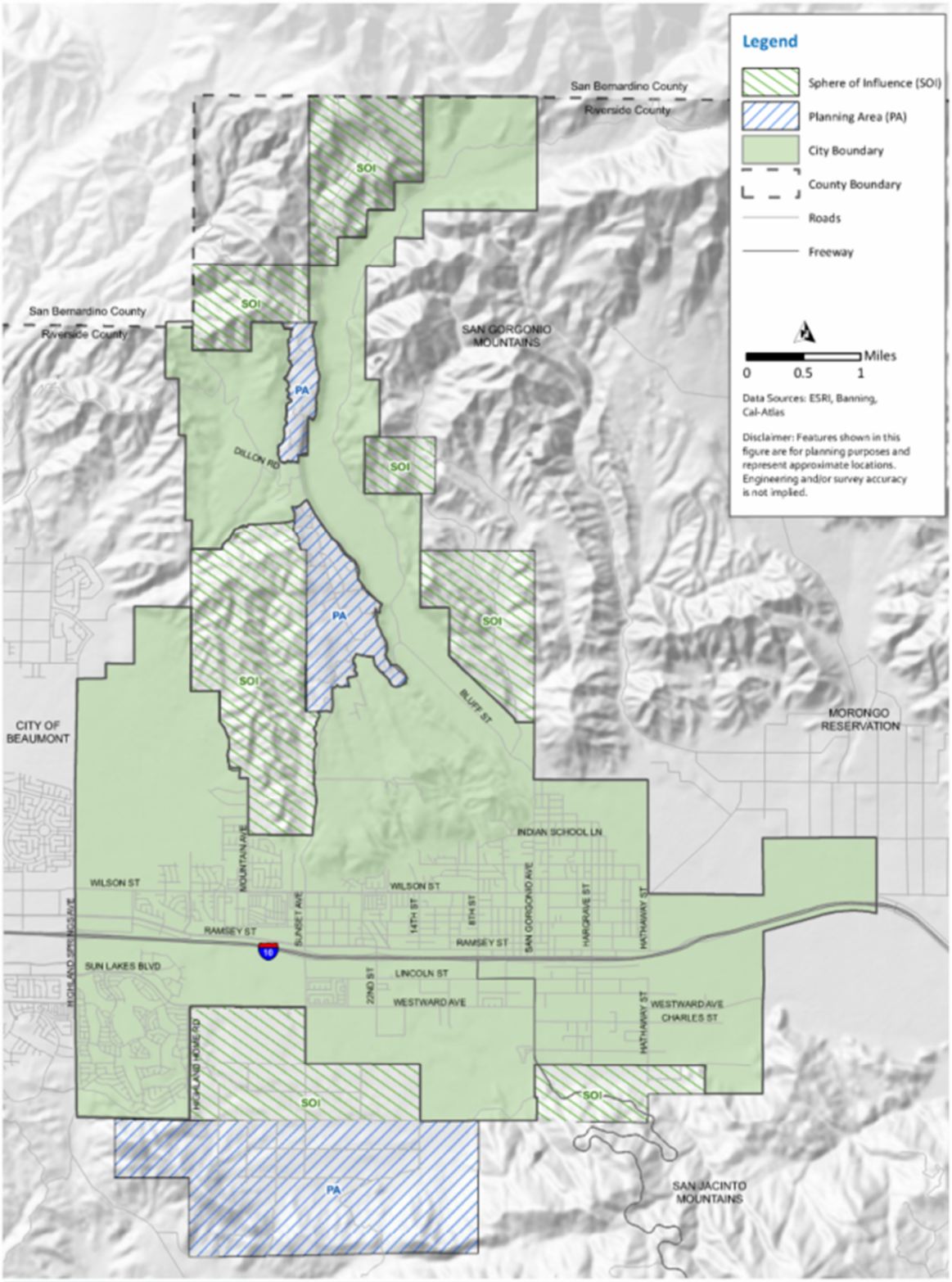
The City is a retail agency and within the San Gorgonio Pass Subbasin portion of the Coachella Valley Groundwater Basin. The City is a member of the San Gorgonio Pass Regional Water Alliance (Alliance). The Alliance was created to identify challenges in water supply and water quality in the region and to improve coordination and communication among local, state, and federal governments and water purveyors and other water resource stakeholders in the San Gorgonio Pass region.

Since 2015, the City has participated in the following two additional agreements:

1. San Gorgonio Integrated Regional Water Management Group, which includes: City of Banning, Banning Heights Mutual Water Company, Cabazon Water District, High Valleys Water District, Riverside County Flood Control and Water Conservation District (CFCWCD), and the San Gorgonio Pass Water Agency.
2. San Gorgonio Pass Subbasin Groundwater Sustainability Agency, which includes: the Desert Water Agency, Banning Heights Mutual Water District, Cabazon Water District, Mission Springs Water District, San Gorgonio Pass Water Agency and the City of Banning.
3. San Timoteo Groundwater Sustainability Agency, which includes: City of Banning, Beaumont-Cherry Valley Water District, City of Redlands, Yucaipa Valley Water District, San Gorgonio Pass Water Agency.

The City participates in the Beaumont Management Zone (BMZ) Maximum Benefits Program, which is under the oversight of the RWQCB and is intended to ensure the long-term sustainability of water quality in the BMZ. Yucaipa Valley Water District, Beaumont Cherry Valley Water District, and City of Beaumont also participate in the program.

Figure 1. City of Banning Project Map (courtesy of 2018 Integrated Master Plan (2018 IMP))



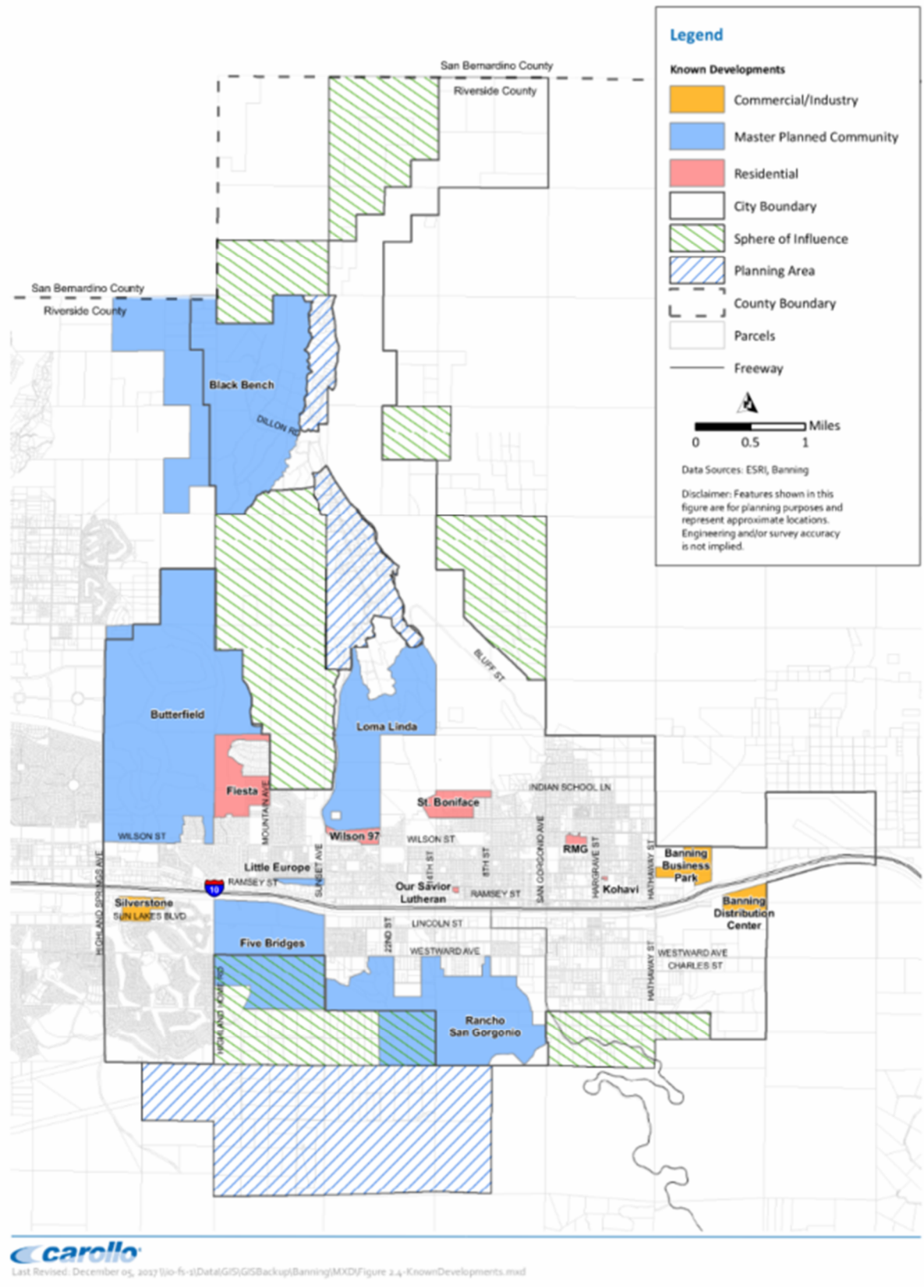
1.3.1 Land Use

The City includes a mixture of residential uses and equestrian estates, combined with more recently planned residential housing developments. The community focal point is an extended commercial downtown stretching along Ramsey Street. Ramsey Street largely parallels Interstate 10; consequently, one can find almost any type of restaurant, bank, or service station here - a wider variety than one would expect in a city of this size. Table 1 provides some basic statistics on current land use and economy for the County of Riverside and the City. Figure 2 on the following page shows the City's known developments, which includes the agricultural, open space, and community areas.

Table 1. Current Land Use & Economic Statistics for Riverside County and City of Banning Land

Item	Riverside County	Banning
Land Area (sq. miles)	7,206 sq. miles	23 sq. miles
Land Area (acres)	4,611,840 acres	14,720 acres
Agricultural Land	263,796 acres	1,200 acres
Developed Land	165,151 acres	428 acres
Population	2,470,546	31,125
Housing Units	857,148	10,991
Median Home Price	$350,100	$234,900
Owner Occupancy Rate	66.3%	65.9%
Employed (16yrs +)	59.7%	44.5%
Median Household Income	$67,005	$42,274
Percent in Poverty	11.3%	20.6%
Manufacturing	$15.1 Billion	$72.8 Million
Agriculture/Crops	$3.9 Billion	N/A
Retail & Wholesale Sales	$43.8 Billion	$248.7 Million

Figure 2. City of Banning – Known Developments (courtesy of 2018 IMP)



1.3.2 Climate

The City is located within the San Gorgonio Pass, which is a transitional zone where coastal climates transition to desert, resulting in significantly differing landscape and geology. The climate can best be characterized by hot, dry summers and short, mild winters. The region receives an average annual rainfall of approximately 19.7 inches, most of which takes place between December and March. Evapotranspiration (ETo) in the area ranges from 7.88 inches in July to 1.94 inches in December.

As the State of California and the Riverside County region has undergone a several-year drought, rainfall has been much lower in the City. Recent ETo and rainfall for the City is listed in Table 2.

Table 2. Recent Climate Characteristics (2022 – 2023)
CIMIS Station 239 (Hemet)
(cimis.water.ca.gov)

Month	Rainfall (in.)	Eto (in.)
Mar (2022)	0.69	2.30
Apr (2022)	0.27	3.15
May (2022)	0.00	4.21
Jun (2022)	0.02	6.14
Jul (2022)	0.00	7.89
Aug (2022)	0.00	7.70
Sep (2022)	0.17	9.16
Oct (2022)	0.25	8.34
Nov (2022)	1.77	6.47
Dec (2022)	1.18	4.65
Jan (2023)	0.91	2.87
Feb (2023)	0.69	2.13
Totals	**5.95**	**65.01**

1.3.3 Population

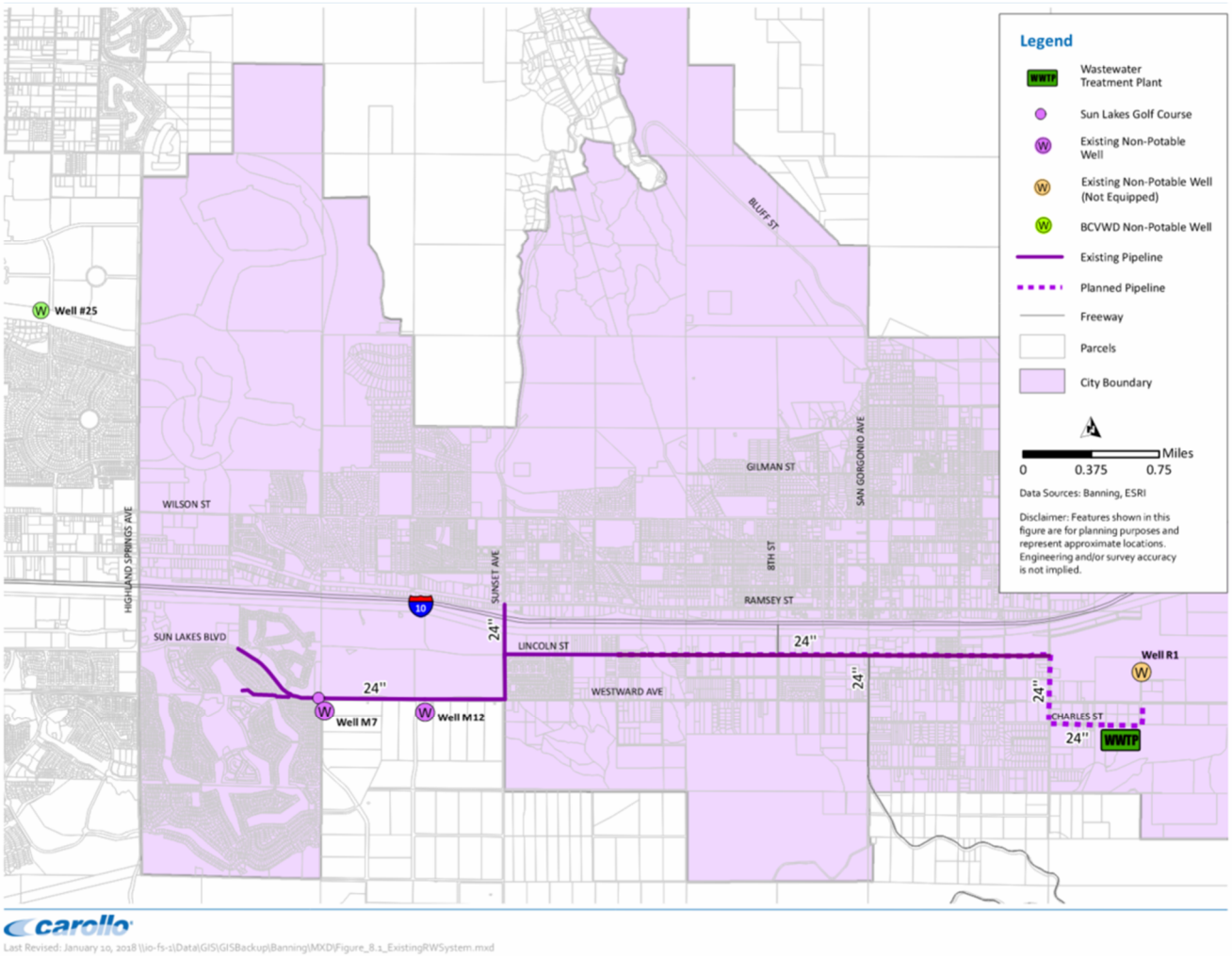
According to the 2020 Census Data, the resident population of the City is 29,528, and estimated to be 30,273 as of July 1, 2021. Since the City's water service area comprises 100 percent of the population residing within the City limits, the total current resident population served by the City's water system is approximately 31,125 persons, including those outside City limits. The City is currently experiencing a peak population, based on State of California Department of Finance estimates. Since the City is a commercial and government-services center for the region, daytime population increases demand for potable water beyond the City's resident population.

1.4 Reclaimed Water Area

There are no non-potable reclaimed water uses that have been implemented in Banning.

Currently, the City's existing non-potable water system delivers water from a non-potable groundwater well, Well M7, to Sun Lakes Country Club for irrigation use. The City has begun constructing a 24-inch diameter pipeline to connect the existing non-potable water pipe to the WWTP. The backbone pipeline is expected to be completed, tested, and accepted by the end of 2023. Once reclaimed water becomes available from the upgraded WWTP, the WWTP will replace Well M7 to serve Sun Lakes Country Club and other irrigation customers as part of this Project. The existing non-potable water system and planned backbone pipeline are shown in Figure 3 below.

Figure 3. City of Banning Reclaimed Water Area (courtesy of 2018 IMP)



2. STATEMENT OF PROBLEM AND NEEDS

2.1 Introduction

This section reviews the City's need for water reclamation, as well as short- and long-term recycled water demands and supplies. This section also includes discussions of sources of additional supplies and water quality concerns.

2.2 Need for Water Reclamation

With climate change bringing on more unpredictable and severe variations in weather which have recently been more frequent, and longer duration droughts in California and the entire Western United States, it is crucial for water agencies to engage in comprehensive planning to develop and implement sustainable sources of water. The effects of drought are clearly demonstrated with the Governor of California declaring a statewide State of Emergency due to drought. The Governor's State of Emergency declaration is accompanied by a call for all state residents to cut down on water use by 15%.

The last severe drought to affect the State occurred only a few years ago between 2012-2017 with 2013-2014 having extraordinarily dry conditions. The current drought may even be on a more dire path as the 2020 water year was the third driest water year on record in the last 127 years. With climate change resulting in hotter, drier summers and reduced precipitation, severe and prolonged droughts are forecast to be a normal part of California's future.

This water reclamation Project will generate sustainable supplies to the City's water supply portfolio that will help Banning better prepare for future water supply challenges.

In addition to drought preparation, water reclamation will help reduce the City's reliance on imported water. Currently, the City has access to imported water from the Sacramento-San Jaquin River Delta in Northern California through the San Gorgonio Pass Water Agency (SGPWA). The Bay Delta water system provides Southern California agencies with over 1 million acre-feet of water annually. According to the City's 2020 Urban Water Management Plan (2020 UWMP), the City purchased an average of 847 acre-feet per year (AFY) per year between 2010 – 2015, and an average of 752 AFY per year between 2015 – 2020 for groundwater recharge. By providing recycled non-potable water from the WWTP to irrigation customers, this will allow the City to rely less on imported water and depend on its local water supply to meet non-potable water demands.

2.3 Current Water Supplies

2.3.1 Water Sources and Supplies

The City currently uses potable water and non-potable water to meet the water needs of its service area. The City's water is obtained entirely from groundwater through nineteen (19) potable groundwater wells, one (1) non-potable groundwater well, and three (3) co-owned wells

with the Beaumont-Cherry Valley Water District (BCVWD). The City also has access to imported water from the Sacramento-San Joaquin River Delta in Northern California through the SGWPA and surface water from the Whitewater River. Both imported and surface water are used to recharge the groundwater aquifers.

Imported Water Sources

The SGPWA is one of 29 agencies in the State that have a State Water Project (SWP) Water Supply Contract with the Department of Water Resources (DWR). These agencies receive an allocation from the SWP each year. SGPWA also acquires water supplies through contracts with other agencies and annual water transfers and exchanges. Currently, as a wholesale agency, SGPWA distributes imported SWP water to three (3) member agencies: the City of Banning, BCVWD, and Yucaipa Valley Water District.

Table 3 shows the City's recent imported water purchases from 2015 to 2020 and compares them to the years 2010 to 2015. As shown in the table, the City purchased an average of 752 AYF per year from 2015 to 2020.

Table 3. Imported Water Purchases, courtesy of the 2020 Urban Water Management Plan (2020 UWMP)

Year	Purchases (AFY)
2015	686
2016	1,477
2017	1,350
2018	500
2019	250
2020	250
2015-2020 Avg.	**752**
2010-2015 Avg. (2015 UWMP)	847

Groundwater Sources

The City is within the boundaries of the Coachella Valley Hydrologic Unit, which encompasses several groundwater basins, including the Coachella Valley Groundwater Basin (Basin), within which the City is located. The Basin extends from Banning to the Salton Sea.

The City is underlain by the San Gorgonio Pass Subbasin (SGP Subbasin) portion of the Basin. The SGP Subbasin is divided into water storage units. The City extracts groundwater from the Banning

Storage Unit, the Banning Bench Storage Unit, the Cabazon Storage, the Beaumont Storage Unit, and the Banning Water Canyon Storage Unit.

Over the past five years of operation, groundwater extraction has averaged 7,513 AFY. Table 4 displays the City's groundwater supplies from 2015 to 2020.

Table 4. Imported Water Purchases, courtesy of the 2020 UWMP

Year	Production (AFY)
2015	6,723
2016	7,035
2017	7,576
2018	7,924
2019	7,226
2020	8,596
Average	**7,513**
2010 – 2015 Avg. (2015 UWMP)	8,246

Currently, the City does not utilize the entire capacity of all of its storage units. The maximum annual amount pumped by the City in the past 10 years is just under 9,000 AFY. Due to the projected developments, the City expects pumping to increase by 25% within 10 years and over 50% by the end of 2045. Table 5 below shows the City's projected water supplies and available volumes.

Table 5. Projected Water Supply Availability in AFY, courtesy of the 2020 UWMP

Year	2025	2030	2035	2040	2045
Basin	Projected (Available)	Projected (Available)	Projected (Available)	Projected (Available)	Projected (Available)
Beaumont Basin[1]	1,491 (1,491)	1,267 (1,267)	1,077 (1,077)	916 (916)	778 (778)
West Banning Basin	1,430 (1,430)	1,430 (1,430)	1,430 (1,430)	1,430 (1,430)	1,430 (1,430)
Cabazon Basin	853 (N/A)	960 (N/A)	1,054 (N/A)	1,136 (N/A)	1,208 (N/A)
Banning Bench	1,055 (1,330)	1,187 (1,330)	1,304 (1,330)	1,330 (1,330)	1,330 (1,330)
Banning Water Canyon	3,679 (3,730)	3,730 (3,730)	3,730 (3,730)	3,730 (3,730)	3,730 (3,730)
Imported Recharge into Beaumont Basin	250	500	1,000	1,750	2,500
Water Supply Deficit[2]	999	2,126	3,156	4,128	4,991

Total Available Local Groundwater Supply	**8,508**	**8,574**	**8,595**	**8,542**	**8,476**
Storage Banked in the Beaumont Basin	**42,169**	**38,422**	**30,291**	**19,510**	**7,622**

Notes:
(1) The City's appropriated water rights will continue to decrease over time due to overlying water rights or demand increases.
(2) The water supply deficit is currently covered by Beaumont storage.

Surface Water

The Whitewater Flume was built to provide water and power to the City and Banning Heights Mutual Water Company (BHWMC). BHWMC utilizes approximately 1,000 AFY of the Whitewater River diversions in the Flume, and the remainder of the diverted water flows into the San Gorgonio River below the Banning Heights Mutual Water Company (BHMWC) extraction point. A portion of the natural runoff and the Whitewater River diversions are diverted into spreading ponds located approximately one mile north of the Banning Bench in order to increase groundwater recharge.

Since 1913, surface water from the Whitewater River has been diverted into the Banning Water Canyon Storage Unit, with an average of 1,500 AFY diverted into Banning Water Canyon since 1961.

Rights to Groundwater

The City's rights to annual groundwater extraction are shown in Table 5. The City will pull the differential amounts between the "Projected" and "Available" from the Beaumont Basin Storage Account. Water recharged (i.e., imported water) in the Beaumont Basin will also be credited in the City's storage account, allowing the "Projected" volume to increase. The City also anticipates that it would recharge more during wet years so that water supply can be available during drought periods when local groundwater levels are impacted.

The amount of "Available" yield not produced in the Beaumont Basin by the Overlying Water Right holders is issued to the retail agencies, with the City of Banning receiving 31.43% of the "Available" yield. The amount of Unused Overlying Water from the Beaumont Basin that will be allocated to the City of Banning is projected to decrease by 15% every five years from 2024 on.

Planned Supply Projects

The City continually reviews practices that will provide its customers with adequate and reliable supplies. Trained staff continue to ensure the water quality is safe and the water supply will meet present and future needs in an environmentally and economically responsible manner. The City coordinates its long-term water shortage planning with SGPWA and other local agencies through the development of their respective UWMPs. The City also meets bi-monthly with the San

Gorgonio Pass Regional Water Alliance, which is comprised of thirteen (13) local water purveyors, to discuss local issues with different agencies.

Any new City water supply projects will be to add, replace, or upgrade wells to support population growth and new development. The projects that have been identified to improve the City's water supply reliability and enhance the operations of the City's facilities include replacement of water meters, fire hydrants, valves, and pipelines and construction of new storage reservoirs.

2.3.2 Wastewater Treatment Plant Flows

The City provides sewer service to the area within City limits and to unincorporated areas of Riverside County that surround the southeast portion of the City. The City of Banning is responsible for the collection, conveyance, treatment, and disposal of wastewater generated within its service area. Municipal wastewater in the City's service area is generated from residential, commercial, and institutional sewer discharges. The City does not currently have any major industrial sewer discharges (i.e., brine). However, there are some cannabis cultivation facilities that will be operational soon, which will need to be monitored and regulated.

The City's wastewater collection system drains primarily from west to east. The wastewater discharged from the City is collected from a network of 112 miles of gravity sewer mains. The local collector sewers discharge into larger sewer trunk mains, then to the Banning WWTP, located in the southeast corner of the City (see Figure 4 on Page 14).

The WWTP has a current capacity of 3.6 million gallons per day (MGD) and is designed to treat wastewater to secondary standards. The WWTP consists of preliminary treatment, primary treatment, secondary treatment, solids handling, disinfection (currently not in use), and evaporation/percolation ponds. The preliminary treatment system consists of a mechanical bar screen, compactor, grit removal system, and cyclone separator. Effluent from the preliminary treatment system is gravity fed to two primary clarifiers. Primary effluent is pumped to two Trickling Filters, each rated for 1.8 MGD. The Trickling Filter effluent is sent to two secondary clarifiers. Secondary effluent flows through a chlorine contact chamber and is then discharged to 10 unlined evaporation/percolation ponds which recharges the Cabazon Groundwater Basin. This recharge is provided only through surface percolation, and no injection wells are used by the City.

Primary and secondary sludge is processed via two primary anaerobic digesters. A second-stage digester is currently used as a sludge holding tank before thickened sludge is sent to the sludge drying beds. Sludge is allowed to dry and then is hauled offsite for final disposal. A gravity thickener was used to thicken secondary sludge but is currently not in service. An overall process schematic of the existing WWTP is shown in Figure 5 on Page 15.

The quantities of wastewater generated are proportional to the City' population and the water used by its residents. The wastewater flows are metered at the influent point to the WWTP. Total wastewater collected in the City between 2018 and 2022 is shown in Table 6.

Table 6. Wastewater Flows Collected in City

Year	Wastewater (AFY)	Wastewater (MGD)
2018	2,259	2.02
2019	2,234	2.00
2020	2,185	1.95
2021	2,226	1.99
2022	2,307	2.06
Average	**2,242**	**2.00**

Due to projected housing developments within the City's service area, wastewater flows are expected to significantly change. Based on review of available data, it was determined that the most accurate forecasting methodology for projected sewer flow included a combination of population and land use flow factors. Table 7 below shows the projected wastewater flows from the years 2023 through 2027:

Table 7. Projected Wastewater Flows Collected in City

Year	Flows (AFY)	Flows (MGD)
2023	2,352	2.10
2024	2,430	2.17
2025	2,520	2.25
2026	2,610	2.33
2027	2,700	2.41

Figure 4. City of Banning Reclaimed Wastewater Treatment Plant Location (courtesy of 2018 IMP)

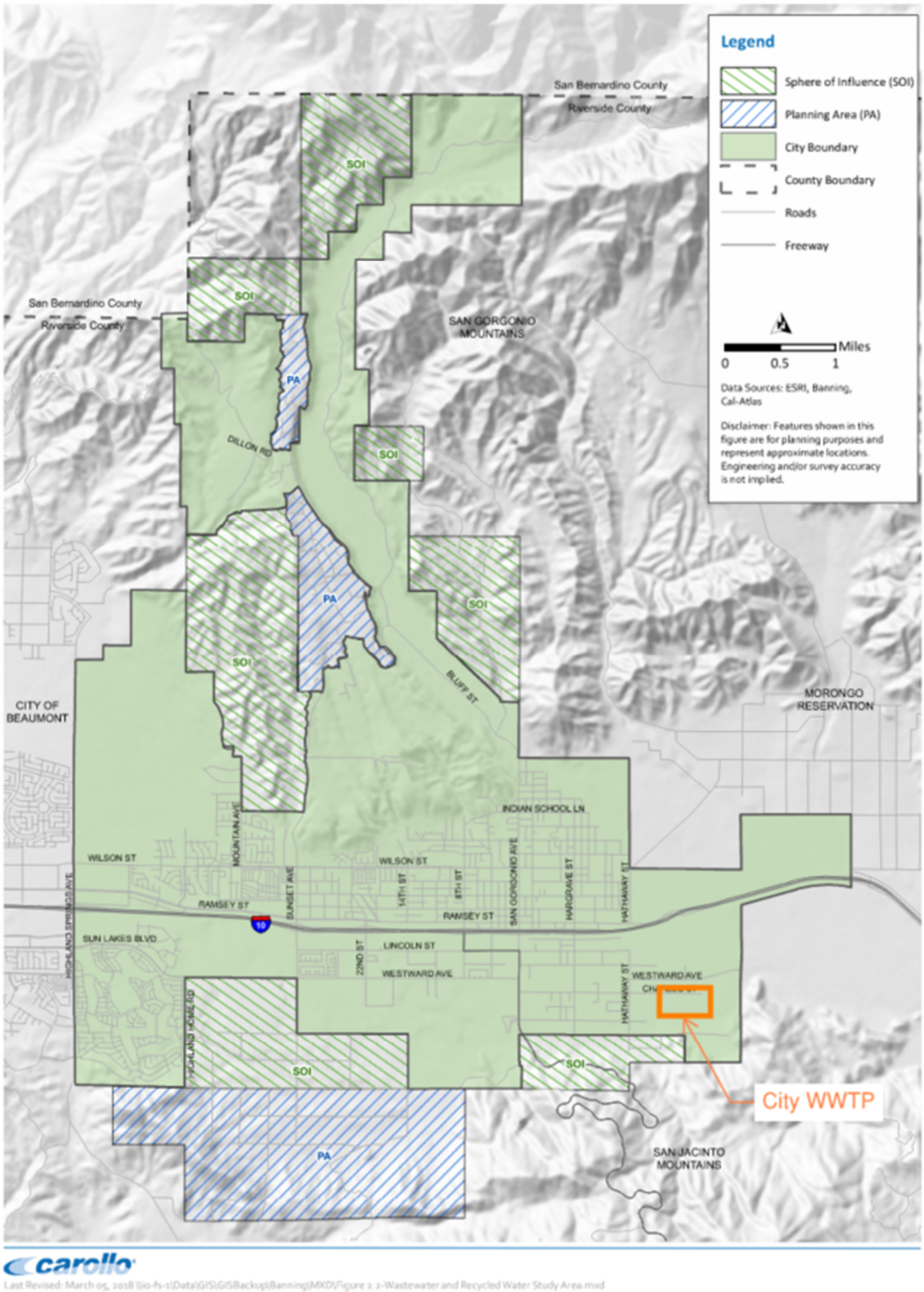
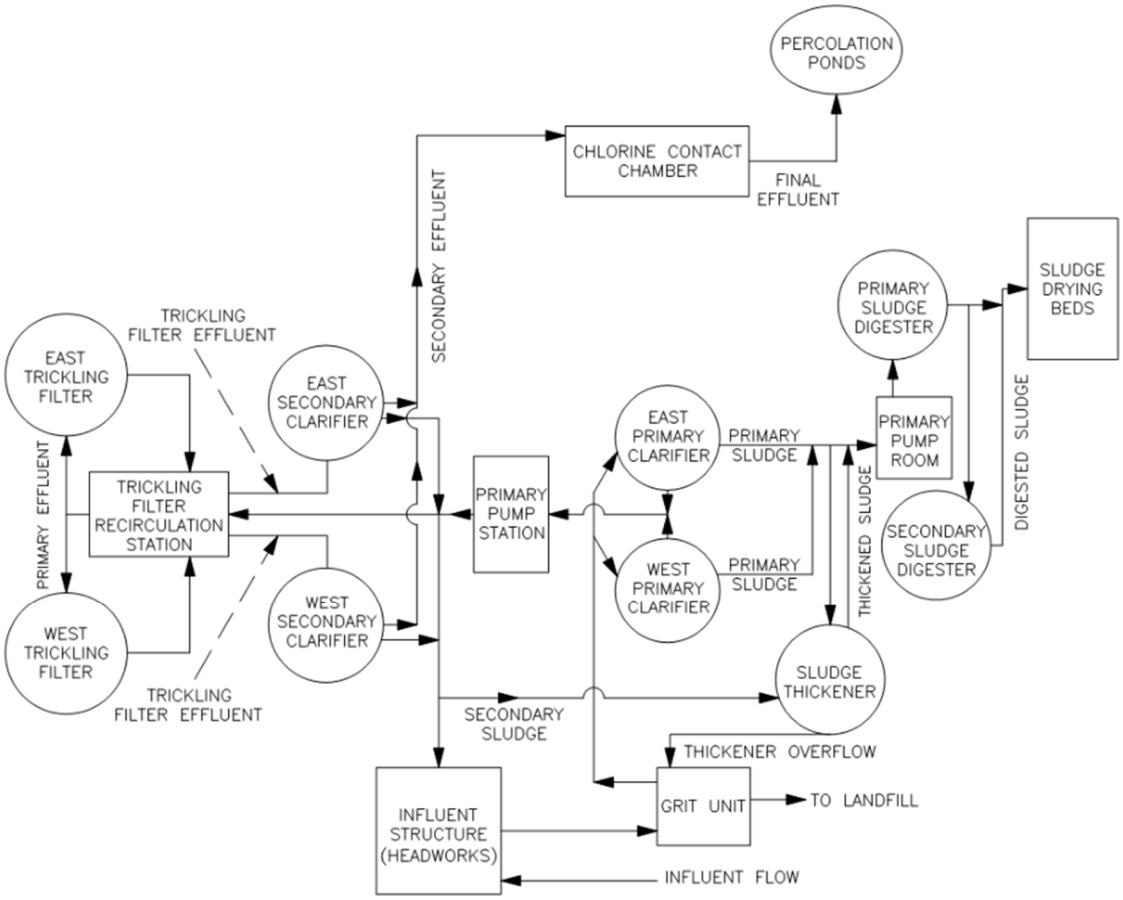


Figure 5. Process Schematic for Existing WWTP



2.3.3 Non-Potable Groundwater Well Capacities

The City has been operating one well (Well M7) and estimates that this well produces an average capacity of approximately 350 gpm. In addition, the City also started to operate a second well (Well M12) in mid-year 2017 with an estimated capacity of approximately 1,000 gpm. A third well (Well NP-1) is located near the WWTP, which was recently equipped. The status and capacities of the wells are summarized in Table 8.

Table 8. Existing City Non-Potable Groundwater Well Capacities

Well Number	Current Status	Future Status	Estimated Capacity (AFY)	Estimated Capacity (MGD)
Well M7	Operational	Potable	560	0.5
Well M12	Operational	Potable	1,568	1.4
Well NP-1	Recently Equipped	Non-Potable	1,344	1.2
Total			**3,472**	**3.1**

As listed in Table 8, the total estimated capacity of the three wells with the addition of Well NP-1 is approximately 3,472 AFY (3.1 MGD) of non-potable water. Although Wells M7 and M12 are both equipped, City staff plans to eventually convert Well M7 and Well M12 over to the potable water system by the end of year 2025 and year 2040, respectively, to supplement the potable water supply. Along with this conversion, it is assumed that Well NP-1 will supplement the recycled water system supply. With only Well NP-1 and Well M12 online by the end of year 2025, the groundwater well supply is estimated to provide up to 2,912 AFY (2.6 MGD) of non-potable water. By the end of year 2040, only Well NP-1 is assumed to be online, which results in a groundwater well supply of 1,344 AF (1.2 MGD). The capacities listed in MGD reflect the assumption that wells would be pumping 24 hours per day.

2.3.4 Recycled Water Production

As mentioned in Section 2.3.1, the Banning WWTP is the only wastewater treatment facility for the City. The WWTP currently provides only secondary treatment, and the treated wastewater does not meet Title 22 Standards. Further, the City does not use any recycled water produced by any other neighboring agencies. Thus, no wastewater has been "recycled" (re-used) within the City's service area from 2019 to 2023, as Table 9 indicates.

Table 9. Recycled Water Produced and/or Used in City

Year	Recycled Water Produced or Used (AFY)
2019	0
2020	0
2021	0
2022	0
2023	0

The amounts indicated in Table 9 above coincide with the projections in the City's 2020 UWMP. That is, the 2020 UWMP did not project any recycled water use through the year 2020.

2.4 Current and Projected Water Demands

2.4.1 Current Water Demands

Annual water consumption from 2016 to 2020 listed in Table 10 range from a high of 8,325 AF in 2020 to a low of 6,712 AF in 2016, with an average of 7,648 AF.

Table 10. City Recent Water Use

Year	Total Consumption (AFY)	Per Capita (GPCD)
2016	6,997	203
2017	7,381	213
2018	7,927	228
2019	7,297	209
2020	8,369	240
Average from 2016 to 2020		**219**

2.4.2 Projected Water Demands

Future water use projections must consider significant factors on water demand, such as development and/or redevelopment, and climate patterns, among other less significant factors that affect water demand. Climate conditions will continue to be a major influence on demand as drought conditions will increase demand at a time when these supplies are limited.

The City's projected water use for 2025-2045 is broken down by sector in Table 11 below.

Table 11. Projected Water Demand by Sector in AFY, courtesy of the 2020 UWMP

Sector	2025	2030	2035	2040	2045
Water Service Area Population	38,180	45,235	52,290	59,345	66,400
Consumption Rate (GPCD) *Including 1.0% Annual Passive Savings*	222	211	201	191	181
Demands					
Single Family Residential	4,505	5,071	5,569	6,004	6,382
Multi-Family Residential	92	103	114	123	130
Commercial	2,263	2,548	2,798	3,016	3,206
Industrial	195	220	241	260	276
Institutional/Governmental	26	29	32	35	37
Landscape Irrigation	977	1100	1208	1,302	1,384
Total Water Sales	**8,059**	**9,070**	**9,961**	**10,739**	**11,415**
Unaccounted for Water	1,448	1,630	1,790	1,930	2,052
Total Water Consumption (Total Supply into System)	**9,507**	**10,701**	**11,751**	**12,670**	**13,467**

2.4.3 Projected Recycled Water Demands

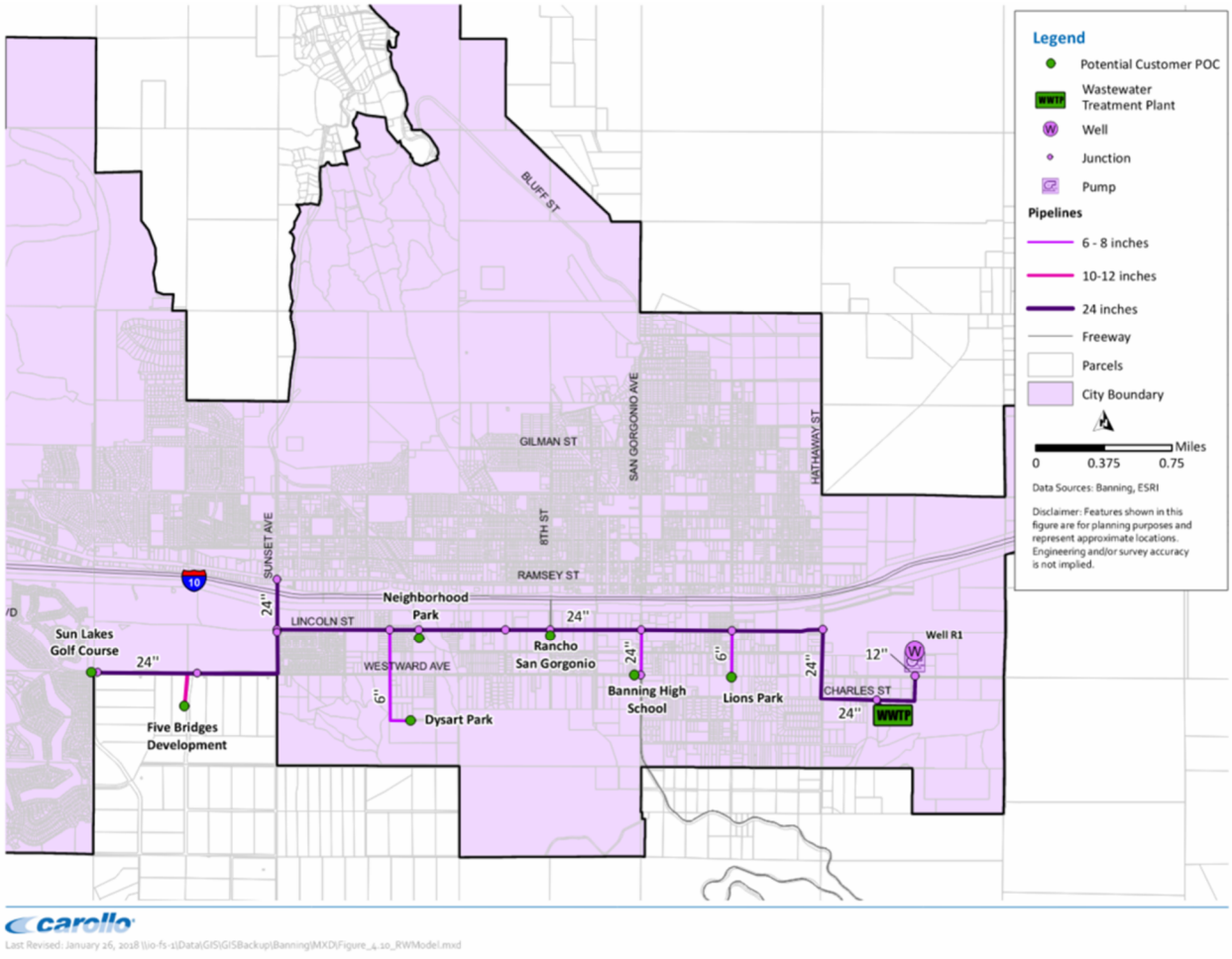
The City currently serves one customer, Sun Lakes Country Club, with non-potable water from Well M7 and Well M12. Typical annual demand for the Sun Lakes Country Club is 850 AFY (0.76 MGD). Since the Sun Lakes Country Club is located on the westerly end of the City, once the City constructs the recycled water backbone pipeline to reach the Sun Lakes Country Club, other potential customers would be within proximity to receive recycled water. Therefore, construction of recycled water facilities would prove feasible if the funding for recycled water improvements and pipeline infrastructure was covered, at least in-part, by developers, and an agreement was in place for the use of recycled water. The City would then be able to provide recycled water to its customers. The City's previous 2006 Recycled Water Master Plan (2006 RWMP) identified potential customers across the Interstate 10 Freeway. The methodology to determine these customers and their demands is described in Section 3.3. However, the 2018 Integrated Master Plan indicated that these potential customers were not feasible, due to the challenges to cross the 10 Freeway. The potential recycled water customers are listed in Table 12 below and shown in Figure 6 on the following page.

Table 12. Potential Recycled Water Users

Customer	Recycled Water Demand (AFY)	Recycled Water Demand (MGD)
Existing Customers Currently Using Potable Water or Ground Water from Non-Potable Wells		
Sun Lakes Country Club	850	0.76
Banning High School	175	0.16
Dysart Park	87	0.08
Lions Park	79	0.07
Subtotal	1,191[(1)]	1.07
Projected Future Developments		
Rancho San Gorgonio Development	217	0.19
Five Bridges Development	223	0.20
Neighborhood Park	35	0.03
Subtotal	475[(2)]	0.42
Total	**1,666**	**1.49**

Notes:
(1) Will serve in Phase I of the Project.
(2) Will serve in Phase II (future phase) of the Project.

Figure 6. City of Banning Potential Recycled Water Customers (courtesy of 2018 IMP)



2.4.4 Projected Water Supply and Demand Imbalances

Table 13 shows the imbalances between the projected water supplies and demands of the City. As shown in the table, demand continues to increase as supplies decrease. This indicates the need for a new, drought-proof local supply of water to meet the demands of the City.

Table 13. Projected Water Supply and Demand Imbalances

	2025	2030	2035	2040	2045
Total Available Local Groundwater Supply in AFY (see Table 5)	8,508	8,574	8,595	8,542	8,476
Total Water Consumption in AFY (Total Supply into System) (see Table 11)	9,507	10,701	11,751	12,670	13,467

Local Groundwater Supply Shortage in AFY Supplied by Storage Banked in Beaumont Basin	-999	-2,127	-3,156	-4,128	-4,991
Storage Banked in the Beaumont Basin in AFY (see Table 5)	47,169	43,422	35,291	24,510	12,622

2.5 Future Recycled Water Supplies

The City plans to upgrade the existing WWTP treatment to meet tertiary treatment standards and facilitate infrastructure to supply recycled water. This proposed expansion described in the 2018 IMP is also in accordance with the City's 2006 RWMP. The proposed WWTP upgrade will include enhancing biological treatment and constructing recycled water laterals along the backbone pipeline. Facilities to be constructed would include recycled water pipelines to transport recycled water to the recycled water customers.

Upon completion of the upgrades, approximately 4,035 AFY (3.6 MGD) – the total projected WWTP effluent – of recycled water will be available to recycled water customers. Assuming that the improvements would be completed by the year 2027, projected recycled water use would be as shown in Table 14 below.

Table 14. Projected Recycled Water Production and/or Use

Year	Phase	Recycled Water Produced / Used (AFY)	Recycled Water Produced / Used (MGD)
2025	N/A	0	0
2027	I	4,035/1,191	3.6/1.07

The projected quantities shown in Table 14 above show the recycled water produced and used in Phase I of the project (described further in Section 4.2). Once the WWTP upgrades are completed, 4,035 AFY (3.6 MGD) will be available for recycled water use. Phase I will serve the existing customers currently using potable water or ground water from non-potable wells (Sun Lakes Country Club, Banning High School, Dysart Park, and Lions Park) with a total demand of 1,191 AFY.

2.6 Water Quality Concerns

The main water quality concerns are the standards and regulations that the potential recycled water sources currently do not meet. These include the Regional Water Quality Board Order, Title 22 Requirements, and Beaumont Basin Plan requirements.

2.6.1 Regional Water Quality Control Board Order

On June 30, 2016, the RWQCB adopted Board Order R7-2016-0015 (Board Order), which describes the Waste Discharge Requirements (WDRs) and other terms and conditions of operation for the WWTP. The Board Order requires the WWTP to remove constituents that present the greatest risk to groundwater quality such as nitrogen, coliforms, and total dissolved solid (TDS). According to the United States Environmental Protection Agency (US EPA), the maximum contaminant level (MCL) for Nitrate as Nitrogen is 10 mg/L. Per the Board Order, it is assumed all nitrogen available converts to nitrate/nitrite so Total Nitrogen (TN) is used as the measurement of concern. The wastewater effluent limitations per the Board Order are outlined in Table 15.

Table 15. Banning WWTP Effluent Concentrations and Limitations

Parameter	Units	Impending Effluent Limits	
		30-Day Mean	7-Day Mean
Flow	MGD	3.6	N/A
20C BOD5	mg/L	30 mg/L	45 mg/L
TSS	mg/L	30 mg/L	45 mg/L
pH	--	6.0 – 9.0	
TDS	mg/L	Not to Exceed 300 mg/L of the Water Supply	
TN(1)	mg/L	10 mg N/L	

Notes:
(1) City does not need to comply with this limit at this time.

The WDRs identified TN and TDS as constituents of concern. Currently, the average TN concentration in the WWTP's effluent is 27 mg-N/L, well above the future TN limit of 10 mg-N/L specified in the Board Order. The two existing Trickling Filters used for secondary treatment at the WWTP are therefore not able to meet the impending water quality limits by the Board Order. Based on a recent structural condition assessment, both Trickling Filters are also nearing the end of their lifecycle. This Project therefore involves implementing a new biological treatment system with nitrification/denitrification (NDN) to ensure nitrogen levels in the WWTP's effluent meet the impending Board Order TN requirement. The selected system to replace the existing Trickling Filters is Membrane Bioreactor (MBR). Section 4.6 describes the analysis that was done to select MBR as the recommended biological treatment option for the City.

The WDRs also state that effluent TDS is not to exceed a level of 300 mg/L above the potable water supply "reasonably protects present and anticipated beneficial uses of groundwater in the area," (typical incremental addition of dissolved salts from domestic water usage is 150 to 380 mg/L.) The level of TDS in Banning's potable water supply is approximately 200 mg/L, which would result in an effluent TDS limit of approximately 500 mg/L. Currently, the average TDS in the treated wastewater is about 390 mg/L, so future TDS limits in an updated WDR would not require additional treatment.

2.6.2 Title 22 Requirements

In order for the WWTP effluent to be used as recycled water to meet the current and project non-potable irrigation water demands, it must meet tertiary disinfected recycled water standards. The current WWTP effluent does not comply with State Water Resources Control Board, Division of Drinking Water (DDW) water recycling criteria outlined in the California Code of Regulations Title 22 requirements. To comply with Title 22, the effluent must meet the following requirements for "Disinfected Tertiary Recycled Water":

- Average daily turbidity less than 2 nephelometric turbidity unit (NTU); approximately 3 – 5 mg/L TSS.
- Effluent cannot exceed 5 NTU more than 5% of the time.
- Effluent cannot exceed 10 NTU at any time.
- Coagulant must be added if the influent to the filter exceeds 5 NTU for more than 15 minutes, or 10 NTU at any time.
- The disinfection process must provide a chlorine residual that provides 450 milligram minutes per liter (mg-min/L) under minimal modal contact time (CT) of 90 minutes.
    - This corresponds to a residual of 5 mg/L or less, or any process that achieves 5-log virus removal.
- Total coliform cannot exceed the average most probable number (MPN) of 2.2 per 100 milliliters (mL).
- No more than one sample per month can exceed an MPN of 23 per 100 mL.

In order to supply recycled water, the City will be required to improve the removal efficiency of the existing WWTP to comply with the TN, turbidity, and disinfection requirements. The Project involves implementing MBR and chlorine disinfection at the WWTP. These proposed treatment systems ensure that the WWTP will comply with Title 22 requirements for disinfected tertiary recycled water.

2.6.3 Beaumont Basin Plan Requirements

In order to serve Sun Lakes Country Club, which is located above the Beaumont Basin, the WWTP and Well NP-1 must meet the Beaumont Basin maximum benefit objectives of 330 mg/L for TDS. Currently, the WWTP effluent and Well NP-1 have an average TDS of 390 mg/L and 430 mg/L, respectively. Therefore, neither source currently meets this limit. Due to this restriction, and potential stricter TDS limits for the San Gorgonio region in the future, a TDS treatment is required. The proposed TDS treatment for this Project is a two-stage reverse osmosis (RO) system to be implemented as the last step in the WWTP treatment process. Details about the RO requirements for the WWTP and Well NP-1 can be found in the RO Analysis Technical Memo in Appendix A**.**

3. WATER RECLAMATION, RECYCLING OPPORTUNITIES

3.1 Introduction

This section provides a discussion of the City's water reclamation and reuse opportunities including:

- Potential uses for reclaimed water and sources to be reclaimed
- Markets available to use the water produced
- Considerations that may prevent implementation of a water reuse project
- Water and wastewater agencies with jurisdiction and their facilities
- Current water reuse
- Water reclamation and reuse technology currently in use and opportunities for improvement

3.2 Uses for Reclaimed Water

The available market is the non-potable demand from the existing customers currently using potable water or ground water from non-potable wells as well as the future recycled water customers listed in Section 2.4 Table 12. These customers consist of parks, schools, and other landscape irrigation users. The market for water produced by Phase I of this Project (described further in Section 4.2) is expected to be 1,191 AFY (1.07 MGD).

Appendix B includes the Rancho San Gorgonio Water Supply Assessment, which states that the Rancho San Gorgonio Development must utilize recycled water for all common area irrigation demands (see Appendix B, Section 5 "Recycled Water System," pages 37-41 of the document, page 38-42 of the PDF). For the other customers, discussions have been initiated to obtain letters of intent.

3.3 Water Market Available to Utilize Reclaimed Water

The future recycled water demand projections listed in Section 2.4 Table 12 are based on a review of the identified potential customers in the 2006 RWMP. This section describes the methodology used to project the future demand potential.

It should be noted that the future demands described herein do not necessarily represent the actual future demands. This section is limited to identifying the future demand potential.

3.3.1 Methodology

As described in Section 2.4, the 2006 RWMP identified potential 18 recycled water customers based on the following three criteria:

1. Location shall be near a recycled water distribution pipeline or in proximity of other potential customers.
2. ADD exceeds 10,000 gpd. Potential customers with ADD less than 10,000 gpd may be eligible if their location is near a recycled water pipeline.

3. Location within City limits.

The list of potential recycled water customers was reviewed to determine the current irrigation status of each customer and the feasibility of tying into the recycled water system, resulting in an updated list of 15 customers.

3.3.2 Potential Customers

Since the 2006 RWMP, several customers, including Caltrans, Repplier Park, and Gilman Ranch Museum, have reduced demands due to changes such as drought tolerant landscaping. Based on an initial review of the recycled water system layout, connecting these customers was not considered cost effective. In addition, customers north of the Interstate 10 would require a second pressure zone, resulting in an additional pump, large lengths of pipeline, and additional storage to serve these customers. Since those customers were not large users, City staff decided to keep the recycled water system south of the Interstate 10. The customers that are included in this analysis and their demands are summarized in Section 2.4, and the location of the recycled water customers is shown in Figure 6.

3.4 Considerations That Will Prevent Implementing Water Reclamation

One consideration of concern is water quality, particularly TN and TDS levels of the WWTP. As mentioned previously in Section 2.5, the WWTP must comply with the Board Order, Title 22, and Beaumont Basin Plan requirements to supply recycled water. One of the main objectives of this Project is therefore to overcome these water quality limitations by implementing treatment systems that will effectively lower TN and TDS to allowable levels.

Another consideration is community push back for tertiary recycled water. With this in mind, the community will be involved with this Project through public meetings to voice their concerns. It is, however, expected that the reliability and high water quality of recycled water will help to stimulate recycled water demand and mitigate the public's concerns.

3.5 Agencies with Jurisdiction Over Sources of Reclaimed Water

The WWTP and groundwater wells are solely owned by the City.

3.6 Potential Sources to be Reclaimed

Effluent from the City of Banning WWTP and Well NP-1 are two potential sources to be reclaimed. Descriptions of the two sources are described in Section 2.3.

3.7 Description and Location of Source Water Facilities

Effluent from the City of Banning WWTP and Well NP-1 are two potential sources to be reclaimed. Descriptions of the two sources are described in Section 2.3.

3.8 Current Water Reclamation Taking Place in Study Area

As discussed in Section 1.4, there is no water reclamation taking place in the City of Banning.

3.9 Other Current and Projected Wastewaters and Disposal Options

If the WWTP does not get upgraded to Title 22 standards, the current disposal option will remain; the effluent from the WWTP will continue to percolate into the 10 unlined percolation ponds within the Cabazon Groundwater Basin, with no benefits to the City.

In order to meet the Board Order TN restriction, however, the biological treatment process at the WWTP would need to be upgraded regardless of whether the WWTP effluent was used for reclaimed water purposes.

3.10 Water Reclamation Technology Use in Study Area

As discussed in Section 1.4, there is no water reclamation taking place in the City of Banning.

4. DESCRIPTION OF ALTERNATIVES

4.1 Non-Federal Funding Condition

If Federal funding were not provided for the Project, the City would delay the project and continue to apply for funding under other opportunities as described in Section 9.5.

4.2 Specific Objectives Alternatives Are Designed to Address

The objectives of the proposed Project are to:

- Increase water supply availability, reliability, and drought resiliency by supplementing a local water supply, and
- Improve local water supply reliability by proactively planning for facilities needed to meet future demand.

There are three proposed potential recycled water project alternatives to achieve these objectives. These alternatives include:

- Alternative 1: Do Nothing
- Alternative 3: Non-Potable Reuse
- Alternative 4: Hybrid Non-Potable Reuse and Indirect Potable Reuse

4.2.1 Alternative 1 - Do Nothing

This alternative involves no recycled water upgrades of the WWTP. The existing facilities would remain at the WWTP, and effluent from the WWTP would continue to discharge to the percolation ponds near the WWTP site. Under this alternative, due to the WWTP's current high TN levels, the plant would not meet the impending Board Order requirements. In addition, the existing non-potable water customers would continue to be served by potable water or ground water from non-potable wells, and therefore Wells M7 and M12 would not be converted to the potable water system. In order to recharge the groundwater to serve these customers, the City would continue to purchase imported water from the Sacramento-San Joaquin Delta through SGPWA. However, with worsening climate change conditions, State water supplies are becoming scarcer. Because of this, competition for water allocations to water retailers will increase, making it more challenging for the City to receive imported water. Therefore, imported water should not be solely relied on to meet future demands that exceed the City's local supply.

The O&M costs for the "Do Nothing" alternative include the purchase of imported water and pumping costs to serve the existing non-potable water customers. The current estimated annual O&M cost to deliver imported water is estimated at $463,848 per year. This includes an average (based on 2015-2020) purchase of 752 AF of imported water at $399/AF, or $300,048, plus $163,800 for pumping, or $463,848 per year. The projected O&M cost for imported water in 2045 is $2,779,000 for purchase and $1,517,090 for pumping for a total of $4,296,090. This is based on a purchase of 2,500 AF of imported water (see Table 5 in Section 2.4) and a 5% price escalation rate of imported water purchases and pumping per year.

4.2.2 Alternative 2 - Non-Potable Reuse

Alternative 2 involves three phases. Phase I will begin early 2025 to meet the current demands of Sun Lakes Country Club. Phase II will begin by 2029 to meet the demands of the future remaining recycled water customers.

Phase I

Since Well M7 is planned to be converted to the potable water system by the end of 2025, Phase I involves using Well NP-1 to supply 850 AFY (0.76 MGD) to Sun Lakes Country Club in place of Well M7.

A recent Well NP-1 pump test shows an 800-gpm capacity, which exceeds the demand of the Sun Lakes Country Club. As a result, Well NP-1 will operate intermittently to satisfy the current recycled water demand.

Construction of the backbone pipeline along Lincoln Street to connect Well NP-1 to the Sun Lakes Country Club will be completed by the end of 2023. The design of the two reservoirs/forebays and booster stations needed to store the Well NP-1 supply and pump the water to the backbone pipeline, respectively, will be completed during the first quarter of 2024. The City is currently developing environmental documentation and will begin construction of the reservoirs/forebays and booster stations within the second quarter of 2024.

To meet Beaumont Basin requirements for TDS and TN, a 1 MGD RO system will be implemented at Well NP-1, and evaporation beds will be constructed for the RO brine. The RO permeate will travel through the backbone pipeline to Sun Lakes Country Club, with the forebay storing Well NP-1 supply and the booster station pumping the water from the forebay to the backbone pipeline.

Well NP-1 will continue to serve Sun Lakes Country Club until the WWTP upgrades are completed at the end of 2027.

The next step of Phase I is to upgrade the WWTP. The existing Trickling Filters and secondary clarifiers will be decommissioned, and a new 3.6 MGD MBR facility and chlorine disinfection tank will be installed to meet Title 22 recycled water standards. Other miscellaneous upgrades of the WWTP, including headworks, primary clarifier, and digester facilities, will also be implemented in this phase.

Laterals with pipeline diameters ranging from 6-12 inches will be constructed to connect the remaining customers currently using potable water or ground water from non-potable wells listed in Section 2.4 (Banning High School, Dysart Park, and Lions Park).

Once the construction of the WWTP upgrades is complete, the RO system and brine evaporation ponds used for Well NP-1 will be repurposed for WWTP effluent use. 1,191 AFY (1.07 MGD) of the WWTP effluent will serve the demands for Sun Lakes Country Club, Banning High School, Dysart Park, and Lions Park, and the rest will continue to discharge to the percolation ponds.

Since the WWTP effluent will be used to meet the recycled water demands, Well NP-1 will be used as a backup source.

Phase II

In Phase II, laterals will be constructed to connect the future recycled water customers, including Rancho San Gorgonio Development, Five Bridges Development, and Neighborhood Park to the main recycled water system.

In order to meet the Beaumont Basin requirements to serve these remaining customers, an additional RO module will be installed at the WWTP. The permeate from the RO modules will blend for a total of 1,666 AFY (1.49 MGD) of WWTP effluent to serve the recycled water customers. The remaining WWTP effluent will continue to discharge to the percolation ponds. Figure 6 in Section 2.4 shows the proposed layout of Alternative 2.

4.2.3 Alternative 3 – Hybrid Non-Potable Reuse and Indirect Potable Reuse

Alternative 3 is similar to Alternative 2 but incorporates an additional phase for indirect potable reuse. Instead of the WWTP effluent that is not used to meet recycled water demands discharging to the percolation ponds, in Alternative 3, the remaining effluent will flow to one of two groundwater aquifers for indirect potable reuse. By percolating to new basins upgradient of the Banning groundwater storage unit, this will keep groundwater recharge within the City's wells.

Options for recharge of groundwater aquifers via recharge basins include North Basin and Five Bridges. The requirements to recharge to North Basin and Five Bridges Basin are described in the sections below. Figure 7 on the next page shows the proposed layout of Alternative 3.

Due to the limited surface recharge capacity of the proposed groundwater basins, injection wells may be required to recharge groundwater in the targeted area. In order to allow for indirect potable reuse through injection wells, ultraviolet advanced oxidation (UVAOP) will be required. The current facility plan would include needed infrastructures (e.g., transformer size, space allocation, etc.) to facilitate this addition in the future when needed. The surface recharge at these basins will take into account ground water travel time to the nearest potable groundwater wells and appropriate monitoring wells for full compliance with Title 22 regulations.

North Basin

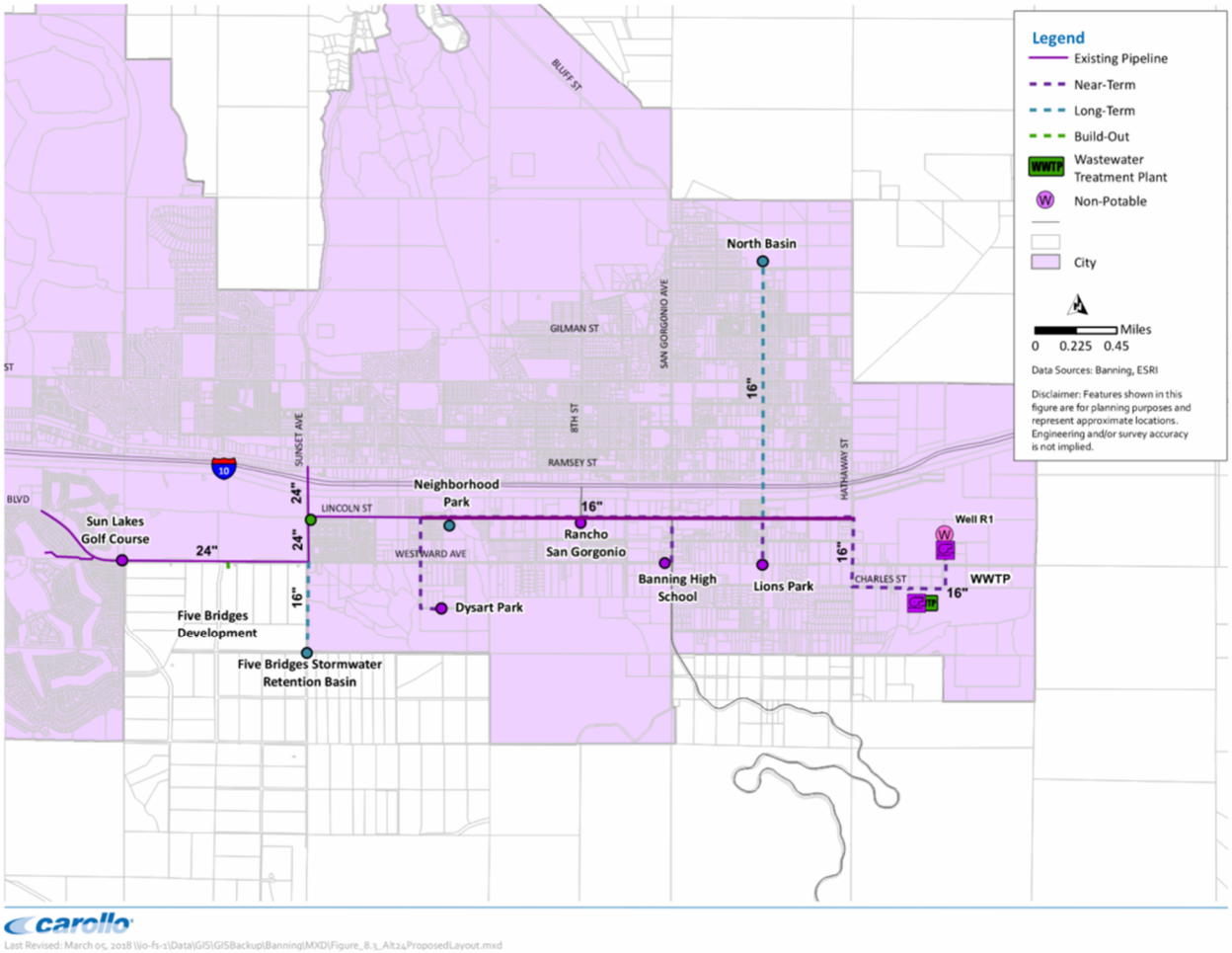
North Basin is in the northeastern part of the City boundary. This site is not owned by the City. Since the site has been mined and a large pit exists, it is assumed that minimal earthwork will be required. The site improvements included as part of this analysis include a berm on all four sides of the basin, a berm to create two cells for operational flexibility, basin piping, maintenance ramps, security, and monitoring equipment. Since the potential recharge basin is at a higher elevation than the WWTP, an 800 hp pump and 15,000 feet of 16-inch diameter pipeline will be

required to convey water from the WWTP to the recharge basin. The City will also need to add monitoring wells and lysimeters.

Five Bridges Basin

This option involves groundwater recharge at the future Five Bridges Recharge Basin, which is located at the southwest part of the City within the Five Bridges Development. The site will likely be owned by the City. Although the Five Bridges development is not anticipated to occur until the build-out phase, City staff believe that the basin can be constructed beforehand. It is anticipated that site improvements will include earthwork, berms on all four sides of the basin, a berm to create two cells for operational flexibility, maintenance ramps, security, and monitoring equipment. This alternative will require an approximately 2,000 feet of 16-inch diameter pipeline to convey water from the WWTP to the recharge basin. The City will also need to add monitoring wells and lysimeters.

Figure 7. Preliminary Site Layout for Alternative 3 (courtesy of 2018 IMP)



4.3 Description of the Proposed Water Reclamation Project

The selected alternative is Alternative 3. This alternative includes non-potable reuse with a total demand of 1,666 AFY (1.49 MGD). The remaining recycled water supply from the WWTP will be used for indirect potable reuse at either North Basin or Five Bridges. With the combination of both non-potable reuse and indirect potable reuse, the City will have seasonal flexibility and will be able to maximize the use of recycled water throughout the year. Since the City will be able to maximize the recycled water supply from the WWTP, the estimated net yield is 4,035 AFY (3.6 MGD).

This Project (i.e. Alternative 3) will be done in 3 Phases, however, only Phase I will be implemented at this time. Phases II and III are future phases that will be implemented in the long-term. The City has only requested funding for Phase I in the WaterSMART funding application but will seek additional funding for Phases II and III in the future at which time the City will develop updated feasibility studies to includes Phases II and III.

As mentioned in Section 4.2, Phase I involves constructing an RO system and brine evaporation ponds for Well NP-1, which will later be repurposed for WWTP use. A new 3.6 MGD MBR facility and chlorine disinfection tank will be installed to meet Title 22 recycled water standards, and other miscellaneous upgrades of the WWTP will also be implemented in this phase. Laterals will be built along the backbone pipeline to connect the WWTP to the existing customers currently using potable water or ground water from non-potable wells that can utilize recycled water to meet irrigation demands.

The preliminary cost estimates for Phase I of the proposed Project are summarized in Table 16 below. A breakdown of the capital costs and replacement costs (over a 50-year period – the expected lifecycle of the Project) associated with Phase I of the Project are shown in Tables 17 and 18, respectively. Lifecycle costs over the 50-year span of the Project can be found in Appendix C, and a preliminary detailed site plan and process flow diagram for the Project can be found in Appendix D.

Table 16. Preliminary Cost Estimate

	Estimated Annual Yield (AFY)	Capital Cost[(1)]	O&M Cost	Annual Cost ($/year)	Unit Cost ($/AF)
Phase I	1,191	$93,487,328	$3,500,000	$3,890,000	$3,668

Notes:
(1) Capital costs include a construction contingency of 25% and additional markups for mobilization (5%), general conditions (5%), contractor profit (5%), and escalation to-point of construction (5%). Cost estimates and cost assumptions are provided in detail in Appendix E.

Table 17. Cost Summary of Phase I of the Proposed Project, in 2023 dollars

Item	Cost
CEQA	
CEQA (Biological, Cultural, Air Quality, and IS/MND)	$180,000
Permitting	$120,000
Subtotal	**$300,000**
Design	
Preliminary Design	$1,409,808
Final Design	$5,639,232
Subtotal	**$7,049,040**
Construction	
RO system	$3,497,500
Brine Drying Beds and Evaporators	$5,256,100
MBR Facility (3.6 MGD)	$52,887,000
Primary Clarifier	$1,944,100
Chlorine Tank	$2,377,700
Upgrade Ferric Sulfate Feed/Storage System	$298,100
Digester Coating	$463,500
Replace Piping in Grit Chamber	$58,300
Replace TF Center Drives	$499,300
Replace East Primary Clarifier Center Drive	$99,900
Replace Existing PVC Digester Gas Piping	$16,700
Replace Digester Hot Water Boiler	$176,400
Replace TF Effluent Distribution Valves (4)	$174,800
Replace TF Recirculation Pumps (2)	$124,900
Replace Grit/Cyclone Unit	$299,600
Replace Two Old Grit Pumps	$174,800
Recycled Water Laterals	$2,141,700
Subtotal	**$70,490,400**
Construction Administration	
Construction Management and Inspection	$7,049,040
Environmental Monitoring and Support During Construction	$100,000
Subtotal	**$7,149,040**
Other	
Contingency	$8,498,848
Subtotal	**$8,498,848**
TOTAL ESTIMATED PROJECT COSTS	**$93,487,328**

Table 18. Replacement Costs, in 2023 dollars

Description of Replacement Requirement	Replacement Frequency	Year(s)	Cost
Civil/Structural, Mechanical, Electrical/Controls Replacements	Every year	Every Year from 2028 to 2077	$868,658.82
RO Membrane Replacement and MBR Membrane Replacement	Every 5 years	2032, 2037, 2042, 2047, 2052, 2057, 2062, 2067, 2072, 2077	$2,200,000.00

4.4 Estimated Costs of Alternatives

Estimated capital and annualized costs were developed for each of the project options and are summarized in Table 19.

Table 19. Monetary Analysis

	Estimated Annual Yield (AFY)	Capital Cost	O&M Cost	Annual Cost ($/year)	Unit Cost ($/AF)
Alternative 1	752 (from groundwater)	$0	$463,848	$493,848	$657
Alternative 3 (Phase I only)	1,191	$93,487,328	$3,500,000	$3,890,000	$3,668

As seen in Table 19, the proposed Project (Alternative 3 Phase I) has higher capital and annual costs than the "Do Nothing" Alternative. However, most of the benefits resulting from the implementation are difficult to quantify, as they include climate change and environmental impacts, as well as improved water supply quality and reliability.

4.5 Waste-Stream Discharge Treatment

The following waste streams will be involved in the Project: screenings, grit, primary sludge, secondary sludge and RO brine.

The WWTP currently has a mechanical bar screen and a grit chamber to remove debris and solid materials from the wastewater. These screenings and grit are then hauled offsite to a landfill.

Downstream of the headworks, there are two primary clarifiers that separate settleable solids from wastewater. After primary treatment, the effluent flows to the Trickling Filters then the secondary clarifiers, which separate biological floc from the treated wastewater. Sludge from the primary and secondary clarifiers is processed by two primary anaerobic digesters. A second-stage digester is used as a sludge holding tank before dewatered sludge is sent to the sludge drying beds. Sludge is allowed to dewater in these beds and is then hauled offsite for final disposal.

For Phase I of the Project, an additional primary clarifier will be added to the treatment process for redundancy in the system and to allow for peak flows in the WWTP influent. Additionally, the Trickling Filters will be replaced by MBR treatment, and the secondary clarifiers will be decommissioned. Therefore, the sludge from the primary clarifiers will combine with the waste activated sludge from the MBR system, rather than from the secondary clarifiers, to be processed by the digesters.

An additional waste stream that will be included in the Project is RO brine from the RO system. There is expected to be around 0.035 MGD of RO brine that will require approximately 15 acres of salt evaporation ponds and 10 evaporators. This amount will increase as recycled water demand increases and more RO modules are needed. The brine evaporation ponds will be constructed on the WWTP property near the existing percolation ponds.

4.6 Alternative Technologies

Four viable biological treatment options were selected for evaluation to treat the anticipated average daily flow of 3.6 MGD. The treatment alternatives include:

1. Return Flow from Trickling Filter Effluent to Primary Clarifier
2. Conventional Activated Sludge
3. Moving Bed Biofilm Reactor
4. Membrane Bioreactor

See Appendix F for the Nitrogen Removal and Plant Reliability Technical Memo comparing the four alternatives. Due to its high effluent water quality, operational ease, flexibility to meet more stringent permit regulations, and scalability, a Membrane Bioreactor was recommended in the Technical Memo to be considered for future implementation.

5. ECONOMIC ANALYSIS

5.1 Introduction

The following sections provide an economic analysis of the Project compared to other alternatives.

5.2 Economic Analysis

Currently, no non-potable water reuse is being practiced in the City, and the effluent from the City's WWTP is discharging to percolation ponds that Banning gains no benefits from. Producing reclaimed water would significantly enhance the City's drinking water reliability and increase its economic advantage because of the sustainable growth and profit from selling the WWTP effluent to irrigation customers. The City has taken significant steps in establishing a water recycling program in the City including:

- Identifying existing and future customers that can utilize recycled water
- Serving existing customers from non-potable groundwater wells
- Constructing 24-inch backbone pipelines that extend across the City with easy access to existing customers that can utilize recycled water and future recycle water customers

When the proposed facilities are complete (Phase I is constructed), the City will be able to convert all non-potable wells to potable, thus benefiting from the investments made in drilling and equipping these wells.

At this time, the City uses imported water for groundwater replenishment. By supplying these irrigation customers with a reclaimed local water supply instead of pumped groundwater (as is currently done), this will reduce the amount of required imported water for the City, thereby reducing the City's overall water costs.

Another economic benefit of the Project is its impact on City growth. City growth is dependent on the availability of water supplies to meet various demands for new City population. Increasing the reliability of drinking water will therefore allow the City to meet its needs for growth.

As mentioned in Section 2.6, there is a compliance order from RWQCB that limits the TN from the WWTP. MBR, the selected treatment system, will be a reliable process that would meet these requirements. Among the alternatives proposed in Section 4.6, MBR would produce the best water quality. With the addition of RO, effluent from the WWTP would consistently meet the Beaumont Basin Plan requirements as well, allowing the City to supply recycled water to Sun Lakes Country Club and the remaining customers with significant irrigation demand.

5.3 Cost Comparison of Alternatives that Would Satisfy Demand of Proposed Project

See **Section 4.4** for a cost comparison of the proposed alternatives.

5.4 Description and Benefits of Water Supply Alternatives

Table 20 below compares the non-monetary criteria of the three Alternatives.

Table 20. Non-Monetary Criteria

	Alternative 1	Alternative 3 (Phase I only)
Regulatory Compliance	1	5
Reliability/Process Robustness	2	5
Enhancement of Indirect Potable Reuse	1	2
Groundwater Quality Enhancement	1	5
Flexibility for Future Water Reuse	1	5
Operational Simplicity	5	4
Ease of Implementation/Funding	5	5
Total	**16**	**31**

As seen in Table 20, the proposed Project (Alternative 3 Phase I) has a higher ranking in terms of non-monetary criteria than the "Do Nothing" alternative (Alternative 1). Alternative 1 will keep the current WWTP system as is, keeping facilities that have reached their end of life, and therefore remaining non-compliant with the impending Board Order restrictions. Therefore, Alternative 1 is ranked the lowest in terms of regulatory compliance, enhancement of indirect potable reuse, groundwater quality enhancement, and flexibility for future water reuse. Alternative 3 (Phase I only) is ranked the highest for regulatory compliance, reliability/process robustness, groundwater quality enhancement, and flexibility for future water reuse, as this alternative involves upgrading the treatment from the existing Trickling Filters to MBR to meet Board Order requirements and Title 22 standards (with the addition of chlorine disinfection).

5.5 Alternative Most Likely to be Implemented in Absence of Project

The Alternative that would most likely be implemented in the absence of the Project is Alternative 1 – do nothing.

However, In order to meet the impending Board Order TN restriction which will exceed the WWTP treatment capacity, the biological treatment process at the WWTP would need to be upgraded regardless of whether the WWTP effluent was used for reclaimed water purposes.

5.6 Qualitative Benefits and Justification of Water Reclamation

The non-quantifiable benefits are numerous. The sustainable recycled water supply will be tolerant to drought and will benefit the City's customers through improved water supply reliability.

Another benefit is the reduction of reliance on imported water and the implementation of regional management of water supplies and groundwater quality.

Reclaiming treated wastewater also has environmental impacts. By using a local supply of water, energy is saved by not pumping imported water from the Bay Delta. By not using water resources imported from other regions, more water is available for environmental uses in those areas. Additionally, since onsite treatment systems and the existing WWTP do not effectively remove nitrate from wastewater, another benefit of this Project would be the reduction of the amount of nitrate that percolates into the groundwater. This would not only help the City meet the Board Order requirements, but also alleviate the rising nitrate levels observed in some wells in the Region.

6. SELECTION OF THE PROPOSED WATER RECLAMATION PROJECT

6.1 Introduction

This section describes the benefits of water reclamation for the City.

6.2 Justification of Water Reclamation as Selected Alternative

The Project meets the objective of providing a cost-effective non-potable water supply. The Project has numerous qualitative and environmental benefits. These benefits are as follows:

- Increases local supply of non-potable water,
- Improves non-potable water supply reliability,
- Environmental benefits,
    - Reduction of nitrate in the groundwater,
    - Energy savings from less imported water from the Sacramento-San Joaquin Delta,
    - Decreases demand on the regional wholesale water agency, SGPWA, which makes more water available for environmental uses from imported supply areas,
    - Reduces the use of existing diversions from natural watercourses. By implementing the Project, the City will reduce dependence on imported water supplies which are diverted from natural watercourses in the Sacramento-San Joaquin Delta

The proposed facilities do not pose significant impacts to the environment and the City does not anticipate opposition to the Project. No obstacles have been identified that would prevent implementation of the project.

6.3 Analysis of Water Reclamation

6.3.1 Reduction, Postponement, or Elimination of Development of New or Expanded Water Supplies and Reduction of Diversions of Natural Water Courses

To the extent that agencies like the City of Banning can develop local supplies, the wholesale agencies forego the need to expand their own supply sources or can reduce their reliance on other sources. Most of the imported supplies are obtained from diversions from natural water courses, including the Sacramento and San Joaquin Rivers. Local supply projects like this Project result in reduced development efforts by the wholesalers.

6.3.2 Reduction of Demand on Existing Federal Water Supply Facilities

The California State Water Project (SWP) and the federal Central Valley Project share the Sacramento-San Joaquin Delta as a water supply. The imported water supply utilized by the SGPWA and the City comes from the SWP facilities. Although the Project would not reduce demand on the federal facilities, it could indirectly reduce the demand on the shared state and federal supply.

6.3.3 Reduction, Postponement, or Elimination of new or Expanded Wastewater Facilities

This Project involves expansion of limited processes, including a new primary clarifier. Although the two existing primary clarifiers at the plant accommodate an average flow of 3.6 MGD, they do not allow for peak flow of redundancy. Therefore, a new primary clarifier will be installed to handle daily peak flow rate. The rest of the facilities at the plant are sized for the expected influent flow of 3.6 MGD and will not require expansion.

Expanding the primary treatment system and upgrading other systems at the WWTP, including headworks, secondary treatment, and digester facilities, will eliminate the need for a new wastewater facility.

7. ENVIRONMENTAL CONSIDERATIONS AND POTENTIAL EFFECTS

7.1 Introduction

This section describes the potential environmental impacts and effects of the proposed Project, the environmental analysis and documentation prepared to date, how the project will affect water supply and water quality, and a discussion of public outreach and regional cooperation. The governing laws are the State of California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

7.2 Potential Environmental Impacts and Effects

The City does not anticipate that the Project will have significant impacts on endangered or threatened species, public health or safety, hydrology and water quality, regulated waters of the United States, or cultural resources. The City does not anticipate that the Project will have significant environmental effects as defined by State and federal environmental laws. As such, the City will prepare a Negative Declaration to obtain CEQA coverage and expects that USBR will adopt a Finding of No Significant Impacts (FONSI) to obtain NEPA coverage for the Project. The City completed an Initial Study-Mitigated Negative Declaration (IS-MND) in October 2007. The IS-MND covered significant elements of the current proposed project. The findings of the October 2007 IS-MND were either "Less Than Significant Impact" or "No Impact". The City has identified the potential environmental impacts described in Table 21, along with best management practices (BMPs) and potential mitigation measures.

Table 21. Potential Environmental Impacts and Mitigation Measures

Potential Impact	Potential Mitigation
Air quality and greenhouse gases	An air quality analysis will be completed as part of the CEQA analysis. Project construction will comply with local air quality requirements. Typical dust control measures, such as watering and reducing off-road vehicle speeds, will be employed. Project operations will be evaluated for consistency with the State GHG reduction targets found in AB 32 and SB 32. Emissions from operation of the proposed facilities are not expected to exceed applicable significance thresholds.
Biological resources	Construction of the project facilities is not expected to impact biological resources. Biological resources will be surveyed prior to design and sensitive species and their habitats will be avoided in the project design. The Project is not expected to impact wetlands or waters of the U.S. as regulated by U.S. Army Corps of Engineers, RWQCB, and California Department of Fish and Wildlife. The Project will comply with adopted Habitat Conservation Plans and Natural Community Conservation Plans.

	Operation of the Project is not anticipated to affect biological resources as all O&M activities will be constrained to the WWTP and associated brine minimization and drying beds, Operation will be sustainable and will have no impact on riparian and aquatic habitats.
Cultural resources	No Cultural resources are known to exist on the Project site. Cultural resources will be surveyed prior to design and the Project will be designed to avoid any identified cultural sites. Onsite construction monitoring mitigation may be necessary to ensure that discovery of any previously unidentified archeological resources is handled appropriately. The City will comply with California Assembly Bill 52 regarding formal consultation with Native American tribes about the proposed Project.
Hydrology and water quality	The City will characterize the RO brine (concentrate) discharge to the evaporation (drying) beds to verify quality of the solids before final disposal. The proposed Project is not within the 100-year floodplain. During the design This conclusion will be confirmed. Hydrologic impacts, including erosion and siltation during construction of the proposed facilities would be minimized through compliance with existing regulations, including enrollment in an NPDES construction general permit, completion of a storm water pollution prevention plan, and implementation of required BMPs.
Groundwater levels, supplies, and recharge during operation	The Project will result in directing a portion of the WWTP effluent for non-potable water reuse. This will reduce the amount of WWTP effluent currently discharged to the percolation ponds. The Project will not impact any drinking wells.
Transport, use, and disposal of hazardous materials during construction and operation	The RO system will use a variety of chemicals typically used in water treatment, possibly including scale inhibitors, membrane cleaning solutions, chlorine, ammonia, and caustic soda. Some of the chemicals will be delivered to the plant while others may be generated on-site. Chemical storage will have full containment structures to prevent spills along with alarms. Proper handling of these chemicals will be incorporated into the Standard Operating Procedures. Compliance with existing regulations is expected to minimize impacts to a less than significant level.

Noise	Construction noise is considered a nuisance and is regulated by the City's Noise Ordinance. The majority of construction activities for the Project will be in the vicinity of the WWTP which is located in an isolated part of the City. Construction equipment will be fitted with approved mufflers and other measures may be utilized to comply with the existing regulations.
Traffic impacts during construction	Construction traffic associated with the proposed facilities construction will be temporary, and the impacts will be insignificant. Construction traffic controls will be employed to reduce public hazards.

7.3 Public Outreach

The majority of the proposed facilities will be within the footprint of the existing WWTP. As such the City does not anticipate any public opposition to this Project. Also, the City will add significantly needed upgrades to its WWTP, which would enhance its reliability. The City plans to implement more public outreach and enhance publicity for the proposed Project. The upgraded WWTP and non-potable reuse are expected to promote growth in this disadvantaged community.

The City has constructed a significant portion of the non-potable reuse conveyance system, and this Project would complement the completed facilities.

7.4 Effect of Historic Properties

The City does not anticipate that the project will have any adverse effects on historic properties. The majority of construction will be within the WWTP footprint.

7.5 Avoiding Public Health and Environmental Quality Issues Associated with Use of Reclaimed Water

The proposed treatment facilities for the WWTP upgrades including MBR and partial RO will result in a reliable high-quality effluent suitable for non-potable reuse for irrigation purposes. The effluent water quality will consistently meet all State Title 22 requirements.

The City will apply the treatment technologies described in Section 4.2 so that the product water will meet state and federal non-potable reuse water quality requirements for irrigation purposes. The primary requirements are outlined in the State Title 22 requirements. The City will work closely with the SWRCB the State's enforcement agency, in developing and permitting the Project. Typical steps include:

- Meetings and coordination,
- Submittal of the Project application,

- Review and approval of the preliminary design,
- Review and approval of the project plans and specifications, and operating plan,
- Inspection of plant construction and witness of start-up testing, and
- Amendment of the City's discharge permits.

Future phases of the Project include groundwater recharge of the Banning groundwater storage unit. The planned upgrades at the WWTP will incorporate space and hydraulic head for additional advanced treatments to be added in the future.

8. LEGAL AND INSTITUTIONAL REQUIREMENTS

8.1 Introduction

This section focuses on the legal and institutional requirements which must be considered prior to implementation of the Project. The following is a discussion of water and wastewater rights, legal and institutional requirements, interagency agreements, permitting requirements, unresolved issues, and wastewater discharge requirements.

8.2 Analysis of Water Rights Issues

There are no anticipated water rights issues potentially resulting from implementation of the proposed project. Through various adjudications and overlying water rights, the City owns and operates the sources of water supply (WWTP and groundwater wells).

8.3 Discussion of Legal and Institutional Requirements with Potential to Affect Implementation of Project

8.3.1 Department of Water Resources – Sustainable Groundwater Management Act

The Sustainable Groundwater Management Act (SGMA) was passed by the California State Legislature in September 2014, establishing new requirements for groundwater management in medium and high priority groundwater basins. The act requires the development and implementation of Groundwater Sustainability Plans (GSPs) for each groundwater basin and subbasin. The GSP must contain objectives and actions to achieve and maintain groundwater sustainability and to avoid the undesirable results of overdraft. SGMA also requires the establishment of Groundwater Sustainability Agencies (GSAs) to oversee development and implementation of GSPs and provides authority to GSAs to sustainably manage groundwater. Local water authorities and counties have primary responsibility and authority for the development and implementation of GSPs and GSAs; however, the State has been given authority to intervene if specific requirements are not met.

8.3.2 Groundwater Sustainability Agencies

SGMA requires that high and medium priority groundwater basins, as designated by the California Department of Water Resources (DWR), create groundwater sustainability agencies by June 30, 2017. The bill authorizes any local agency or combination of agencies to become a GSA with the purpose of developing and implementing GSPs in order to meet the goals and standards of sustainable management of groundwater basins as described in SGMA. Multiple GSAs and GSPs in a single basin are allowed under the law; however, multiple GSPs within a basin must be coordinated and meet all requirements for achieving sustainable groundwater management within the entire groundwater basin or be subject to state intervention. A combination of agencies creating a GSA can be formed by a joint powers agreement, a memorandum of agreement, or other legal agreement.

8.3.3 Groundwater Sustainability Plans

SGMA requires that GSAs develop and implement groundwater sustainability plans. GSPs must be completed by January 31, 2020 for basins deemed by DWR to be in critical overdraft. For all remaining medium and high priority basins, GSPs must be completed by January 31, 2022. Implementation of the GSPs must result in groundwater quantity and quality sustainability within 20 years (by 2040 or 2042 based on the basin overdraft situation). DWR may grant up to two extensions of an additional five years to GSAs to achieve sustainability upon a showing of good cause. If the GSPs are not completed within the above timeframe, or if the SWRCB, in consultation with DWR, determines that groundwater sustainability is not being achieved in the time given, authority for developing and implementing a GSP will be designated to the RWQCB.

8.3.4 San Gorgonio Pass Subbasin

The SGP Subbasin (DWR Basin 7-021.04) is located in Southern California between the San Bernardino Mountains to the north, the San Jacinto Mountains to the south, Coachella Valley to the east and San Bernardino Valley to the west. The SGP Subbasin adjoins the San Timoteo Groundwater Subbasin to the west and the Indio Subbasin to the east. The SGP Subbasin boundaries generally correspond to the DWR's California's Groundwater Bulletin 118.

The San Gorgonio Pass (SGP) Subbasin (7-021.04) is one of several alluvial basins and subbasins identified by the California Department of Water Resources (DWR) as being in a medium-priority subbasin in Bulletin 118 (2003). Beginning in 2015, GSAs within the SGP Subbasin formed to address the long-term reliability of groundwater through the development a single GSP. The SGP Subbasin GSP (SGP GSP) was developed in a coordinated fashion by the Desert Water Agency GSA, San Gorgonio Pass GSA, and Verbenia GSA with the goal of achieving sustainability for the SGP Subbasin as a whole. The SGP GSP was adopted by the respective GSAs and submitted to DWR on January 25, 2022, ahead of the January 31, 2022, deadline.

The SGP GSP jurisdiction includes the Desert Water Agency GSA, San Gorgonio Pass GSA, and Verbenia GSA. Desert Water Agency GSA consists of the Desert Water Agency. San Gorgonio Pass GSA consists of Banning Heights Mutual Water Company (MWC), the City of Banning, Cabazon Water District (WD) and San Gorgonio Pass Water Agency (SGPWA). Verbenia GSA consists of Mission Springs WD and SGPWA. The SGP Subbasin GSAs are not required to develop a Coordination Agreement. Despite this, the GSAs entered into a cooperative Memorandum of Agreement for development of the GSP and grant funding. The three GSAs have cooperatively worked together to coordinate SGP GSP development. The SGP Subbasin includes a portion of an adjudicated area, known as the Beaumont Basin, that resides outside the Plan Area. Since it was previously adjudicated, the portion of the Beaumont Basin located in the SGP Subbasin is not subject to SGMA regulations.

8.3.5 Santa Ana River Basin Plan

An updated Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) was adopted by the Regional Board on March 11, 1994, approved by the State Water Resources Control Board (SWRCB) on July 21, 1994, and approved by the Office of Administrative Law (OAL) on January 24, 1995. The Basin Plan identifies the Region's ground and surface waters, designates beneficial uses for those waters, establishes water quality objectives for the protection of those uses, prescribes implementation plans and establishes monitoring and surveillance programs to assess implementation efforts. Amendments to the Basin Plan to incorporate a revised Total Dissolved Solids and Nitrogen Management Plan (Salt Management Plan) into the 1995 Basin Plan were approved by the Regional Board on January 22, 2004, by the State Water Resources Control Board on October 1, 2004 and by the Office of Administrative Law on December 23, 2004. The surface water standards provisions of the amendments were approved by the U.S. Environmental Protection Agency on January 20, 2007. This amendment included revised groundwater subbasin boundaries (now called management zones), revised TDS and nitrate-nitrogen (nitrate-N) groundwater quality objectives, revised TDS and nitrogen waste load allocations, revised reach designations, and revised TDS and nitrogen objectives and beneficial uses for specific surface waters.

Antidegradation water quality objectives set forth by the Basin Plan amendment restricted the use of recycled water for irrigation and groundwater recharge for certain groundwater management zones, including the Beaumont Management Zone (BMZ) and the San Timoteo Management Zone (STMZ). In particular, the ambient TDS concentrations of these management zones exceeded the antidegradation objectives, meaning that no assimilative capacity existed for which the Regional Board could allocate the use of the City's recycled water within the BMZ or STMZ. Under the antidegradation objectives, the use of recycled water would require mitigation even though the reuse would not materially impact future TDS concentrations or impair beneficial uses. Thus, alternative maximum-benefit objectives were specified for the BMZ and the STMZ. The maximum-benefit objectives were established based on demonstrations by the involved agencies that antidegradation policies were satisfied.

Discharge of recycled water over the BMZ by the City of Banning as a result of the project will be in full adherence to the requirements set forth in the Basin Plan.

8.4 Discussion of Need for Multi-Jurisdictional or Interagency Agreements

As the sole retail supplier of water in the service area, and the agency responsible for wastewater processing, the City of Banning is able to produce recycled water for distribution within its service area without agreements with any other agency.

8.5 Discussion of Permitting Procedures Required

The following permits will be required for the Project:

1. DDW Title 22 Permit

2. California State Water Resources Control Board General Permit (combining Non-Discharge National Pollutant Discharge Elimination System [NPDES], Waste Discharge Requirement [WDR], and Waste Recharge Requirements [WRR])
3. AQMD
4. CEQA (IS-MND)

A Title 22 Engineering Report is required to be submitted for approval by DDW for meeting water quality requirements of the treated recycled water and groundwater recharge requirements. After the WWTP's design documents are finalized, the City will submit the necessary reports, analyses, and applications to obtain required permits from both DDW and the RWQCB.

As described in Section 7, the City will prepare a Negative Declaration to obtain CEQA coverage for the Project in parallel with Project design.

8.6 Discussion of Unresolved Issues Associated with Implementing Proposed Project

There are no unresolved issues associated with implementing the proposed project.

8.7 Identification of Current and Proposed Discharge Requirements

The current discharge requirements for the WWTP are laid out in the RWQCB Board Order, which describes the WDRs and other terms and conditions of operation for the WWTP.

The Board Order can be found in Appendix G.

8.8 Rights to Wastewater Discharges

The City's rights to groundwater extraction are in Table 5 in Section 2.3.

9. FINANCIAL CAPABILITY OF SPONSOR

9.1 Introduction

The City has developed an implementation schedule and general funding plan that demonstrates that at the Feasibility Study stage, the City has the financial capability if the project moves to construction.

9.2 Schedule

The proposed schedule for the Project includes three phases, however only Phase I will be implemented in the near term. In Phase I, the RO system for Well NP-1 and WWTP upgrades will be installed, as well as the recycled water laterals for Banning High School, Dysart Park, and Lions Park.

The preliminary and final design of Phase I is expected to be completed by the 2nd quarter of 2026. Design includes initiating the necessary permits, completing CEQA/NEPA documentation, completing design, going out to bid, obtaining the authority to award the construction contracts, awarding contracts, and issuing notices to proceed.

The first step of construction for Phase I will be installing the Well NP-1 upgrades, including the RO system and brine evaporation ponds, and WWTP upgrades, including the new MBR facility, primary clarifier, chlorine tank, and lab and control building. Once easements have been obtained for the recycled water laterals, construction of the laterals will occur in parallel with construction of the WWTP upgrades. Development and testing of the new facilities will follow. Phase I is estimated to be completed in 3 years by the 4th Quarter of 2027, as shown in Table 22 on the following page.

Table 22. Project Schedule – Phase 1

Project Component	Duration	2024				2025				2026				2027			
		Q1	**Q2**	**Q3**	**Q4**	**Q1**	**Q2**	**Q3**	**Q4**	**Q1**	**Q2**	**Q3**	**Q4**	**Q1**	**Q2**	**Q3**	**Q4**
Well NP-1 RO System and Brine Evaporation Ponds	12 months																
Predesign	3 months																
Final design	3 months																
Bidding	3 months																
Construction/startup	3 months																
WWTP Upgrades	33 months																
Predesign	6 months																
Final design	6 months																
Bidding	3 months																
Construction/startup	18 months																
Recycled Water Laterals	24 months																
Easements	6 months																
Bidding	3 months																
Design	6 months																
Construction/development	6 months																
Testing	3 months																

9.3 Willingness and Capability of the City of Banning to Fund the Project

The Project will be funded through the City's capital replacement and operating budgets, as well as development activity revenues via the City's local development impact fee program. The City also has the capability to fund projects through debt issuance.

9.4 Project Funding Plan

9.4.1 Operating Budgets

The City owns and manages both a water utility and wastewater utility as individual self-supporting enterprises. Therefore, the utilities must develop financial plans that provide sufficient revenues to meet all operation and maintenance expenses, water purchases, wastewater treatment, debt service requirements, capital improvements funded from current revenues, and other expenditures.

In 2022, the City Council of the City of Banning approved a Water and Wastewater Rate Study (Rate Study). The Rate Study developed financial plans that projected operating revenue, expenses, and capital financing costs for the utilities over a five-year planning period beginning July 1, 2022 and ending June 30, 2027. The financial plans projected future rate revenues under existing rates, operation and maintenance (O&M) expenses, principal and interest expense on debt, transfers, and capital improvement program (CIP) requirements.

For the water utility, the Rate Study identified:

- **Operation and Maintenance Expenses:** The O&M expenses increase from $7.9M in FY 2023 to $10.0M in FY 2027.
- **Debt Service:** There is an existing revenue bond with an annual payment of $2.0M. There is no future debt planned.
- **Capital Improvements**: The CIP identified an average of $6.2M per year in capital projects from FY 2023 to FY 2027.
- **Reserves:** Continue to maintain the operating fund reserve level. The operating fund reserve is designed to help cover fluctuations in day-to-day expenses. The new target, consistent with industry reserve guidelines, will be 90 days of O&M expenses, a change from the existing 10% of O&M expenses and debt service payments.

For the wastewater utility, the Rate Study identified:

- **Operation and Maintenance Expenses:** The O&M expenses increase from $3.7M in FY 2023 to $4.6M in FY 2027; increases in cost to operate and maintain the proposed Wastewater Treatment Plant and Recycled Water Upgrades Project are included as part of the Rate Study projections.

- **Debt Service:** There is an existing revenue bond with an annual payment of $290k associated from a 2019 Refunding Revenue Bond. The City anticipates a net debt issuance of $25.0M in FY 2025, which will add an annual payment of $1.9M starting in FY 2025. The primary expense for the new debt issuance is for the Wastewater Treatment Plant and Recycled Water Upgrades Project. The Rate Study ensures the appropriate level of debt service coverage.
- **Capital Improvements**: The CIP identified an average of $12.1M per year in capital projects from FY 2023 to FY 2027.
- **Reserves:** Continue to maintain the operating fund reserve level. The operating fund reserve is to help cover fluctuations in day-to-day expenses. The scheduled target will be 90 days of O&M expenses, a change from the existing 10% of O&M expenses and debt service payment.

The revenue requirements listed above for the water and wastewater utilities set the basis for the development of suitable rate schedules to produce revenues adequate to meet financial needs while recognizing customer costs of service. In November of 2022, City Council held a public hearing resulting the approval of the rate increases for a period of five years as shown in Table 23.

Table 23. Rate Increases

Fiscal Year	Effective Month	Water Utility	Wastewater Utility
FY 2022-2023	January	10.75%	40.00%
FY 2023-2024	July	0.00%	25.00%
FY 2023-2024	January	10.75%	25.00%
FY 2024-2025	January	10.75%	3.00%
FY 2025-2026	January	10.75%	3.00%
FY 2026-2027	January	10.75%	3.00%

There is a current fund balance in the Water Operations Fund of $17.5M and a fund balance in the Wastewater Operations Fund of $3.7M.

In addition to operating and capital revenues related to rates, the City has continued to charge a monthly Tertiary Surcharge of $2.72/month per account to fund capital improvements at the wastewater treatment plant. The Wastewater Tertiary Fund has a fund balance of $7.7M of which $7M would be allocated to the Proposed Project.

Additionally, the City has the capability to fund projects through either cash payment or debt issuance.

9.4.2 Development Impact Fees

In 2018 the City Council of the City of Banning completed and approved an Integrated Master

Plan (2018 IMP) that evaluated the performance and condition of the City's potable water, wastewater and recycled water system (future) systems under current and future conditions through year 2040. The 2018 IMP includes a capital improvement plan (CIP) to guide the City in the planning and development of facilities required to meet system performance for existing and future customers.

In September 2019, the City Council approved new and updated the development impact fees, including impacts fees to cover the costs for water, recycled water, and wastewater facilities.

The Water Impact Fee fund balance is approximately $3.3M of which $1.5M would be allocated to the Proposed Project.

The Wastewater Impact Fee fund balance is approximately $10.8M of which $7.5M would be allocated to the Proposed Project.

The City of Banning is currently witnessing a significant amount of growth in the residential sector. It is expected the available funding in the utility impact fee funds will continue to increase allowing for additional allocations to the Proposed Project.

The City has the capability to fund projects through either cash payment or debt issuance.

Over time, staff will present updated rate studies to City Council in order to ensure that rate revenues are sufficient to cover ongoing operations, maintenance, replacement costs and debt service coverage obligations.

9.5 Other Funding Sources

The City is also considering, as possible funding sources, the Water Infrastructure Finance Innovation Act (WIFIA) and Clean Water State Revolving Fund (CWSRF).

10. RESEARCH NEEDS

The proposed water reclamation Project includes basic research needs and will solely use proven technologies and conventional system components. Further research to implement the proposed water reclamation project will not be necessary.

11. REFERENCES

Carollo Engineers, Inc. 2*006 Recycled Water Master Plan*. 2006.

Carollo Engineers, Inc. 2*018 Integrated Master Plan*. March 2018.

West Yost & Associates Engineering, Inc. and John Robinson Consulting, Inc. *2020 Urban Water Management*. June 2021.

Appendix C – 50-Year Lifecycle Costs

Lifecycle Costs for Proposed Project

Inflation	3.75%
Discount Rate (Nominal)	5.00%

	Capital	Labor	Power	Chemicals	Spare Parts / Replacements	RO Membrane Replacement and MBR Membrane Replacement	Total Cost
2028	$ 64,778,302	$ 1,242,000	$ 1,577,600	$ 33,750	$ 326,475	$ -	$ 67,958,127
2029	$ -	$ 1,288,575	$ 1,636,760	$ 35,016	$ 338,718	$ -	$ 3,299,068
2030	$ -	$ 1,336,897	$ 1,698,139	$ 36,329	$ 351,420	$ -	$ 3,422,784
2031	$ -	$ 1,387,030	$ 1,761,819	$ 37,691	$ 364,598	$ -	$ 3,551,138
2032	$ -	$ 1,439,044	$ 1,827,887	$ 39,104	$ 378,270	$ -	$ 3,684,306
2033	$ -	$ 1,493,008	$ 1,896,433	$ 40,571	$ 392,456	$ 2,644,620	$ 6,467,087
2034	$ -	$ 1,548,996	$ 1,967,549	$ 42,092	$ 407,173	$ -	$ 3,965,810
2035	$ -	$ 1,607,083	$ 2,041,332	$ 43,671	$ 422,442	$ -	$ 4,114,527
2036	$ -	$ 1,667,349	$ 2,117,882	$ 45,308	$ 438,283	$ -	$ 4,268,822
2037	$ -	$ 1,729,874	$ 2,197,302	$ 47,007	$ 454,719	$ -	$ 4,428,903
2038	$ -	$ 1,794,745	$ 2,279,701	$ 48,770	$ 471,771	$ 3,179,097	$ 7,774,084
2039	$ -	$ 1,862,047	$ 2,365,190	$ 50,599	$ 489,462	$ -	$ 4,767,299
2040	$ -	$ 1,931,874	$ 2,453,885	$ 52,497	$ 507,817	$ -	$ 4,946,073
2041	$ -	$ 2,004,320	$ 2,545,905	$ 54,465	$ 526,860	$ -	$ 5,131,550
2042	$ -	$ 2,079,482	$ 2,641,377	$ 56,508	$ 546,617	$ -	$ 5,323,983
2043	$ -	$ 2,157,462	$ 2,740,429	$ 58,627	$ 567,115	$ 3,821,591	$ 9,345,224
2044	$ -	$ 2,238,367	$ 2,843,195	$ 60,825	$ 588,382	$ -	$ 5,730,769
2045	$ -	$ 2,322,306	$ 2,949,814	$ 63,106	$ 610,447	$ -	$ 5,945,673
2046	$ -	$ 2,409,392	$ 3,060,432	$ 65,473	$ 633,338	$ -	$ 6,168,636
2047	$ -	$ 2,499,744	$ 3,175,199	$ 67,928	$ 657,089	$ -	$ 6,399,959
2048	$ -	$ 2,593,485	$ 3,294,269	$ 70,475	$ 681,729	$ 4,593,934	$ 11,233,892
2049	$ -	$ 2,690,740	$ 3,417,804	$ 73,118	$ 707,294	$ -	$ 6,888,956
2050	$ -	$ 2,791,643	$ 3,545,971	$ 75,860	$ 733,818	$ -	$ 7,147,292
2051	$ -	$ 2,896,330	$ 3,678,945	$ 78,705	$ 761,336	$ -	$ 7,415,316
2052	$ -	$ 3,004,942	$ 3,816,906	$ 81,656	$ 789,886	$ -	$ 7,693,390
2053	$ -	$ 3,117,628	$ 3,960,040	$ 84,718	$ 819,507	$ 5,522,368	$ 13,504,260
2054	$ -	$ 3,234,539	$ 4,108,541	$ 87,895	$ 850,238	$ -	$ 8,281,213
2055	$ -	$ 3,355,834	$ 4,262,611	$ 91,191	$ 882,122	$ -	$ 8,591,759
2056	$ -	$ 3,481,678	$ 4,422,459	$ 94,611	$ 915,202	$ -	$ 8,913,950
2057	$ -	$ 3,612,240	$ 4,588,302	$ 98,159	$ 949,522	$ -	$ 9,248,223
2058	$ -	$ 3,747,699	$ 4,760,363	$ 101,840	$ 985,129	$ 6,638,437	$ 16,233,468
2059	$ -	$ 3,888,238	$ 4,938,876	$ 105,659	$ 1,022,071	$ -	$ 9,954,845
2060	$ -	$ 4,034,047	$ 5,124,084	$ 109,621	$ 1,060,399	$ -	$ 10,328,151
2061	$ -	$ 4,185,324	$ 5,316,238	$ 113,732	$ 1,100,164	$ -	$ 10,715,457
2062	$ -	$ 4,342,274	$ 5,515,596	$ 117,997	$ 1,141,420	$ -	$ 11,117,287
2063	$ -	$ 4,505,109	$ 5,722,431	$ 122,421	$ 1,184,223	$ 7,980,064	$ 19,514,249
2064	$ -	$ 4,674,050	$ 5,937,022	$ 127,012	$ 1,228,632	$ -	$ 11,966,717
2065	$ -	$ 4,849,327	$ 6,159,661	$ 131,775	$ 1,274,705	$ -	$ 12,415,469
2066	$ -	$ 5,031,177	$ 6,390,648	$ 136,717	$ 1,322,507	$ -	$ 12,881,049
2067	$ -	$ 5,219,846	$ 6,630,297	$ 141,844	$ 1,372,101	$ -	$ 13,364,088
2068	$ -	$ 5,415,590	$ 6,878,934	$ 147,163	$ 1,423,555	$ 9,592,833	$ 23,458,075
2069	$ -	$ 5,618,675	$ 7,136,894	$ 152,681	$ 1,476,938	$ -	$ 14,385,188
2070	$ -	$ 5,829,375	$ 7,404,527	$ 158,407	$ 1,532,323	$ -	$ 14,924,632
2071	$ -	$ 6,047,977	$ 7,682,197	$ 164,347	$ 1,589,785	$ -	$ 15,484,306
2072	$ -	$ 6,274,776	$ 7,970,279	$ 170,510	$ 1,649,402	$ -	$ 16,064,968
2073	$ -	$ 6,510,080	$ 8,269,165	$ 176,904	$ 1,711,255	$ 11,531,543	$ 28,198,947
2074	$ -	$ 6,754,208	$ 8,579,258	$ 183,538	$ 1,775,427	$ -	$ 17,292,432
2075	$ -	$ 7,007,491	$ 8,900,981	$ 190,421	$ 1,842,005	$ -	$ 17,940,898
2076	$ -	$ 7,270,272	$ 9,234,767	$ 197,562	$ 1,911,081	$ -	$ 18,613,681
2077	$ -	$ 7,542,907	$ 9,581,071	$ 204,970	$ 1,982,746	$ -	$ 19,311,695

50-Year Future Cost	**$ 569,777,671**
50-Year Present Cost	**$ 181,380,020**

Lifecycle Costs for Alternative 1

Inflation	3.75%
Discount Rate (Nominal)	5.00%

	Capital	Imported Water	Cr6 Treatment	Total Cost
2028	$ -	$ 2,329,860	$ 927,000	$ 3,256,860
2029	$ -	$ 2,417,230	$ 961,763	$ 3,378,992
2030	$ -	$ 2,507,876	$ 997,829	$ 3,505,704
2031	$ -	$ 2,601,921	$ 1,035,247	$ 3,637,168
2032	$ -	$ 2,699,493	$ 1,074,069	$ 3,773,562
2033	$ -	$ 2,800,724	$ 1,114,347	$ 3,915,071
2034	$ -	$ 2,905,751	$ 1,156,135	$ 4,061,886
2035	$ -	$ 3,014,717	$ 1,199,490	$ 4,214,207
2036	$ -	$ 3,127,769	$ 1,244,470	$ 4,372,239
2037	$ -	$ 3,245,060	$ 1,291,138	$ 4,536,198
2038	$ -	$ 3,366,750	$ 1,339,556	$ 4,706,306
2039	$ -	$ 3,493,003	$ 1,389,789	$ 4,882,792
2040	$ -	$ 3,623,991	$ 1,441,906	$ 5,065,897
2041	$ -	$ 3,759,890	$ 1,495,978	$ 5,255,868
2042	$ -	$ 3,900,886	$ 1,552,077	$ 5,452,963
2043	$ -	$ 4,047,170	$ 1,610,280	$ 5,657,449
2044	$ -	$ 4,198,938	$ 1,670,665	$ 5,869,604
2045	$ -	$ 4,356,399	$ 1,733,315	$ 6,089,714
2046	$ -	$ 4,519,764	$ 1,798,314	$ 6,318,078
2047	$ -	$ 4,689,255	$ 1,865,751	$ 6,555,006
2048	$ -	$ 4,865,102	$ 1,935,717	$ 6,800,819
2049	$ -	$ 5,047,543	$ 2,008,306	$ 7,055,849
2050	$ -	$ 5,236,826	$ 2,083,618	$ 7,320,444
2051	$ -	$ 5,433,207	$ 2,161,753	$ 7,594,960
2052	$ -	$ 5,636,952	$ 2,242,819	$ 7,879,771
2053	$ -	$ 5,848,338	$ 2,326,925	$ 8,175,263
2054	$ -	$ 6,067,651	$ 2,414,185	$ 8,481,835
2055	$ -	$ 6,295,188	$ 2,504,717	$ 8,799,904
2056	$ -	$ 6,531,257	$ 2,598,643	$ 9,129,900
2057	$ -	$ 6,776,179	$ 2,696,093	$ 9,472,272
2058	$ -	$ 7,030,286	$ 2,797,196	$ 9,827,482
2059	$ -	$ 7,293,922	$ 2,902,091	$ 10,196,012
2060	$ -	$ 7,567,444	$ 3,010,919	$ 10,578,363
2061	$ -	$ 7,851,223	$ 3,123,829	$ 10,975,052
2062	$ -	$ 8,145,644	$ 3,240,972	$ 11,386,616
2063	$ -	$ 8,451,105	$ 3,362,509	$ 11,813,614
2064	$ -	$ 8,768,022	$ 3,488,603	$ 12,256,625
2065	$ -	$ 9,096,823	$ 3,619,425	$ 12,716,248
2066	$ -	$ 9,437,953	$ 3,755,154	$ 13,193,107
2067	$ -	$ 9,791,877	$ 3,895,972	$ 13,687,849
2068	$ -	$ 10,159,072	$ 4,042,071	$ 14,201,143
2069	$ -	$ 10,540,037	$ 4,193,649	$ 14,733,686
2070	$ -	$ 10,935,289	$ 4,350,911	$ 15,286,199
2071	$ -	$ 11,345,362	$ 4,514,070	$ 15,859,432
2072	$ -	$ 11,770,813	$ 4,683,347	$ 16,454,160
2073	$ -	$ 12,212,219	$ 4,858,973	$ 17,071,191
2074	$ -	$ 12,670,177	$ 5,041,184	$ 17,711,361
2075	$ -	$ 13,145,308	$ 5,230,229	$ 18,375,537
2076	$ -	$ 13,638,257	$ 5,426,362	$ 19,064,620
2077	$ -	$ 14,149,692	$ 5,629,851	$ 19,779,543

50-Year Future Cost	**$ 460,384,424**
50-Year Present Cost	**$ 111,796,439**

Appendix D – Letters of Support

CAPITOL OFFICE
1021 O STREET
SUITE 7220
SACRAMENTO, CA 95814
(916) 651-4023

DISTRICT OFFICE
1758 ORANGE TREE LANE
SUITE B
REDLANDS, CA 92374
(909) 335-0271

SENATOR.OCHOABOGH@SENATE.CA.GOV

WWW.SENATE.CA.GOV/OCHOABOGH

California State Senate

SENATOR
ROSILICIE OCHOA BOGH
TWENTY-THIRD SENATE DISTRICT

COMMITTEES
BUDGET
EDUCATION
VICE CHAIR
GOVERNMENTAL ORGANIZATION
HOUSING
VICE CHAIR
HUMAN SERVICES
VICE CHAIR
PUBLIC SAFETY
VICE CHAIR
RULES

December 6, 2023

Ms. Camille Touton
Commissioner
Bureau of Reclamation
1849 C Street NW
Washington, D.C. 20240-0001

RE: Support for the City of Banning's Application for its Wastewater Treatment Plant and Recycled Water Upgrades Project

Dear Commissioner Touton:

I write in support of the City of Banning, a Disadvantaged Community, and its application for funding from the WaterSMART grant program for Water Reclamation and Reuse Projects, administered through the United States Bureau of Reclamation.

The City of Banning is requesting funding for its Wastewater Treatment Plant and Recycled Water Upgrades Project, which would produce recycled water for irrigation customers and reduce the City's reliance on imported water. Upgrading the treatment plant will go a long way to help increase the City's water supply independence and protect the integrity of the local groundwater sources that the City relies on.

If awarded funding, the City will implement a Membrane Bioreactor, chlorine disinfection, and two-stage reverse osmosis system at the Wastewater Treatment Plant to produce tertiary disinfected recycled water. This supply of recycled water will improve the reliability of local water supplies, decrease dependence on outside water sources, and ensure that the City of Banning is better prepared for future water supply challenges.

For these reasons, I fully support the City of Banning's application. If you have any questions, please do not hesitate to contact my District Office at (909) 335-0271.

Sincerely,

ROSILICIE OCHOA BOGH
Senator, 23rd District

U.S. SENATOR LAPHONZA BUTLER
CALIFORNIA

COMMITTEE ON THE JUDICIARY
- CHAIR, SUBCOMMITTEE ON THE CONSTITUTION
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
COMMITTEE ON RULES AND ADMINISTRATION

United States Senate

December 6, 2023

The Honorable Camille Touton
Commissioner
Bureau of Reclamation
1849 C Street, N.W.
Washington, D.C. 20240

Dear Commissioner Touton,

I write in support of the City of Banning's application for funding from the WaterSMART Grant Program: Title XVI WIIN Act Water Reclamation and Reuse Projects, administered by the Bureau of Reclamation, U.S. Department of Interior.

The City of Banning is requesting funding for its Wastewater Treatment Plant and Recycled Water Upgrades project. Home to approximately 29,500 residents, the City of Banning is situated in the San Gorgonio Pass region of Riverside County and is identified as a disadvantaged community by the Council for Environmental Quality's Climate and Economic Justice Screening Tool. The city's wastewater treatment plant currently provides for the collection, treatment, and disposal of municipal sewage.

If awarded, this grant would enable the City of Banning to make upgrades to its existing wastewater treatment plant to produce recycled water for irrigation customers, thereby reducing reliance on imported water. Specifically, the project would implement a Membrane Bioreactor, chlorine disinfection, and a two-stage reverse osmosis system at the wastewater treatment plant to produce tertiary disinfected recycled water. These improvements would improve the reliability of local water supplies and decrease dependence on imported water resources, ensuring that the disadvantaged residents of Banning and the greater Inland Empire region are better prepared for future water supply challenges.

I urge you to give the City of Banning's application every consideration. Please keep my office informed of the status of this request, and if I can be of further assistance, please do not hesitate to contact my Los Angeles office at (310) 914-7300.

Sincerely,

Laphonza Butler
United States Senator

RAUL RUIZ, M.D.
Member of Congress
25th District of California

Congress of the United States
House of Representatives
Washington, DC 20515-3605

Washington, D.C. Office:
2342 Rayburn House
Office Building
Washington, D.C. 20515
Phone: 202-225-5330

November 29, 2023

The Honorable Camille Calimlim Touton
Commissioner
U.S. Bureau of Reclamation
1849 C Street NW
Washington, D.C. 20240

Dear Commissioner Touton:

I write in support of the City of Banning and their application for WaterSMART Water Reclamation and Reuse Projects grant funding administered through the United States Bureau of Reclamation. If awarded, this funding would upgrade the city's treatment plant and help to increase the city's water supply independence in Banning, California.

The City of Banning's Wastewater Treatment Plant and Recycled Water Upgrades Project would enable the city to produce recycled water for irrigation customers, thereby reducing its reliance on imported water. The grant funding would also allow the city to implement a membrane bioreactor, chlorine disinfection, and two-stage reverse osmosis system at the Wastewater Treatment Plant to produce tertiary disinfected recycled water. This increased water supply will benefit my constituents while promoting resiliency against future droughts that may affect Southern California.

As the Representative of California's 25th Congressional District, I understand the impact that the City of Banning's water recycling projects and water supply independence would have on the lives of the individuals I serve and represent. Efforts to reclaim water, like the innovative recycled water projects that the City of Banning proposes, would improve the reliability of local water supplies, decrease dependence on imported water sources, and ensure that the City of Banning is better prepared for future water supply challenges. Addressing drought impacts and working towards alternative sources of water are essential to fortifying the region's water infrastructure to withstand the increasingly evident effects of climate change.

The City of Banning is a disadvantaged community in my district. The city is home to over 30,000 individuals and in desperate need of environmentally responsible ways to increase water supply independence as the demand grows greater. For this reason, I believe the city has the

capacity to successfully implement the Wastewater Treatment Plant and Recycled Water Upgrades Project, and I urge full and fair consideration, consistent with all relevant program rules and regulations. If you have any additional questions, please feel free to contact my Washington, D.C. office at (202) 225-5330.

Sincerely,



Raul Ruiz, M.D.
Member of Congress

County of Riverside

DISTRICT OFFICE:
14375 NASON ST. SUITE 207
MORENO VALLEY, CA 92555
(951) 955-1050 FAX (951) 486-5808
JAIME HURTADO, CHIEF OF STAFF

RIVERSIDE OFFICE
4080 LEMON ST. 5TH FLOOR
RIVERSIDE, CA 92501
E- MAIL: DISTRICT5@RIVCO.ORG
WWW.RIVCODISTRICT5.ORG

SUPERVISOR YXSTIAN GUTIERREZ
FIFTH DISTRICT

November 28, 2023

The Honorable Camille Touton
Commissioner
Bureau of Reclamation 1849 C Street NW
Washington DC 20240-0001

Re: Support for the City of Banning's Application for its Wastewater Treatment Plant and Recycled Water Upgrades Project

Dear Commissioner Touton:

I am writing in support of the City of Banning, a Disadvantaged Community located in Riverside County, and application to the U.S. Department of the Interior (DOI)'s WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects (Funding Opportunity Announcement [FOA] No. R23AS00464). Through the Wastewater Treatment Plant and Recycled Water Upgrades Project (Project), the City will upgrade its Wastewater Treatment Plant to produce tertiary disinfected recycled water for the purpose of serving Banning irrigation customers.

Funding for the City's recycled water project would ensure a drought-proof non-potable water supply for Banning's customers. As you are aware, Southern California faces many water supply challenges due to droughts, climate change, population growth, as well as legal and environmental constraints. For this reason, it is imperative that agencies such as the City of Banning implement programs that ensure water supply reliability for the region and prepare for drought.

The City of Banning's project will produce around 4,035 acre-feet/year of sustainable supplies to the City's recycled water supply portfolio. These supplies will reduce the need to rely on imported water supplies and will make lasting changes to help Banning (and the state as a whole) better prepare for future water supply challenges.

For these reasons, I support the City of Banning's application for WaterSMART Water Relclamation and Reuse funding and request your favorable consideration of the project. If you have any questions, please do not hesitate to contact my office at (951) 955-1050 or District5@Rivco.org.

Sincerely,

Yxstian Gutierrez

Yxstian Gutierrez
District 5 Supervisor

Colorado River Basin Regional Water Quality Control Board

December 6, 2023

The Honorable Camille Touton
Commissioner
US Bureau of Reclamation 1849 C Street NW
Washington DC 20240-0001

SUBJECT: LETTER OF SUPPORT FOR THE CITY OF BANNING

FACILITY: CITY OF BANNING WASTEWATER TREATMENT PLANT, PROJECT WATERSMART: WATER RECLAMATION AND REUSE PROJECTS, RIVERSIDE COUNTY, CALIFORNIA

Dear Commissioner Touton,

The California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board), is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within Imperial County as well as portions of Riverside, San Diego, and San Bernardino County, including the referenced property above.

The Regional Water Board has reviewed the City of Banning's Wastewater Treatment Plant (Facility) and Recycled Water Upgrades Feasibility Study (Project) dated November 7, 2023, which was prepared to support a grant application to the United States Department of the Interior (DOI)'s WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects[1].

The Project evaluates the feasibility of upgrading the Facility to tertiary[2] disinfected recycled water standards for non-potable reuse. By implementing non-potable reuse (near term) and indirect potable reuse (long term) components of the project, the City of Banning proposes to increase the supply and usage of locally sourced non-potable water by an estimated 4,035 acre-feet per year (AFY)[3].

[1] Funding Opportunity Announcement (FOA) No. R23AS00464.
[2] The existing Facility consists of preliminary treatment, primary treatment, secondary treatment, solids handling, disinfection (currently not in use) and evaporation/percolation ponds.
[3] Equivalent to 3.6 million gallons per day.

The Regional Water Board supports the City of Banning's application for funding to evaluate the feasibility of the upgrades required to take the facility to tertiary disinfected recycled water standards for non-potable reuse.

If you have any questions concerning this matter, please contact the Land Disposal Unit Chief, Jose Cortez at (760) 776-8963 (Jose.Cortez@waterboards.ca.gov).

Sincerely,

Paula Rasmussen
Executive Officer
Colorado River Basin
Regional Water Quality Control Board

AG/jc

cc: (Via email)
Arturo Vela, City of Banning (avela@banningca.gov)
Perry Gerdes, City of Banning (pgerdes@banningca.gov)

File: 7A330100015, City of Banning WWTP, Order R7-2016-0015

Appendix E – Authorizing Resolution

RESOLUTION 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF A WATERSMART: TITLE XVI WIIN ACT WATER RECLAMATION AND REUSE PROJECTS FOR FISCAL YEARS 2023 AND 2024 AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN AND SUBMIT ALL REQUIRED DOCUMENTS RELATED TO THE GRANT APPLICATION

WHEREAS, the United States Bureau of Reclamation (USBR) is soliciting applications for authorized projects for WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464; and

WHEREAS, the City of Banning will be upgrading its Wastewater Treatment Plant (WWTP), also known as the Water Reclamation Facility, to reduce the City's reliance on imported water and to keep groundwater recharge within the City's wells.

WHEREAS, the City desires to improve the WWTP in order to treat its wastewater and produce recycled water; and

WHEREAS, the City of Banning is seeking grant funding to further fund the design/build construction of the Project; and

WHEREAS, the City of Banning prepared a grant application under this Program for Fiscal Years 2023 and 2024 with an application submitted on September 30, 2024.

WHEREAS, USBR has directed applicants to include in its application an official resolution adopted by the applicant's board of directors or governing body verifying 1) the identity of the official with legal authority to enter into an agreement, 2) the board of directors, governing body, or appropriate official who has reviewed and supports the application submitted, 3) the capability of the applicant to provide the amount of funding and/or in-kind contributions specified in the funding plan, and 4) that the applicant will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement.

NOW, THEREFORE, the City Council of the City of Banning does resolve as follows:

1. The City Manager, or his designee, is authorized to submit all required information to the United States Bureau of Reclamation (USBR) to obtain a USBR WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464 for and on behalf of the City.

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

SECTION 1. The City Council has reviewed and supports the application for USBR Funding Opportunities R23AS00464 submitted by the 30th day of September 2024; and

SECTION 2. The City of Banning is able to provide the minimum 75% funding match specified in the funding plan for both applications.

SECTION 3. The City Manager, or his designee, is hereby authorized and directed to prepare the necessary data, conduct investigations, file such applications, and execute grant agreements with the USBR in association with this application process. The City of Banning will work with the USBR to meet established deadlines required for entering into a cooperative agreement to obtain the aforementioned grant funding.

SECTION 4. The City Council hereby authorizes the City Manager, or his designee, to sign and file a Financial Assistance Application for grant agreement from USBR WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects for Fiscal Years 2023 and 2024 per Funding Opportunity Announcement No. R23AS00464 for and on behalf of the City.

SECTION 5. The City Manager, or his designee, is authorized to represent the City in carrying out the City's responsibilities under the grants agreement, including certifying disbursement requests on behalf of the City and compliance with applicable state and federal laws.

SECTION 6. The City Manager, or his designee, is authorized to make necessary budget adjustments, appropriations and transfers related to the Financial Assistance Application for grant agreement from USBR.

SECTION 7. 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 XX day of XX 2024

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND CONTENT:

Serita R. Young, City Attorney Richards,
Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the XX day of XX 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Deputy City Clerk City of Banning, California

United States Department of the Interior

BUREAU OF RECLAMATION
P.O. Box 25007
Denver, CO 80225-0007

IN REPLY REFER TO:
LC-10100
1.3.11

January 14, 2025

VIA ELECTRONIC MAIL

City of Banning
Attn: Mr. Art Vela
Director of Public Works
99 E. Ramsey St.
Banning, CA 92220

Subject: Notice of Funding Opportunity No. R23AS00464 – WaterSMART: Title XVI Water Infrastructure Improvements for the Nation (WIIN) Act Water Reclamation and Reuse Projects – Your Application Titled, "Critical Wastewater Treatment Recycled Water Upgrades"

Dear Mr. Art Vela:

The Bureau of Reclamation (Reclamation) is pleased to inform you that your application, submitted by the second application due date of September 30, 2024, for the WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Projects Funding Opportunity was among those receiving the highest ratings and is now being considered for award with funding available under the Bipartisan Infrastructure Law (BIL), P.L. 117-58. Reclamation anticipates awarding Federal funds in the amount of $16,194,576 for your project.

In working with you to develop your financial assistance agreement, Reclamation will closely review the activities outlined in your proposal to ensure that activities eligible for funding are identified and that the proposed costs are allowable under financial assistance regulations and the Notice of Funding Opportunity (NOFO). If some costs or activities are determined to be ineligible or unallowable, Reclamation will work with you to refine the scope of work and budget for the project. In addition, Reclamation must have sufficient evidence prior to award that non-Federal cost share will be available. The final funding amount may be adjusted if necessary. Please note that a small portion of this amount may be set aside for Reclamation to ensure the project's Federal regulatory and statutory compliance, and to otherwise oversee the implementation of the project.

All new financial assistance awards for infrastructure projects must meet Buy America requirements. Office of Management and Budget (OMB) implementing guidance states that the Buy America provisions apply to projects carried out through Bipartisan Infrastructure Law (BIL) funding and annual appropriations. See OMB Memorandum M-22-11 for further details. Section 41101 of the BIL requires that all laborers and mechanics employed by contractors or subcontractor in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under the BIL shall be paid wages at rates not less than those prevailing on similar projects in

the locality, as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (commonly referred to as the Davis-Bacon Act).

All projects being considered for award of funding are required to comply with all Federal environmental and cultural resource requirements, including the National Environmental Policy Act, Endangered Species Act, Clean Water Act, and the National Historic Preservation Act. Ground-disturbing activities of any type, including fieldwork, monitoring or other activities may not occur until Reclamation has determined that all environmental and cultural resource compliance is complete.

In addition, funding for construction activities will not be released until Reclamation makes a determination of financial capability for the project.

The Reclamation regional or area office that will be responsible for awarding and administering your agreement will contact you in the coming months to finalize your award. In the meantime, if you have any questions regarding the process or your agreement, please contact Viranousack (Alex) Soubannarath, Lower Colorado Basin Regional Title XVI Coordinator, at (951) 695-5310 or vsoubannarath@usbr.gov.

Thank you for your interest and participation in the WaterSMART: Water Recycling and Desalination Programs. The success of the Title XVI Program depends on collaboration with partners to improve the reliability of water supplies.

Sincerely,

/s/ Diana Blake
Grants Officer

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Douglas Schulze, City Manager**

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

MEETING DATE: **December 13, 2022**

SUBJECT: **Consideration of Resolution 2022-14UA, Awarding a Professional Services Agreement to N2W Engineering to Provide Owner Advisor Services and Preliminary Engineering for the Wastewater Treatment Plant Improvement Project in a Not-to-Exceed Amount of $1,576,430**

RECOMMENDATION:

Staff recommend that the City Council adopt Resolution 2022-14UA:

1. Awarding a Professional Services Agreement to N2W Engineering to provide Owner Advisor services for the Wastewater Treatment Plant Improvement project in the "not-to-exceed" amount of $1,576,430.
2. Authorizing the City Manager or his designee to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement with N2W Engineering for Owner Advisor services.
3. Authorizing the City Manager or his designee to execute the Professional Services Agreement with N2W Engineering of Irvine, California in the "not to exceed" amount of $1,576,430.

BACKGROUND:

Wastewater Treatment Plant

The City of Banning Wastewater Treatment Plant (WWTP), also known as the Water Reclamation Facility, provides for the collection, treatment, and disposal of municipal sewage. The WWTP dates back to 1925 and began to see significant additions beginning in 1950's and the last major renovation occurring in the early 2000's. Currently, the WWTP treatment process consists of preliminary, primary, secondary, disinfection (currently not in use), and sludge disposal.

The WWTP has a design treatment capacity of 3.6 million gallons per day (MGD) and typical average daily discharges range from 2.0 MGD to 2.1 MGD into 10 unlined evaporation/percolation ponds. The treated effluent then percolates into the groundwater of the San Gorgonio Hydraulic Unit. Groundwater from this basin is used for municipal and industrial applications.

In 2007, the City contracted Parsons to evaluate treatment technologies for a 1.5 MGD water reclamation facility (WRF) for the production of recycled water. Treatment alternatives investigated included oxidation ditch (OD), conventional activated sludge (CAS), and membrane bioreactor (MBR). The purpose of the evaluation was to determine the best option to comply with future Title 22 requirements for the beneficial reuse of recycled water. Parsons determined an MBR system was the best treatment option and completed a 90% design package of the WRF. Unfortunately, the project never reached 100% design and was terminated for various reasons.

2016 Regional Water Quality Control Board Order

On June 30, 2016, the California Regional Water Quality Control Board, Colorado River Basin Region (RWQCB) adopted Board Order R7-2016-0015 (Board Order), which describes the Waste Discharge Requirements (WDRs) and other terms and conditions of operation for the City's WWTP. The Board Order requires the WWTP to remove constituents that present the greatest risk to groundwater quality such as nitrogen, coliforms, and total dissolved solids (TDS).

According to the United States Environmental Protection Agency (US EPA), the maximum contaminant level (MCL) for Nitrate as Nitrogen (TN) is 10 mg/L. Currently, the average TN concentration in the WWTP's effluent is 29 mg-N/L, well above the future TN limit of 10 mg-N/L specified in the Board Order.

As a result, the Board Order required the City to conduct a nitrogen removal analysis and to summarize the findings in a technical report that includes a tentative work plan and time schedule for the installation and implementation of nitrogen removal treatment alternatives. The final technical report (Nitrogen Removal Feasibility Study), attached hereto, was completed and submitted to the RWQCB by the due date of June 30, 2020.

The City has had plans for the development of a Title 22 compliant recycled water source dating back to the early 2000's and for this reason, the scope of the Nitrogen Removal Feasibility Study was expanded beyond complying with TN limits and included discharge requirements related to the use of recycled water.

Additionally, the Board Order requires that the City submit a plan for capacity improvements to the RWQCB once the WWTP reaches 80% of its design capacity, or 2.88 MGD.

2018 Integrated Master Plan

In 2016 the Public Works Department set out to develop new master plans for the City's water, wastewater and future recycled water systems, which were previously updated in 2006. The final document resulted in a combined plan titled the Integrated Master Plan (IMP). The objective of the IMP was to develop capital improvement plans that would guide the City in the planning and development of water, wastewater and recycled water system facilities to meet system performance for existing customers as well as to support anticipated demands through the City's buildout.

The IMP projected that the City would reach 80% capacity by 2025 (although could be later if development slows down) and have a buildout wastewater flow of 6.35 MGD.

2020 UWMP

On June 8, 2021 the City Council approved Resolution 2021-50, adopting the 2020 Urban Water Management Plan (UWMP). The UWMP is a planning document with a 20-year planning horizon that assess the water supply and water demand for the City. As part of the assessment all current water supplies and in the future water supplies are include as part of the City's water supply portfolio, which includes the use of recycled water to supplement potable demands (i.e. irrigation demands) and for groundwater recharge.

Owner Advisor

Staff determined that to comply with the Board Order; to increase treatment capacity at the WWTP to support development; and to add to the City's water supply portfolio by developing a recycled water source, the City would need to move forward with major improvements to the WWTP. Current staffing levels would make it challenging to successfully complete such a large capital project in a timely manner. For that reason, staff developed a Request for Qualifications to hire an Owner Advisor (OA) which would be dedicated to the project.

An OA is typically a design and/or construction consultant or consulting firm that has extensive knowledge in the specific type of project being represented. The OA, generally, is responsible for project execution including the management of communications, time, cost, quality, risk, procurement, design, construction, and acceptance.

On July 21, 2022 the City released the attached RFQ on the OpenGov ProcureNow platform as well as sent to several qualified consulting firms. Qualification submittals were due on August 15, 2022. The RFQ was downloaded 30 times from ProcureNow. As a result of the of the RFQ solicitation the City received only one submittal from N2W Engineering. An evaluation committee reviewed the qualifications of N2W Engineering and agreed that they were qualified and experienced and subsequently an interview was conducted on October 4, 2022.

Following the interview staff worked with N2W Engineering to define the scope of work and negotiated a fee for said scope, attached hereto.

It is staff's recommendation that City Council award a Professional Services Agreement to N2W Engineering, based on qualifications and fee statement. If approved, the term of the Professional Services Agreement is estimated to extend to fiscal year 2026/2027.

JUSTIFICATION:

Based on current and future wastewater regulatory requirements, implementation of the Integrated Master Plan and the City's strategy for developing a robust water supply portfolio, it is necessary to move forward with the improvements to the City's WWTP. Due

to current staff resource and size and complexity of the WWTP project, it is recommended by staff to hire an Owner Advisor to move the WWTP project forward.

City staff evaluated N2W Engineering's experience and qualifications and interviewed the firm for the WWTP project and subsequently have found them as a qualified firm to represent the City as its Owner Advisor.

FISCAL IMPACT:

The negotiated fee for the identified scope of work is in the amount of $1,576,430.

The funding for this project was programmed in the approved 5-year Capital Improvement Plan (CIP) as follows:

Account	Project Desc.	FY 2023	FY 2024	FY 2025
680-8000-454.90-10	WWTP Owner Advisor	$100,000	$100,000	$100,000
680-8000-454.95-12	WWTP Upgrades	$130,000	$130,000	$130,000
681-8000-454.95-12	WWTP Upgrades	$130,000	$650,000	$650,000
Total		**$360,000**	**$880,000**	**$880,000**

An appropriation from Fund 680 (Wastewater Fund) and Fund 681 (Wastewater Capital Facilty Fund) fund balances will be required to allocate the needed funds in FY 2023. The appropriation would be offset by reducing/eliminating the expenditures in FY 2024 and FY 2025 as shown in the table above. The revised CIP table will be as follows:

Account	Project Desc.	FY 2023	FY 2024	FY 2025
680-8000-454.90-10	WWTP Owner Advisor	$300,000	$0	$0
680-8000-454.95-12	WWTP Upgrades	$390,000	$0	$0
681-8000-454.95-12	WWTP Upgrades	$886,430	$0	$543,570
Total		**$1,576,430**	**$0**	**$543,570**

In summary, appropriations in the amount of $460,000 from Fund 680 and $756,430 from Fund 681 are required to fund the Professional Services Agreement with N2W Engineering.

ALTERNATIVES:

1. Approve as presented.
2. Approve with modifications.
3. Do not approve Resolution 2022-14UA and provide alternate direction to staff.

ATTACHMENTS:

1. Resolution 2022-14UA
   https://banningca.gov/DocumentCenter/View/11872/Att-1-Resolution-2022-14-UA-OA-WWTP

2. Nitrogen Removal Feasibility Study
   https://banningca.gov/DocumentCenter/View/11873/Att-2-Banning-Nitrogen-Removal-Feasibility-Study-FINAL-REV-1-STAMPED
3. Request for Qualifications
   https://banningca.gov/DocumentCenter/View/11874/Att-3-RFQ-22-019-Owner-Advisor-COB-WaterWasterwater
4. Statement of Qualifications
   https://banningca.gov/DocumentCenter/View/11868/Att-4-Statement_of_Qualifications
5. Scope of Services
   https://banningca.gov/DocumentCenter/View/11869/Att-5-Scope_of_Services-11-22-2022
6. Fee Statement
   https://banningca.gov/DocumentCenter/View/11870/Att-6-Fee-11-22-2022
7. Draft Professional Services Agreement
   https://banningca.gov/DocumentCenter/View/11871/Att-7-C00778-N2W-Engineering-Inc

Approved by:

Douglas Schulze
City Manager

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Shah Nawaz, Deputy Water/Wastewater Director** **Art Vela, Director of Public Works**
MEETING DATE:	**February 25, 2025**
SUBJECT:	**Consideration of Resolution 2025-30, Awarding a Progressive Design-Build Agreement for Phase 1 to AECOM Lyles JV for Project No. 2022-01W "Wastewater Treatment Plant and Recycled Water Upgrades" in the Amount of $3,998,627, and Approving a 10% Contingency for a Total Project Budget of $4,398,490**

RECOMMENDATION:

Adopt Resolution 2025-30.

BACKGROUND:

Wastewater Treatment Plant

The City of Banning Wastewater Treatment Plant (WWTP), also known as the Water Reclamation Facility, provides for the collection, treatment, and disposal of municipal sewage. The WWTP dates back to 1925 and began to see significant additions beginning in 1950's and the last major renovation occurring in the early 2000's. Currently, the WWTP treatment process consists of preliminary, primary, secondary, disinfection (currently not in use), and sludge disposal.

The WWTP has a design treatment capacity of 3.6 million gallons per day (MGD) and typical average daily discharges range from 2.0 MGD to 2.1 MGD into 10 unlined evaporation/percolation ponds. The treated effluent then percolates into the groundwater of the San Gorgonio Hydraulic Unit. Groundwater from this basin is used for municipal and industrial applications.

In 2007, the City contracted Parsons to evaluate treatment technologies for a 1.5 MGD water reclamation facility (WRF) for the production of recycled water. Treatment alternatives investigated included oxidation ditch (OD), conventional activated sludge (CAS), and membrane bioreactor (MBR). The purpose of the evaluation was to determine the best option to comply with future Title 22 requirements for the beneficial reuse of recycled water. Parsons determined an MBR system was the best treatment option and completed a 90% design package of the WRF. Unfortunately, the project never reached 100% design and was terminated for various reasons.

2016 Regional Water Quality Control Board Order

On June 30, 2016, the California Regional Water Quality Control Board, Colorado River Basin Region (RWQCB) adopted Board Order R7-2016-0015 (Board Order), which describes the Waste Discharge Requirements (WDRs) and other terms and conditions of operation for the City's WWTP. The Board Order requires the WWTP to remove constituents that present the greatest risk to groundwater quality such as nitrogen, coliforms, and total dissolved solids (TDS).

According to the United States Environmental Protection Agency (US EPA), the maximum contaminant level (MCL) for Nitrate as Nitrogen (TN) is 10 mg/L. Currently, the average TN concentration in the WWTP's effluent is 29 mg-N/L, well above the future TN limit of 10 mg-N/L specified in the Board Order. As a result, the Board Order required the City to conduct a nitrogen removal analysis and to summarize the findings in a technical report that includes a tentative work plan and time schedule for the installation and implementation of nitrogen removal treatment alternatives. The final technical report (Nitrogen Removal Feasibility Study), attached hereto, was completed and submitted to the RWQCB by the due date of June 30, 2020.

The City has had plans for the development of a Title 22 compliant recycled water source dating back to the early 2000's and for this reason, the scope of the Nitrogen Removal Feasibility Study was expanded beyond complying with TN limits and included discharge requirements related to the use of recycled water.

Additionally, the Board Order requires that the City submit a plan for capacity improvements to the RWQCB once the WWTP reaches 80% of its design capacity, or 2.88 MGD, which is fast approaching due to increased development activity within the City.

2018 Integrated Master Plan

In 2016 the Public Works Department set out to develop new master plans for the City's water, wastewater and future recycled water systems, which were previously updated in 2006. The final document resulted in a combined plan titled the Integrated Master Plan (IMP). The objective of the IMP was to develop capital improvement plans that would guide the City in the planning and development of water, wastewater and recycled water system facilities to meet system performance for existing customers as well as to support anticipated demands through the City's buildout.

The IMP projected that the City would reach 80% capacity by 2025 (although could be later if development slows down) and have a buildout wastewater flow of 6.35 MGD.

2020 UWMP

On June 8, 2021 the City Council approved Resolution 2021-50, adopting the 2020 Urban Water Management Plan (UWMP). The UWMP is a planning document with a 20-year planning horizon that assess the water supply and water demand for the City. As part of the assessment all current water supplies and in the future water supplies are include as part of the City's water supply portfolio, which includes the use of "recycled water" to supplement potable demands (i.e. irrigation demands) and for groundwater recharge.

Owner Advisor

On December 13, 2022, City Council adopted Resolution 2022-14UA, awarding a Professional Services Agreement to N2W Engineering ("N2W") to provide Owner Advisor ("OA") services for the Wastewater Treatment Plant Improvement project.

N2W has assisted the City in further review of available technologies and confirmed through a Feasibility Report that an MBR system would be the best solution for the City. Additionally, they prepared two grant applications for the City: (1) Water Recycling Funding Program Planning grant application which led to an award of $300,000 and (2) WaterSMART: Title XVI WIIN Act Water Reclamation and Reuse Program for which the City received a Notice of Funding Opportunity No. R23AS00464 (attached) in the amount of $16,194,576.

N2W also assisted in the preparation of a scope of work for a Request for Qualifications that led to the shortlisting of 3 design-build entities that prepared and submitted proposals for Phase 1 (Design) of the WWTP Upgrade Project.

Selection of Progressive Design Build Entity

On March 22, 2024, the City issued a Request for qualification (RFQ) seeking prospective Progressive Desing-Build (PDB) entities for the project. Statement of Qualifications (SOQs) were received from PDB entities on May 3, 2024. The City evaluated responsive SOQs in accordance with the RFQ; shortly thereafter, the City shortlisted the following three (3) PDB entities:

1. AECOM Lyles JV
2. Innovative Construction Solutions
3. PERC Water Corporation

Only these three (3) PDB entities were eligible to receive the Request for Proposal (RFP) which was issued on August 9, 2024. These PDB entities were requested to advance the design and provide detailed input as to the design and construction of the Project, including benefits to the Project's reliability, ease and extent of upgrades and expansion and interconnection, and sustainability. Award of the Progressive Design-Build Contract was made utilizing a best value selection process and consisted of an evaluation of multiple factors as listed below in this RFP:

- Project Team, Experience, and Approach (25 Points)
- Technical Approach (25 Points)
- Construction & Startup Process (20 Points)
- Phase 1 – Cost and Fee Schedule (10 Points)
- Interview (20 Points)

An evaluation committee consisting of two City Employees and two Owner's Advisors was assembled to score each proposal based on the evaluation factors listed above. The resulting evaluation scores are as follows:

PDB Entity	**Score (out of 100)**
AECOM Lyles JV	82.44
Innovative Construction Solutions	81.24
PERC Water Corporation	77.75

As a result, staff recommends awarding the Progressive Design-Build Agreement ("Agreement") for Phase 1 of the Wastewater Treatment Plant and Recycled Water Upgrades project to AECOM Lyles JV in the amount of $3,998,627.

If awarded, staff anticipates the Phase 1 (Design) scope of work to commence in early March 2025 through April 2026.

Phase 1 Services
This Phase includes all the planning, engineering, and permitting to prepare a complete design-to-develop a Guaranteed Maximum Price (GMP) and a construction schedule for Phase 2.

It shall be noted that at the completion of Phase 1 scope of work and upon agreement on the GMP by the City, AECOM Lyles JV will proceed with Phase 2 (Construction) for equipment procurement, construction, engineering design support during construction, construction management, commissioning and acceptance testing. Following the completion of Phase 1, the current estimated duration for Phase 2 is approximately another 2 years.

JUSTIFICATION:

The Wastewater Treatment Plant and Recycled Water Upgrades project includes the design and construction of major complex treatment technologies that will allow the City to comply with impending wastewater discharge requirements and to produce recycled water. A PDB approach is a collaborative delivery method that involves the design-builder throughout the design and construction process resulting in a project that will meet the City's needs for the best value.

AECOM Lyles JV was ranked the highest following the RFP.

FISCAL IMPACT:

The recommended Progressive Design-Build Agreement for Phase 1 of the Wastewater Treatment Plant and Recycled Water Upgrades project to AECOM Lyles JV is in the amount of $3,998,627. Staff requests a 10% contingency in the amount of $399,862 for any unforeseen changes in scope of work or conditions. The total project budget for Phase 1, including the Agreement and contingency, is for an amount of $4,398,490.

The current adopted budget for Fiscal Year 2024/2025 includes the required funding for the Agreement, which will be funded as follows:

- Account No. 681 -8000- 454.95-12 : $1,000,000
- Account No. 682-8050-454.95-10: $3,398,490

ALTERNATIVES:

Do not approve Resolution 2025-30 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution 2025-30, WWTP Design Build award.docx
2. Banning_DB_545_Agreement.pdf
3. Resolution No. 2021-050 (For Reference Purposes Only).pdf
4. Resolution No. 2022-14UA (For Refrence Purposes Only).pdf
5. RWQCB Order R7-2016-0015.pdf
6. Banning Nitrogen Removal Feasibility Study FINAL.pdf
7. BOR Notice of Funding Opportunity No. R23AS00464.pdf
8. AECOM-Lyles Proposal for RFP-24-074.pdf
9. AECOM-Lyles Pricing Proposal - Supporting Information.pdf
10. Banning DB 535 General Conditions.pdf

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

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

MEETING DATE: **July 8, 2025**

SUBJECT: **Consideration of Resolution 2025-109, Authorizing the Submission of an Application to the California Infrastructure and Economic Development Bank for Financing for the Wastewater Treatment Plant and Recycled Water Upgrades Project**

RECOMMENDATION:

Adopt Resolution 2025-109.

BACKGROUND:

The City's Wastewater Fund has several pending capital projects, including the Wastewater Treatment Plant ("WWTP") Upgrades Project (the "Project") to comply with nitrogen removal regulations and allow the WWTP to achieve tertiary treatment (producing Title 22 recycled water which can be used to offset potable water demands).

The estimated cost of the Project is $64,778,302. To address this cost, the City plans to utilize a variety of funding sources. The Wastewater Fund has cash and reserves, and City staff have identified approximately $19 million of those reserves for the Project. Additionally, City staff have been applying for a variety of grants in an attempt to offset the cost of the project to the City's ratepayers. The City has been awarded a $16 million United States Bureau of Reclamation WaterSMART Grant ("USBR Title XVI Grant") for this water recycling project. The City is in the process of negotiating the grant agreement for the USBR Title XVI Grant. Staff expect to bring a separate resolution to City Council related to this grant at the July 8th City Council meeting.

As illustrated in the table below, after applying a portion of the Wastewater Fund's reserves and the USBR Title XVI Grant receipts, there is a remaining funding need of approximately $25 million for the Project. City staff have been working with NHA Advisors, LLC, the City's Municipal Advisor to evaluate potential funding sources to meet this remaining $25 million need.

Funding Source	Estimated Funding Source Balance on 7/1/2025	Amount to be Allocated to WWTP Project
Fund 661 - Water Improvement Fund	$3,632,861.34	$3,085,000
Fund 680 - Wastewater Operation Fund	$7,991,840.23	$1,773,726
Fund 681 - Wastewater Improvement Fund	$11,035,587.18	$6,500,000
Fund 682 - Tertiary Fund	$8,375,653.38	$9,725,000*

Fund 683 - BUA Wastewater Fund	$2,500,000	$2,500,000
FY 2024 Title XVI Program Funds	$16,194,576	$16,194,576
Other Funding (IBank Loan or Revenue Bonds)	$25,000,000	$25,000,000
	TOTAL	$64,778,302

Two primary funding sources evaluated are the issuance of municipal bonds or entering into a long-term loan with IBank. IBank provides loans to public agencies throughout the State of California through a loan program whereby IBank issues bonds to raise the funds and then provides those funds to public agencies through a direct loan.

The IBank program provides different rates to each borrower depending on that borrower's term and interest rate. Holding all else constant, shorter-term to a higher rated borrower would have a lower interest rate compared to a longer-term loan to a lower-rated borrower. The City's Wastewater Fund has no outstanding publicly-issued debt and so has no current credit rating. However, IBank staff have indicated that they can use the Water Fund's existing "A+" credit rating as a proxy for the Wastewater Fund, after making a 1-notch downward adjustment. Accordingly, IBank would consider a potential loan to the City to be in the "A" category and would set the City's interest rate accordingly.

Importantly, IBank offers interest rate subsidies to certain qualifying borrowers. IBank staff have notified the City's team that since the City is a disadvantaged community ("DAC"), the City may be eligible for a median household income subsidy and an unemployment rate subsidy. Each of these subsidies can reduce the IBank interest rate by 0.25%, and when combined can reduce the IBank interest rate by a total of 0.5% compared to an IBank rate on a loan without those subsidies.

Because an IBank loan is a private loan to a State entity, there is no public sale and no disclosure document required from the City. Instead, IBank has their own evaluation and credit underwriting process that will commence in earnest once the City submits an executed copy of the contemplated Borrowers Resolution.

By comparison, a publicly-issued revenue bond would require the City engage disclosure counsel to draft a preliminary official statement, which would contain all of the material facts and information needed by a prudent investor to make a decision whether or not to buy wastewater revenue bonds issued by the City. Additionally, the City would need to secure a credit rating on any issuance of wastewater revenue bonds.

Because IBank funds come from a bond issue, the majority of the terms and conditions on an IBank loan are similar to a revenue bond issuance, with a few notable exceptions, as outlined in the table below. In addition to the two options discussed below, the City looked into a potential State Revolving Fund ("SRF") loan and a potential federal Water Infrastructure Finance and Innovation Act ("WIFIA") loan. The process of securing funds from each of these loan programs is lengthy (from 18-24 months), and are not expected to deliver funds by the City's anticipated start date of the project.

	IBank Loan	**Revenue Bonds**
Limitation on loan sizes	$65M (Currently)	None
Intended Project Phase	Construction Primarily	Planning through construction
Maximum % of Project Funded	100% (up to $65M)	100%
Maximum Term	30 years	30 years
Structuring Flexibility	Level Debt Service Only	Flexible ("Wrap Around")
Timing from Start to Funding Date	~6 months	~4 months

Prepayment without Penalty	Not for 10 years (non-negotiable)	Typically, 10 years (negotiable)
Estimated Interest Rate (As of 6/20/25)	20-year: 4.12%* 30-year: 4.60%*	20-year: 4.33%* 30-year: 4.80%*

*All interest rates shown are indicative based on market interest rates on 6/20/2025 and are subject to change. The IBank rates shown reflect the net rate after adjusting for the 0.15% annual loan servicing fee and the median household income and unemployment subsidies of 0.5%.

JUSTIFICATION:

Based on the indicative interest rates in the table above, annual debt service payment on an IBank loan is estimated to be $1.85 million for a 20-year loan and $1.54 million for a 30-year loan, as shown in the table below. These amounts are compared to a similarly-structured revenue bond, assuming an "A" credit rating.

Estimated Annual Debt Service	**IBank Loan**	**Revenue Bonds**
20-Year Loan	$1.85 million	$1.89 million
30-Year Loan	$1.54 million	$1.59 million

Because of the potential savings to the City through an IBank Loan that has both the median household income and unemployment rate interest rate subsidies, City staff believe that IBank provides a lower cost funding source than issuing a revenue bond. Over the term of a 20-year loan, the City could see $820,000 in cumulative cashflow savings, compared to a revenue bond. Over a 30-year period, the City could see $1.3 million in cumulative cashflow savings compared to a revenue bond.

The Borrower's Resolution attached to this staff report authorizes City staff to proceed with the IBank application process with a goal of finalizing an IBank Loan. The Borrower's Resolution identifies a not-to-exceed amount on the IBank Loan, which is commonly set to an amount slightly higher than the final anticipated loan size to provide flexibility. In the draft Resolution, the not-to-exceed amount is $30 million, even though the anticipated loan size is closer to $25 million.

In addition to setting the not-to-exceed amount, the Borrower's resolution declares the City's official intent to reimburse itself for previously incurred capital expenditures with the proceeds of tax exempt bonds. Because an IBank loan or a wastewater revenue bond would be issued as tax exempt debt, the City is required to make such a declaration of an intent to reimburse. Doing so gives the City the option to reimburse itself from the loan or bond proceeds for costs paid up to 60 days prior to the adoption of the resolution. It is common practice to adopt a similar resolution early on to maximize the City's flexibility to reimburse itself from future loans or bonds. The notice of intent included in the Borrower's Resolution would also serve as a reimbursement resolution should the City instead issue revenue bonds.

Most notably, the borrower's resolution empowers City staff, but does not obligate the City to enter into any loan should the Project timing, amount, or IBank loan rates change significantly. City staff will continue to work with NHA Advisors to evaluate funding options and, up until a loan is presented to the IBank Board of Directors for funding approval, the City will retain the option to pursue other funding sources if a cheaper source is found.

Upon submission of a complete application packet and executed Borrower's Resolution to IBank, Staff estimate that the City can close an IBank loan within approximately 3-6 months.

FISCAL IMPACT:

As discussed, based on current (6/20/25) market rates, the annual debt service payment on a 20-year IBank loan is estimated at $1.85 million per year and the annual debt service payment on a 30-year IBank loan is estimated at $1.54 million per year. This annual debt service is expected to commence in fiscal year 2026-27. There is an annual 0.15% loan servicing fee due to IBank, but the interest rates quoted are inclusive of that annual fee.

IBank charges a 1% origination fee to cover their costs of credit review, underwriting, and legal counsel. Based on a $25 million loan, this equates to a $250,000 fee, payable at closing. This amount can be paid out of the loan amount, or paid by one or more of the funding sources identified above. In addition to IBank's closing day origination fee, the City would have expenses related to its own legal counsel and municipal advisor. These closing day amounts would be payable in fiscal year 2025-26 if the City elects to pay the closing costs from the City's wastewater funding sources.

ALTERNATIVES:

Do not approve and provide direction to staff, such as pursuing other funding options.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution 2025-109.docx

RESOLUTION 2025-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK FOR FINANCING A CAPITAL IMPROVEMENT PROJECT FOR THE CITY'S WASTEWATER FUND, AUTHORIZING THE INCURRING OF AN OBLIGATION PAYABLE TO IBANK FOR THE FINANCING OF A CAPITAL IMPROVEMENT PROJECT IF IBANK APPROVES SAID APPLICATION, DECLARATION OF OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM THE PROCEEDS OF AN OBLIGATION, AND APPROVING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the California Infrastructure and Economic Development Bank ("IBank") administers a financing program to assist local governments with the financing of eligible projects in accordance with Section 63000 et seq. of the California Government Code (the "Act"); and

WHEREAS, IBank created the Infrastructure State Revolving Fund Program ("ISRF Program") pursuant to the provision of the Act; and

WHEREAS, IBank has instituted an application process for financing under its ISRF Program; and

WHEREAS, IBank's Criteria, Priorities and Guidelines for the Selection of Projects for Financing under the ISRF Program, dated February 23, 2016, and as may thereafter be amended from time to time (the "Criteria"), establishes requirements for the financing of projects under the ISRF Program; and

WHEREAS, the City of Banning ("Applicant") desires to submit an application ("Financing Application") to IBank under the ISRF Program for financing and refinancing the costs of the Wastewater Treatment Plant and Recycled Water Upgrades Project ("Project") in an amount not to exceed $30,000,000; and

WHEREAS, the Act and the Criteria require the Applicant to make, by resolution of its governing body, certain findings prior to a project being selected for financing by IBank; and

WHEREAS, the Applicant expects to incur or pay certain expenditures in connection with the Project from its Wastewater Fund that are reimbursable with the proceeds of tax exempt bonds or other tax exempt securities under Federal Tax Law (defined below) prior to incurring indebtedness for the purpose of financing costs associated with the Project on a long-term basis (the "Reimbursement Expenditures"); and

WHEREAS, the Applicant reasonably expects that a financing arrangement ("Obligation") in an amount not expected to exceed $30,000,000 will be entered into under and memorialized by one or more financing agreements and related documents (collectively, the "Financing Agreement") and that certain proceeds of such Obligation will be used to reimburse the Applicant for Reimbursement Expenditures incurred or paid prior to incurring the Obligation; and

WHEREAS, the Applicant acknowledges that IBank funds the ISRF Program, in part, with the proceeds of tax exempt bonds and, as such, has certain compliance obligations that may require it to have the Applicant enter into one or more new financing agreements to replace the

Financing Agreement (collectively, the "Replacement Agreement") on terms and conditions substantially identical to the original Financing Agreement.

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

SECTION 1. The City Council hereby approves confirms, ratifies, and affirms all actions of the Applicant's representatives, employees and officers heretofore taken in connection with, or with respect to, submitting the Financing Application, and the consideration and approval of the Obligation and the Financing Agreement, if IBank approves the Financing Application and the Obligation, and in connection therewith the Council finds and certifies:

a. The Project facilitates the effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources;
b. The Project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities;
c. That the Project is consistent with the General Plan of the City of Banning, and the General Plan of the County of Riverside;
d. The proposed financing is appropriate for the Project;
e. The Project is consistent with the Criteria; and
f. It has considered (i) the impact of the Project on California's land resources and the need to preserve such resources; (ii) whether the Project is economically or socially desirable; and (iii) whether the project is consistent with, and in furtherance of the State Environmental Goals and Policy Report (as defined in the Criteria)..

SECTION 2. The Applicant hereby declares its official intent to use proceeds of the Obligation to reimburse itself for the Reimbursement Expenditures with the proceeds of tax exempt bonds or other tax exempt securities issued under the provisions of the Internal Revenue Code of 1986, as amended, and those Treasury Regulations implementing such provisions (collectively, "Federal Tax Law"). This declaration is made solely for purposes of establishing compliance with applicable requirements of Federal Tax Law and its date is controlling for purposes of reimbursement under Federal Tax Law. This declaration does not bind the Applicant to make any expenditure, incur any indebtedness, or proceed with the Project.

SECTION 3. All of the Reimbursement Expenditures were made no earlier than 60 days prior to the date of this Resolution. The Applicant will allocate proceeds of the Obligation to pay Reimbursement Expenditures within eighteen (18) months of the later of the date the original expenditure was paid or the date the Project was placed in service or abandoned, but in no event more than three (3) years after the original expenditure was paid.

SECTION 4. The City Manager, Finance Director, and Public Works Director and his or her designee is hereby authorized and directed to act on behalf of the Applicant in all matters pertaining to the Financing Application, and if IBank approves the Financing Application and the Obligation, the execution of related financial documents, including but not limited to, the authority to: (i) pledge the revenues of the Wastewater Fund on a parity basis with the Applicant's obligations in connection with the 2019 Wastewater Revenue Bonds, to the repayment of the Obligation, (ii) provide covenants relating to, among other things, maintaining the debt service coverage ratio required by IBank, rates and charges to be pledged, and as to any other security or collateral securing the Obligation, and (iii) take any other action necessary or desirable to enable the Applicant to enter into the Financing Agreement and incur the Obligation.

SECTION 5. If the Financing Application and the Obligation is approved by IBank, the City Manager, Finance Director, and Public Works Director and his or her designee is authorized to negotiate, enter into and sign financing documents and any amendments thereto, including, but not limited to the Financing Agreement and the Replacement Agreement, with IBank for the purposes of financing the Obligation.

SECTION 6. 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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-109, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Barbara Mason, Chief Procurement Officer**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-110, Approving an amendment to Purchasing Policy No. B-30 to streamline and enhance the procurement and purchasing process**

RECOMMENDATION:

Adopt Resolution 2025-110.

BACKGROUND:

The City Council initially approved Purchasing Policy B-30 on June 27, 2017. 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.

There have been three subsequent amendments to the policy since initial approval:

- 2/26/19 Incorporation of Insurance requirements
- 10/8/19 Adoption of CUPCCAA
- 1/28/25 Update of CUPCCAA spending limit.

Staff now would like to streamline the process of inventory procurements. For the past few years, City Council approved large blanket orders to the main suppliers used for inventory purchases annually prior to the beginning of each fiscal year. The amounts of these Purchase orders would range from $25,000 to a million dollars. Staff would like to streamline the process and provide greater oversight with the following changes to the Purchasing Policy B-30, Section 3-105 as summarized below:

- Modify 3-105(6) Exceptions to purchasing standards to eliminate duplicity and clarify exceptions. Some items are addressed in other areas of the policy. One or more exceptions required clarifications as redlined in the attachments herein.
- Modify 3-105(7) Public Utilities Exception to remove the broad exceptions listed in the chart and limit the exception to inventory items. The B-30 addresses exceptions to the bid process within the Section 11 (4-11) Sole source section.

Under these changes, the process would allow for greater transparency for each purchase order issued over $25,000 that would be ratified by the City Council each month.

The proposed amendment to the Purchasing Policy does not require an amendment to revised the procurement Ordinance.

JUSTIFICATION:

Policies must be updated from time to time. The proposed changes would allow for greater oversight

while providing more centralized procurements.

FISCAL IMPACT:

N/A

ALTERNATIVES:

1) Do not approve the proposed resolutions and continue to approve large value blanket orders, or
2) Provide alternate direction to Staff

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution_2025-110.docx
2. Redline Procurement Administrative Policies Sec 3-105.pdf
3. Purchasing Policy B-30.pdf

RESOLUTION 2025-110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A 2-YEAR CONTRACT WITH A 1-YEAR OPTIONAL EXTENSION TO TERMINIX INTERNATIONAL CO, LP, FOR CITY WIDE FACILITIES AND AS NEEDED PEST CONTROL SERVICES FOR A TOTAL OF $75,000

WHEREAS, The City of Banning issued RFP22-017 in 2022 to solicit bids for City Wide and As Needed Pest Control Services for a 1-year contract with up to four (4) 1-year extensions; and

WHEREAS, The City of Banning awarded Terminix a contract for City Wide and As Needed Pest Control Services as a result of this RFP; and

WHEREAS, The current contract with Terminix expired on June 30, 2025 which necessitates a new contract to be entered into; and

WHEREAS, Pest control services are a necessary service for the City to provide to city owned and utilized facilities.

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

SECTION 1. The City Council approves the Agreement for Contract Services with Terminix International Company, LP for the City-Wide Pest Control Services for a 2-year term in an amount of $50,000 and subsequent amendments to extend the Agreement for up to 1 additional year terms upon satisfactory performance, with a total not-to-exceed amount of $75,000 over three (3) years.

SECTION 2. The City Council authorizes the City Manager to make non-substantive changes to the Agreement for Contract Services and to execute the Agreement for Contract Services with Terminix International Company, LP on behalf of the City Council.

SECTION 3. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-110, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

EXHIBIT A
Agreement Document Title

(Attach Agreement Document)

City of Banning

Administrative Procedures

POLICY NO. B-30

PROCUREMENT POLICIES & PROCEDURES

Administrative Services Department

Purchasing Division

99 East Ramsey Street

Banning, California 92220

Amended: 01/28/2025
Amended: 10/08/2019
Amended: 02/26/2019
Effective: 06/27/2017

(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.

City of Banning Purchasing Authorization Table					
Purchase Type	**Purchase Amount**	**Procurement**	**Contract Type**	**Internal Approval**	**Vendor Requirements**
Goods, Widgets, Equipment	$0.00 - $5,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	N/A
	$5,000.01 - $25,000.00	3 Quotes	Purchase Order	1. Department Head/Manager or Above 2. City Manager if > 10k	N/A
	$25,000.01 +	Formal Bidding	Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	N/A
Services, including Professional (non-public works)	$0.00 - $5,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	1. Insurance 2. City Business Tax 3. CA Business License
	$5,000.01 - $25,000.00	3 Quotes	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager if > 10k	
	$25,000.01 +	Formal Bidding	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	
Services, Public Works only	$0.00 - $75,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	1. Insurance 2. City Business Tax 3. CA Business License 4. CSLB 5. DIR
	$75,000.01 - $220,000.00	3 Quotes	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager	
	$220,000.01 +	Formal Bidding	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	

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:

Advertisement and Notices (Per CA PCC 20169).	City Debt Service and Loans.
Conference registration, memberships/subscriptions, membership dues, educational seminars and offsite training.	~~When no bids are received on formal or informal solicitations.~~
Emergencies endangering the health and safety of City staff, Customers and/or Residents	Gasoline ~~credit card purchases (should be issued a blanket Purchase Order), gasoline~~, diesel or aviation fuel.
Insurance premiums (worker's compensation, general liability, etc.).	~~Payments to~~ Department of Water Resources and related expenses (State Water Contractors, Inc., etc.) and to other governmental units.
Utility Bills (phone, gas, electric, etc.).	Payroll disbursements, payroll checks, deductions, deposits and tax payments that are supported by a payroll report.
Permitting and other regulatory fees (construction permits, LAFCO payment, etc.)	Petty Cash Replinishment, refunds, or travel expenses/advances
Postage/Delivery/Messenger Services	Professional Legal and Human Resources Confidential Consultant Services
Real Property/Easement Acquisition and Rental Property	~~Purchases that meet sole source procurement requirements.~~

~~Requisitions for products or services less than $5,000.~~	Software licenses and/or maintenance
~~When the Purchasing Officer determines the commodity can be procured using a cooperative purchasing agreement~~t.	~~Trade Circulars, Books or CD's~~
Staffing, temporary services	Special instructors for community centers ~~and events.~~
~~When the purchasing officer identifies a Piggyback Agreement being prepared by and processed through another local, state, or federal governmental agency. Under such circumstances, the Purchasing Officer may join into an existing written purchase contract obtained within the last 24 months through a competitive bidding process prepared by and awarded by another local, state or federal governmental agency. City Council consent is required for such arrangements where the estimated value of the supplies is $25,000 or more.~~	~~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.~~
Purchase of power and water for Public Utilities	

(7) ~~Public Utilities~~ Inventory 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 Bidding or Negotiations. 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 inventory materials ~~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 and under the provisions of Informal Bidding or Negotiations (Art. 4, Sec. 5, Sub. 5-103
(5) and 5-109 (2)), 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, approval of annual purchase orders, or approval within thirty (30) days of any emergency acquisition(s) made in excess of $25,000.00:~~

~~Automatic Reclosers with associated controllers and communications equipment~~	~~Power Generation Materials, Equipment, Parts and Repair~~
~~Batteries and Chargers~~	~~Pipe and Pipe Fittings~~
~~Blower Equipment, Parts and Repair~~	~~Pole Line Hardware~~
~~Bus and Bus Support~~	~~Poles, Utility~~
~~Capacitors~~	~~Mobile Substation~~
~~Chemicals~~	~~Prefabricated Electrical Enclosures~~
~~Circuit Breakers~~	~~Pumps and Repairs~~
~~Circuit Switcher~~	~~Regulators~~
~~Conduit and Duct~~	~~Relaying and Protective Devices~~
~~Connectors~~	~~Road and Backfill Materials~~
~~Dewatering Equipment, Parts and Repairs~~	~~SCADA Equipment~~
~~Electric Motor Controls~~	~~Substation and Distribution Automation Equipment~~
~~Electrical Motors, Panels, Panel Equipment, Materials and Repairs~~	~~Substation Online Monitoring Equipment and Devices~~
~~Electrical Line Devices~~	~~Substation Supervisory Equipment~~
~~Fiber Optics Equipment and~~	~~Surge Arrestors~~

~~Materials~~	
~~Transformers and Accessories~~ ~~Treatment Equipment~~	~~Switches, Switchgear, and Accessories~~ ~~Testing Equipment~~
~~Fittings, Electrical, Water, and Sewer~~	~~Fire Hydrants~~
~~Insulators and Bushings~~	~~Tubing, Copper and Plastic~~
~~Luminaries~~	~~Valves and Operators~~
~~Meter and Metering Devices~~	~~Vaults and Accessories~~
~~Wire and Cable~~	~~Uninterruptable Power Supplies~~
~~Well Equipment (including incidental labor to install, which labor shall not exceed the amount set by state law for which bids are required for public works projects of a general law city)~~	~~Such other supplies and materials peculiar to the needs of the Public Utilities Department, which are carried as inventory items~~

b. Purchases of Inventory Materials exceeding $25,000 may be initially approved by the City Manager or his or her designee in order to expedite inventory fulfillment followed by the ratification of the purchase by the City Council within two meetings of the next regular Council Meetings.

City of Banning

Administrative Procedures

POLICY NO. B-30

PROCUREMENT POLICIES & PROCEDURES

Administrative Services Department

Purchasing Division

99 East Ramsey Street

Banning, California 92220

Amended: 01/28/2025
Amended: 10/08/2019
Amended: 02/26/2019
Effective: 06/27/2017

ADMINISTRATIVE PROCEDURES
City of Banning

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 01/28/2025 (Revision 3)

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ARTICLE 1 – PURCHASING POLICY INTRODUCTION

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.

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 01/28/2025 (Revision 3)

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;

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.

City of Banning Purchasing Authorization Table					
Purchase Type	**Purchase Amount**	**Procurement**	**Contract Type**	**Internal Approval**	**Vendor Requirements**
Goods, Widgets, Equipment	$0.00 - $5,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	N/A
	$5,000.01 - $25,000.00	3 Quotes	Purchase Order	1. Department Head/Manager or Above 2. City Manager if > 10k	N/A
	$25,000.01 +	Formal Bidding	Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	N/A
Services, including Professional (non-public works)	$0.00 - $5,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	1. Insurance 2. City Business Tax 3. CA Business License
	$5,000.01 - $25,000.00	3 Quotes	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager if > 10k	
	$25,000.01 +	Formal Bidding	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	
Services, Public Works only	$0.00 - $75,000.00	1 Quote	Purchase Order	1. Department Head/Manager or Above	1. Insurance 2. City Business Tax 3. CA Business License 4. CSLB 5. DIR
	$75,000.01 - $220,000.00	3 Quotes	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager	
	$220,000.01 +	Formal Bidding	Formal Agreement & Purchase Order	1. Department Head/Manager or Above 2. City Manager 3. City Council	

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:

Advertisement and Notices (Per CA PCC 20169).	City Debt Service and Loans.
Conference registration, subscriptions, membership dues, educational seminars and training.	When no bids are received on formal or informal solicitations.
Emergencies endangering the health and safety of City staff, customers and residents.	Gasoline credit card purchases (should be issued a blanket Purchase Order), gasoline, diesel or aviation fuel.
Insurance premiums (worker's compensation, general liability, etc.).	Payments to Department of Water Resources and related expenses (State Water Contractors, Inc., etc.) and to other governmental units.
Utility Bills (phone, gas, electric, etc.).	Payroll disbursements, payroll checks, deductions, deposits and tax payments that are supported by a payroll report.
Permitting and other regulatory fees (construction permits, LAFCO payment, etc.)	Petty Cash Replenishment, refunds and travel expenses/advances
Postage/Delivery/Messenger Services	Professional Legal and Human Resources Confidential Consultant Services
Real Property/Easement Acquisition and Rental Property	Purchases that meet sole source procurement requirements.

Requisitions for products or services less than $5,000.	Software license maintenance
When the Purchasing Officer determines the commodity can be procured using a cooperative purchasing agreement.	Trade Circulars, Books or CD's
Staffing, temporary services	Special instructors for community centers and events.
When the purchasing officer identifies a Piggyback Agreement being prepared by and processed through another local, state, or federal governmental agency. Under such circumstances, the Purchasing Officer may join into an existing written purchase contract obtained within the last 24 months through a competitive bidding process prepared by and awarded by another local, state or federal governmental agency. City Council consent is required for such arrangements where the estimated value of the supplies is $25,000 or more.	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.
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 Bidding or Negotiations. 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 and under the provisions of Informal Bidding or Negotiations (Art. 4, Sec. 5, Sub. 5-103 (5) and 5-109 (2)), 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, approval of annual purchase orders, or approval within thirty (30) days of any emergency acquisition(s) made in excess of $25,000.00:

Automatic Reclosers with associated controllers and communications equipment	Power Generation Materials, Equipment, Parts and Repair
Batteries and Chargers	Pipe and Pipe Fittings
Blower Equipment, Parts and Repair	Pole Line Hardware
Bus and Bus Support	Poles, Utility
Capacitors	Mobile Substation
Chemicals	Prefabricated Electrical Enclosures
Circuit Breakers	Pumps and Repairs
Circuit Switcher	Regulators
Conduit and Duct	Relaying and Protective Devices
Connectors	Road and Backfill Materials
Dewatering Equipment, Parts and Repairs	SCADA Equipment
Electric Motor Controls	Substation and Distribution Automation Equipment
Electrical Motors, Panels, Panel Equipment, Materials and Repairs	Substation Online Monitoring Equipment and Devices
Electrical Line Devices	Substation Supervisory Equipment
Fiber Optics Equipment and Materials	Surge Arrestors
Transformers and Accessories Treatment Equipment	Switches, Switchgear, and Accessories Testing Equipment
Fittings, Electrical, Water, and Sewer	Fire Hydrants
Insulators and Bushings	Tubing, Copper and Plastic
Luminaries	Valves and Operators
Meter and Metering Devices	Vaults and Accessories
Wire and Cable	Uninterruptable Power Supplies
Well Equipment (including incidental labor to install, which labor shall not exceed the amount set by state law for which bids are required for public works projects of a general law city)	Such other supplies and materials peculiar to the needs of the Public Utilities Department, which are carried as inventory items

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 cofnsequence. 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.

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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 governmental decision in which he or she knows or has reason to know he has a financial interest."

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.

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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 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.

(4) The requirements of this Section 5 shall not apply to contracts subject to Section 5-16-115.

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 (except when subject to section 5-16-115).
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.
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 (except when subject to section 5-16-115).

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

Invitation for Bid (IFB)	Request for Proposal (RFP)
Used to acquire goods or services that can be touched, counted or measured	Used to acquire services or goods where the expertise and knowledge from the vendor are more critical and not as simple to measure or quantify
Strong emphasis on specifications and requirements	Strong emphasis on qualifications, skills, expertise and experience
Very little subjectivity in evaluation	Greater subjectivity in evaluation
Designed to select the lowest priced bid that meets the minimum requirements and is both responsive and responsible	Designed to select the best value or approach for the agency as evaluated by the review committee
No negotiations are allowed	Negotiations are allowed
Evaluate against written specifications	Evaluated against criteria in the RFP and against other proposals

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 day deadline 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 day deadline 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 day deadline 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.

7-101 Procedure

(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.

[1] [Citations.] (47 Ops.Cal.Atty.Gen. 129, 130 (1966), italics added, quoted with approval in Ghilotti, supra, 45 Cal. App.4th at pp. 904-905, Valley Crest, supra, at pp.1440-144, Konica, supra, 206 Cal.App.3d 449, 454, and National Identification Systems, Inc. V. State Bd. of Control (1992) 11 Cal.App.4th 1446, 1453 [15 Cal.Rptr.2d 257].)

[2] (Ghilotti, supra, at p. 908, italics added.) MCM Const., Inc. v. City & County of San Francisco (1998) 66 Cal.App.4th 359, 373-374.

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 (except when subject to section 5-16-115). 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 surety, 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 full 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 finalized 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.

SECTION 10 – MULTI-STEP SEALED BIDDING

10-100 Definitions

(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.

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 01/28/2025 (Revision 3)

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.

(2) See Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Code of Federal Regulations, Title 2, Subtitle A, Chapter 2, Part 200, Subpart A-F for specified guidelines.

(3) 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

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 01/28/2025 (Revision 3)

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/Newsprint – Contracts to receive periodicals, magazines, trade journals, etc., either in print of electronic/digital subscriptions.

c. Software/Licenses (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

(5) 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.

(1) 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. The process shall consist of evaluation of written proposals and oral presentations. Evaluation criteria shall be as follows:

Written Proposals	**Oral Presentations (if needed)**
Technical expertise	Presentation
Key personnel	Technical content
Approach/understanding of project	Project manager
Control of cost and schedules	Key team members
References (written and verbal)	Communication skills
Availability/staff devoted to project	Project understanding
Insurance and good standing entity	Project schedule
Other – reserved	Other – reserved

(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) All contracts for Public Projects shall be awarded consistent with and pursuant to the provisions of the Uniform Public Construction Cost Accounting Act (UPCCAA), Public Contract Code (PCC) Section 22000 et seq.), Banning Municipal Code Section 3.24.100, and other applicable requirements of State law.
(2) To the extent 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 definition that are included in the Public Contract Code §22002
(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 $75,000.
(5) Award of all contracts for Public Projects up to $220,000 may be approved by the City Manager.
(6) Award of all contracts for Public Projects over $220,000 must be approved by City Council.

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 01/28/2025 (Revision 3)

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 the

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);
e. Recycling; and
f. Waste.

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 AND SOFTWARE 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.

(4) All requests to purchase electronic equipment, hardware, and software shall be reviewed by the City's Information Technology Division to be vetted for the purpose of determining if the products are supported and/or compatible with the City's pre-existing structures prior to any purchase.

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;
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.

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 Banning. 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

ADOPTION DATE 06/27/17	FINANCE POLICIES	POLICY NO. B-30
APPROVED BY City Council	POLICY TITLE PROCUREMENT POLICIES & PROCEDURES	AMENDMENT DATE 10/08/2019 (Revision 3)

(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.

Category 1	Category 2	Category 3
• Alcohol providers • Bleachers • Emergency services • Event organizers • Fencing • Haunted houses • Ice skating rink • Inflatable structures • Mechanical rides • Petting zoo animals (pigs, goats, lambs, etc.) • Portable restrooms	• Commercial vendors • Food booths on-site food preparation • Food trailers on-site food preparation • Food trucks on-site food preparation • Retail vendors • Sponsors with retail products/services • Waste removal	• Arts & crafts vendors • Balloon artists • Bands • Disc jockeys • Entertainment • Individual artists • Informational (only booths • Magicians • Marketing (only) booths • Mimes • Musicians • Performance artists (dance) • Photographers

• Rock walls • Security • Shuttle/bus services • Staging tents • Traffic control companies (barricades)		• Potluck items • Prepackaged food/beverage vendors • Produce vendors (farmers market) • Professional catering • Sponsors marketing purposes (only) • Visual artists (painting) • Other governmental agencies

(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 – STANDARD FORMS

24-100 Standard Forms

(1) Most recently updated standard purchasing forms can found on the City's intranet.

ARTICLE 7 – GLOSSARY

SECTION 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 Contact** – 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 unsealed 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 public works and maintenance contracts of $1,000 or more. When a contract requires this, notification will be included in the call to bid. For purposes of prevailing wage, the applicable definition of "public works" is set forth in Labor Code Section 1720 *et seq*. Note: the definition of "public works" subject to prevailing wage is broader then the definition of "Public Project" for purposes of bidding requirements under the UPCCAA and the Public Contract Code.
- **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 a "Public Project", as that term is defined in Public Contracts Code, §22002 and Banning Municipal Code Section 3.24.020.
- **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 (RFQ)** – 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.

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Marisol Lopez, Economic Development Manager** **Marisol Lopez, Economic Development Manager; Presented by David Newell, Community Development Director**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution 2025-111, Authorizing a Property Rental Agreement for the Wanderlust Pop-Up Food Truck Festival through December 27, 2025, the Extension of the Event's Temporary Use Permit (TUP) and the Continued Waiver of Certain Fees Associated with Event**

RECOMMENDATION:

To guide the City's decision-making, staff recommends the City Council consider the following two primary options:

- **Option 1:** Authorize approvals for extending event on Sundays through December 2025 (or July 2026) at 150 E. Ramsey Street, require Applicant cover sanitary costs, and waive fire inspection fees
- **Option 2:** Authorize approvals for the event as an annual seasonal Summer event from the first Sunday in June through the last Sunday in August at 150 E. Ramsey Street

Provide direction on responsibility of sanitation for event, including possibility of City constructing a porta-potty enclosure and continue covering sanitation services through 2027, with annual Council review.

BACKGROUND:

The Pop-Up Food Truck Festival has successfully operated at 150 E. Ramsey Street under a Temporary Use Permit authorized by the City Council. The event has functioned as a vibrant community gathering point, featuring a rotating variety of food trucks and promoting family-friendly outdoor activities in Downtown Banning. Each week, the event draws significant attendance and offers between 20 - 25+ food trucks, showcasing diverse culinary offerings including pizza, Mexican, Asian cuisine, desserts, and more. The event has proven to generate community engagement, support local entrepreneurship, and stimulate economic activity in the downtown area. The event was originally approved for eight (8) consecutive Sundays between June 8, 2025, and July 27, 2025. Due to strong community attendance and positive public response, the applicant is requesting an extension through **July 26, 2026**.

The applicant seeks authorization to extend the Temporary Use Permit and Property Rental Agreement to continue hosting the Banning Pop-Up Food Truck Festival. The event will remain subject to all applicable City ordinances, including public safety protocols, insurance requirements, and site maintenance responsibilities. The terms of the Rental Agreement dated May 28, 2025 currently remain in

effect and outline the coordination between the City and the event organizer, and a new Rental Agreement consistent with the current agreement would be required.

Staff views the continued operation of the Pop-Up Food Truck Festival as consistent with the City's goals to activate public spaces, support small businesses, and promote local tourism and economic vitality to downtown Banning.

JUSTIFICATION:

The applicant has requested a continuation of event through July 2026, or sooner at the discretion of the City Council. The requested extension builds upon the strong community interest and successful attendance observed during the initial event dates in June 8, 2025 and July 27, 2025.

This continued operation would allow for sustained economic activity, expanded access to diverse food vendors, and regular weekend programming for residents and visitors. The event enhances the vibrancy of Downtown Banning by providing a safe, family-friendly environment that encourages community gathering and supports small and mobile food businesses. With appropriate oversight and compliance with all City ordinances, including public safety, insurance, and site maintenance, staff believes the extension aligns with the City's broader objectives of downtown revitalization, small business support, and public space activation.

FISCAL IMPACT:

Existing Event: Fee waivers have been approved previously by City Council this fiscal year for the Food Truck Event. The following costs have been paid through the General Fund:

- **Diamond Environmental Services** - Porta Potties and Hand Washing Stations
  QTY:
  7 Days- Classic Restroom Toilet & Urinal only
  7 Days- Restroom- Toilet only
  7 Days- Two Basin Handwashing Station- Soap & Paper Towels
  14 Qty- 911 Combo Locks
  Total: $2,664.20
- **Temporary Use Permit:** $1,103.00
- **Fire Inspections 7.5 hours at $284.00 (overtime) rate per hour:** $2,130.00

Total Cost: $5,897.20

Event Extension Fiscal Impacts: The costs to extend the event beyond July 2025, will depending on the option selected by City Council. Additional information on fiscal impacts is identified in the Alternatives section of this report, below.

Sales Tax: In terms of sales tax generated by each event, it's important to note that - due to the sales occurring via mobile food vendors - the City may not directly benefit from the sales tax revenue. According to staff research and guidance from the California Department of Tax and Fee Administration (CDTFA) website (specifically, the "Local and District Tax Guide for Retailers" webpage) and phone conversations with their staff, mobile food vendors are classified as retailers operating without a fixed place of business. Since these vendors may operate in multiple jurisdictions throughout the day, sales tax from their transactions is often reported through the countywide pool, making it difficult to track the exact allocation to each city especially for one-day or short-term events. The tax revenue being generated from the Food Truck event sales are being allocated through the countywide pool for each local jurisdiction based on the county where the food truck is registered and taxable sales occurred.

Please see the attachment below labeled "Local Tax - Local and District Tax Guide for Retailers and Food Truck" (page 9 of 13) for more information.

ALTERNATIVES:

In evaluating the continued operation of the Wanderlust Pop-Up Food Truck Festival through December 27, 2025, City staff has identified the following alternatives for Council consideration to manage or eliminate ongoing costs to the General Fund:

Option 1: Applicant Covers Porta-Potty and Sanitation Costs

City Council may recommend that **Wanderlust Events be responsible for covering all costs associated with porta-potties and handwashing stations** moving forward and extend the event through either December 2025 or the requested July 2026.

- **Fiscal Impact:** $0 burden to the City's General Fund if fire inspections occur during normal business hours
- **Pros:** Removes recurring city expense; allows the event to remain in the current location for the authorized Council timeframe at 150 E. Ramsey Street
- **Cons:** Additional operating cost for the applicant; may impact event sustainability if costs are not absorbed

Option 2: Establish the Event as an Annual Summer Program at 150 E. Ramsey

Designate the **Wanderlust Food Truck Festival as an annual City-sponsored event** occurring from the **first Sunday in June through the last Sunday in August each year** at 150 E. Ramsey Street. The City could construct a **permanent porta-potty enclosure** and **cover sanitation services** at a fixed rate of **$380.60 per Sunday** through **2027**, subject to an **annual City Council performance and cost review**.

- **Fiscal Impact:** Approx. 13 Sundays per year × $380.60 = $4,947.80 + 7.5 hours Fire Inspection $2,130 = **$7,077.80 approximate annually** for sanitation services, 7.5 hours fire inspection. The one-time cost **not including the enclosure to be determined**.
- **Pros:** Provides a consistent, seasonal community event; strengthens downtown activation; creates predictability for vendors and attendees; long-term planning opportunity.
- **Cons:** Requires sustained City investment; dependent on annual Council approval and budget priorities; limits alternate uses for extended period and less flexibility if City wanted to sell property

Option 3: Relocate Event to Repplier Park

City Council may direct that the **Wanderlust Food Truck Festival be relocated to Repplier Park**, which already offers restrooms, benches, bleacher seating, skate ramps, and ample open space for blankets and picnic setups.

- **Fiscal Impact:** $0 cost to the General Fund for sanitation or facility setup
- **Pros:** Utilizes existing city amenities; no additional cost for porta-potties or site infrastructure
- **Cons:** May impact visibility and foot traffic to downtown businesses; may require reconfiguration of vendor layout

Option 4: Decline to Extend Event Any Further

City Council may decline to extend the **Wanderlust Food Truck Festival** beyond the current approvals.

- **Fiscal Impact:** $0 additional cost

Staff Recommendation:

While all options have merit, City staff recommends the City Council consider either:

- **Option 1**, as the **most cost-effective** and **least disruptive** approach, enabling the event to remain downtown with limited or no additional cost to the General Fund depending on when fire inspections occur;
  OR

- **Option 2**, which supports **long-term planning** and solidifies the festival as an annual summer attraction, enhancing community engagement and downtown activation with structured City oversight.

BUDGETED?:
No

CONTRACT/AGREEMENT:
Yes

ATTACHMENTS:
1. CC Resolution 2025-111
2. PTUP25-0003 COA - FINAL.pdf
3. Wanderlust Food Truck Event Site Plan.pdf
4. Rental_Agreement_Wanderlust_Food_Truck_05-28-2025___1.pdf
5. Wanderlust Food truck events 3DS5476-M4520439 Certificate of Insurance.pdf
6. Porta-pot - Food Truck Event - June 6 - July 21.pdf
7. Business Liceness Wanderlust.pdf
8. Local Tax - Local and District Tax Guide for Retailers and Food Truck.pdf

RESOLUTION 2025-111

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING A PROPERTY RENTAL AGREEMENT FOR THE WANDERLUST POP-UP FOOD TRUCK FESTIVAL, THE EXTENSION OF THE EVENT'S TEMPORARY USE PERMIT (TUP) AND THE CONTINUED WAIVER OF CERTAIN FEES ASSOCIATED WITH EVENT

WHEREAS, the Wanderlust Pop-Up Food Truck Festival, owned and operated by Alexander Yepremian ("Applicant"), was granted a Temporary Use Permit (TUP) and Property Rental Agreement approved by the City Council for a recurring Sunday event in June and July 2025 at 150 E. Ramsey Street (the "Event"); and

WHEREAS, the Event has successfully activated public space, encouraged community gathering, supported small businesses, and enhanced economic activity in Downtown Banning; and

WHEREAS, the Event was originally approved to operate for eight (8) consecutive Sundays beginning June 8, 2025 and ending July 27, 2025 at 150 E. Ramsey Street, Banning, California; and

WHEREAS, due to strong community support and attendance, the Applicant has requested an extension of both the TUP and the Property Rental Agreement dated May 28, 2025, to allow continued operation of the Event on Sundays through July 26, 2026; and

WHEREAS, the City Council finds that continued operation of the Wanderlust Pop-Up Food Truck Festival aligns with the City's goals of activating public spaces, supporting small businesses, and fostering economic vitality; and

WHEREAS, the Event shall continue to comply with all applicable City ordinances, public safety requirements, insurance provisions, and site maintenance responsibilities as outlined in the existing agreement.

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

SECTION 1. The City Council approves a property Rental Agreement with Alexander Yepremian consistent with the existing Rental Agreement dated May 25, 2025, with a new term as directed by City Council; and the City Council authorizes the City Manager to make necessary non-substantive changes, and to execute said agreement.

SECTION 2. The City Council authorizes the City Manager, or designee, to process an amendment to the Temporary Use Permit to extend the Event at 150 E. Ramsey Street.

SECTION 3. The City Council authorizes the City Manager, or designee, to execute any necessary budget adjustments, appropriations, and transfers related to this resolution, including fee waivers directed by City Council.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

_____, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, Interim City Attorney
Slovak, Baron, Empey, Murphy & Pinkney, LLP

CERTIFICATION:

I, _____, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-1111, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____, Administrative City Clerk
City of Banning, California

City of Banning

99 E. Ramsey Street · P.O. Box 998 · Banning, CA 92220-0998 · (951) 922-3125 · Fax (951) 922-3128

COMMUNITY DEVELOPMENT DEPARTMENT

May 30, 2025 **Transmitted Via Email & SmartGov**

Alexander Yepremian
25673 Branson Dr
Homeland, CA 92548

SUBJECT: Approval of Temporary Use Permit (TUP) PTUP25-0003

Dear Alexander Yepremian ("Operator"),

The City of Banning Community Development Department is pleased to inform you that Temporary Use Permit (TUP) PTUP25-0003, for the Banning food truck festival Sundays from 5:00 pm – 10:00 pm, on real property located at APN: 541-181-039 ("Site"), in the City of Banning, CA, was approved on May 30, 2025, subject to the following conditions:

PLANNING:

1. This TUP authorizes the Operator to hold the food truck event at the Site every Sunday from 5:00pm to 10:00pm starting June 1, 202 until July 18, 2025.
2. The Operator shall provide forty (40) parking spaces on site; two (2) of which shall be ADA compliant (Banning Municipal Code Section 17.28.040).
3. After each Sunday event, the Operator shall be responsible for cleaning all debris and returning the site to its original condition to the satisfaction of the Community Development Director.
4. The Operator shall be responsible for providing lighting, trash receptacles, and tables/chairs for each event.
5. The Operator shall coordinate with the City of Banning for delivery and removal of portable toilets and handwashing station prior and after each event.
6. The Operator shall notify and verify that each food truck obtains applicable permits and licenses, including but not limited to a Riverside County Health permit and City of Banning business license.

PUBLIC WORKS/NPDES-WQ:

1. Please ensure the trash is removed on a timely basis to prevent trash from entering the curb and gutter, streets and storm drain system. All food waste and oil and grease must be properly disposed of and not discharged into the storm or sanitary sewer system.

PUBLIC WORKS/REFUSE:

1. Recycling Program: Operator shall provide recycling event containers and implement measures that promote recycling. Since food will be sold during the event, containers shall provide for the collection of recyclable material including, but not limited to, bottles, cans, food waste, etc. that are generated on-site by the applicant and participants.

BUILDING & SAFETY:

1. Provide ADA seating within common seating areas.

FIRE:

1. The Operator shall ensure fire extinguishers are provided every 75 feet of travel distance of event area.
2. The Operator shall provide crowd managers certifications for the people who will be hosting and being present at the event (For an estimated 1,000 people 4 crowd managers are required.
3. The Operator shall schedule and complete fire inspections for all food trucks in attendance to the Wanderlust Food Truck Events.

GENERAL:

1. The operator shall conform to the conditions contained herein, all applicable regulations of the Banning Zoning Code, Municipal Code, and any other County, State and Federal Codes, ordinances, resolutions and laws that may apply.
2. The operator 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 this approval or any events that result from this approval, whether such actions are brought under the California Environmental Quality Act (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Sections 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.

Thank you for your participation in the City of Banning Temporary Use Permit process. If you have any additional questions, you may contact me directly at (951) 922-3178 or Jmontgomery@banningca.gov

Sincerely,

Julie Montgomery

Julie Montgomery
Assistant Planner
Community Development Department
City of Banning


E Ramsey St
E Ramsey St
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SoCalGas
JUMPER
DREAMY
LA VIEJONA
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HERRADURA
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QUENCH REFRESH
BIG SHRIMP
RAMONE
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LUZ
JAMAICA
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TACOW
LALAS MEXICAN
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SWEET STOP
CARNITAS
ICE CREAM
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Redlands Fwy
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Redlands Fwy
Trails
Bicycle-friendly roads
Dedicated lanes
Dirt/unpaved trails
Map data ©2025 Google
United States
Terms
Privacy
Send Product Feedback
50 ft

RENTAL AGREEMENT

This **RENTAL AGREEMENT** ("Rental Agreement") is dated as of 05-28-2025 (the "Effective Date") and entered into by and between the **CITY OF BANNING**, a California municipal corporation ("Landlord" or "City"), and **Alexander Yepremian**, an individual doing business as Wanderlust Events ("Tenant"). The Landlord or City and the Tenant are collectively referred to herein as "Parties," or individually referred to as a "Party."

RECITALS

A. Landlord is the owner of that certain vacant real property located at 150 E. Ramsey Street (the "Property").

B. Tenant wishes to rent on a short-term basis a portion of the Property consisting of approximately 0.5 acres, as depicted on the Site Map attached hereto as **Exhibit "A"** and incorporated herein by reference (the "Site") for the purpose of operating a temporary seasonal food truck event, and for eight consecutive (8) Sundays in June & July 2025. Furthermore, these dates are determined to be June 8, 2025, June 15, 2025. June 22, 2025, June 29, 2025, July 6, 2025, July 13, 2025, July 20, 2025 and July 27, 2025.

C. Tenant agrees that the use of the Site under this Rental Agreement is only for a limited time on the terms and conditions set forth in this Rental Agreement.

D. Tenant is required to secure a Temporary Use Permit(TUP) from the City of Banning and follow all required conditions of approval.

E. Tenant has conducted an independent investigation concerning the desirability of renting the Site on the terms and conditions set forth in this Rental Agreement and its suitability for use by Tenant; Landlord has not provided any advice, recommendations, or information concerning the Property or the Site and any use of the Site by Tenant.

F. This Rental Agreement is in the vital and best interests of City, and the health, safety and welfare of its residents, and in accordance with the public purposes of applicable state and local laws and requirements.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, Landlord and Tenant agree as follows:

ARTICLE 1. RENTAL AGREEMENT OF THE SITE.

1.1 Recitals. The foregoing Recitals constitute a substantive part of this Rental Agreement.

1.2 Rental of the Site. Landlord hereby rents the Site to Tenant and Tenant hereby rents the Site from the Landlord, on the terms and conditions set forth in this Rental Agreement.

1.3 Term. The Term shall be for the eight days in the month of June and July of 2025, commencing at 12:01 a.m. on June 1,2025 (the "Commencement Date") and ending at midnight on July 27, 2025 at midnight (the "Expiration Date"). The Term shall not be extended beyond the Expiration Date.

1.4 Agreed Use. Tenant shall use the Site in compliance with, and subject to all terms and conditions imposed under, an approved City of Banning Temporary Use Permit(TUP). Tenant may use the Site for the purpose of operating a temporary, food truck event consisting of 30 food trucks. The food truck event and will operate for eight (8) Sundays in June & July 2025 (the "Agreed Use"). Tenant may not use any of Landlord's property that is adjacent to the Site, or any public street or right-of-way for any of the Agreed Use, with the only exception being the incidental access for delivery and shipping of equipment, materials and supplies to and from the Site and patron parking as permitted by TUP. Specifically, the staging, loading, and unloading of any trucks or similar vehicles used to deliver or ship equipment, materials and supplies to and from the Site associated with the Agreed Use shall only occur within the boundaries of the Site. Tenant's failure to comply with these limitations on the Agreed Use, or the terms or conditions of TUP, shall be considered a Default under this Rental Agreement.

1.5 Fencing. Prior to using the Site, Tenant shall install at its sole expense, perimeter fencing, gates, and screening, as required by TUP and City's Department of Community Development.

1.6 Size of Site. While the approximate square footage of the Site, as set forth in Recital B, may have been used for comparison purposes in the marketing of the Site or negotiating the terms of this Rental Agreement, the Rent stated in Section 2.1 of this Rental Agreement is not calculated based upon square footage and is not subject to adjustment should the actual size of the Site be determined to be different.

1.7 Condition. Landlord shall deliver the Site to Tenant "as is" on the Commencement Date, without representation or warranty, express or implied. Without limiting the foregoing disclaimer, Landlord does not warrant or represent and specifically disclaims any such representation or warranty with respect to the condition or suitability of the Site for the Agreed Use with respect to the following (as may apply): (a) the parking lot pavement, the improvement(s) that are appurtenant to the parking lot including, without limitation, curb, gutter, sidewalks, planter boxes or areas, and landscaping; (b) the presence or absence of Hazardous Substances; (c) compliance with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances that were in effect at the time that the improvement(s) and building(s) were constructed or as of the Effective Date, or (d) compliance with the Americans with Disabilities Act ("ADA") or any similar laws.

1.8 Acknowledgements. Tenant acknowledges that: (a) it has been given an opportunity to inspect and measure the Site; (b) it has been advised by Landlord to satisfy itself with respect to the size and condition of the Site (including, but not limited to, environmental aspects, and compliance with applicable laws and the ADA), and its suitability for the Agreed Use; (c) Tenant has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Site; (d) it is not relying on any representation as to the size of the Site made by Landlord; (e) the square footage of the Site was not material to Tenant's decision to Rental Agreement the Site and pay the Rent stated herein; and (f) neither Landlord, Landlord's agents, nor any Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Rental Agreement.

1.9 Tenant Compliance. Landlord shall not be required to tender possession of the Site to Tenant until Tenant complies with its obligation to pay the Rent as described in Section 2.2 and provide evidence of insurance (see Article 5). Pending delivery of such payments and evidence, Tenant shall be required to perform all of its obligations under this Rental Agreement from and after the

Commencement Date, notwithstanding Landlord's election to withhold possession pending receipt of such evidence of insurance.

ARTICLE 2. RENT.

2.1 Rent. The rent for the Site is one Dollars ($1.00) (the "Rent"). The Rent is applicable to the Term and is not tied to the actual number of days that Tenant occupies the Site. Therefore, in the event that Tenant delays its occupancy of the Site or vacates the Site prior to the Expiration Date, Tenant is not entitled to any Rent refund.

2.2 Payment. Without invoice or notice from Landlord of any kind, on or before June 1, 2025, Tenant shall cause the payment of the Rent applicable to the entire Term (i.e., one Dollar [$1.00]) to be paid to Landlord in lawful money of the United States, without offset or deduction.

ARTICLE 3. USE.

3.1 Use. Tenant shall use and occupy the Site only for the Agreed Use and for no other purpose. Tenant shall not use or permit the use of the Site in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of, or causes damage to, neighboring properties. For the purposes of this Rental Agreement, "damage" does not include any modifications to the Property that are approved by Landlord and does not include any normal wear to the Property that may occur as a consequence of the Agreed Use. However, "damage" may include any modifications to the Property that are not approved by the Landlord.

3.2 Hazardous Substances.

(a) **Reportable Uses Require Consent**. The term "**Hazardous Substance**" as used in this Rental Agreement shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Site, is either: i) potentially injurious to the public health, safety, or welfare, the environment, or the Site; ii) regulated or monitored by any governmental authority; or iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Tenant shall not engage in any activity in or on the Site that constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Landlord and timely compliance (at Tenant's expense) with all applicable laws. For purposes of this Section 3.2, "Reportable Use" shall mean: i) the installation or use of any above or below ground storage tank; ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration, or business plan is required to be filed with, any governmental authority; and/or iii) the presence at the Site of a Hazardous Substance with respect to which any applicable laws require that a notice be given to persons entering or occupying the Site or neighboring properties. Notwithstanding the foregoing, Tenant may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all applicable laws, is not a Reportable Use, and does not expose the Site or neighboring property to any meaningful risk of contamination or damage or expose Landlord to any liability therefor. In addition, Landlord may condition its consent to any Reportable Use upon

receiving such additional assurances as Landlord reasonably deems necessary to protect itself, the public, the Site and/or the environment against damage, contamination, injury, and/or liability, including, but not limited to, the installation (and removal on or before Rental Agreement expiration or termination) of protective modifications (such as concrete encasements).

(b) **Duty to Inform Landlord**. If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under, or about the Site, other than as previously consented to by Landlord, Tenant shall immediately give written notice of such fact to Landlord, and provide Landlord with a copy of any report, notice, claim, or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Tenant Remediation**. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Site (including through the plumbing or sanitary sewer system) and shall promptly, at Tenant's expense, comply with all applicable laws and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Site or neighboring properties, that was caused or materially contributed to by Tenant, or pertaining to or involving any Hazardous Substance brought onto the Site during the term of this Rental Agreement, by or for Tenant, or any third party.

(d) **Tenant Indemnification**. Tenant shall indemnify, defend, and hold Landlord, its agents, employees, lenders, and ground landlord, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Site by or for Tenant, or any third party (provided, however, that Tenant shall have no liability under this Rental Agreement with respect to underground migration of any Hazardous Substance under the Site from adjacent properties not caused or contributed to by Tenant). Tenant's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property, or the environment created or suffered by Tenant, arising out of or involving any Hazardous Substance brought onto the Site by or for Tenant, or any third party, and the cost of investigation, removal, remediation, restoration, and/or abatement, and shall survive the expiration or termination of this Rental Agreement. **No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Rental Agreement with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement**.

(e) **Investigations and Remediations**. Landlord shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Site prior to Tenant's occupancy, unless such remediation measure is required as a result of the Agreed Use, in which event Tenant shall be responsible for such payment.

3.3 Tenant's Compliance with Applicable Laws and Requirements. With respect to ensuring that Tenant's on-going business operations (see Section 4.1) comply with applicable laws, Tenant shall, at Tenant's sole expense, fully, diligently, and in a timely manner, comply with all applicable laws and the requirements of any applicable fire insurance underwriter or rating bureau. Further, Tenant shall cooperate with Landlord's staff, engineers, and/or consultants regarding any recommendations that they may have that relate in any manner to the Site, without regard to whether said applicable laws are now in effect or become effective after the Commencement Date. Tenant shall, within ten (10) days after delivery of Landlord's written request, provide Landlord with copies

of all permits and other documents, and other information evidencing Tenant's compliance with any applicable laws specified by Landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint, or report pertaining to or involving the failure of Tenant or the Site to comply with any applicable laws. In addition, Tenant shall provide Landlord with copies of its business license, certificate of occupancy and/or any similar document within ten (10) days of the delivery of a written request therefor.

3.4 Inspection; Compliance. Landlord and consultants authorized by Landlord shall have the right to enter into Site at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Site and/or for verifying compliance by Tenant with this Rental Agreement. The cost of any such inspections shall be paid by Landlord, unless a violation of applicable laws, or a Hazardous Substance Condition (see Section 3.2) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Tenant shall upon request reimburse Landlord for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Tenant shall provide copies of all relevant material safety data sheets to Landlord within ten (10) days of the receipt of a written request therefor. Tenant acknowledges that any failure on its part to allow such inspections or testing will expose Landlord to risks and potentially cause Landlord to incur costs not contemplated by this Rental Agreement, the extent of which will be extremely difficult to ascertain. Accordingly, if the Tenant fails to authorize such inspections and/or testing within ten (10) days of written notice therefor, the Rent shall be automatically increased by an amount equal to ten percent (10%) of the Rent and the unpaid rent shall be due within ten (10) days. The Parties agree that such increase in Rent represents fair and reasonable compensation for the additional risk/costs that Landlord will incur by reason of Tenant's failure to authorize such inspection and/or testing. Such increase in Rent shall in no event constitute a waiver of Tenant's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

ARTICLE 4. MAINTENANCE; REPAIRS

4.1 Tenant's Obligations.

(a) **In General**. Tenant shall, at Tenant's sole expense, keep the Site in good order, condition, and repair. Tenant, in keeping the Site in good order, condition, and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Section 4.1(b) below. Tenant's obligations shall include restorations, replacements, or renewals when necessary to keep the Site and all improvements thereon or a part thereof in good order, condition, and state of repair. Tenant shall, during the term of this Rental Agreement, keep the exterior appearance of the perimeter fencing and the equipment, materials, and supplies required for the Agreed Use that are visible from a public right-of-way in a first-class condition including, without limitation, graffiti removal/abatement.

(b) **Service Contracts**. As applicable, Tenant shall, at Tenant's sole expense, procure and maintain contracts, with copies to Landlord, in customary form and substance for, and with contractors specializing and experienced in the maintenance of equipment located on the Site, including, without limitation, fencing.

(c) **Failure to Perform**. If Tenant fails to perform Tenant's obligations under this Section 4.1, Landlord may enter upon the Site after ten (10) days' prior written notice to Tenant (except

in the case of an emergency, in which case no notice shall be required), perform such obligations on Tenant's behalf, put the Site in good order, condition, and repair, and Tenant shall promptly pay to Landlord a sum equal to one hundred ten percent (110%) of the cost thereof.

4.2 Landlord's Obligations. It is intended by the Parties hereto that Landlord have no obligation, in any manner whatsoever, to repair and maintain the Site, or the equipment therein, all of which obligations are intended to be that of the Tenant. It is the intention of the Parties that the terms of this Rental Agreement govern the respective obligations of the Parties as to maintenance and repair of the Site.

4.3 Removal and Restoration.

(a) **Removal**. As of or prior to the Expiration Date, Tenant shall, at its sole expense, remove all of its property (i.e., equipment, materials, supplies, fencing, vehicles, etc.) from the Site. If Tenant fails to do so, then Landlord may retain or dispose of such property with no obligation or liability to Tenant.

(b) **Surrender; Restoration**. Tenant shall surrender the Site by the Expiration Date, or any earlier termination date, with all of its surfaces, including curb/gutter/sidewalk, thereof broom clean and free of debris, and in good condition and state of repair, except for any ordinary wear and tear. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Tenant shall repair any damage occasioned by the delivery, storage and/or shipping of any equipment, materials, and/or supplies required for the Agreed Use. The failure by Tenant to timely vacate the Site pursuant to this Section 4.3(b) without the express written consent of Landlord shall constitute a holdover.

ARTICLE 5. INSURANCE; INDEMNITY.

5.1 Obligation to Maintain Insurance. During the Term, Tenant shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Tenant's operation and use of the Site. The cost of all insurance required by the Rental Agreement shall be borne by the Tenant. The extent and coverage levels of the insurance at a minimum shall include the following:

(a) **Liability Insurance.** Tenant shall obtain and keep in force a Commercial General Liability policy of insurance protecting Tenant and Landlord as an additional insured against claims for bodily injury, personal injury, and property damage based upon or arising out of the ownership, use, occupancy, or maintenance of the Site and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than One Million Dollars ($1,000,000) per occurrence with an annual aggregate of not less than Two Million Dollars ($2,000,000). Tenant shall add Landlord as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Landlords of Property" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations and shall include coverage for liability assumed under this Rental Agreement as an "insured contract" for the performance of Tenant's indemnity obligations under this Rental Agreement. The limits of said insurance shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. Tenant shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance shall be considered excess insurance only.

(b) **Auto Liability**. Tenant shall obtain and maintain automobile liability insurance with minimum combined single limit of Two Million Dollars ($2,000,000).

(c) **Workers' Compensation Insurance**. Tenant shall obtain and maintain Workers' Compensation Insurance with no less than One Million Dollars ($1,000,000) per accident for bodily injury or disease. Such policy shall include a 'Waiver of Subrogation' endorsement. Tenant shall provide Landlord with a copy of such endorsement along with the certificate of insurance or copy of the policy required by Section 5.5.

5.2 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide," or such other rating as may be required by a Lender. Tenant shall not do or permit to be done anything which invalidates the required insurance policies. Tenant shall, prior to the Commencement Date, deliver to Landlord certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after thirty (30) days' prior written notice to Landlord. Tenant shall, at least ten (10) days prior to the expiration of such policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may increase the liability insurance coverage and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand. Such policies shall be for a term of at least one (1) year. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

5.3 Waiver of Subrogation. To the extent permitted by law, Tenant hereby releases Landlord and its elected and appointed officials, employees, and volunteers, and others working on Landlord's behalf, from any and all liability or responsibility to Tenant or anyone claiming through or under Tenant by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of Landlord its elected or appointed officials, employees, or volunteers, or others working on Landlord's behalf. This provision shall be applicable and in full force and effect only with respect to loss of damage occurring during the time of Tenant's occupancy or use, and Tenant's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of Tenant to recover thereunder. Tenant agrees that its policies will include such a clause or endorsement.

5.4 Indemnity. Except for Landlord's gross negligence or willful misconduct, Tenant agrees to indemnify, defend (upon request by Landlord), and save harmless Landlord, its elected and appointed officials, officers, agents, and employees from and against any liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with Tenant's operations, or its services, acts, and/or omissions under this Rental Agreement, including any workers' compensation suit, liability, or expense, arising from or connected with the services performed by or on behalf of Tenant by any person pursuant to this Rental Agreement.

5.5 Failure to Provide Insurance. Tenant acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Landlord to risks and potentially cause Landlord to incur costs not contemplated by this Rental Agreement, the extent of which will be extremely difficult to ascertain. Therefore, within ten (10) calendar days of the Effective Date, Tenant

shall provide Landlord evidence of the insurance required herein. Following this period, if there are any months or portions thereof for which Tenant must reconfirm such evidence of the insurance required herein, and Tenant, after a ten (10) day notice from Landlord to provide such evidence, has failed to provide evidence that it maintains the required insurance, then the Rent shall be automatically increased, without any further requirement for notice to Tenant, by an amount equal to ten percent (10%) of the Rent. The Parties agree that such increase in the Rent represents fair and reasonable compensation for the additional risk/costs that Landlord will incur by reason of Tenant's failure to maintain the required insurance. Such increase in the Rent shall in no event constitute a waiver of Tenant's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted under this Rental Agreement, nor relieve Tenant of its obligation to maintain the insurance specified in this Rental Agreement.

ARTICLE 6. UTILITIES AND SERVICES; POSSESSORY INTEREST TAXES.

6.1 Tenant shall pay for all water, gas, heat, light, power, telephone, trash disposal, and other utilities and services supplied to the Site, together with any taxes thereon. If any such services are not separately metered or billed to Tenant, Tenant shall pay a reasonable proportion, to be determined by Landlord, of all charges jointly metered or billed. There shall be no abatement of rent and Landlord shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption, or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair, or other cause beyond Landlord's reasonable control or in reasonable cooperation with governmental requests or directions.

6.2 Tenant acknowledges that this Rental Agreement creates a possessory interest which is subject to property taxation, and Tenant agrees to pay all possessory interest taxes billed by the County Assessor to Tenant.

ARTICLE 7. ASSIGNMENT AND SUBLETTING.

7.1 No Assignment. Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, or encumber or sublet all or any part of Tenant's interest in this Rental Agreement or in the Site.

ARTICLE 8. DEFAULT; BREACH; REMEDIES.

8.1 Default; Breach. A "Default" is defined as a failure by Tenant to comply with or perform any of the terms, covenants, conditions, or Rules and Regulations under this Rental Agreement. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Tenant to cure such Default within any applicable grace period:

(a) The abandonment of the Site; or the vacating of the Site without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Article 5 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Tenant to make any payment of the Rent required to be made by Tenant hereunder, whether to Landlord or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Rental Agreement that endangers or threatens life or property, where such failure continues for a period of three (3) business days following

written notice to Tenant. THE ACCEPTANCE BY LANDLORD OF A PARTIAL PAYMENT OF RENT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LANDLORD'S RIGHTS, INCLUDING LANDLORD'S RIGHT TO RECOVER POSSESSION OF THE SITE.

(c) The failure of Tenant to allow Landlord and/or its agents access to the Site or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Site by Tenant, where such actions continue for a period of three (3) business days following written notice to Tenant. If Tenant commits waste, a nuisance or an illegal activity a second time, then Landlord may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Tenant to provide: i) reasonable written evidence of compliance with applicable laws; ii) an unauthorized assignment or subletting; iii) an Estoppel Certificate or financial statements; iv) a requested subordination; v) any document requested pursuant to this Rental Agreement vi) material safety data sheets; or vii) any other documentation or information that Landlord may reasonably require of Tenant under the terms of this Rental Agreement, where any such failure continues for a period of ten (10) days following written notice to Tenant.

(e) A Default by Tenant as to the terms, covenants, conditions or provisions of this Rental Agreement that is not otherwise covered by subsections (a), (b), (c) or (d) above, where such Default continues for a period of ten (10) days after delivery by Landlord of written notice of the default; provided; however, that if the nature of Tenant's Default is such that more than ten (10) days are reasonably required for its cure, then it shall not be deemed to be a Breach if Tenant commences such cure within said ten (10) day period and thereafter diligently prosecutes such cure to completion prior to the Expiration Date.

(f) The occurrence of any of the following events: i) the making of any general arrangement or assignment for the benefit of creditors; ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Site or of Tenant's interest in this Rental Agreement, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Site or of Tenant's interest in this Rental Agreement, where such seizure is not discharged within thirty (30) days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Tenant given to Landlord was materially false.

8.2 Remedies. If Tenant fails to perform any of its affirmative duties or obligations, within ten (10) days after written notice (or in case of an emergency, without notice), Landlord may, at its option, perform such duty or obligation on Tenant's behalf, including, but not limited to, the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits, or approvals. Tenant shall pay to Landlord an amount equal to the actual costs and expenses incurred by Landlord in such performance upon receipt of an invoice therefor. In the event of a Breach, Landlord may, with or without further notice or demand, and without limiting Landlord in the exercise of any right or remedy that Landlord may have by reason of such Breach:

(a) Terminate Tenant's right to possession of the Site by any lawful means, in which case this Rental Agreement shall terminate, and Tenant shall immediately surrender possession to Landlord;

(b) Continue the Rental Agreement and Tenant's right to possession and recover the Rent as it becomes due; or

(c) Pursue any other remedy now or hereafter available under the laws of California.

The expiration or earlier termination of this Rental Agreement and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any defense or indemnity provisions of this Rental Agreement as to matters occurring or accruing during the term hereof or by reason of Tenant's occupancy of the Site.

8.3 Late Charges. Tenant hereby acknowledges that late payment by Tenant of the Rent will cause Landlord to incur costs not contemplated by this Rental Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges that may be imposed upon Landlord by any Lender. Accordingly, if any Rent shall not be received by Landlord within five (5) days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall immediately pay to Landlord a one-time late charge of Five Hundred Dollars ($500). The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted under this Rental Agreement.

8.4 Interest. Any monetary payment due Landlord hereunder, other than late charges, not received by Landlord, when due shall bear interest from the date it was due. The interest (the "Interest") charged shall be computed daily at an annualized rate of three percent (3%). The Interest is payable in addition to the potential late charge provided for in Section 8.3.

8.5 Breach by Landlord. Landlord shall not be deemed in breach of this Rental Agreement unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this Section, a reasonable time shall in no event be less than thirty (30) days after receipt by Landlord, and any Lender whose name and address shall have been furnished Tenant in writing for such purpose, of written notice specifying wherein such obligation of Landlord has not been performed; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are reasonably required for its performance, then Landlord shall not be in breach if performance is commenced within such thirty (30) day period and thereafter diligently pursued to completion.

ARTICLE 9. SEVERABILITY.

The invalidity of any provision of this Rental Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision of this Rental Agreement.

ARTICLE 10. DAYS.

Unless otherwise specifically indicated to the contrary, the word "days" as used in this Rental Agreement shall mean and refer to calendar days.

ARTICLE 11. TIME OF ESSENCE.

Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Rental Agreement.

ARTICLE 12. NO PRIOR OR OTHER AGREEMENTS.

This Rental Agreement contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective.

ARTICLE 13. NOTICES.

13.1 Notice Requirements. Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party or any other person shall be in writing and either served by certified mail or by reputable overnight delivery service (and the phone numbers and email addresses provided below are for convenience, and not for purposes of legal notice). Any notice, demand, request, consent, approval, or communication that either Party desires or is required to give to the other Party shall be addressed to the other party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Notice shall be deemed communicated two (2) business working days from the time of mailing or delivery to the applicable delivery service for next business day delivery.

Landlord:

City of Banning
99 East Ramsey Street
Banning, California 92220-0998
Attention: Robert Fisher, Acting City
Manager Tel. (951) 849-1669
Email: RFisher@banningca.gov

Tenant:
Wanderlust Events
222 E. Florida Ave. Hemet, Ca.
Attention: Alexander Yepremian.: (760) 755-9711
Email: w a n d e r l u s t e v e n t s 9 5 1 @ g m a i l . c o m

ARTICLE 14. WAIVERS.

14.1 No waiver by a Party of the Default or Breach of any term, covenant or condition hereof by the other Party, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach of the same or of any other term, covenant or condition hereof.

Landlord's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to, or approval of, any subsequent or similar act by Tenant, or be construed as the basis of an estoppel to enforce the provision or provisions of this Rental Agreement requiring such consent.

14.2 The acceptance of the Rent by Landlord shall not be a waiver of any Default or Breach by Tenant. Any payment by Tenant may be accepted by Landlord on account of moneys or damages due Landlord, notwithstanding any qualifying statements or conditions made by Tenant in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Landlord at or before the time of deposit of such payment.

14.3 THE PARTIES AGREE THAT THE TERMS OF THIS RENTAL AGREEMENT SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS RENTAL AGREEMENT.

ARTICLE 15. NO RIGHT TO HOLDOVER.

Tenant has no right to retain possession of the Site or any part thereof beyond the expiration or termination of this Rental Agreement. Nothing contained in this Rental Agreement shall be construed as consent by Landlord to any holding over by Tenant.

ARTICLE 16. CUMULATIVE REMEDIES.

No remedy or election under this Agreement shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

ARTICLE 17. COVENANTS AND CONDITIONS; CONSTRUCTION OF AGREEMENT.

All provisions of this Rental Agreement to be observed or performed by the Parties hereto are both covenants and conditions. In construing this Rental Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Rental Agreement. Whenever required by the context, the singular shall include the plural and vice versa. This Rental Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

ARTICLE 18. ATTORNEYS' FEES.

If any Party brings an action or proceeding involving the Site whether founded in tort, contract, or equity, or to declare rights under this Rental Agreement, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Landlord shall be entitled to attorneys' fees, costs, and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently

commenced in connection with such Default or resulting Breach (Two Hundred Dollars ($200) is a reasonable minimum per occurrence for such services and consultation).

ARTICLE 19. LANDLORD'S ACCESS; SHOWING SITE; REPAIRS.

Landlord and Landlord's agents shall have the right to enter the Site at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, as long as there is no material adverse effect on Tenant's use of the Site. All such activities shall be without abatement of rent or liability to Tenant.

ARTICLE 20. CONSENTS.

All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Rental Agreement the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Landlord's consent to any act, assignment, or subletting shall not constitute an acknowledgment that no Default or Breach by Tenant of this Rental Agreement exists, nor shall such consent be deemed a waiver of any then-existing Default or Breach, except as may be otherwise specifically stated in writing by Landlord at the time of such consent. The failure to specify herein any particular condition to Landlord's consent shall not preclude the imposition by Landlord at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining Party shall furnish its reasons in writing and in reasonable detail within ten (10) days following such request.

ARTICLE 21. QUIET POSSESSION.

Subject to payment by Tenant of the Rent and performance of all of the covenants, conditions, and provisions on Tenant's part to be observed and performed under this Rental Agreement, Tenant shall have quiet possession and quiet enjoyment of the Site during the Term.

ARTICLE 22. SECURITY MEASURES.

Tenant hereby acknowledges that the Rent payable to Landlord hereunder does not include the cost of guard service or other security measures, and that Landlord shall have no obligation whatsoever to provide same. Tenant assumes all responsibility for the protection of the Site, Tenant, its agents and invitees and their property from the acts of third parties.

ARTICLE 23. MISCELLANEOUS

(a) **Severability**. Each and every section of this Rental Agreement shall be construed as a separate and independent covenants and agreements. If any term or provision of this Rental Agreement or the application thereof to certain circumstances shall be declared invalid or unenforceable, the remainder of this Rental Agreement, or the application of such term or provision to circumstances other than those to which it is declared invalid or unenforceable, shall not be affected thereby, and each term and provision of this Rental Agreement shall be valid and enforceable to the fullest extent permitted by law.

(b) **Entire Agreement**. This Rental Agreement constitutes the entire agreement between the Parties. This Rental Agreement supersedes all prior negotiation, discussions, and

agreements between the Parties concerning the subject matters covered herein. The Parties intend this Rental Agreement to be the final expression of their agreement with respect to the subjects covered herein and a complete and exclusive statement of such terms.

(c) **Amendment or Modification**. This Rental Agreement may only be modified or amended by written instrument duly approved and executed by each of the Parties hereto. Any such modification or amendment shall be valid, binding, and legally enforceable only if in written form and executed by each of the Parties hereto, following all necessary approvals and authorizations for such execution.

(d) **Governing Law; Choice of Venue**. This Rental Agreement shall be governed by the laws of the State of California. Any legal action arising from or related to this Rental Agreement shall be brought in the Superior Court of the State of California in and for the County of Riverside.

(e) **Non-Waiver**. Failure of either Party to enforce any provision of this Rental Agreement shall not constitute a waiver of the right to compel enforcement of the same provision or any remaining provisions of this Rental Agreement.

(f) **Representations of Persons Executing Agreement**. The persons executing this Rental Agreement warrant that they are duly authorized to execute this Rental Agreement on behalf of and bind the Parties each of which purport to represent.

(g) **Execution in Counterparts**. This Rental Agreement may be executed in one (1) or more counterparts, each of which will constitute an original.

(i) **Conflict**. Any conflict between the printed provisions of this Rental Agreement and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

(j) **Offer**. Preparation of this Rental Agreement by either Party or their agent and submission of same to the other Party shall not be deemed an offer to Rental Agreement to the other Party. This Rental Agreement is not intended to be binding until executed and delivered by all Parties hereto.

(k) **No Relocation Benefits; No Payments for Loss of Goodwill; Waiver**. The Parties desire to confirm that Tenant will begin the tenancy and rent the Site after the date City acquired the Site and that Tenant's occupancy of the Site is, will be, and shall remain as a "post-acquisition" occupant pursuant to applicable laws and regulations, including without limitation, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601–4655, and the implementing regulations thereto set forth in 49 CFR Part 24, (ii) the California Relocation Assistance Act, Government Code Section 7260, *et seq.* and the implementing regulations thereto set forth in Title 25, Section 6000, *et seq.* of the California Code of Regulations, and (iii) any other benefits, or compensation for moving and for property interests (including, without limitation, goodwill and furnishings, fixtures and equipment, and moving expenses) (together, "Relocation Law"). Tenant agrees and acknowledges that, without regard to the time or circumstances associated with the cessation of the Term or the use of the Site by Tenant, Tenant shall have no right to relocation assistance or benefits arising from the dispossession of the Tenant or such person or persons regardless of the circumstances thereof (including, without limitation, with respect to any improvements made to the Site) pursuant to the relocation law or other review. Tenant waives any rights to relocation benefits

and/or relocation advisory assistance in connection with the use of the Site or the cessation of use of the Site. The provisions of this Section are a material part of this Rental Agreement and, but for such provisions, Landlord would not have entered into this Rental Agreement. Tenant further agrees that, without regard to whether the possession of Tenant under this Rental Agreement is terminated at any time hereunder, Tenant shall not be entitled to receive any compensation for loss of goodwill; Tenant waives any rights to such remuneration.

LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS RENTAL AGREEMENT AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS RENTAL AGREEMENT SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS RENTAL AGREEMENT IS EXECUTED, THE TERMS OF THIS RENTAL AGREEMENT ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LANDLORD AND TENANT WITH RESPECT TO THE SITE.

[Execution on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Rental Agreement as of the Commencement Date.

"LANDLORD":

CITY OF BANNING,
a California municipal corporation

By:_____
Robert Fisher, City Manager

ATTEST:

_____
Caroline Patton, Deputy City Clerk

APPROVED AS TO FORM:

_____
John Pinkney, City Attorney

"TENANT":

Alexander Yepremian,

By:_____
Alexander Yepremian

EXHIBIT "A"
SITE MAP

(Attached.)

EXHIBIT "B"
TUP

(Attached.)

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/05/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS 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

Gaslamp Insurance Services
DBA Event Helper Insurance Services
PO Box 1549
Grass Valley CA 95945

CONTACT NAME: Event Helper Customer Service
PHONE (A/C, No, Ext): (530) 477-6521 FAX (A/C, No):
E-MAIL ADDRESS: info@theeventhelper.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Evanston Insurance Company	35378
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

Wanderlust Events
Alexander Yepremian , dba:
25673 Branson Ln
Homeland CA 92548

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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR [X] Host Liquor Liability [ ] Retail Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y	N	3DS5476-M4520439	SEE BELOW 12:01 AM	SEE BELOW 12:01 AM	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (other than fire)	$ 1,000,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
							Deductible	$ 1,000
	AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					[ ] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder listed below is named as additional insured per attached MEGL 2217 01 19 for the following dates: 06/08/2025, 06/15/2025, 06/22/2025, 06/29/2025, 07/06/2025, 07/13/2025 & 07/20/2025. Attendance: 1000, Event Type: Farmer's Market.

CERTIFICATE HOLDER

City of Banning
99 E. Ramsey St
Banning CA 92220

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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EVANSTON INSURANCE COMPANY

THIS 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 FORM

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
City of Banning 99 E. Ramsey St Banning, CA 92220

A. Section **II** – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by the acts or omissions of any insured listed under Paragraph **1.** or **2.** of Section **II** – Who Is An Insured:

1. In the performance of your ongoing operations; or

2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section **III** – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

Diamond environmental services
888-744-7191
RESTROOMS FENCING POWER PUMPING

Event Restroom Agreement

Visit us @ www.**diamond**provides.com

(888) 744-7191

Date: June 5, 2025

To: **City of Banning**
789 N. San Gorgonio
Banning, CA 92220
Ralph Wright 909-219-0980
rwright@banningca.gov

From: **Victor Jackson**
Office: 760.744.7191
Direct line: 760.533.3626
VictorJ@diamondprovides.com

Project Contact	Project Name & Location	Pricing expires in 30 days
	150 E Ramsey St, Banning, CA 92220	

Qty	Description	Unit Price	Line Total
7	Classic Restroom- toilet & urinal only	$85.20	$596.40
7	ADA restroom- toilet only	$205.20	$1,436.40
7	Two Basin Handwashing Station- soap & paper towels	$80.20	$561.40
14	911 Combo Locks	$5.00	$70.00
	Each Delivery will consist of: 1 classic, 1 ADA, 1 sink, and 2 combo locks		
	Delivery: Friday 6/6/25 anytime 7am-5pm		
	Removal: Monday 6/9/25 anytime 7am-5pm		
	Delivery: Friday 6/13/25 anytime 7am-5pm		
	Removal: Monday 6/16/25 anytime 7am-5pm		
	Delivery: Friday 6/20/25 anytime 7am-5pm		
	Removal: Monday 6/23/25 anytime 7am-5pm		
	Delivery: Friday 6/27/25 anytime 7am-5pm		
	Removal: Monday 6/30/25 anytime 7am-5pm		
	Delivery: Thursday 7/3/25 anytime 7am-5pm		
	Removal: Monday 7/7/25 anytime 7am-5pm		
	Delivery: Friday 7/11/25 anytime 7am-5pm		
	Removal: Monday 7/14/25 anytime 7am-5pm		
	Delivery: Friday 7/18/25 anytime 7am-5pm		
	Removal: Monday 7/21/25 anytime 7am-5pm		
	** To reserve the equipment/service, please sign, date, and send this quote back to me. Payment		
	needs to be paid in full before or on the delivery date. Cancellation Fee's may apply.		
	Customer is responsible for any stolen, missing, or damaged equipment **		
	As of March, 2024 there will be a 2.75% processing fee charged for all credit/debit card payments.		
		Total *	**$2,664.20**

FED TAX ID # **OR** **CA DRIVERS LICENSE # and DOB**

PRINT NAME **TITLE**

Prevailing Wage
❒ Yes ❒ No

SIGNATURE FOR WORK AUTHORIZATION **DATE**

Customer's Indemnity: Customer will indemnify Diamond Environmental Services, it's employees and agents against any claim, liability, or costs arising from this agreement or the use of the equipment, including property damage and personal injuries, except to the extent that such claims, liabilities or costs are due to Diamond Environmental Services sole negligence. Customer is responsible for damage caused by Acts of God, fire, theft, negligence, abuse, or vandalism, and agrees to pay all costs and expenses necessary to restore or replace said equipment. Failure to sign Diamond agreement and/or replacement of Diamond agreement with a P.O. or contract does not waive or alter Diamond language. Customer representative must be present at time of installation of Diamond equipment. Damaged or missing equipment or material will be charged to Lessee. Damage caused to after installation or delivery shall be the responsibility of Lessee. Rates quoted do not include Prevailing Wages unless specified. Diamond cannot comply with any PSA's & PLA's requirements. Prices subject to change due to desired actual material installed, ground conditions and/or accessibility. **Lessee responsible for utility marking.**

SERVICE AGREEMENT

Thank you for choosing Diamond Environmental Services LP, a California limited partnership company ("Contractor"), as your sanitary portable toilet services provider. This Agreement between Contractor and you ("Customer") contains the terms and conditions pursuant to which Contractor will pump and dispose of liquid waste found in the portable units obtain by you.

TERMS AND CONDITIONS

Contractors Duties. Contractor shall collect and dispose in a sanitary manner all human waste materials and products (the "Liquid Waste") deposited in any of the portable units provided by Contractor at the service address and location and with the frequency of service indicated elsewhere in this Agreement. Contractor excludes any and all collection of garbage, trash and other refuse, including without limitation flammable explosive, toxic or hazardous materials (collectively, the "Solid Waste") placed in any of the portable units by Contractor. Any Solid Waste placed in the portable units is Customer's responsibility, and Customer shall indemnity, defend and hold harmless Contractor, its agents and employees, from and against any and all liability and damages directly or indirectly arising out of the use, generation, storage, or disposal of any Solid Waste in or about the portable units. The parties intend that this indemnity does not require payment as a condition precedent to recovery hereunder by Contractor. Contractor represents to Customer that Contractor will comply with all applicable federal, state, country, and local government regulations, including, permit requirements, in performing its services under this Agreement.

Portable Unit Repair. Contractor shall make all necessary repairs to the portable units furnished for use by Customer, and shall replace the portable units when the portable units are no longer fit for the purpose intended.

Customer Duties. The portable units shall be kept in the possession and control of Customer, who shall be responsible for their cleanliness and safekeeping. Customer shall not alter or modify any of the portable units without the prior written consent of Contractor. Customer shall limit the use of each portable unit to an amount not to exceed such unit's tank capacity, and shall be liable to Contractor for loss or damage in excess of reasonable wear and tear. Customer shall hold harmless and indemnity Contractor, its agents and employees, against all claims, lawsuits and any other liability to persons or damage to property arising out of the possession or use of the portable units by Customer.

Customer Permission. Customer hereby gives permission to Contractor to enter the specified property for the purposes of delivering and servicing the portable units, for collecting and removing the Liquid Waste from each such unit, and for all related activities in the furtherance of these purposes. Customer shall hold Contractor, its employees and agents, harmless from any damage which may occur to any asphalt, concrete or other types of ground surfaces or subsurface which is not the result of negligence by Contractor. Customer represents and warrants that any right of way provided to Contractor is sufficient to bear the weight of all Contractors' equipment. Contractor is not responsible for damage to any real or personal property involving this equipment, including the portable units when caused by an act of nature or person other than Contractor, its agents and employees.

Price and Agreement. Customer shall pay Contractor on a regular basis for the service and disposal of the Liquid Waste, including without limitation all charges for use and maintenance of the portable units in accordance with the schedule of changes contained in this Agreement. Contractor's billing shall be submitted to Customer in a timely manner each billing period for the prior period's service, and shall be due and payable immediately on receipt. Contractor reserves the right to require Customer to pay in advance for services to be received under this Agreement. Payments not received by Contractor on or before the last day of each month for the prior month's service shall be delinquent, and may cause temporary interruption of service until full payment is received by Contractor.

Rate Adjustments. Contractor reserves the right to adjust the rate for service contained in this Agreement based upon increases in the Consumer Price Index, or for wage payments, fuel charges and regulatory compliance, among other things. Contractor's rates for services are subject to review and change at any time that a change in service is mutually agreed by Customer and Contractor or when any significant change or unforeseen circumstance involving Contractor's cost of conducting business occurs. Agency / Energy Fee will be added to all invoices and the actual percentage may vary depending on current market conditions.

Term. The initial term of this Agreement, including any agreed changes shall run for a minimum period of one (1) year from the beginning date of service, and shall automatically be renewed from year to year thereafter, unless either party shall give written notice of termination to the other at least sixty (60) days prior to the annual inception date. Notwithstanding the foregoing customer may terminate this Agreement upon written notice given to the Contractor at least sixty (60) days prior to the inception date upon payment of all sums due to Contractor.

Change of Service Address. This Agreement shall continue in the effect for the term provided here in, and shall apply to changes in frequency of service, and number or location of portable units, as well as to additional sites and changes of the business or service address of Customer within the area in which Contractor provides service. These changes to conditions may be agreed orally or in writing by the parties. Consent to oral changes shall be evidenced by the action and practices of the parties.

Assignment. This Agreement (and all changes hereto) shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement may be assigned by Contractor as long as all conditions of service are satisfied.

Notices. Any written notice, request, demand or other communication given pursuant to the terms of this Agreement shall be deemed given (I) upon personal delivery, if hand delivered (II) within 24 hours after deposit with an express courier (such as Federal Express), if marked for next day delivery, or (III) within 72 hours after deposit in the United States mail, postage and sent certified mail, return receipt requested correctly addressed to the addresses of the party contained elsewhere in this Agreement, or at such address as such party shall in writing have advised the other party.

Entire Agreement. Except as provided herein, this Agreement, including exhibits, contains the entire agreements of parties, and supersedes all existing negotiations, representatives or agreements, and all other oral, written or other communications between them concerning the subject matter of this Agreement.

Severability. If court of completion jurisdiction finds any provision of this Agreement to be unenforceable, invalid or violative of applicable law, such provision shall be deemed stricken and severed, and shall not affect the enforceability of any other provisions of this Agreement, which shall continue in full force and effect.

Authority. The persons signing below hereby represent and warrant that they have full authority to bind the party for whom they are signing, and when executed by them, this Agreement will be fully enforceable without any other further action.

We at Diamond Environmental Services LP are dedicated to serving the needs of our customers. If a problem should arise at any time during the course of our relationship, please contact us immediately so that we may work with you to correct it. Your satisfaction is our goal!

BANNING CALIFORNIA **City of Banning**
Processing Center

Guest

Home Report a Problem

Business Search

Search By: Business Name

Value: wanderlust

Specify Start Date Range (Optional)

Search

Account #	Business Name	Start Date	Expire Date	Address
20712964	WANDERLUST EVENTS	6/1/2025	5/31/2026	--ON FILE--

Total records found: 1

Local and District Tax Guide for Retailers

Local Tax

Overview (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/)

Getting Started (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/getting-started.htm)

Local Tax (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/local-tax.htm)

Online Retailers: Registration and Local Tax (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/online-retailers-registration-and-local-tax.htm)

District Tax (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/district-tax.htm)

Resources (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/resources.htm)

Industry Guides (www.cdtfa.ca.gov/industry/)

View guide in other languages:

Español (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes-spanish/)

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- California Retailers (#California-Retailers)
- Online Retailers (#Internet-Retailers)
- Out-of-State Retailers (#Out-of-State-Retailers)
- Construction Contractors (#Construction-Contractors)
- Leases-of-Tangible-Personal-Property (#Leases-of-Tangible-Personal-Property)
- Long-Term Leases of New Passenger Motor Vehicles (#Long-Term-Leases-of-New-Passenger-

Motor-Vehicles)
- Temporary Sellers (#Temporary-Sellers)
- Caterers (#Caterers)
- Itinerant Merchants (#Itinerant-Merchants)
- Mobile Food Vendors (#Mobile-Food-Vendors)
- Auctioneers (#Auctioneers)
- Vehicles, Vessels, and Aircraft (#Vehicles-Vessels-and-Aircraft)
- Jet Fuel (#Jet-Fuel)
- Reporting Your Local Tax (#Reporting-Your-Local-Tax)
- Local Jurisdictions (#Local-Jurisdictions)

"Local Taxes" are sales and use taxes imposed by local jurisdictions, usually cities or counties, under the Bradley-Burns Uniform Local Sales and Use Tax Law. The current statewide sales and use tax rate is 7.25 percent, which includes 1.25 percent of local taxes (1.00 percent Local Jurisdiction and 0.25 percent Local Transportation Fund). When you file your sales and use tax return, you are generally required to allocate your sales among local jurisdictions, either directly or through a countywide pool. The 1.00 percent portion goes to the city or county where the sale or use occurs. The 0.25 percent portion always goes to the county where the sale or use occurs. By properly allocating your sales, you ensure that the local jurisdiction receives proper funding of local tax. These funds are used by local jurisdictions for their city or county operations, including for transportation.

The topics in this section may help you better understand local tax and how to allocate your sales correctly on your sales and use tax return. For guidance on properly reporting and allocating the local tax on the correct schedule, please see the *Reporting Your Local Tax* heading.

Sales vs Use Tax Transactions

Whether you allocate your sales directly to a local jurisdiction or through a countywide pool generally depends on whether the transaction is a sales tax transaction or a use tax transaction.

Sales Tax Transactions

Generally, unless exempt or excluded from tax, your retail sale is subject to state and local sales tax if you have a place of business in California that participates in the sale and title to the goods passes to your customer within this state. If either of these conditions are not met, the applicable tax is use tax. Most local sales tax will go directly to the local jurisdiction where the sale occurred.

When a sale cannot be identified with a permanent place of business in this state, the sale will be allocated to the local jurisdictions through a countywide pool. For example, certain sellers, such as auctioneers, construction contractors making sales of fixtures, catering trucks, or other permit holders who operate in more than one location will allocate their sales through a countywide or statewide pool.

Use Tax Transactions

When sales tax does not apply, state and local use tax generally apply to the sales price of tangible personal property that was purchased from a retailer and stored, used, or otherwise consumed within the state. Local use tax is generally allocated to local jurisdictions through a countywide pool. Each local jurisdiction within a county, including the county itself, receives a prorated amount of the countywide pool (based on its proportion of the local tax that is directly allocated to jurisdictions within the county).

Place of Sale vs. Place of Use

Local sales tax transactions are generally allocated to the jurisdiction where the place of sale is located while use tax transactions are allocated to the jurisdiction where the property is first functionally used. The ship-to-address is presumed to be the place of first functional use. Therefore, when the transaction is subject to use tax you will generally allocate the local use tax to the jurisdiction into which the property was shipped through the countywide pool of the county in which that jurisdiction is located.

California Retailers

How local tax is allocated by a California retailer may vary.

California Retailers with One Location

If you are a retailer with only one place of business in California and that place of business participates in the sale, then the local sales tax will be allocated to the jurisdiction in which the place of business is located.

California Retailers with Multiple Locations

When you are a retailer with multiple locations in California, you must allocate your sales properly so that the local sales tax goes to the correct local jurisdiction. If you have more than one place of business in California and only one place of business participates in the sale, your sale will be allocated to the jurisdiction where that place of business is located. However, if you have more than one place of business that participates in the sale, your sale will be allocated to the local jurisdiction where the principal negotiations are carried out.

Example:

You own restaurants located in the cities of Napa and Fairfield. Your taxable sales in the city of Napa were $100,000 and in the city of Fairfield were $80,000.

When you file your sales and use tax return, you will allocate $100,000 of your sales to the city of Napa and $80,000 to the city of Fairfield.

Example:

You own retail stores in the cities of San Bernardino and Victorville. A customer at the San Bernardino store wants to purchase an out-of-stock item. The item is in stock at the Victorville store. The customer purchases the taxable item for $100 at the San Bernardino store and the Victorville store has it shipped to the customer's home located in Los Angeles County.

Since you have multiple locations in California that participated in the sale, the place of sale is the location where the principal negotiations took place. In this example the city of San Bernardino is considered the place where the principal negotiations took place as the customer purchased the item from you at that location. When you file your sales and use tax return, you will allocate $100 of your sales to the city of San Bernardino.

Online Retailers

As an online retailer, you are required to pay applicable sales and/or use tax and allocate your sales like other retailers, but how you report and allocate your internet transactions can depend on a number of factors. For more information, see the *Online Retailers: Registration and Local Tax* (www.cdtfa.ca.gov/industry/local-and-district-retailer-taxes/online-retailers-registration-and-local-tax.htm) section of this guide.

Out-of-State Retailers

If you are an out-of-state retailer not located in California that is “engaged in business” in California or have voluntarily registered, you must collect, report, and pay state and local use tax on your sales for delivery in California.

If you are an out-of-state retailer, you are engaged in business in California if, for example:

- You maintain, occupy, or use, directly or indirectly, or through a subsidiary or agent, a permanent or temporary office, place of distribution, sales or sample room, warehouse or storage place, or other physical place of business in California.
- You have representatives, agents, or independent contractors operating in California on your behalf or under your authority, or under the authority of your subsidiary, for purposes of making sales, taking orders, assembling or installing merchandise, training customers, making deliveries, or otherwise establishing or maintaining a market for your products.
- You receive rental payments from the leases of tangible personal property located in California, such as leases of machinery, equipment, and furniture.
- You own or lease real property or personal property such as machinery or equipment, furniture, or computer servers located in California.
- Beginning April 1, 2019, you have total combined sales of tangible personal property for delivery in California by you and all persons related to you exceeding $500,000 during the preceding or current calendar year.

As stated above, on and after April 1, 2019, you are considered engaged in business in California if, in the preceding or current calendar year, you have total combined sales of tangible personal property for delivery in California by you and all persons related to you exceeding $500,000. Please see our online tax guide, *Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision (www.cdtfa.ca.gov/industry/wayfair/)* , for more information.

If you are an out-of-state retailer that is not engaged in business in California, you may voluntarily register your business and collect, report, and pay use tax for your customers in this state.

For more information on out-of-state retailers and what it means to be "engaged in business" in California, see our *Tax Guide for Out-of-State Retailers (www.cdtfa.ca.gov/industry/out-of-state-retailers/)*.

Below are common situations you may encounter, along with information about the proper way to allocate your sales.

Stock of Goods (Inventory) in California

As an out-of-state retailer engaged in business in California, you may be shipping property from a dedicated, non-commingled stock of goods (inventory) in a third-party fulfillment center or warehouse located in California. This stock of goods is considered a place of business. When you or the third-party fulfillment center makes shipments from this location to a California customer and title to the property passes to the customer in California, the transaction is subject to sales tax, and the sales transaction will be allocated to the jurisdiction where the stock of goods is located, if no other location of yours participates in the sale.

For more information about Internet retailers that utilize a fulfillment center, please see our online guide, *Fulfillment Centers (www.cdtfa.ca.gov/industry/fulfillment-centers/)*.

Sales Negotiated and Shipped from Outside California

When you negotiate sales and ship property from outside California and title to the property passes to the purchaser outside of California, the transaction is subject to use tax and local use tax is allocated to the jurisdiction where the property is shipped, through the countywide pool.

Example:

You are a registered out-of-state retailer who takes orders online and ships property from a warehouse located outside of California to your California customers. Title passes out of state. You make a taxable sale of $1,300 and ship the property to your customer in Los Angeles County, and another taxable sale of $2,000 that you ship to your customer in Orange County.

The transactions are subject to use tax. When you file your sales and use tax return, you will allocate $1,300 of your sales through the countywide pool of Los Angeles County and $2,000 through the countywide pool of Orange County.

Sales Negotiated in California and Shipped from Out-of-State Stock of Goods (Inventory)

If you negotiate sales at your registered place of business in California and property is shipped from inventory located outside California, the transactions are subject to use tax if title passes to the purchaser outside California (for example, the shipping terms are freight on board [FOB] shipping point). Local use tax is allocated to the jurisdiction where the property is shipped through the countywide pool.

Example:

You are an out-of-state retailer with sales representatives taking orders in California. Your sales representative that works out of your permitted location in the city of Huntington Beach took an order in the amount of $20,000. The taxable property was shipped from your inventory located out-of-state to Huntington Beach. Title passed outside California.

The transaction is subject to use tax. When you file your sales and use tax return, you will allocate sales in the amount of $20,000 to the countywide pool for Orange County.

Example:

Assume the same facts given in the example above, except that the shipping terms of the property were FOB destination. Therefore, title to the property passed to your customer in California upon receipt of the property.

The transaction is subject to sales tax. The place of sale is the location out of which your sales representative works, in the city of Huntington Beach. You will allocate your sales in the amount of $20,000 directly to the city of Huntington Beach.

Sales or Purchases of $500,000 or More Subject to Use Tax

Generally, if you are an out-of-state retailer engaged in business in California and make a sale to a California consumer of $500,000 or more, you must collect the use tax and report and pay it directly to the local jurisdiction in which the first functional use of the property occurs rather than through the countywide pool. This applies to use tax only and not to sales tax transactions.

People who self-report or retailers who purchase tangible personal property of $500,000 or more per transaction from sellers who are not required to collect the tax must report the local use tax to the jurisdiction where the property is first functionally used.

Holders of a Use Tax Direct Payment Permit may issue a use tax direct payment exemption certificate to any registered retailer or seller from whom they make purchases that are subject to use tax. Subsequently, holders must self-assess and report the use tax due on the purchase(s) for which the certificate was issued. Use tax transactions will be allocated directly to the local jurisdiction in which the first functional use of the tangible personal property occurs, rather than through the countywide pooling process.

Construction Contractors

As a construction contractor, the place of sale and place of use for property sold or used during the performance of your construction contract is your jobsite.

Materials

Generally, construction contractors are considered the consumer of materials furnished and installed during the performance of a construction contract. The place of use of the materials is the jobsite. Although less common, if a construction contractor is regarded as the retailer of materials and has a valid seller's permit, sales for materials installed and furnished at the jobsite will be allocated through the countywide pool of the county where the jobsite is located.

Purchase of Commingled Materials

A construction contractor that purchases a commingled lot of materials (that is, a portion of which it will consume and a portion of which it will sell at retail) may only issue a resale certificate when they intend to resell a significant portion of the materials and, at the time of purchase, they do not know which items will be consumed and which will be resold. However, a contractor may not issue a resale certificate with respect to the entire lot of materials if, at the time of purchase, the contractor knows that certain materials will be consumed in the performance of a construction contract.

(If the contractor has paid sales tax on materials that they end up selling at retail, then the contractor may claim a tax-paid purchases resold deduction on their sales and use tax returns to offset the sales tax reimbursement previously paid to their vendor.)

Materials Purchased for Resale and Consumed

When a construction contractor properly purchases materials using a resale certificate but removes the materials from their resale inventory and consumes them during the performance of a construction contract, they owe use tax measured by the purchase price of the materials. They will report the purchase price of the materials on line 2 of their sales and use tax return and allocate the use tax through the countywide pool of the county where the jobsite is located.

A contractor improperly purchases materials using a resale certificate when, for instance, they purchase certain materials they intend to consume or purchase a lot of materials of which they do not intend to resell a significant portion. If the sale to the contractor was subject to sales tax, the contractor must report the sales tax on their sales and use tax return for the period in which the property was purchased and allocate the local tax to the jurisdiction where the sale occurred.

Example:

You are a construction contractor. You purchase materials from a vendor with a single business location in the city of Bakersfield and furnish and install the materials during the performance of construction contract at a jobsite located in the city of Fresno. You also make some retail sales of materials. The percentage of materials you purchased for resale is less than 1% of the total materials purchased. You issue a resale certificate to your California vendor for all materials you purchase. You report and pay use tax for materials consumed at your jobsite locations on line 2 of your sales and use tax return and allocate the purchase of materials through the countywide pool of the county where your jobsite is located; Fresno County.

Based on the amount of materials you purchased for resale, your use of a resale certificate was improper. Since the resale certificate was improperly issued, you owe sales tax which should have been directly allocated to the city of Bakersfield, where the sale occurred. You should file amended sales and use tax returns to report the tax during the period in which the materials were purchased and reallocate the tax to the city of Bakersfield.

Fixtures

When you make retail sales of fixtures pursuant to a construction contract, you are required to hold a valid seller's permit. The place of sale is the jobsite. Since the jobsite is usually not a registered place of business, as a construction contractor you will allocate sales of fixtures through the countywide pool of the county where the jobsite is located.

Example:

You make taxable sales of fixtures in the amount of $8,400 during the performance of your construction contract. Your jobsite is located in the city of La Habra in Orange County.

The place of sale for the fixtures you sold is your jobsite location in the city of La Habra. When you file your sales and use tax return, you will allocate $8,400 of your sales through the Orange County countywide pool.

Note: If the fixtures were acquired tax-paid and you bill your contracts lump-sum or time and materials, an allocation of local tax would not be required as your vendor would make the necessary local tax allocation when they file their sales and use tax returns.

Machinery and Equipment

Sales of machinery and equipment, subject to sales tax that are sold pursuant to a construction contract should be allocated to your permanent place of business where the principal negotiations of the contract take place. If you are an out-of-state construction contractor making a sale of machinery and equipment to a California customer subject to use tax, you should allocate your sales through the countywide pool to the jurisdiction of use.

Example:

During the performance of a construction contract, you make taxable sales of machinery and equipment in California in the amount $18,000. Your jobsite is located in the city of Fremont and your permanent place of business where the sales are negotiated is located in the city of Vallejo.

When you file your sales and use tax return, you will allocate $18,000 of your sales to the city of Vallejo, where your permanent place of business is located.

Construction Contracts over $5,000,000

A construction contractor who enters into a construction contract equal to or greater than $5,000,000 may elect to obtain a sub-permit for the jobsite of the qualifying contract enabling the contractor to make a direct allocation of tax to the local jurisdiction in which the jobsite is located rather than through the countywide pool. The qualifying contract price applies to each contract or subcontract for work performed at the jobsite, not the total value of the prime contract.

Example:

You are a construction contractor performing a contract valued over $5,000,000 in the city of Long Beach. Your contract includes fixtures and materials. Your materials supplier is located outside California and it did not charge you tax. Your fixtures are purchased for resale from a California vendor. You elected to obtain a sub-permit for your jobsite.

Since you have obtained a sub-permit for your specific jobsite, you will allocate your sales of fixtures and purchases of materials that you consumed directly to the city of Long Beach.

For more information about construction contracts, please see publication 9, *Construction and Building Contractors* (www.cdtfa.ca.gov/formspubs/pub9.pdf) .

Leases of Tangible Personal Property (Not Including Vehicles, Vessels, and Aircraft and Mobile Transportation Equipment)

Unless you have made a timely election to pay tax on the purchase price of property leased in substantially the same form as acquired, you will collect, report, and pay tax based on your rental receipts.

Generally, the tax on leases of tangible personal property is use tax. Use tax on rental receipts should be allocated through the countywide pool of the county where the leased property is used.

If you are a lessor with a single permanent place of business and make short-term leases of tangible personal property, the place of use is the local jurisdiction where your business is located. You will allocate sales for your leases directly to your business location.

For information about leases, see publication 46, *Leasing Tangible Personal Property* (www.cdtfa.ca.gov/formspubs/pub46.pdf) .

Note: **Mobile transportation equipment (MTE)** includes rail cars, locomotives, truck tractors and trailers, ships, reusable shipping containers, and airplanes. The law considers lessors of MTE to be consumers of the equipment. Therefore, unless a timely election to pay tax on rental receipts is made, tax is due on the purchase price of the MTE. For a complete listing of MTE, please see Regulation 1661, *Leases of Mobile Transportation Equipment* (www.cdtfa.ca.gov/lawguides/vol1/sutr/1661.html) .

Long-Term Leases of New Passenger Motor Vehicles

There are certain rules for allocating sales of long-term leases (exceeding four months) of passenger motor vehicles, and certain types of mobile transportation equipment.

The following chart provides general local tax allocation guidelines for motor vehicle leases (excluding one-way rental trucks):

Local Tax Allocation for Motor Vehicle Leases, effective January 1, 1999 (Except One-Way Rental Trucks)

Type of Lessor	Type of Transaction	1% Local Tax Allocation to:	
		Leases Exceeding Four Months	Leases of Four Months or Less

Type of Lessor	Type of Transaction	1% Local Tax Allocation to:	
		Leases Exceeding Four Months	Leases of Four Months or Less
California New Motor Vehicle Dealer/Lessor	Lease of motor vehicle* (#motor-vehicle)	Dealer/Lessor's sales location	Dealer/Lessor's sales location
California Leasing Company (as defined)** (#leasing-co)		Lessor's place of business	
California Lessor (other than a new motor vehicle dealer or leasing company as defined)** (#leasing-co)	Lease of a motor vehicle* (#motor-vehicle) purchased from a California new motor vehicle dealer	Dealer/Lessor's place of business (Schedule F (www.cdtfa.ca.gov/formspubs/cdtfa531f.pdf))	Lessor's place of business
	Lease of a motor vehicle* (#motor-vehicle) purchased from someone other than a California new motor vehicle dealer	Lessee's place of registration (Schedule B (www.cdtfa.ca.gov/formspubs/cdtfa531.pdf))	
	Lease of MTE*** (#MTE) purchased from a California new motor vehicle dealer (except new pickup trucks rated less than one ton)	Lessor's place of business	

Type of Lessor	Type of Transaction	1% Local Tax Allocation to:	
		Leases Exceeding Four Months	Leases of Four Months or Less
Out-of-State Lessor:	Lease of a motor vehicle* (#motor-vehicle) purchased from a California new motor vehicle dealer	California Dealer's place of business (Schedule F (www.cdtfa.ca.gov/formspubs/cdtfa531f.pdf))	Lessee's place of registration (Schedule B (www.cdtfa.ca.gov/formspubs/cdtfa531.pdf))
	Lease of a motor vehicle* (#motor-vehicle) and MTE*** (#MTE) purchased from someone other than a California vehicle dealer	Lessee's place of registration (Schedule B (www.cdtfa.ca.gov/formspubs/cdtfa531.pdf))	

* **Motor Vehicle** means any (new or used) self-propelled passenger vehicle (other than a house car) or pickup truck rated less than one ton.

** **Leasing company** means a motor vehicle dealer/lessor that originates lease contracts and does not sell or assign the lease contracts and that has annual motor vehicle lease receipts of $15 million or more annually for each business location.

*** **Mobile transportation equipment (MTE)** includes rail cars, locomotives, truck tractors and trailers, ships, reusable shipping containers, and airplanes. The law considers lessors of MTE to be consumers of the equipment. Therefore, unless a timely election to pay tax on rental receipts is made, tax is due on the purchase price of the MTE. For a complete listing of MTE, please see Regulation 1661, *Leases of Mobile Transportation Equipment* (www.cdtfa.ca.gov/lawguides/vol1/sutr/1661.html) .

Temporary Sellers

If you are selling items at a location for less than 90 days, you are considered a temporary seller, and are required to hold a temporary seller's permit. You will need to register each temporary sales location. On the other hand, if you already hold a seller's permit for a permanent place of business but also make sales at a temporary location(s), you do not need to register for a separate temporary seller's permit. Instead, using your current seller's permit number you must register for a sub-permit for each of your temporary locations.

Common types of temporary seller's include sellers of:

- Fireworks
- Property sold at garage sales
- Christmas trees
- Property sold through Internet auctions
- Crafts
- Property sold at conventions, trade shows, swap meets, flea markets or other special events

As a temporary seller, the place of sale is the temporary location where the event takes place. You will allocate your sales directly to that local jurisdiction.

Example:

You are a retailer with a permanent seller's permit and place of business in the city of Santa Ana. In addition to making retail sales at your permanent place of business, you attended two craft fairs in the cities of Irvine and Newport Beach. Because you already hold a seller's permit for your Santa Ana business and make sales at temporary sales locations, you will need to obtain sub-permits for the Irvine and Newport Beach locations. Taxable sales made at your business location in the city of Santa Ana were $9,000. Taxable sales made at the craft fairs in the cities of Irvine and Newport Beach were $2,000 and $1,200, respectively.

When you file your sales and use tax return, you will allocate your sales as follows:

- $9,000 of your sales will be allocated to the city of Santa Ana for sales made at your permanent business location.
- $2,000 of your sales will be allocated to the city of Irvine for sales made at that temporary location.
- $1,200 of your sales will be allocated to the city of Newport Beach for sales made at that temporary location.

Caterers

As a caterer, your sales are generally subject to sales tax. Even though you might travel throughout various local jurisdictions, you will allocate sales directly to your business location where sales are negotiated and catering orders are taken.

If you operate your catering business from a single retail location, you will allocate sales to that location. If you have multiple retail locations where sales are negotiated and catering orders are taken, sales will be allocated to the place where the principal negotiations take place.

Example:

You are a caterer with a retail location in the city of Brea. Customers place orders over the phone or at your business location. Your taxable sales are $57,000.

Sales in the amount of $57,000 will be allocated to the city of Brea where your business is located and the place where the principal negotiations take place.

Example:

You are a caterer that performs catering food and services throughout Alameda, San Mateo, and Contra Costa Counties. You have a permanent place of business in the city of Hayward and in the city of Antioch. Taxable sales negotiated at your place of business in the city of Hayward are $30,000. Taxable sales negotiated at your place of business in the city of Antioch are $27,000.

When you file your sales and use tax return, you will allocate $30,000 of your sales to the city of Hayward and $27,000 to the city of Antioch.

If you are a caterer, our *Tax Guide for Caterers (www.cdtfa.ca.gov/industry/caterers/)* may also be a helpful resource.

Itinerant Merchants

An itinerant merchant is a retailer with no permanent place of business similar to a door-to-door salesperson.

It may be hard to keep track of each location where sales are made. Therefore, itinerant merchants should allocate sales to the county in which their permanent address as shown on their seller's permit, is located (this may include a home address).

Mobile Food Vendors

A mobile food vendor is a retailer who sells food or drinks from a truck, stand, or wheeled cart with no fixed, physical location. Because a mobile food vendor could be at multiple locations throughout the day, it can be hard or not possible to keep track of every city a mobile food vendor makes sales.

As a mobile food vendor, you are allowed to allocate sales through the countywide pool.

Example:

You operate a food truck throughout Sacramento, El Dorado, and Placer Counties. Taxable sales were made as follows:

Sacramento County:

City of Sacramento	$1,800
City of Rancho Cordova	$1,100
City of Citrus Heights	$750
Total	**$3,650**

El Dorado County:

City of Shingle Springs	$670
City of South Lake Tahoe	$2,450
Total	**$3,120**

Placer County:

City of Lincoln	$300
City of Auburn	$2,130
City of Roseville	$1,410
Total	**$3,840**

You will allocate your sales through the countywide pool for each local jurisdiction based on the county where your taxable sales occurred. Sales will be allocated to each county pool as follows:

Countywide Pool	Allocation of Sales
Sacramento County	$3,650
El Dorado County	$3,120
Placer County	$3,840

For more information about Mobile Food Vendors, see our *Mobile Food Vendors (www.cdtfa.ca.gov/formspubs/pub287.pdf)* tax guide.

Auctioneers

How local tax is allocated by auctioneers depends on where the auction is held and the amount of taxable auction sales per event.

If you are an auctioneer making retail sales in California, the place of sale is the place where the auction is held. If the auction is held at a location other than your registered place of business, you will allocate sales following these guidelines:

- Taxable auction sales totaling $500,000 or more per event: you will allocate sales directly to the local jurisdiction where the auction occurs.
- Taxable auction sales totaling less than $500,000 per event: you will allocate sales to the local jurisdictions within the county where the auction occurs through the countywide pool. Each local jurisdiction will receive a prorated amount of the local sales tax.

Example:

You hold regular auctions at your registered place of business in the city of Anaheim. Your taxable sales for auctions held at your business location are $600,000. You also made taxable sales at an auction in the city of Fullerton where you do not have a registered place of business. Your taxable sales made in the city of Fullerton are $250,000.

The place of sale for sales made at your registered place of business is your business location. When you file your sales and use tax return, you will allocate sales in the amount of $600,000 directly to the city of Anaheim.

Since your sales made at an auction in the city of Fullerton were less than $500,000, the place of sale is the local jurisdictions within the county where the auction occurred. When you file your sales and use tax return, you will allocate sales in the amount of $250,000 to the countywide pool for Orange County.

Vehicles, Vessels, and Aircraft

Special rules and reporting requirements apply to motor vehicles, vessels, and aircraft.

The following resources contain additional local tax information you may find helpful:

- Regulation 1610, *Vehicles, Vessels, and Aircraft* (www.cdtfa.ca.gov/lawguides/vol1/sutr/1610.html)
- Publication 52, *Vehicles and Vessels: Use Tax* (www.cdtfa.ca.gov/formspubs/pub52.pdf)
- Publication 44, *District Taxes (Sales and Use Taxes)* (www.cdtfa.ca.gov/formspubs/pub44.pdf)
- Publication 105, *District Taxes and Sales Delivered in California* (www.cdtfa.ca.gov/formspubs/pub105/#taxes)
- Publication 34, *Motor Vehicle Dealers* (www.cdtfa.ca.gov/formspubs/pub34.pdf)

Jet Fuel

For periods after January 1, 2008, the place of sale for jet fuel is the place at which the retail sale of that jet fuel is consummated.

For sales and use tax purposes, the sale of jet fuel is considered consummated at the point of the delivery of that jet fuel to the aircraft. For more information about sales of jet fuel, see our webpage, *Aircraft Jet Fuel* (www.cdtfa.ca.gov/taxes-and-fees/fuel-tax-and-fee-guides/aircraft-jet-fuel-tax/) .

Reporting Your Local Tax

There are various schedules available to allocate local tax.

The schedule you use depends upon the description you provide about your business activities. The most common schedules used are CDTFA-530-C, *Schedule C – Detailed Allocation by Location of Sales and Use Tax Transactions* (www.cdtfa.ca.gov/formspubs/cdtfa530.pdf) , which is used to allocate sales directly to a local jurisdiction, and CDTFA-531-B, *Schedule B-Detailed Allocation by County of Sales and Use Tax Transactions* (www.cdtfa.ca.gov/formspubs/cdtfa531.pdf) , which is used to allocate sales for certain sellers through the countywide pool. Below you will find information about Schedules C and B, along with additional schedules used to allocate local tax. Sometimes you may need to use a combination of schedules to allocate your local tax.

Schedule C – Detailed Allocation by Location of Sales and Use Tax Transactions

This schedule is used to allocate sales among cities, towns, unincorporated areas, or counties (or occasionally a combination thereof) in which you have business locations or sub-outlets. Schedule C allows you to allocate sales to your place(s) of business or multiple business locations.

Schedule B – Detailed Allocation by County of Sales and Use Tax Transactions

The following businesses generally allocate sales through the countywide pool:

- Certain auctioneers (taxable auction sales totaling less than $500,000 per event)
- Certain out-of-state retailers who have been authorized by CDTFA to operate under section 6015
- Section 6015 retailers may include a business that uses salespersons, representatives, peddlers, canvassers, agents, or other persons who operate under the direction of or obtain property from the business located outside California.
- Vending machine operators
- Out-of-state sellers engaged in business in California
- Out-of-state sellers not engaged in business in California
- Construction contractors who:
  - Purchase materials without tax from an out-of-state vendor and are the consumer of materials used in the performance of a construction contract, or
  - Purchase materials under a resale certificate because they are a retailer of materials and also withdrawal materials from resale inventory (consumable materials and materials purchased for resale are commingled) in the performance of a construct contract, or
  - Make retail sales of fixtures during the performance of a construction contract.
- People making ex-tax purchases for use at locations where a seller's permit is not required
- Mobile truck vendors
- Itinerant merchants – retailers with no permanent place of business should allocate sales to the permanent business location as shown on their seller's permit (this may include permanent location as shown on their seller's permit (this may include a home address).
- Itinerant veteran vendors – itinerant veteran vendors are considered the consumer of property owned and sold. They are allowed to allocate local use tax on Schedule B. However, itinerant veteran vendors making sales of alcoholic beverages or items sold for more than $100 are considered a retailer and must allocate local sales tax directly to a local jurisdiction using Schedule C.

Additional Schedules

Additional schedules are listed below. Instructions are found on the back of each form.

CDTFA-531-F, *Schedule F – Detailed Allocation by City of Taxable Transactions for Lessors of Motor Vehicles* (www.cdtfa.ca.gov/formspubs/cdtfa531f.pdf) :

CDTFA-531-F is used by lessors of motor vehicles to allocate local tax due on certain leases to the local jurisdiction of the new motor vehicle dealer from whom the lessor acquired the leased vehicle.

CDTFA-531-H, *Schedule H – Detailed Allocation by City of Taxable Sales and Use Tax Transactions of $500,000 or More* (www.cdtfa.ca.gov/formspubs/cdtfa531h.pdf) :

CDTFA 531-H is used by various industries, such as auctioneers with sales over $500,000 or people making sales or purchases over $500,000, to allocate the local sales and use tax to the proper jurisdiction.

CDTFA-531-X, *Schedule X – Partial Exemption from Bradley – Burns Local Taxes California Department of Aircraft Common Carrier* (www.cdtfa.ca.gov/formspubs/cdtfa531x.pdf) :

CDTFA-531- X is used to allocate the partial exemption credit for sales to or purchases for use by aircraft common carriers, as described in Regulation 1805 (www.cdtfa.ca.gov/lawguides/vol1/ulsutr/1805.html) .

CDTFA 531-P, *Schedule P – Tax Paid to Other State(s)* (www.cdtfa.ca.gov/formspubs/cdtfa531p.pdf) :

CDTFA-531-P is used to calculate the credit for the tax paid to other state(s). The credit offsets the tax due for the corresponding state, county, local, and special taxing jurisdictions where the purchase was consumed. Each purchase claiming this credit must be entered separately on this schedule.

CDTFA 531-Q, *Schedule Q – Tax Recovery* (www.cdtfa.ca.gov/formspubs/cdtfa531q.pdf) :

CDTFA-531-Q is used to claim a tax recovery for prior period(s). Amounts claimed on CDTFA-531-Q may only consist of tax recovery items where the original taxable sale was in a prior period and the tax recovery is in the current period. If you have tax recovery items that should have been claimed in a prior period, you will need to amend the prior period return or file a claim for refund for those transactions rather than claiming them in the current period.

Local Jurisdictions

If you represent a city, county, city and county, or special tax district, the following will help you understand the local tax allocation process.

Additional information is available on our *Tax Guide for Local Jurisdictions and Districts* (www.cdtfa.ca.gov/industry/local-jurisdictions-and-districts/) webpage. Procedures for jurisdictions to review CDTFA records and CDTFA review of local and district tax reallocation petitions are available in the Compliance Policy and Procedures Manual *Chapter 9* (www.cdtfa.ca.gov/taxes-and-fees/manuals/cpm-09.pdf) , Miscellaneous.

LEADERSHIP

Gavin Newsom

Governor (https://www.gov.ca.gov/)

Nick Maduros

Secretary, Government Operations Agency (https://www.govops.ca.gov/about/leadership/)

Trista Gonzalez

Director, CDTFA (mailto:Trista.Gonzalez@cdtfa.ca.gov)

QUICK LINKS

About CDTFA (www.cdtfa.ca.gov/about.htm)
External Tax Resources (www.cdtfa.ca.gov/external-tax-resources.htm)
Job Opportunities (www.cdtfa.ca.gov/jobs/)
Tax Guide for Local Jurisdictions and Districts (www.cdtfa.ca.gov/industry/local-jurisdictions-and-districts/)

SOCIAL MEDIA (WWW.CDTFA.CA.GOV/SOCIALMEDIA/)

(HTTPS://WWW.FACEBOOK.COM/CDTFA)
(HTTPS://TWITTER.COM/CDTFA)
(HTTPS://WWW.YOUTUBE.COM/CHANNEL/UCHHR8089KCKRV2P4BBIP
(HTTPS://WWW.LINKEDIN.COM/COMPANY/CDTFA?TRK=TOP_NAV_HOME)
(HTTPS://WWW.INSTAGRAM.COM/CDTFA/)

STATE CAMPAIGNS

Flex Alert (https://www.flexalert.org)

Register to Vote (https://registertovote.ca.gov)
Save Our Water (https://saveourwater.com)

CONTACT US

1-800-400-7115
California Connect (TTY) (https://caconnect.org/contact/) : 711
Email CDTFA (www.cdtfa.ca.gov/email/)
Office Locations (www.cdtfa.ca.gov/office-locations.htm)
CDTFA Directory (www.cdtfa.ca.gov/directory/)

Additional Contacts (www.cdtfa.ca.gov/contact.htm)

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CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Brandon Smith, Lieutenant**
Vince Avila, Chief of Police

MEETING DATE: **July 8, 2025**

SUBJECT: **Consideration of Resolution 2025-97, Authorizing the Budget Appropriation for Lease Payments on Motorola Radios, Purchased Under Prior Resolution 2024-22, in an Amount Not to Exceed $641,560.80**

RECOMMENDATION:

Approve Resolution 2025-97.

BACKGROUND:

On February 13, 2024, Banning City Council approved Resolution 2024-22, which approved the purchase of 50 Motorola APX Next radios and accessories under a 5-year lease agreement with Motorola Solutions. In Resolution 2024-22 the City Council agreed that should grant funding not be obtained to cover the costs of the radios and accessories, the City of Banning would pay for any remaining balance over five annual payments beginning June 1, 2026 and ending June 1, 2029.

JUSTIFICATION:

No grant funding was obtained to cover the purchase of the 50 Motorola APX Next radios and accessories. The City of Banning must now begin paying the annual lease payments of $128,312.16.

FISCAL IMPACT:

Five annual lease payments in the amount of $128,312.16 using the City of Banning General Fund, in a total amount not to exceed $641,560.80.

Lease Payments

1. Due 06/01/2025 - $128,312.16 ($31,748.55 interest / $96,563.61 principal)
2. Due 06/01/2026 - $128,312.16 ($26,099.58 interest / $102,212.58 principal)
3. Due 06/01/2027 - $128,312.16 ($20,120.14 interest / $108,192.02 principal)
4. Due 06/01/2028 - $128,312.16 ($13,790.91 interest / $114,521.25 principal)
5. Due 06/01/2029 - $128,312.16 ($7,091.41 interest / $121,220.75 principal)

Lease Total
$641,560.80

ALTERNATIVES:

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

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. Resolution_2025-97_Appropriation_of_Funds_for_Motorola_Radio_Lease_Payments.docx
2. banning_may_2024_-_5_years.pdf
3. Staff Report - Reso 2024-022.pdf
4. CC Resolution No. 2024-022.pdf

RESOLUTION 2025-97

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE BUDGET APPROPRIATION FOR LEASE PAYMENTS ON MOTOROLA RADIOS, PURCHASED UNDER PRIOR RESOLUTION 2024-22, IN AN AMOUNT NOT TO EXCEED $641,560.80

WHEREAS, the Banning Police Department received City Council approval under Resolution 2024-22 to purchase 50 Motorola APX Next radios and accessories in an amount not to exceed $648,253.15;

WHEREAS, the Banning Police Department was unable to secure grant funding to cover the approved purchase costs of the 50 Motorola APX Next radios and accessories;

WHEREAS, pursuant to the approved terms of Resolution 2024-22, the City of Banning will cover the costs of the 50 Motorola APX Next radios and accessories under the agreed upon 5-year lease with Motorola Solutions;

WHEREAS, the City of Banning will utilize General Fund dollars to pay the five annual lease payments of $128,312.16;

WHEREAS, the five lease payments will be paid June 1, 2025; June 1, 2026; June 1, 2027; June 1, 2028; and June 1, 2029;

WHEREAS, the total amount paid for the 50 Motorola APX Next radios and accessories under the terms of the lease will not exceed $641,560.80.

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

SECTION 1. The City Council approves the appropriation of General Fund dollars to pay the five annual lease payments in the amount of $128,312.16 to Motorola Solutions for 50 Motorola APX Next radios and accessories. Lease payments will be paid when due on June 1, 2025; June 1, 2026; June 1, 2027; June 1, 2028; and June 1, 2029. The total amount paid for under the terms of the lease will not exceed $641,560.80 for the 50 Motorola APX Next radios and accessories.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy, & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-97, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

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MOTOROLA SOLUTIONS

4/25/24

City of Banning
99 East Ramsey Street
Banning CA 92220

RE: Municipal Lease # 25508

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the solution to be leased from Motorola. The interest rate and payment streams outlined in Equipment Lease-Purchase Agreement #25508 are valid for contracts that are executed and returned to Motorola on or before **May 30, 2024**. After **5/30/2024**, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Solutions Credit Company LLC
Attn: Bill Stancik / 44th Floor
500 W. Monroe
Chicago IL 60661

Should you have any questions, please contact me at 847-538-4531.

Thank You,

MOTOROLA SOLUTIONS CREDIT COMPANY LLC
Bill Stancik

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LESSEE FACT SHEET

Please help Motorola provide excellent billing service by providing the following information:

1. Complete Billing Address: City of Banning

   99 E. Ramsey St, Banning, CA 92220

   E-mail Address: apinvoices@banningca.gov

   Attention: Finance Dept - AP

   Phone: 951-922-3117

2. Lessee County Location: Riverside

3. Federal Tax I.D. Number: 95-6000674

4. Purchase Order Number to be referenced on invoice (if necessary) or other "descriptions" that may assist in determining the applicable cost center or department: 32742

5. Equipment description that you would like to appear on your invoicing:_____

Appropriate Contact for Documentation / System Acceptance Follow-up:

6. Appropriate Contact & Mailing Address: 99 E. Ramsey Street

   Banning, CA 92220

   Phone: 951-922-3117

   Fax: _____

7. Payment remit to address**:** **Motorola Solutions Credit Company LLC**
   P.O. Box 71132
   Chicago IL 60694-1132

Thank you

DocuSign Envelope ID: 70ABD771-425F-430A-BD4C-05F8F8453062

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 25508

LESSEE:

City of Banning
99 East Ramsey Street
Banning CA 92220

LESSOR:

Motorola Solutions, Inc.
500 W. Monroe
Chicago IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment and/or software described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

1. TERM. This Lease will become effective upon the execution hereof by Lessor. The Term of this Lease will commence on date specified in Schedule A attached heretoand unless terminated according to terms hereof or the purchase option, provided in Section 18, is exercised this Lease will continue until the Expiration Date set forth in Schedule B attached hereto ("Lease Term").

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion , in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that a request for appropriation for funds from which the Lease Payments may be made will be requested each fiscal period, including making provisions for such payment to the extent necessary in each budget submitted for the purpose of obtaining funding. It is Lessee's intent to make Lease Payment for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to its proper, efficient and economic operation.

3. DELIVERY AND ACCEPTANCE. Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "Contract") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("Assignee"). LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS". LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, Lessee has the right to not appropriate funds to make Lease Payments required hereunder in any fiscal period and in the event no funds are appropriated or in the event funds appropriated by Lessee's governing body or otherwise available by any lawful means whatsoever in any fiscal period of L

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Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Non-appropriation of funds shall not constitute a default hereunder for purposes of Section 16.

6. LESSEE CERTIFICATION. Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"), and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payment to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Lease Term.

Lessee represents, covenants and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all laws relative to public bidding where necessary, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be payable solely from Legally Available Funds.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

7. TITLE TO EQUIPMENT; SECURITY INTEREST. Upon shipment of the Equipment to Lessee hereunder, title to the Equipment will vest in Lessee subject to any applicable license; provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its Assignee, and Lessee shall immediately discontinue use of the Equipment, remove the Equipment from Lessee's computers and other electronic devices and deliver the Equipment to Lessor or its Assignee. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

8. USE; REPAIRS. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the Equipment in good repair and furnish and/or install all parts, mechanisms, updates, upgrades and devices required therefor.

9. ALTERATIONS. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. LOCATION; INSPECTION. The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

11. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all tax

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measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss") , Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of : (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

13. INSURANCE. Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or it's Assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or it's Assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

14. INDEMNIFICATION. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, licensing, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

16. EVENT OF DEFAULT. The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease when funds have been appropriated sufficient for such purpose, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

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17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the fiscal period in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly discontinue use of the Equipment, remove the Equipment from all of Lessee's computers and electronic devices, return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; (iv) promptly return the Equipment to Lessor in the manner set forth in Section 5 hereof; and (v) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

18. PURCHASE OPTION. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

19. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

20. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

21. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

22. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, either electronically or manually, all of which shall constitute but one and the same instrument. Lessor reserves the right to request receipt of a manually-executed counterpart from Lessee. Lessor and Lessee agree that the only original counterpart for purposes of perfection by possession shall be the original counterpart manually executed by Lessor and identified as "Original", regardless of whether Lessee's execution or delivery of said counterpart is done manually or electronically.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the ***29th*** day of May, 2024.

LESSEE:
City of Banning

By:_____

Printed Name: Doug Schulze
Title: City Manager

LESSOR:
MOTOROLA SOLUTIONS, INC.

By: Uygar Gazioglu

Uygar Gazioglu
Title Treasurer

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CERTIFICATE OF INCUMBENCY

I, Caroline Patton do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)
appointed and acting Secretary or Clerk of the City of Banning, an entity duly organized and existing under the laws of the **State of California** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **25508**, between City of Banning and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds $1,000,000,attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate this 31 day of May, 2024.

By: _____
(Signature of Secretary/Clerk)

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement 25508 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

Serita R. Young
_____

Attorney for City of Banning

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SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT

Schedule A Lease Number: **25508**

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **25508** ("Lease"), between Lessor and _Lessee.

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	**DESCRIPTION (Manufacturer, Model, and Serial Nos.)**
	Refer to attached Equipment List.
Equipment Location:	

Initial Term: 60 Months **Commencement Date:** **6/1/2024**
First Payment Due Date: **6/1/2025**

5 payments as outlined in the attached Schedule B, plus Sales/Use Tax of $0.00, payable on the Lease Payment Dates set forth in Schedule B.

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City of Banning (Schedule B # 25508)

Compound Period: Annual

Nominal Annual Rate: 5.850%

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Lease	6/1/2024	$ 542,710.21	1		
2	Lease Payment	6/1/2025	$ 128,312.16	5	Annual	6/1/2029

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Lease Payment	Interest	Principal	Balance
Lease	6/1/2024				$542,710.21
1	6/1/2025	$ 128,312.16	$ 31,748.55	$ 96,563.61	$446,146.60
2	6/1/2026	$ 128,312.16	$ 26,099.58	$102,212.58	$343,934.02
3	6/1/2027	$ 128,312.16	$ 20,120.14	$108,192.02	$235,742.00
4	6/1/2028	$ 128,312.16	$ 13,790.91	$114,521.25	$121,220.75
5	6/1/2029	$ 128,312.16	$ 7,091.41	$121,220.75	$ -
Grand Totals		$ 641,560.80	$ 98,850.59	$542,710.21	

INITIAL INSURANCE REQUIREMENT: $542,710.21

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

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EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **25508** to that Equipment Lease Purchase Agreement number **25508** will be maintained by the City of Banning as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

Perma

Name of insurance provider

72811 Highway 111 #1014

Address of insurance provider

Palm Desert, CA 92260

City, State and Zip Code

760-258-4259

Phone number of local insurance provider

kachterberg@permarisk.gov

E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **25508** , City of Banning **,** hereby certifies that following coverage are or will be in full force and effect:

Type	Amount	Effective Date	Expiration Date	Policy Number
Fire and Extended Coverage	$1,000,000	7/1/23	7/1/24	LMOC-2023-2024
Property Damage	$1,000,000	7/1/23	7/1/24	APIP2023(DEC11)0702
Public Liability (General)	$1,000,000	7/1/23	7/1/24	LMOC-2023-2024

Certificate shall include the following:
Description: All Equipment listed on Schedule A number 25508 to that Equipment Lease Purchase Agreement number 25508. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 25508 and list any deductibles.

Certificate Holder:
MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee
1303 E. Algonquin Road
Schaumburg, IL 60196

If self insured, contact Motorola representative for template of self insurance letter.

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STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, please address the following questions by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?

   Police operations

2. Why is the equipment essential to the operation of **City of Banning?**

   Communications during Police Operations and emergency response

3. Does the equipment replace existing equipment?

   Yes

   If so, why is the replacement being made?

   Age of equipment

4. Is there a specific cost justification for the new equipment?

   no

   If yes, please attach outline of justification.

5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years?

   Operational Budget over the next 5 years. Alternative funding sources will also be pursued.

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EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee and Lessor.

Equipment Lease Purchase Agreement No.: 25508 Lease Schedule A No. : 25508

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# 25508. See Schedule A for a detailed Equipment List.

LESSEE:

City of Banning

By: _____

Date: 6/12/2024

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CERTIFIED LESSEE RESOLUTION

At a duly called meeting of the Governing Body of the Lessee (as defined in the Lease 25508) held on (Enter date) ~~May~~ February 13, 2024 ~~, 2024~~, the following resolution was introduced and adopted.
BE IT RESOLVED by the Governing Board of Lessee as follows:

1. Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between City of Banning(Lessee) and Motorola Solutions, Inc. (Lessor).

2. Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby designates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.

3. Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

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Form **8038-G**
(Rev. May2018)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bonds

▸ **Under Internal Revenue Code section 149(e)**
▸ **See separate instructions.**
Caution: *If the issue price is under $100,000, use Form 8038-GC.*
▸ **Go to *www.irs.gov/F8038G* for instructions and the latest information.**

OMB No. 1545-0720

☐

Part I **Reporting Authority** If **Amended Return**, check here ▸

1 Issuer's name City of Banning	**2** Issuer's employer identification number (EIN) 95-6000674
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)	**3b** Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) Room/suite 99 East Ramsey Street	**5** Report number *(For IRS Use Only)* 3
6 City, town, or post office, state, and ZIP code Banning CA 92220	**7** Date of issue 6/1/24
8 Name of issue Equipment Lease-Purchase Agreement 25508	**9** CUSIP number none
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)	**10b** Telephone number of officer or other employee shown on 10a

Part II **Type of Issue (enter the issue price).** See the instructions and attach schedule.

11	Education	**11**	
12	Health and hospital	**12**	
13	Transportation	**13**	
14	Public safety	**14**	542,710.21
15	Environment (including sewage bonds)	**15**	
16	Housing	**16**	
17	Utilities	**17**	
18	Other. Describe ▸	**18**	
19a	If bonds are TANs or RANs, check only box 19a ▸ ☐		
b	If bonds are BANs, check only box 19b ▸ ☐		
20	If bonds are in the form of a lease or installment sale, check box ▸X ☐		

Part III **Description of Bonds.** Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	**(b)** Issue price	**(c)** Stated redemption price at maturity	**(d)** Weighted average maturity	**(e)** Yield
21	6/1/29	542,710.21	542,710.21	5 years	5.85

Part IV **Uses of Proceeds of Bond Issue (including underwriters' discount) NA**

22	Proceeds used for accrued interest			**22**	
23	Issue price of entire issue (enter amount from line 21, column (b))			**23**	
24	Proceeds used for bond issuance costs (including underwriters' discount)	**24**			
25	Proceeds used for credit enhancement	**25**			
26	Proceeds allocated to reasonably required reserve or replacement fund	**26**			
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V	**27**			
28	Proceeds used to refund prior taxable bonds. Complete Part V	**28**			
29	Total (add lines 24 through 28)			**29**	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			**30**	

Part V **Description of Refunded Bonds.** Complete this part only for refunding bonds. N/A

31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded ▸	years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded ▸	years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) ▸	
34	Enter the date(s) the refunded bonds were issued ▸ (MM/DD/YYYY)	

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Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	**35**		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions	**36a**		
b	Enter the final maturity date of the GIC ► (MM/DD/YYYY)			
c	Enter the name of the GIC provider ►			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	**37**		

38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► ☐ and enter the following information:

b Enter the date of the master pool bond ► (MM/DD/YYYY) _____

c Enter the EIN of the issuer of the master pool bond ► _____

d Enter the name of the issuer of the master pool bond ► _____

39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ► ☐

40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ► ☐

41a If the issuer has identified a hedge, check here ► ☐ and enter the following information:

b Name of hedge provider ► _____

c Type of hedge ► _____

d Term of hedge ► _____

42 If the issuer has superintegrated the hedge, check box ► ☐

43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ► ☐

44 If the issuer has established written procedures to monitor the requirements of section 148, check box ► ☐

45a If some portion of the proceeds was used to reimburse expenditures, check here ► ☐ and enter the amount of reimbursement ► _____

b Enter the date the official intent was adopted ► (MM/DD/YYYY)

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Douglas Sabolyn — 6/12/2024

Signature of Authorized Representative | Date | Title | ☐

Signature of issuer's authorized representative | Date | Type or print name and title

Paid Preparer

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CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Douglas Schulze, City Manager**
PREPARED BY:	**Roberto Jauregui, Acting Lieutenant** **Derek Thesier, Acting Chief of Police**
MEETING DATE:	**February 13, 2024**
SUBJECT:	**Consideration of Resolution 2024-22, Approving the Purchase of 50 Motorola APX NEXT Radios and Accessories**

RECOMMENDATION:

Staff recommends the City Council adopt Resolution 2024-22.

BACKGROUND:

Currently the Banning Police Department utilizes the Motorola APX 7000 radios as its handheld portable radio. The APX 7000 is now a radio that is no longer serviceable by Motorola as the 8000 series and now APX NEXT have since replaced the 7000 series. The Banning Police Department tested and evaluated products from multiple vendors and determined that based on functionality, interoperability, and reliability, the Motorola APX NEXT radio is the optimal piece of equipment to fill the needs of the Banning Police Department, ensure enhanced officer safety for department members, and effectively respond to emergencies throughout the City of Banning and neighboring jurisdictions.

JUSTIFICATION:

The Banning Police Department is currently utilizing all its handheld radio resources and needs to be able to equip incoming personnel, as well as upgrade radio equipment to ensure all personnel are utilizing equipment that is able to be serviced should a problem occur. The purchase of Motorola APX NEXT portable radios will allow the Banning Police Department to fully equip staff members with the most up-to-date and technologically advanced radio equipment. Staff have researched other comparable radios currently available and have found that Motorola best fit the City's best interest and have Sole Sourced this procurement for the following reasons. These radios will allow department members to utilize a piece of life-saving equipment that will enhance officer safety and allow uninterrupted communication between the Banning Police Department and allied agencies. The Motorola APX NEXT radios include features such as GPS location services so while officers are conducting their duties it is possible to locate officers and deploy resources appropriately during emergency situations, including natural disasters such as wildfires. The APX Next radio is also LTE enabled so when a traditional radio loses the ability to communicate because it is out of range of radio towers, the APX NEXT LTE kicks in for uninterrupted service.

Radios are a key component for communication to officers who must have reliable communication with not only the Banning Police Department but to other agencies in the region. Staff researched hardware and in evaluation of functionality and compatibility, determined that using the Motorola APX radios would be in the best interest of the City. Staff identified the availability of alternative radios and found similar products to have compatibility issues, less coverage, and were less reliable than using the Motorola radios. After careful consideration, Staff recommends single source, sole source purchase of the

Motorola APX NEXT portable radios.

FISCAL IMPACT:

The purchase of 50 Motorola APX NEXT radios and related accessories will require an amount not to exceed $648,253.15, with the following payment option:

1. Motorola Solutions allows for a one-year deferred payment option, which would allow the City of Banning and Banning Police Department to seek grant funding during that year.
2. After the one-year deferred payment period if grant funding were not located to fund the entirety of the project, then the City of Banning would pay for any remaining balance of the purchase cost over five annual payments (including lease rate).
3. Five annual payments, beginning one-year after contract execution, in the amount of $129,650.63 (includes lease interest rate of 5.85%).

Pursuant to Government Code Section 5852.1, the following good faith estimates (obtained from the Lender) must be disclosed at a public meeting before the authorization of the Lease. The estimates are based on market estimates as of 1/23/2024:

Information to be disclosed per Government Code Section 5852.1:	*Estimates as of 1/23/2024*
True interest cost of the Lease (the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of Lease)	5.85%
Finance charge of the Lease (the sum of fees and charges paid to third parties):	$ 99,881.75
Amount of proceeds received by the public body from the sale of the Lease, less the finance charge of the Lease and any reserves or capitalized interest paid or funded with proceeds of the Lease	$548,371.40
The total payment amount (the sum total of all debt service payments on the Lease, plus the finance charge of the Lease not paid from bond proceeds)	$648,253.15

ALTERNATIVES:

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

ATTACHMENTS:

1. Resolution 2024-22, PD Radio Purchase.docx
2. Exhibit A - Lease Communications System Services Agreement.docx
3. Banning PD Finance Options
4. banningjan24.xlsx
5. Sole Source Vendor Form - Motorola.docx

RESOLUTION 2024-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PURCHASE OF 50 MOTOROLA APX NEXT PORTABLE RADIOS AND ACCESSORIES

WHEREAS, the City of Banning Police Department currently utilizes the Motorola APX 7000 radios as its handheld portable radio and the APX 7000 is no longer serviceable by Motorola; and

WHEREAS, the City of Banning Police Department tested and evaluated products from multiple vendors and determined that based on functionality, interoperability, and reliability, the Motorola APX NEXT radio is the optimal piece of equipment; and

WHEREAS, the City of Banning Police Department the radio equipment is crucial to ensure enhanced officer safety for department members, and effectively respond to emergencies throughout the City of Banning and neighboring jurisdictions; and

WHEREAS, the City of Banning, now wishes to purchase 50 new Motorola APX NEXT portable radios and related accessories in the amount of $648,253.15, using the radios using the same vendor utilized for previous police radio purchases.

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

Section 1. The City Council approves the sole source purchase of 50 Motorola APX NEXT police radios through Motorola Solutions, in an amount not to exceed $648,253.15, and authorizes the City Manager to sign a Communications System and Services Agreement with Motorola Solutions, Inc., in substantial form as attached hereto as Exhibit A, on behalf of the City Council.

Section 2. The City Council authorizes the City Manager to make non-substantive changes to the Agreement prior to execution, and to make necessary budget adjustments, appropriations, and transfers related to this resolution.

Section 3. The City Council approves the use of General Fund dollars to make three annual payments of $129,650.63 per year (payments include five-year lease rate of 5.85%) after the one-year deferred payment window should outside funding not be obtained.

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 13th day of February 2024.

Alberto Sanchez, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Serita R. Young, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2024-22, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of February 2024 by the following vote, to wit:

AYES: Flynn, Happe, Minjares, Sanchez, and Wallace.

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

Exhibit A
Agreement

Communications System and Services Agreement

(Lease)

Motorola Solutions, Inc. ("Motorola") and Banning Police Department ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the System and Services, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 ATTACHMENTS

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the System sale and implementation. These Exhibits are incorporated into and made a part of this Agreement.
Exhibit A "Motorola Software License Agreement"
Exhibit B "System Purchase"
Exhibit C Motorola QUOTE-2476772 dated 1/10/24
Exhibit D "Equipment Lease Purchase Agreement Delivery and Acceptance Certificate"

1.2. ADDENDUM (ADDENDA). Customer may elect to purchase professional or subscription services in addition to the System and related services. Any such services will be governed by the terms in the main body of the Agreement and an applicable Addendum containing terms specific to such service. Such Addenda will be labeled with the name of the service being purchased.

1.3 ORDER OF PRECEDENCE. In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits (unless otherwise specified in an exhibit), and any inconsistency between Exhibits A through E will be resolved in their listed order, and 2) The applicable service Addendum will take precedence over the main body of the Agreement and the Exhibits.

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

"Acceptance Tests" means those tests described in the Acceptance Test Plan.

"Addendum (Addenda)" is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication System and System implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.

"Administrative User Credentials" means an account that has total access over the operating system, files, end user accounts and passwords at either the System level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User.

"Beneficial Use" means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

"Confidential Information" means all information consistent with the fulfillment of this Agreement that is (i) disclosed under this Agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this Agreement are considered Confidential Information. Confidential Information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such

disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

"Contract Price" means the price for the System and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, "Payment" or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

"Deliverables" means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

"**Derivative Proprietary Materials**" means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

"Effective Date" means that date upon which the last Party executes this Agreement.

"Equipment" means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

"Equipment Lease-Purchase Agreement" means the agreement by which Customer finances all or a portion of the Contract Price.

"**Feedback"** means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

"Force Majeure" means an event, circumstance, or act that is beyond a Party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

"Motorola Software" means software that Motorola or its affiliated companies owns.

"Non-Motorola Software" means software that a party other than Motorola or its affiliated companies owns.

"Open Source Software" (also called "freeware" or "shareware") means software with either freely obtainable source code, license for modification, or permission for free distribution.

"Proprietary Materials" means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

"Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or another party.

"Services" means system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum

and/or SOW.

"Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

"Software License Agreement" means the Motorola Software License Agreement (Exhibit A).

"Software Support Policy" ("SwSP") means the policy set forth at https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola's discretion.

"Solution" means the combination of the System(s) and Services provided by Motorola under this Agreement.

"Solution Data" means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

"Specifications" means the functionality and performance requirements that are described in the Technical and Implementation Documents.

"SUA" or "SUA II" means Motorola's Software Upgrade Agreement program.

"Subsystem" means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

"System" means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in the Technical and Implementation Documents.

"System Acceptance" means the Acceptance Tests have been successfully completed.

"**System Data**" means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

"Warranty Period" for System Hardware, Software, or services related to system implementation means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. SCOPE OF WORK. Motorola will provide, install and test the System(s), and perform its other contractual responsibilities to provide the Solution, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. CHANGE ORDERS. Either Party may request changes within the general scope of this Agreement. If a requested change causes an increase or decrease in the cost or time required to perform

this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. TERM. Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, or completion of the Services, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable Addendum.

3.4. ADDITIONAL EQUIPMENT OR SOFTWARE. For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through the Motorola Solutions Customer Portal eCommerce Shop, and this Agreement will be the "Underlying Agreement" for those eCommerce transactions rather than the eCommerce Shop Terms and Conditions of Sale. eCommerce Shop registration and other information may be found at https://www.motorolasolutions.com/en_us/registration and the shop support telephone number is (800) 814-0601.

3.5. MOTOROLA SOFTWARE. Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.6. NON-MOTOROLA SOFTWARE. Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.

3.7. SUBSTITUTIONS. At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

3.8. OPTIONAL EQUIPMENT OR SOFTWARE. This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License

Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

Section 4 SERVICES

4.1. If Customer desires and Motorola agrees to continue Services beyond the Term, Customer's issuance and Motorola's acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.

4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference

4.3. PROFESSIONAL AND SUBSCRIPTION SERVICES. If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola's proposal for such additional services.

4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

4.5. TOOLS. All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer.

4.6. COVENANT NOT TO EMPLOY. During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

4.7. CUSTOMER OBLIGATIONS. If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.

4.8. ASSUMPTIONS. If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.

4.9. NON-PRECLUSION. If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. PROPRIETARY MATERIALS. Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. ADDITIONAL SERVICES. Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.

Section 5 PERFORMANCE SCHEDULE

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

Section 6 CONTRACT PRICE, PAYMENT AND INVOICING

6.1. Customer affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any, and that sufficient funds have been appropriated in accordance with applicable law. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

6.2. CONTRACT PRICE. The Contract Price in U.S. dollars is $548,371.40. The Contract Price will be paid via the disbursement of the financing proceeds pursuant to the Equipment Lease-Purchase Agreement executed between the parties. If applicable, a pricing summary is included with the Payment schedule. Motorola has priced the Services, Software, and Equipment as an integrated System. A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, SUA, and/or subscription services which are not included in the Contract Price may be listed and invoiced according to the pricing pages of the proposal, Exhibit B, or the applicable Addendum. Invoices will be mailed or emailed to Customer pursuant to Section 6.4, Invoicing and Shipping Addresses.

For Customer's reference, the Federal Tax Identification Number for Motorola Solutions, Inc. is 36-1115800..

6.3. FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Unless otherwise stated in the Equipment Lease-Purchase Agreement, title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

6.4. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:
Name:_____Derek Thesier
Address:_____99 E Ramsey St Banning CA, 92220_
Phone:_____951-849-1433_____

E-INVOICE. To receive invoices via email:
Customer Account Number:_____1000190306_____
Customer Accounts Payable Email:_____
Customer CC(optional) Email: _____

The address which is the ultimate destination where the Equipment will be delivered to Customer is:
Name:_____Derek Thesier_____
Address:___125 E Ramsey St Banning CA, 92220_____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):
Name:_____Sgt. Derek Thesier_____
Address:____125 E Ramsey st Banning CA, 92220_____
Phone:_____951-849-1433_____

Customer may change this information by giving written notice to Motorola.

Section 7 SITES AND SITE CONDITIONS

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

7.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

7.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation

plans and specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

Section 8 TRAINING

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

Section 9 SYSTEM ACCEPTANCE

9.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

9.2. SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. BENEFICIAL USE. Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

9.4. FINAL PROJECT ACCEPTANCE. Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate (Exhibit D) and the Equipment Lease Purchase Agreement Delivery and Acceptance Certificate (Exhibit E).

Section 10 REPRESENTATIONS AND WARRANTIES

10.1. SYSTEM FUNCTIONALITY. Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

10.2. EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System

Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Equipment.

10.3. SOFTWARE WARRANTY. Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If System Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. **Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.**

10.4. EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES. These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.5. SERVICE WARRANTY. During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable Statement of Work. Services will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.6. WARRANTY CLAIMS. To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.7. ORIGINAL END USER IS COVERED. These express limited warranties are extended by Motorola to the original user purchasing the System or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

10.8. DISCLAIMER OF OTHER WARRANTIES. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

Section 11 DELAYS

11.1. FORCE MAJEURE. Neither Party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER. If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

Section 12 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State in which the System is installed.

12.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

12.3. MEDIATION. The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

12.4. LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

12.5. CONFIDENTIALITY. All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 13 DEFAULT AND TERMINATION

13.1. DEFAULT BY A PARTY. If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.

13.2. FAILURE TO CURE. If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

Section 14 INDEMNIFICATION

14.1. GENERAL INDEMNITY BY Motorola. Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, or cause of action arising from any third party claim or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer gives Motorola prompt, written notice of any third-party claim or suit. Customer will cooperate with Motorola in its defense or settlement of such claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2. GENERAL INDEMNITY BY CUSTOMER. Customer will indemnify and hold Motorola harmless from any and all liability, expense, judgment, suit, or cause of action arising from any third party claim or demand for personal injury, death, or direct damage to tangible property which may accrue against Motorola to the extent it is caused by the negligence of Customer, its other contractors, or their employees or agents, while performing their duties under this Agreement, if Motorola gives Customer prompt, written notice of any third-party claim or suit. Motorola will cooperate with Customer in its defense or settlement of such claim or suit. This Section sets forth the full extent of Customer's general indemnification of Motorola from liabilities that are in any way related to Customer's performance under this Agreement.

14.3. PATENT AND COPYRIGHT INFRINGEMENT.

14.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.3.2 If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option

and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.3.3 Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs, specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.3.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject to and limited by the restrictions set forth in Section 15.

Section 15 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or implementation and other one-time Services with respect to which losses or damages are claimed. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT. This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 16 CONFIDENTIALITY AND PROPRIETARY RIGHTS

16.1. CONFIDENTIAL INFORMATION.

16.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this Agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned

subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement. Notwithstanding the foregoing, Motorola acknowledges that the Customer is subject to the California Records Act.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this Agreement.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

16.2. PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS. Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3 VOLUNTARY DISCLOSURE. Except as required to fulfill its obligations under this Agreement, Motorola will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing.

16.4 DATA AND FEEDBACK.

16.4.1 To the extent permitted by law, Customer owns all right, title and interest in System Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data.

16.4.2 Motorola owns all right, title and interest in data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3 Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

Section 17 GENERAL

17.1. TAXES. The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. ASSIGNABILITY AND SUBCONTRACTING. Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.3. WAIVER. Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

17.4. SEVERABILITY. If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

17.5. INDEPENDENT CONTRACTORS. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

17.6. HEADINGS AND SECTION REFERENCES. The section headings in this Agreement are inserted

only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

17.7. NOTICES. Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.

17.8. COMPLIANCE WITH APPLICABLE LAWS. Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its employees is an agent or representative of Customer in FCC or other matters.

17.9 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

17.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

17.11. ADMINISTRATOR LEVEL ACCOUNT ACCESS. If applicable to the type of System purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support personnel. Customer understands that changes made as the Administrative User can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection

10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.	**Customer**
By: _____	By: _____
Name: _____Brian Arriaga_____	Name: _____
Title: _____Account Executive_____	Title: _____
Date: _____2/2/2024_____	Date: _____

Exhibit A

MOTOROLA SOFTWARE LICENSE AGREEMENT

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and ____Banning Police Department_____ ("Licensee").

For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).

3.3 TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and

security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written

consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 Commercial Computer Software

9.1 *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2 If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement

concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. COPYRIGHT NOTICES. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. COMPLIANCE WITH LAWS. Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. ASSIGNMENTS AND SUBCONTRACTING. Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. GOVERNING LAW. This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, or the internal substantive laws of the State of Illinois if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. THIRD PARTY BENEFICIARIES. This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. SURVIVAL. Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. ORDER OF PRECEDENCE. In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.9. SECURITY. Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

Exhibit B

PAYMENT

For the System purchase financed through Motorola, please refer to the payment schedule included in the Equipment Lease-Purchase Agreement

If Customer has purchased additional Professional or Subscription services, payment will be in accordance with the applicable Addenda.

For Lifecycle Support Plan and Subscription Based Services:
Motorola will invoice Customer annually in advance of each year of the plan, or as otherwise stated in the applicable addenda.

The chart below outlines the hourly labor rates for Motorola System Integration resources to be used. The staffing requirements shall be multiplied by the appropriate rate per resource in the table below. The hourly labor rates are fully burdened. The hourly rates per resource type and level are listed in Table 1.

	Resource Types			
Levels	Project Management	System Engineering	System Technologist	Project Administration
4	$ 290.00	$ 300.00	$ 280.00	$ 200.00
3	$ 240.00	$ 250.00	$ 240.00	$ 180.00
2	$ 220.00	$ 220.00	$ 220.00	$ 170.00
1	$ 190.00	$ 210.00	$ 210.00	$ 160.00

Table 1 - Hourly Rates

These rates apply to ordinary days and times (Monday to Friday during the hours 8am to 5pm). Additional surcharges may apply to work done outside these timeframes. The minimum charge for any resource will be 4 hours. Travel expenses are not included in these rates and may be charged separately.
The qualifications of each type and level of resource are defined in the tables found at https://www.motorolasolutions.com/content/dam/msi/secure/services/labor-rates-exhibit-160408.pdf.. All Motorola System Integration personnel assigned to this project will be classified according these levels. Project Administrative roles are varied and their specific duties and qualifications will be determined by the complexity and requirements of each project.

Exhibit E

EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee (Customer) and Lessor.

Equipment Lease Purchase Agreement No.: _____

Lease Schedule A No. : _____

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# _____. See Schedule A for a detailed Equipment List.

LESSEE/CUSTOMER:

By: _____

Title:_____

Date: _____

Please complete this form and send a copy via US mail or email to:
Motorola Solutions Credit Company LLC
Attn: Bill Stancik, Finance Manager | 500 W. Monroe, 44th Floor | Chicago, IL 60661
Email: bill.stancik@motorolasolutions.com | Telephone: (847) 538-453

CITY OF BANNING
STAFF REPORT

TO:	**CITY COUNCIL**
FROM:	**Robert Fisher, Acting City Manager**
PREPARED BY:	**Barbara Mason, Chief Procurement Officer** **Vincent Avila, Chief of Police**
MEETING DATE:	**July 8, 2025**
SUBJECT:	**Consideration of Resolution No. 2025-112 to Approve Budget Appropriation to fund the SWAG contract**

RECOMMENDATION:

Approve Appropriation for SWAG contract in the amount of $48,502/month for a not to exceed total of $582,024 for FY2026 from the General Fund.

BACKGROUND:

SWAG is a non-profit public benefit corporation in good standing with the California Secretary of State. SWAG's principal business location is 5053 La Mart Dr, Suite 204 in Riverside, California. SWAG's mission is to advocate, educate and inspire marginalized individuals and families in Southern California to achieve sustainable independence through community support. SWAG provides or has provided homeless intervention and related services to a number of Inland Empire communities, including Desert Hot Springs, Colton, Temecula, Chino Hills, Lake Elsinore and Rialto. Some of the services provided by SWAG in communities it serves include, but are not limited to, the following:

1. Responding to homeless service requests made by City staff, and law enforcement in a timely
2. Providing immediate crisis stabilization to those experiencing behavioral health, physical crisis and emergencies and connection to behavioral health and substance abuse treatment
3. Case management of individuals that are in treatment and temporary living situations to help ensure they do not return to the streets.
4. Assisting unsheltered homeless individuals with obtaining admittance and transportation to emergency shelters and connecting them with transitional and permanent housing options.

On May 30, 2025, City Council approved SWAG contractor. Staff is requesting a budget appropriation to fund the contract in the amount of $48,502/month for a not to exceed total of $582,024 for FY2026.

JUSTIFICATION:

Homeless Encampments pose a serious public safety risk, often causing fires and exposing encampment residents to increased risk of sexual violence and criminal activity, to property damage and break-ins, and unsanitary conditions affecting both residents and neighbors. They dampen and deter both commercial and recreational activity through the accumulation of hazardous material and excessive debris, harming downtowns and depriving Californians of their public spaces. Large encampments and those with semi-permanent structures exacerbate and perpetuate these harms.

FISCAL IMPACT:

Expense in the amount $48,502/month for a not to exceed total of $582,024 for annual cost in FY2026.

ALTERNATIVES:

1) Do not approve budget appropriation and cancel SWAG contract, or
2) City Council to provide alternative direction.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. Resolution_2025-112_SWAG_Contract.docx
1. (1)Banning General Services Agreement - SWAG.docx
2. Exhibit A - Proposal.pdf

RESOLUTION 2025-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE BUDGET APPROPRIATION FOR MONTHLY PAYMENTS TO SWAG, UNDER RESOLUTION 2025-XX, IN AN AMOUNT NOT TO EXCEED $582,024

WHEREAS, the City of Banning ("City") seeks to address the growing concern of unsheltered homelessness through strategic outreach, community collaboration, and connection to long-term housing solutions outside the City's limits;

WHEREAS, the City has entered into a General Services Agreement with Social Work Action Group (SWAG), a California nonprofit organization based in Riverside, which provides professional, person-centered homeless outreach and intervention services throughout Southern California;

WHEREAS, SWAG will identify, engage, and assist individuals, families, and encampments experiencing homelessness in the City of Banning, with the goal of reducing their visibility and presence in the community through connection to housing, treatment, and services;

WHEREAS, the Agreement, effective May 30, 2025, allows for monthly compensation not to exceed Forty-Eight Thousand Five Hundred Two Dollars ($48,502.00), in exchange for services provided under the terms outlined in Exhibit "A" of the Agreement;

WHEREAS, the City Council finds that authorizing this monthly payment structure supports fiscal transparency, ensures continuity of services, and aligns with the City's mission to address public safety and wellness challenges posed by chronic homelessness;

WHEREAS, the City of Banning will utilize General Fund dollars to pay the monthly service payments of $48,502 in an amount not to exceed $582,024.

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

SECTION 1. The City Council approves the appropriation of General Fund dollars to pay the monthly service payments in the amount of $48,502 to SWAG in accordance with Section 4.03 of the agreement. The total amount paid for under the terms of the agreement will not exceed $582,024.

SECTION 2. The City Council authorizes the City Manager, or designee, to make necessary budget adjustments, appropriations, and transfers related to this resolution.

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 8th day of July, 2025.

Sheri Flynn, Mayor
City of Banning

ATTEST:

Caroline Patton, Administrative City Clerk
City of Banning

APPROVED AS TO FORM:

John Pinkney, City Attorney
Slovak, Baron, Empey, Murphy, & Pinkney LLP

CERTIFICATION:

I, Caroline Patton, Administrative City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution 2025-XX, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of July, 2025 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Caroline Patton, Administrative City Clerk
City of Banning, California

AGREEMENT FOR GENERAL SERVICES
BY INDEPENDENT CONTRACTOR

THIS AGREEMENT FOR GENERAL SERVICES BY INDEPENDENT CONTRACTOR is made and effective as of the May 30, 2025, by and between the City of Banning ("CITY"), whose address is 99 E. Ramsey Street, Banning, California 92220, and Social Work Action Group ("CONTRACTOR"), a California nonprofit corporation whose address is 5053 LA Mart Dr, Suite #204, Riverside, California 92507. CITY and CONTRACTOR may be referred to individually as a "party" and collectively as the "parties."

RECITALS

This Agreement is entered into on the basis of the following facts, understandings and intentions of the parties to this Agreement:

A. CITY desires to engage CONTRACTOR to provide the following services: to address the growing issue of unsheltered homelessness in the City of Banning with strategic outreach, community collaboration, and facilitating long-term housing solutions outside of the City of Banning. CONTRACTOR's primary focus is homeless intervention services and to identify, engage, and assist individuals, families, and encampments experiencing homelessness, ultimately reducing their visibility and presence in the community; and

B. CONTRACTOR has made a proposal ("Proposal") to the CITY to provide such services, which Proposal is attached hereto as **Exhibit "A"** and incorporated herein by this reference; and

C. CONTRACTOR represents that it has examined and is fully familiar with all of the provisions of the Agreement; that it has satisfied itself as to the nature and location of all Services (defined below), the general and local conditions to be encountered in the performance of any Services, and all other matters which can in any way affect the Services or the cost thereof; and

D. Pursuant to the City of Banning's Municipal Code, CITY has authority to enter into this Agreement and the Mayor has authority to execute this Agreement with Council approval; and

E. CONTRACTOR agrees to provide such Services pursuant to, and in accordance with, the terms and conditions of this Agreement, and represents and warrants to CITY that CONTRACTOR possesses the necessary skills, licenses, certifications, qualifications, personnel and equipment to provide such services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants contained herein, CITY and CONTRACTOR agree as follows:

1. Term of Agreement. This Agreement is effective as of the date first above written

and shall continue until terminated as provided for herein. Notwithstanding anything in this Agreement to the contrary, this Agreement shall automatically terminate after one (1) year unless extended by the parties with the approval of the City Council of the CITY.

2. Services to be Performed. CONTRACTOR agrees to provide the services ("Services") contained in the Proposal. All Services shall be performed in the manner and according to the timeframe set forth in the Proposal. CONTRACTOR designates _____ as CONTRACTOR'S professional(s) responsible for overseeing the Services provided by CONTRACTOR. CITY designates the City Manager, or his or her designee, to act as the Project Manager ("Project Manager") in connection with the delivery of Services under this Agreement. CONTRACTOR shall supply, at its sole expense, all equipment, tools, materials, and supplies necessary to perform Services.

3. Associates and Subcontractors. CONTRACTOR may, at CONTRACTOR'S sole cost and expense, employ such competent and qualified independent associates, subcontractors and consultants as CONTRACTOR deems necessary to perform the Services; provided, however, that CONTRACTOR shall not subcontract any of the Services without the prior written consent of CITY.

4. Compensation.

4.01 CONTRACTOR shall be paid at the rates set forth in the Proposal and shall not increase any rate without the prior written consent of the CITY. Notwithstanding anything in this Agreement or in the Proposal/Exhibits to the contrary, total fees and charges paid by CITY to CONTRACTOR under this Agreement shall not exceed the amount of **Forty-Eight Thousand Five Hundred Two Dollars ($48,502.00)** a month.

4.02 CONTRACTOR shall not be compensated for any Services rendered nor reimbursed for any expenses incurred in excess of those authorized unless approved in advance by the CITY, in writing.

4.03 CONTRACTOR shall submit to CITY, on or before the fifteenth (15^{th}) of each month, itemized invoices for the Services rendered in the previous month. The CITY shall not be obligated to pay any invoice for services that are submitted more than sixty (60) days after the date such services were provided. CITY shall have the right to review and audit all invoices prior to or after payment to CONTRACTOR. This review and audit may include, but not be limited to CITY's:

a. Determination that any hourly fee charged is consistent with this Agreement's approved hourly rate schedule;

b. Determination that the multiplication of the hours billed times the approved rate schedule dollars is correct;

c. Determination that each item charged is the usual, customary, and reasonable charge for the particular item. If CITY determines an item charged is greater than usual, customary, or reasonable, or is duplicative, ambiguous, excessive, or inappropriate, CITY shall either return the bill to CONTRACTOR

with a request for explanation or adjust the payment accordingly and give notice to CONTRACTOR of the adjustment.

4.04 If the work is satisfactorily completed, CITY shall pay such invoice within thirty (30) days of its receipt, or as reasonably soon after required certified payroll information is submitted to the CITY, if applicable. Should CITY dispute any portion of any invoice, CITY shall pay the undisputed portion within the time stated above, and at the same time advise CONTRACTOR in writing of the disputed portion.

5. Obligations of CONTRACTOR.

5.01 CONTRACTOR agrees to perform all Services in accordance with the terms and conditions of this Agreement and the Proposal. In the event that the terms of the Proposal shall conflict with the terms of this Agreement or contain additional terms that purport to bind the CITY other than for the Services to be rendered and the hourly rate for the Services, the terms of this Agreement shall govern and said additional or conflicting terms shall be of no force or effect.

5.02 Except as otherwise agreed by the parties, CONTRACTOR will supply all personnel, materials and equipment required to perform the Services. CONTRACTOR shall provide its own offices, telephones, vehicles and computers and set its own work hours. CONTRACTOR will determine the method, details, and means of performing the Services under this Agreement.

5.03 CONTRACTOR shall keep CITY informed as to the progress of the Services by means of regular and frequent consultations. Additionally, when requested by CITY, CONTRACTOR shall prepare written status reports.

5.04 CONTRACTOR is responsible for paying, when due, all income and other taxes, fees and withholding, including withholding state and federal taxes, social security, unemployment and worker's compensation, incurred as a result of the compensation paid under this Agreement. CONTRACTOR agrees to indemnify, defend, and hold harmless CITY for any claims, costs, losses, fees, penalties, interest, or damages suffered by CITY resulting from CONTRACTOR's failure to comply with this provision.

5.05 In the event CONTRACTOR is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished in conformance with local, state and federal laws, rules and regulations.

5.06 CONTRACTOR represents that it possesses all required licenses necessary or applicable to the performance of Services under this Agreement and the Proposal and shall obtain and keep in full force and effect all permits and approvals required to perform the Services herein. In the event CITY is required to obtain an approval or permit from another governmental entity, CONTRACTOR shall provide all necessary supporting documents to be filed with such entity.

5.07 CONTRACTOR shall be solely responsible for obtaining Employment Eligibility Verification information from CONTRACTOR's employees, in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a), and shall ensure that CONTRACTOR's employees are eligible to work in the United States.

5.08 In the event that CONTRACTOR employs, contracts with, or otherwise utilizes any CalPERS retirees in completing any of the Services performed hereunder, such instances shall be disclosed in advance to the CITY and shall be subject to the CITY's advance written approval.

5.09 Drug-free Workplace Certification. By signing this Agreement, the CONTRACTOR hereby certifies under penalty of perjury under the laws of the State of California that the CONTRACTOR will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace.

5.10 CONTRACTOR shall keep itself informed concerning and shall render all Services hereunder in accordance with all ordinances, resolutions, statutes, rule, and regulations of the CITY and any federal, state or local governmental entity having jurisdiction in effect at the time service is rendered.

5.11 In the performance of this Agreement the CONTRACTOR shall comply with all applicable federal, state and local statutory and regulatory requirements including, but not limited to California Department of Industrial Relations (Cal/OSHA) regulations; and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act, related to their scope of work and operations. In case of conflict in regulations, the most stringent shall apply.

5.12 By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (i) has thoroughly investigated and considered the scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of Services hereunder. Should the CONTRACTOR discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, CONTRACTOR shall immediately inform the CITY of such fact and shall not proceed except at CONTRACTOR's sole risk until written instructions are received from the Project Manager.

CONTRACTOR warrants all Services under the Agreement to be of good quality and free from any defective or faulty material and workmanship. CONTRACTOR agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials

incorporated into the Services, whichever is later) after the date of final acceptance, CONTRACTOR shall within ten (10) days after being notified in writing by the CITY of any defect in the Services or non-conformance of the Services to the Agreement, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at CONTRACTOR's sole cost and expense. CONTRACTOR shall act sooner as requested by the CITY in response to an emergency. In addition, CONTRACTOR shall, at its sole cost and expense, repair and replace any portions of the Services (or work of other contractors) damaged by CONTRACTOR's defective Services or which becomes damaged in the course of repairing or replacing defective Services. For any Services so corrected, CONTRACTOR's obligation hereunder to correct defective Services shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected Services. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of CONTRACTOR.

In the event that CONTRACTOR fails to fulfil its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the CITY, the CITY shall have the right to correct and replace any defective or non-conforming Services and any work damaged by such services or the replacement or correction thereof at CONTRACTOR's sole expense. CONTRACTOR shall be obligated to fully reimburse the CITY for any expenses incurred hereunder upon demand. This provision may be waived if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

Payment to CONTRACTOR for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by CONTRACTOR.

5.13 Time is of the essence in the performance of this Agreement.

5.14 CONTRACTOR shall make every reasonable effort to maintain the stability and continuity of CONTRACTOR's staff assigned to perform the services hereunder and shall obtain the approval of the City Manager of all proposed staff members performing services under this Agreement prior to any such performance.

6. Insurance. CONTRACTOR hereby agrees to be solely responsible for the health and safety of its employees, officers, volunteers and agents in performing this Agreement and shall comply with all laws applicable to worker safety including but not limited to Cal-OSHA. Therefore, throughout the duration of this Agreement, CONTRACTOR hereby covenants and agrees to maintain insurance in conformance with the requirements set forth below. Attached hereto as **Exhibit "B"** are copies of Certificates of Insurance and endorsements. If existing coverage does not meet the requirements set forth herein, CONTRACTOR agrees to amend, supplement or endorse the existing coverage to do so. CONTRACTOR shall provide the following types and amounts of insurance:

6.01. General liability insurance in an amount of not less than $2,000,000 per occurrence and $4,000,000 in the aggregate; CONTRACTOR agrees to have its insurer

endorse the general liability coverage required herein to include as additional insured's CITY, its officials, employees and agents. CONTRACTOR also agrees to require all contractors and subcontractors to provide the same coverage required under this Section 6.

6.02. Business Auto Coverage in an amount of no less than $1 million per accident. If CONTRACTOR or CONTRACTOR's employees will use personal autos in performance of the Services, CONTRACTOR shall provide evidence of personal auto liability coverage for each such person.

6.03. Workers' Compensation coverage for any of CONTRACTOR's employees that will be providing Services. CONTRACTOR will have a state-approved policy form providing statutory benefits as required by California law. The provisions of any workers' compensation will not limit the obligations of CONTRACTOR under this Agreement. CONTRACTOR expressly agrees not to use any statutory immunity defenses under such laws with respect to CITY, its employees, officials and agents.

7. General Conditions pertaining to Insurance Coverage.

7.01. No liability insurance coverage provided shall prohibit CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR waives all rights of subrogation against CITY regardless of the applicability of insurance proceeds and shall require all contractors and subcontractors to do likewise.

7.02. Prior to beginning Services, CONTRACTOR shall furnish CITY with certificates of insurance, endorsements, and upon request, complete copies of all policies, including complete copies of all endorsements. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf.

7.03. All required policies shall be issued by a highly rated insurer with a minimum A.M. Best rating of "A:VII"). The insurer(s) shall be admitted and licensed to do business in California. The certificates of insurance hereunder shall state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to CITY.

7.04. Self-insurance does not comply with these insurance specifications. CONTRACTOR acknowledges and agrees that that all insurance coverage required to be provided by CONTRACTOR or any subcontractor, shall apply first and on a primary, non-contributing basis in relation to any other insurance, indemnity or self-insurance available to CITY.

7.05. All coverage types and limits required are subject to approval, modification and additional requirements by CITY, as the need arises. CONTRACTOR shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect CITY's protection without CITY's prior written consent.

7.06. CONTRACTOR agrees to provide immediate notice to CITY of any claim or loss against CONTRACTOR or arising out of Services performed under this Agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the CITY.

8. Indemnification.

8.01 CONTRACTOR and CITY agree that CITY, its employees, agents and officials should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, defense costs, court costs or any other costs arising out of or in any way related to the performance of this Agreement by CONTRACTOR or any subcontractor or agent of either as set forth herein. Accordingly, the provisions of this indemnity are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to CITY. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of the commitment of CONTRACTOR to indemnify and protect CITY as set forth herein.

a. To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify and hold harmless CITY, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, damages or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by CITY, court costs, interest, defense costs, including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of, or in any way attributable actually, allegedly or impliedly, in whole or in part to the performance of this Agreement. CONTRACTOR's obligation to defend, indemnify and hold harmless shall include any and all claims, suits and proceedings in which CONTRACTOR (and/or CONTRACTOR's agents and/or employees) is alleged to be an employee of CITY. All obligations under this provision are to be paid by CONTRACTOR as they are incurred by CITY.

b. Without affecting the rights of CITY under any provision of this Agreement or this Section, CONTRACTOR shall not be required to indemnify and hold harmless CITY as set forth above for liability attributable solely to the fault of CITY, provided such fault is determined by agreement between the parties or the findings of a court of competent jurisdiction.

9. Additional Services, Changes and Deletions.

9.01 In the event CONTRACTOR performs additional or different services than those described herein without the prior written approval of the Project Manager of the CITY, CONTRACTOR shall not be compensated for such services. CONTRACTOR expressly waives any right to be compensated for services and materials not covered by the

scope of this Agreement or authorized by the CITY in writing.

9.02 CONTRACTOR shall promptly advise the Project Manager and as soon as reasonably practicable upon gaining knowledge of a condition, event or accumulation of events which may affect the scope and/or cost of Services. All proposed changes, modifications, deletions and/or requests for additional services shall be reduced to writing for review and approval by the CITY.

10. Termination of Agreement.

10.01 Notwithstanding any other provision of this Agreement, CITY, at its sole option, may terminate this Agreement with or without cause, or for no cause, at any time by giving thirty (30) days' written notice to CONTRACTOR.

10.02 In the event of termination, the payment of monies due CONTRACTOR for undisputed Services performed prior to the effective date of such termination shall be paid within thirty (30) business days after receipt of an invoice as provided in this Agreement. Immediately upon termination, CONTRACTOR agrees to promptly provide and deliver to CITY all original documents, reports, studies, plans, specifications and the like which are in the possession or control of CONTRACTOR and pertain to CITY.

11. Status of CONTRACTOR.

11.01 CONTRACTOR shall perform the Services in CONTRACTOR's own way as an independent contractor, and in pursuit of CONTRACTOR's independent calling, and not as an employee of CITY. However, CONTRACTOR shall regularly confer with CITY's Project Manager as provided for in this Agreement.

11.02 CONTRACTOR agrees that it is not entitled to the rights and benefits afforded to CITY's employees, including disability or unemployment insurance, workers' compensation, retirement, CalPERS, medical insurance, sick leave, or any other employment benefit. Furthermore, CONTRACTOR expressly waives any claim CONTRACTOR may have to any such rights. CONTRACTOR is responsible for providing, at its own expense, disability, unemployment, workers' compensation and other insurance, training, permits, and licenses for itself and its employees and subcontractors.

11.03 CONTRACTOR hereby specifically represents and warrants to CITY that it possesses the qualifications and skills necessary to perform the Services under this Agreement in a competent, professional manner, without the advice or direction of CITY and that the Services to be rendered pursuant to this Agreement shall be performed faithfully, competently and to the best of CONTRACTOR'S ability, experience and talent. CONTRACTOR covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials will be of good quality, fit for the purpose intended. Further, CONTRACTOR represents and warrants that the individual signing this Agreement on behalf of CONTRACTOR has the full authority to bind CONTRACTOR to this Agreement.

11.04 Prevailing Wages.

A. If the services involve work performed during the design, site assessment, feasibility study, and other preconstruction phases of a construction project, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, CONTRACTOR shall be responsible to comply with applicable prevailing wages laws. As a condition of payment, CONTRACTOR shall pay wages under applicable state and federal laws and regulations relating to prevailing wages in accordance with the "General Wage Determination Made By the Director of Industrial Relations Pursuant To California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1", for Riverside County and/or 40 U.S.C. Section 276a, et. seq. Such wage rates shall conform with those posted at CITY offices and the project site. In the event that the CONTRACTOR fails to pay the prevailing wages, the CONTRACTOR shall be solely liable for penalties and for the shortfall in wages and shall indemnify, defend and hold harmless CITY under Section 8.01 against any of the same. The following Labor Code sections are hereby referenced and made a part of this Agreement:

B. The following Labor Code sections are hereby referenced and made part of this Agreement:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
2. Section 1777.4 - Apprenticeship Requirements.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1776 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

11.05 CONTRACTOR shall defend, indemnify and hold the CITY, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with applicable prevailing wage laws.

11.06 CONTRACTOR shall have no authority to bind CITY in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by CITY. CONTRACTOR shall not at any time or in any manner represent that CONTRACTOR or any of CONTRACTOR's officers, employees, or agents are in any manner officials, officers, employees or agents of CITY.

12. Ownership of Documents; Audit.

12.01 All draft and final reports, plans, drawings, studies, maps, photographs, specifications, data, notes, manuals, warranties and all other documents of any kind or nature prepared, developed or obtained by CONTRACTOR in connection with the

performance of Services performed for the CITY shall become the sole property of CITY, and CONTRACTOR shall promptly deliver all such materials to CITY upon request. At CITY's sole discretion, CONTRACTOR may be permitted to retain original documents, and furnish reproductions to CITY upon request, at no cost to CITY.

12.02 Subject to applicable federal and state laws, rules and regulations, CITY shall hold all intellectual property rights to any materials developed pursuant to this Agreement. CONTRACTOR shall not use such data or documents for purposes other than the performance of this Agreement, nor shall CONTRACTOR release, reproduce, distribute, publish, adapt for future use or any other purposes, or otherwise use, any data or other materials first produced in the performance of this Agreement, nor authorize others to do so, without the prior written consent of CITY.

12.03 CONTRACTOR shall retain and maintain, for a period not less than four years following termination of this Agreement, all-time records, accounting records and vouchers and all other records with respect to all matters concerning Services performed, compensation paid, and expenses reimbursed. At any time during normal business hours and as often as CITY may deem necessary, CONTRACTOR shall make available to CITY's agents for examination all of such records and shall permit CITY's agents to audit, examine and reproduce such records.

13. Miscellaneous Provisions.

13.01 This Agreement, which includes all attached exhibits, supersedes any and all previous agreements, either oral or written, between the parties hereto with respect to the rendering of Services by CONTRACTOR for CITY and contains all of the covenants and agreements between the parties with respect to the rendering of such Services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

13.02 CONTRACTOR shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of CITY. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

13.03 CONTRACTOR shall timely file FPPC Form 700 Conflict of Interest Statements with CITY if required by California law and/or the CITY's conflict of interest policy.

13.04 If any legal action or proceeding, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees and costs, in addition to any other relief to which that party may be entitled.

13.05 This Agreement is made, entered into and shall be performed in the County of Riverside in the State of California and shall in all respects be interpreted, enforced and

governed under the laws of the State of California. The parties agree that the venue in any litigation between them shall be in Riverside County, California.

13.06 CONTRACTOR covenants that neither it nor any officer or principal of its firm has any interest, nor shall they acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of their Services hereunder. CONTRACTOR further covenants that in the performance of this Agreement, no person having such interest shall be employed by it as an officer, employee, agent, or subcontractor.

13.07 CONTRACTOR has read and is aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflicts of interest of public officers and employees. CONTRACTOR agrees that they are unaware of any financial or economic interest of any public officer or employee of the CITY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, the CITY may immediately terminate this Agreement by giving notice thereof. CONTRACTOR shall comply with the requirements of Government Code section 87100 et seq. and section 1090 in the performance of and during the term of this Agreement.

13.08 Improper Consideration. CONTRACTOR shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, services, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the CITY in an attempt to secure favorable treatment regarding this Agreement or any contract awarded by CITY. The CITY, by notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding sentence was offered to any officer, employee or agent of the CITY with respect to the proposal and award process of this Agreement or any CITY contract. This prohibition shall apply to any amendment, extension or evaluation process once this Agreement or any CITY contract has been awarded. CONTRACTOR shall immediately report any attempt by any CITY officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from CONTRACTOR.

13.09 Severability. If any portion of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the entire balance of this Agreement not so affected shall remain in full force and effect.

13.10 Covenant Against Discrimination. CONTRACTOR covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. CONTRACTOR shall take affirmative action to ensure that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

13.11 Force Majeure. Neither party will be deemed in breach hereunder for any

interruption or delay in the performance of its obligations hereunder if the interruption or delay is due to unforeseen events which are beyond the reasonable control of such party, such as strikes, blockade, war, terrorism, riots, pandemics, or natural disasters, insofar as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or avoid it at a reasonable cost.

13.12 Confidentiality. All information gained or work product produced by CONTRACTOR in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to CONTRACTOR. CONTRACTOR shall not release or disclose any such information or work product to persons or entities other than CITY without prior written authorization from the City Manager.

CONTRACTOR, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Project Manager or unless requested by the CITY's Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided CONTRACTOR gives CITY notice of such court order or subpoena.

If CONTRACTOR, or any officer, employee, agent or subcontractor of CONTRACTOR, provides any information or work product in violation of this Agreement, then CITY shall have the right to reimbursement and indemnity from CONTRACTOR for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of CONTRACTOR's conduct.

CONTRACTOR shall promptly notify CITY should CONTRACTOR, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. CITY retains the right, but has no obligation, to represent CONTRACTOR or be present at any deposition, hearing or similar proceeding. CONTRACTOR agrees to cooperate fully with CITY and to provide CITY with the opportunity to review any response to discovery requests provided by CONTRACTOR. However, this right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

13.13 Waiver. Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by CITY of any work or Services by CONTRACTOR shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by

either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

13.14 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

13.15 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purpose of this Agreement.

13.16 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

13.17 Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified neither party shall be responsible for the service of the other.

13.18 Incorporation of Recitals. The parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereby have made and executed this Agreement to be effective as of the day and year first above written.

CITY:

CITY OF BANNING

By:_____
Sheri Flynn, Mayor

By:_____
Robert Fisher, City Manager

CONTRACTOR:

SOCIAL WORK ACTION GROUP

By:_____

Print Name:_____

Title:_____

EXHIBIT "A"

PROPOSAL

(insert behind this page)

EXHIBIT "B"

CERTIFICATES OF INSURANCE AND ENDORSEMENTS

(insert behind this page)

Social Work Action Group
Addressing the Homeless in the City of Banning
FY 2025-2026 Strategic Plan

To address the increase of unsheltered homeless individuals in the City of Banning, Social Work Action Group (SWAG) has prepared a Strategic Plan of Action. The Strategic Plan specifically targets unsheltered individuals, families, and encampments to reduce the number of visible homeless residing in the City of Banning. With the assistance of Banning Police Department, SWAG will identify and address individuals and geographical areas of concern to prioritize our efforts. SWAG will provide consistent outreach and case management services to those most in need, with the ultimate goal of mitigating an individual's root cause(s) of their homelessness and to live a fulfilling and meaningful life. SWAG will reduce the homeless population both visibly and documented through the annual Point-in-Time Count. Simultaneously, SWAG will engage, educate, and encourage the community of Banning to collaborate efforts and spread the message of Responsible Compassion.

1. Census of unsheltered homeless

   In every community, it is vital to conduct a thorough and comprehensive census of the unsheltered homeless population. City staff, Banning Police Department, and SWAG will work together to accurately locate, identify, survey and track, through the creation of a by-name list. A comprehensive assessment will provide an in-depth look at the individual, the circumstances and incidents that led to homelessness, such as severe trauma(s). We will also detail one's connections and support systems in the city to leverage those individuals and incorporate those resources. This information will be used to develop an individualized action plan. This will be done on an ongoing basis as new individuals enter the city.

2. Outreach to the unsheltered homeless

   Street outreach must be intensive, consistent, and strategic and needs the partnership of law enforcement and successful utilization and navigation of systems of care; behavioral health, and substance abuse treatment. Our team is comprised of individuals with specialized backgrounds in behavioral health, substance abuse, and social work who have a fundamental understanding of human development and behaviors. When we develop an action plan, we follow a process flow chart that directs our activities and interactions with the individual to achieve specific outcomes, both short and long term.

3. Outreach to the community at-large

   SWAG will provide informational content, which will include material for an anti-panhandling/ compassionate giving campaign and disseminate it throughout the community, as we believe coordination of efforts is essential. The campaign will encourage stakeholders, faith-based

groups, community groups, businesses, and concerned residents to discourage well-intended activities that enable the chronically homeless to remain on the streets and focus their efforts on long-term solutions. This will be done through verbal and electronic communications. SWAG will begin with addressing community partners, which include first responders, service providers, faith-based organizations, non-profits, community groups and businesses.

Scope of Services

The term of services will be July 1, 2025-June 30, 2026. SWAG will provide the following activities and services:

- Assist with the organization and facilitation of the Point-in-Time Count for January 2026.
- Respond to homeless service requests made by city staff, and law enforcement in a timely manner.
- All individuals encountered will be included in the by-name census for the City of Banning.
- Provide immediate crisis stabilization to those experiencing behavioral health, physical crisis and emergencies and connection to behavioral health and substance abuse treatment services.
- Case manage individuals that are in treatment and temporary living situations to help ensure they do not return to the streets.
- Facilitate trips home/family reunification utilizing bus trips for individuals wanting to reunite with an identified support system that is out of the Banning area.
- Provide support to the City of Banning through trainings, presentations and sharing updates related to trends in regional homeless efforts.
- Attend and participate in City Council meetings, as requested.

Schedule

The SWAG homeless services team will follow a Monday-Friday, 7:30am-4:30pm schedule. Homeless Outreach team members provide full-time, 40 hours per week service, based upon staffing availability. For each hour an Outreach Specialist works, Banning will be billed at a rate of $57.75.

- Staff development training is conducted weekly for all SWAG employees (up to 6 hours.)

*Each year, employees are provided (Not billed to Banning):

- Forty (40) hours of sick time
- Accrual of .0308 hours of Paid Time Off (PTO), for each hour worked
- Observance of the following holidays: Memorial Day, 4th of July, Thanksgiving (2 days), Christmas, New Year's.

2025-2026 City of Banning Monthly Service Agreement Four (4) person Team	Hourly Rate	**Approx. Monthly Budget**
Outreach & Case Management Services		
Outreach Specialist/ Case Manager	**$57.75**	**$40,152**
Management/ Supervision Oversight	**$99.75**	**$3,990**
Transportation Costs		**$2,050**
Administration Costs (5%)		**$2,310**
TOTAL PROPOSED MONTHLY BUDGET		**$48,502**

CITY OF BANNING
STAFF REPORT

TO: **CITY COUNCIL**

FROM: **Robert Fisher, Acting City Manager**

PREPARED BY: **Robert Fisher, Acting City Manager**

MEETING DATE: **July 8, 2025**

SUBJECT: **Chamber of Commerce lease agreement**

RECOMMENDATION:

Review lease agreement between the City of Banning and the Banning Chamber of Commerce

BACKGROUND:

In previous years the Banning Chamber of Commerce was located next to the Police Station at 125 E. Ramsey Street. It was subsequently moved to 60 E. Ramsey Street and on February 11, 2019, a lease agreement was signed between the City of Banning and the Banning Chamber of Commerce. The terms of the agreement included a $5.00 payment for the use of the building and parking lot for five years. The lease agreement also indicated, “This license Agreement is specific to the Chamber and may not be transferred or assigned in any manner, without the prior written approval of the City in its sole and absolute discretion. Additionally, Chamber shall not enter into any sublicenses without the prior written approval of the city in its sole and absolute discretion.

A lease agreement between the Banning Chamber of Commerce and the Southern California Gas Company was signed July 1, 2006 with a terminated date of June 30, 2019. The Southern California Gas Company paid the Banning Chamber of Commerce a lump sum of $212,616. The Southern California Gas Company has identified the property as being 1,170 square feet, $1.75 per square foot and $2,047.50 per month.

JUSTIFICATION:

The current lease agreement with the Banning Chamber of Commerce has expired

FISCAL IMPACT:

$5.00 to possibly $3000.00 per month lease agreement

ALTERNATIVES:

1. Renegotiate a lease agreement
2. Continue without a lease agreement

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

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MOTOROLA SOLUTIONS

4/25/24

City of Banning
99 East Ramsey Street
Banning CA 92220

RE: Municipal Lease # 25508

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the solution to be leased from Motorola. The interest rate and payment streams outlined in Equipment Lease-Purchase Agreement #25508 are valid for contracts that are executed and returned to Motorola on or before **May 30, 2024**. After **5/30/2024**, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Solutions Credit Company LLC
Attn: Bill Stancik / 44th Floor
500 W. Monroe
Chicago IL 60661

Should you have any questions, please contact me at 847-538-4531.

Thank You,

MOTOROLA SOLUTIONS CREDIT COMPANY LLC
Bill Stancik

DocuSign Envelope ID: 70ABD771-425F-430A-BD4C-05F8F8453062

LESSEE FACT SHEET

Please help Motorola provide excellent billing service by providing the following information:

1. Complete Billing Address: City of Banning

   99 E. Ramsey St, Banning, CA 92220

   E-mail Address: apinvoices@banningca.gov

   Attention: Finance Dept - AP

   Phone: 951-922-3117

2. Lessee County Location: Riverside

3. Federal Tax I.D. Number: 95-6000674

4. Purchase Order Number to be referenced on invoice (if necessary) or other "descriptions" that may assist in determining the applicable cost center or department: 32742

5. Equipment description that you would like to appear on your invoicing:_____

Appropriate Contact for Documentation / System Acceptance Follow-up:

6. Appropriate Contact & Mailing Address: 99 E. Ramsey Street

   Banning, CA 92220

   Phone: 951-922-3117

   Fax: _____

7. Payment remit to address**:** **Motorola Solutions Credit Company LLC**
   P.O. Box 71132
   Chicago IL 60694-1132

Thank you

DocuSign Envelope ID: 70ABD771-425F-430A-BD4C-05F8F8453062

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 25508

LESSEE:

City of Banning
99 East Ramsey Street
Banning CA 92220

LESSOR:

Motorola Solutions, Inc.
500 W. Monroe
Chicago IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment and/or software described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

1. TERM. This Lease will become effective upon the execution hereof by Lessor. The Term of this Lease will commence on date specified in Schedule A attached heretoand unless terminated according to terms hereof or the purchase option, provided in Section 18, is exercised this Lease will continue until the Expiration Date set forth in Schedule B attached hereto ("Lease Term").

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion , in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that a request for appropriation for funds from which the Lease Payments may be made will be requested each fiscal period, including making provisions for such payment to the extent necessary in each budget submitted for the purpose of obtaining funding. It is Lessee's intent to make Lease Payment for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to its proper, efficient and economic operation.

3. DELIVERY AND ACCEPTANCE. Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "Contract") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("Assignee"). LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS". LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, Lessee has the right to not appropriate funds to make Lease Payments required hereunder in any fiscal period and in the event no funds are appropriated or in the event funds appropriated by Lessee's governing body or otherwise available by any lawful means whatsoever in any fiscal period of L

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Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Non-appropriation of funds shall not constitute a default hereunder for purposes of Section 16.

6. LESSEE CERTIFICATION. Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"), and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payment to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Lease Term.

Lessee represents, covenants and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all laws relative to public bidding where necessary, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be payable solely from Legally Available Funds.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

7. TITLE TO EQUIPMENT; SECURITY INTEREST. Upon shipment of the Equipment to Lessee hereunder, title to the Equipment will vest in Lessee subject to any applicable license; provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its Assignee, and Lessee shall immediately discontinue use of the Equipment, remove the Equipment from Lessee's computers and other electronic devices and deliver the Equipment to Lessor or its Assignee. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

8. USE; REPAIRS. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the Equipment in good repair and furnish and/or install all parts, mechanisms, updates, upgrades and devices required therefor.

9. ALTERATIONS. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. LOCATION; INSPECTION. The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

11. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all tax

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measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss") , Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of : (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

13. INSURANCE. Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or it's Assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or it's Assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

14. INDEMNIFICATION. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, licensing, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

16. EVENT OF DEFAULT. The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease when funds have been appropriated sufficient for such purpose, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

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17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the fiscal period in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly discontinue use of the Equipment, remove the Equipment from all of Lessee's computers and electronic devices, return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; (iv) promptly return the Equipment to Lessor in the manner set forth in Section 5 hereof; and (v) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

18. PURCHASE OPTION. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

19. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

20. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

21. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

22. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, either electronically or manually, all of which shall constitute but one and the same instrument. Lessor reserves the right to request receipt of a manually-executed counterpart from Lessee. Lessor and Lessee agree that the only original counterpart for purposes of perfection by possession shall be the original counterpart manually executed by Lessor and identified as "Original", regardless of whether Lessee's execution or delivery of said counterpart is done manually or electronically.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the ***29th*** day of May, 2024.

LESSEE:
City of Banning

By:_____

Printed Name: Doug Schulze
Title: City Manager

LESSOR:
MOTOROLA SOLUTIONS, INC.

By: Uygar Gazioglu

Uygar Gazioglu
Title Treasurer

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CERTIFICATE OF INCUMBENCY

I, Caroline Patton do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)
appointed and acting Secretary or Clerk of the City of Banning, an entity duly organized and existing under the laws of the **State of California** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **25508**, between City of Banning and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds $1,000,000,attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate this 31 day of May, 2024.

By: _____
(Signature of Secretary/Clerk)

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement 25508 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

Serita R. Young
_____

Attorney for City of Banning

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SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT

Schedule A Lease Number: **25508**

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **25508** ("Lease"), between Lessor and _Lessee.

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	**DESCRIPTION (Manufacturer, Model, and Serial Nos.)**
	Refer to attached Equipment List.
Equipment Location:	

Initial Term: 60 Months **Commencement Date:** **6/1/2024**
First Payment Due Date: **6/1/2025**

5 payments as outlined in the attached Schedule B, plus Sales/Use Tax of $0.00, payable on the Lease Payment Dates set forth in Schedule B.

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City of Banning (Schedule B # 25508)

Compound Period: Annual

Nominal Annual Rate: 5.850%

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Lease	6/1/2024	$ 542,710.21	1		
2	Lease Payment	6/1/2025	$ 128,312.16	5	Annual	6/1/2029

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Lease Payment	Interest	Principal	Balance
Lease	6/1/2024				$542,710.21
1	6/1/2025	$ 128,312.16	$ 31,748.55	$ 96,563.61	$446,146.60
2	6/1/2026	$ 128,312.16	$ 26,099.58	$102,212.58	$343,934.02
3	6/1/2027	$ 128,312.16	$ 20,120.14	$108,192.02	$235,742.00
4	6/1/2028	$ 128,312.16	$ 13,790.91	$114,521.25	$121,220.75
5	6/1/2029	$ 128,312.16	$ 7,091.41	$121,220.75	$ -
Grand Totals		$ 641,560.80	$ 98,850.59	$542,710.21	

INITIAL INSURANCE REQUIREMENT: $542,710.21

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

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EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **25508** to that Equipment Lease Purchase Agreement number **25508** will be maintained by the City of Banning as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

Perma

Name of insurance provider

72811 Highway 111 #1014

Address of insurance provider

Palm Desert, CA 92260

City, State and Zip Code

760-258-4259

Phone number of local insurance provider

kachterberg@permarisk.gov

E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **25508** , City of Banning **,** hereby certifies that following coverage are or will be in full force and effect:

Type	Amount	Effective Date	Expiration Date	Policy Number
Fire and Extended Coverage	$1,000,000	7/1/23	7/1/24	LMOC-2023-2024
Property Damage	$1,000,000	7/1/23	7/1/24	APIP2023(DEC11)0702
Public Liability (General)	$1,000,000	7/1/23	7/1/24	LMOC-2023-2024

Certificate shall include the following:
Description: All Equipment listed on Schedule A number 25508 to that Equipment Lease Purchase Agreement number 25508. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 25508 and list any deductibles.

Certificate Holder:
MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee
1303 E. Algonquin Road
Schaumburg, IL 60196

If self insured, contact Motorola representative for template of self insurance letter.

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STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, please address the following questions by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?

   Police operations

2. Why is the equipment essential to the operation of **City of Banning?**

   Communications during Police Operations and emergency response

3. Does the equipment replace existing equipment?

   Yes

   If so, why is the replacement being made?

   Age of equipment

4. Is there a specific cost justification for the new equipment?

   no

   If yes, please attach outline of justification.

5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years?

   Operational Budget over the next 5 years. Alternative funding sources will also be pursued.

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EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee and Lessor.

Equipment Lease Purchase Agreement No.: 25508 Lease Schedule A No. : 25508

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A# 25508. See Schedule A for a detailed Equipment List.

LESSEE:

City of Banning

By: _____

Date: 6/12/2024

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CERTIFIED LESSEE RESOLUTION

At a duly called meeting of the Governing Body of the Lessee (as defined in the Lease 25508) held on (Enter date) ~~May~~ February 13, 2024 ~~, 2024~~, the following resolution was introduced and adopted.
BE IT RESOLVED by the Governing Board of Lessee as follows:

1. Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between City of Banning(Lessee) and Motorola Solutions, Inc. (Lessor).

2. Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby designates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.

3. Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

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Form **8038-G**
(Rev. May2018)
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bonds

▸ **Under Internal Revenue Code section 149(e)**
▸ **See separate instructions.**
Caution: *If the issue price is under $100,000, use Form 8038-GC.*
▸ **Go to *www.irs.gov/F8038G* for instructions and the latest information.**

OMB No. 1545-0720

☐

Part I **Reporting Authority** If **Amended Return**, check here ▸

1 Issuer's name City of Banning	**2** Issuer's employer identification number (EIN) 95-6000674
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)	**3b** Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) Room/suite 99 East Ramsey Street	**5** Report number *(For IRS Use Only)* 3
6 City, town, or post office, state, and ZIP code Banning CA 92220	**7** Date of issue 6/1/24
8 Name of issue Equipment Lease-Purchase Agreement 25508	**9** CUSIP number none
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)	**10b** Telephone number of officer or other employee shown on 10a

Part II **Type of Issue (enter the issue price).** See the instructions and attach schedule.

11	Education	**11**	
12	Health and hospital	**12**	
13	Transportation	**13**	
14	Public safety	**14**	542,710.21
15	Environment (including sewage bonds)	**15**	
16	Housing	**16**	
17	Utilities	**17**	
18	Other. Describe ▸	**18**	
19a	If bonds are TANs or RANs, check only box 19a ▸ ☐		
b	If bonds are BANs, check only box 19b ▸ ☐		
20	If bonds are in the form of a lease or installment sale, check box ▸X ☐		

Part III **Description of Bonds.** Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	**(b)** Issue price	**(c)** Stated redemption price at maturity	**(d)** Weighted average maturity	**(e)** Yield
21	6/1/29	542,710.21	542,710.21	5 years	5.85

Part IV **Uses of Proceeds of Bond Issue (including underwriters' discount) NA**

22	Proceeds used for accrued interest			**22**	
23	Issue price of entire issue (enter amount from line 21, column (b))			**23**	
24	Proceeds used for bond issuance costs (including underwriters' discount)	**24**			
25	Proceeds used for credit enhancement	**25**			
26	Proceeds allocated to reasonably required reserve or replacement fund	**26**			
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V	**27**			
28	Proceeds used to refund prior taxable bonds. Complete Part V	**28**			
29	Total (add lines 24 through 28)			**29**	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			**30**	

Part V **Description of Refunded Bonds.** Complete this part only for refunding bonds. N/A

31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded ▸	years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded ▸	years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) ▸	
34	Enter the date(s) the refunded bonds were issued ▸ (MM/DD/YYYY)	

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Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	**35**		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions	**36a**		
b	Enter the final maturity date of the GIC ► (MM/DD/YYYY)			
c	Enter the name of the GIC provider ►			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	**37**		

38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box ► ☐ and enter the following information:

b Enter the date of the master pool bond ► (MM/DD/YYYY) _____

c Enter the EIN of the issuer of the master pool bond ► _____

d Enter the name of the issuer of the master pool bond ► _____

39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ► ☐

40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ► ☐

41a If the issuer has identified a hedge, check here ► ☐ and enter the following information:

b Name of hedge provider ► _____

c Type of hedge ► _____

d Term of hedge ► _____

42 If the issuer has superintegrated the hedge, check box ► ☐

43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ► ☐

44 If the issuer has established written procedures to monitor the requirements of section 148, check box ► ☐

45a If some portion of the proceeds was used to reimburse expenditures, check here ► ☐ and enter the amount of reimbursement ► _____

b Enter the date the official intent was adopted ► (MM/DD/YYYY)

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

Douglas Sabolyn — 6/12/2024

Signature of Authorized Representative | Date | Title | ☐

Signature of issuer's authorized representative | Date | Type or print name and title

Paid Preparer

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AGREEMENT FOR PROFESSIONAL SERVICES (C01126) FOR DESIGN OF RAMSEY STREET WATER MAIN BY AND BETWEEN CITY OF BANNING AND GLENN A. RICK ENGINEERING & DEVELOPMENT CO., DBA RICK ENGINEERING COMPANY

THIS AGREEMENT FOR PROFESSIONAL SERVICES (herein "Agreement") is made and entered into this day: 2/27/2025, ("Effective Date") by and between the **CITY OF BANNING,** a California municipal corporation ("City") and Glenn A. Rick Engineering & Development Co., a California Corporation, dba Rick Engineering Company. ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought by issuance of a Request for Proposals (RFP No. 23-036) from the bench of prequalified Engineers (RFQ-22-007), the performance of the services for the Design of Ramsey Street Water Main and as further defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by City to perform those services.

C. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

D. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit A** and incorporated herein by this reference, which services may be referred to herein as the "Services" hereunder. As a material inducement to City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. Consultant covenants that it shall follow the highest professional standards in

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performing the Services required hereunder and that all materials will be of good quality, and fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in the California Labor Code. Therefore, as to those services that are "public works," Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in Exhibit B hereto.

1.2 Contract Documents and Exhibits.

This Agreement includes the Request for Proposal and Consultant's accepted proposal ("Contract Documents"), both of which are on file with the City and incorporated herein by this general reference as though fully set forth herein. **Exhibit A** (Scope of Services), **Exhibit B** (Special Requirements), **Exhibit C** (Schedule of Compensation), and **Exhibit D** (Schedule of Performance) also constitute a part of this Agreement and are incorporated into this Agreement by this reference. Except as set forth in Section 1.10 regarding **Exhibit B**, this Agreement controls over the Contract Documents and the provisions in **Exhibits A, B** and **C**.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning all ordinances, resolutions, statutes, rules, and regulations of City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered, and shall render all Services hereunder in accordance therewith.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain and maintain during the term of this Agreement, at its sole cost and expense, all necessary licenses, permits, certificates and approvals required by law for the performance of Services under this Agreement, including a City business license. Consultant shall have the sole obligation to pay for all fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for Consultant's performance of the Services required by this Agreement. Consultant shall indemnify, defend and hold harmless City, its officers, employees or agents, against all such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Services.

By executing this Agreement, Consultant warrants that Consultant: (i) has thoroughly investigated and considered the Scope of Services to be performed, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities and any difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions existing therein, prior to commencement of Services hereunder. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Consultant shall immediately inform City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer (defined in Section 1.12. A).

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1.6 Prevention of Loss and Damages.

Consultant shall adopt reasonable methods during the Term (defined in Section 3.4) to furnish continuous protection to the work product, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonable necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither Party shall be responsible to perform the Services of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or to make changes by altering, adding to or deducting from the Services. No such extra services may be undertaken unless a written order is first given by the Contract Officer to Consultant, which written order incorporates therein an adjustment in (i) the Contract Sum (as defined in Section 2.1), and/or (ii) the Schedule of Performance, (as defined in Section 3.2), and which written order is approved in writing by Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum, or $25,000, whichever is less; or in the Schedule of Performance of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to Services which are specifically set forth in the Scope of Services or which are reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the Services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the Services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as City deems, in its sole discretion, to be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to a computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

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1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as **Exhibit B** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit B** and any other provisions of this Agreement, the provisions of **Exhibit B** shall govern.

1.11 Corrections.

In addition to the indemnification obligations set forth in Article 4, and Sections 1.4, 1.13, 5.3, 5.4, and 6.3, Consultant shall correct, at its expense, all errors in the Services which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction(s) in a reasonably timely manner, such correction(s) may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction(s) from any retention amount held by City, or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction(s), as provided in Section 6.3.

1.12 Party Representatives.

A. Contract Officer: For the purposes of this Agreement, the Contract Officer shall be the City Manager, or such other person designated in writing by the City Manager ("Contract Officer"). Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of City required hereunder to carry out the terms of this Agreement.

B. Principals and Personnel of Consultant.

1) Consultant Representative: The following principal of Consultant is hereby designated as being the Consultant Representative authorized to act on Consultant's behalf regarding the Services specified herein and make all decisions in connection therewith:

Name	Title
Richard O'Neill	Associate Principal

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Consultant Representative were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Consultant Representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Consultant Representative. For purposes of this Agreement, the foregoing Consultant Representative may not be replaced nor may their responsibilities be substantially reduced or reassigned by Consultant without the express written approval of City. It shall be Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the Services, and Consultant shall refer any decisions which must be made by City to the Contract Officer.

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2) Consultant's Personnel: Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified to perform such Services. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement. Consultant shall notify City of all changes in Consultant's staff and sub-contractors, if any, assigned to perform the Services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or sub-contractor of Consultant, City shall give notice as set forth in Section 8.1. Consultant shall, immediately upon the receipt of the notice to re-assign staff from City, reassign such person or persons.

1.13 Independent Contractor.

A. Consultant is an independent contractor and not an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. All Services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Services. Any additional personnel performing Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

1.14 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, the Consultant Representative and employees were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the Services required hereunder without the express written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this

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Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, as full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in **Exhibit C-1** and the not-to-exceed sub-budget rates set forth in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. In no event shall Consultant be paid more than One Hundred Fifty-Six Thousand Two Hundred Twenty-Four Dollars and Three Cents ($156,224.03) (the "Contract Sum"). The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by City. Coordination of the performance of the Services with City is a critical component of the Services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending those meetings.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion of the Services, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit C**. Reimbursable expenses may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual sub-contractor expenses of an approved sub-contractor pursuant to Section 1.14, and only if specified in the Schedule of Compensation.

2.4 Unauthorized Services and Expenses.

City will not pay for any Services or reimburse for any expenses incurred which are not specified in the Scope of Services, unless authorized in writing as set forth in Section 1.8 of this Agreement. City shall make payment for such authorized additional Services and expenses in accordance with Article 2 of this Agreement.

2.5 Invoices.

Each month Consultant shall furnish to City an original invoice for all Services performed and expenses incurred during the preceding month. Each such invoice shall contain all of the information set forth in Section III of **Exhibit C** to this Agreement. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the

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Agreement. Consultant shall not invoice City for any duplicate Services performed by more than one person.

City shall independently review each invoice submitted by Consultant to determine whether the Services performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice, except as to any charges for Services performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 6.3. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City of any invoice provided by Consultant shall not constitute waiver of any rights or remedies provided herein or any applicable law.

2.6 Waiver.

Payment to Consultant for Services performed pursuant to this Agreement shall not be deemed to waive any defects in Services performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the "Schedule of Performance" attached hereto as **Exhibit D** and incorporated herein by this reference.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant. Such unforeseeable consequences include, but are not restricted to, acts of God or public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified, subject to the provisions of Section 1.8. The Contract Officer's determination (or the City Council's determination, in the event the period of enforced delay exceeds the period specified in Section 1.8) shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant

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be entitled to recover damages against City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy shall be the extension of the Agreement pursuant to this Section.

3.4 Term.

The Term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Article 6 of this Agreement or extended as provided in Sections 1.8 and 3.3 of this Agreement. Maximum term and any subsequent amendment or modification shall not exceed five (5) years.

ARTICLE 4. INSURANCE AND INDEMNIFICATION

4.1 Minimum Scope and Limits of Insurance.

Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

A. Commercial General Liability Insurance with a minimum limit of $1,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of $2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, members, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

B. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of $1,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy.

C. Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of $1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required; however, Consultant shall execute a declaration that it has no employees.

D. Professional Liability/Errors and Omissions Insurance with minimum limits of $1,000,000.00 per claim and in the aggregate.

4.2 Acceptability of Insurers.

The insurance policies required under this Article shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest

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edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Article.

4.3 Additional Insured.

The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

4.4 Primary and Non-Contributing.

The insurance policies required under this Article shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

4.5 Consultant's Waiver of Subrogation.

The insurance policies required under this Article shall not prohibit Consultant and Consultant's employees, agents or sub-contractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

4.6 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City; or Consultant shall procure a bond guaranteeing payment of losses and expenses.

4.7 Cancellations or Modifications to Coverage.

Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Article during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Article is canceled or reduced in coverage or limits, Consultant shall, within two (2) Business Days (as defined in Section 8.12) of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

4.8 City Remedy for Noncompliance.

If Consultant does not maintain the policies of insurance required under this Article in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Article, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City, or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

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4.9 Evidence of Insurance.

Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Article. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

4.10 Indemnity Requirements not Limiting.

Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under this Agreement.

4.11 Sub-contractor Insurance Requirements.

Consultant shall require each of its sub-contractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Article.

4.12 Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnification of City.

1) Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c).

2) Other Indemnities. Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential

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damages (collectively "Claims"), at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, sub-contractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claims with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

3) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.3.

4) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Article from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities and Claims, in law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's sub-contractor, its officers, agents, servants, employees, sub-contractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's sub-contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities and Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Article, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Article shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

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D. Survival of Terms. Consultant's indemnifications and obligations under this Article shall survive the expiration or termination of this Agreement.

ARTICLE 5. RECORDS, REPORTS, AND RELEASE OF INFORMATION

5.1 Service Records.

Consultant shall keep, and require sub-contractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and Services performed hereunder (the "Service Records"), as shall be necessary to perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. Any and all such Service Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such Service Records at all times during normal business hours of City, including the right to inspect, copy, audit and make copies and transcripts from such Service Records. Such Service Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Service Records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the Service Records may be given to City, and access shall be provided by Consultant's successor in interest ("Consultant's Successor"). If custody of the Service Records is given to Consultant's Successor, Consultant shall give written notice to City of the transfer of the Service Records to Consultant's Successor. The notice shall include contact information (address and telephone number) for Consultant's Successor, and access shall be provided to City by Consultant's Successor.

5.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that City is greatly concerned about the cost of Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein, Consultant shall promptly notify the Contract Officer of that fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

5.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "Consultant Documents") prepared by Consultant, its employees, sub-contractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement. Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Consultant Documents hereunder. Any use, reuse or assignment of such completed Consultant Documents for other projects and/or use of uncompleted Consultant Documents without specific written authorization by Consultant will be at City's sole

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risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use or assignment. Consultant may retain copies of such Consultant Documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All sub-contractors shall provide for assignment to City of all Consultant Documents prepared by them; and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

5.4 Confidentiality and Release of Information.

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

B. Consultant, its officers, employees, agents or sub-contractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or sub-contractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any Party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite the response.

ARTICLE 6. ENFORCEMENT OF AGREEMENT AND TERMINATION

6.1 California Law.

This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such

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court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

6.2 Disputes; Default.

A. In the event that City determines Consultant is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any Services performed after the date of default. In addition to the provisions of Section 4.8, and the right to terminate pursuant to Section 6.7, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City may serve Consultant with written notice of the default. Consultant shall have ten (10) calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

B. In the event of termination pursuant to this Section, City may take over the Services and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the compensation herein stipulated (provided that City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed City as provided in Section 6.3.

6.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement): (i) any payment amount of which may be in dispute hereunder or which is necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, (ii) all amounts retained pursuant to the provisions of Section 4.8, (iii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement, and (iv) all payments due or that become due to Consultant during the period that Consultant or any of its sub-contractors fail to maintain any required insurance in full force and effect, until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City, as provided in Section 4.9, above. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as elsewhere provided herein.

6.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any

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Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing, and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

6.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action against City under this Agreement.

6.7 Termination Prior to Expiration of Term.

This Article 6 shall govern any termination of this Agreement except as specifically provided in Section 6.2 for termination for default of Consultant. City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of Consultant, the period of notice may be a shorter time as may be determined by the Contract Officer. In addition, Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of City, the period of notice may be a shorter time as Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Except where Consultant has initiated termination, Consultant shall be entitled to compensation for all Services rendered prior to the effective date of the notice of termination and for any Services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 6.3. In the event Consultant has initiated termination, Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 6.2.

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6.8 Attorneys' Fees.

In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorney's fees on any appeal, and in addition the Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 7. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

7.1 Non-liability of City Officers and Employees.

No officer or employee of City shall be personally liable to Consultant, or Consultant's Successor, in the event of any default or breach by City or for any amount which may become due to Consultant or Consultant's Successor, or for breach of any obligation of the terms of this Agreement.

7.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or sub-contractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of City shall have any direct or indirect financial interest in this Agreement within the scope of Government Code section 1090, nor shall any such officer or employee make, participate in making, or use his or her official position to influence, any City decision relating to the Agreement which has a material financial effect on his or her financial interests or the financial interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given, and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Consultant and its officers, employees, associates and sub-contractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar services for other clients; but Consultant and its officers, employees, associates and sub-contractors shall not, without the Contract Officer's prior written approval, perform services for another person or entity for whom Consultant is not currently performing services that would

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require Consultant or one of its officers, employees, associates or sub-contractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

7.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry, or other protected class.

7.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of Services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 8. MISCELLANEOUS PROVISIONS

8.1 Notices.

Any notice, demand, request, document, consent, approval, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on confirmed delivery by courier service or overnight delivery service during Consultant's and City's regular business hours; or (b) three (3) Business Days after deposit in the United States mail, by certified or registered mail, and addressed to the Party to be notified as set forth below:

If to City

Attn: Nathan Smith
Deputy Director of Engineering
City of Banning
99 East Ramsey Street
Banning, California 92220
Email: nsmith@banningca.gov

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With a courtesy copy to:	Serita R. Young, City Attorney Richards, Watson & Gershon 350 South Grand Avenue, 37th Floor Los Angeles, California 90071 Email: SYoung@rwglaw.com
If to Consultant:	Attn: Rick O'Neill Rick Engineering Company 1770 Iowa Avenue, Suite 100 Riverside, CA 92507

8.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.4 Integration; Amendment.

This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. No amendment to or modification of this Agreement, nor any provision or breach hereof waived, shall be valid unless made in writing and approved by Consultant and by City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Mutual Cooperation.

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A. City's Cooperation. City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

8.7 No Third Party Beneficiaries Intended.

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

8.8 Final Payment Acceptance Constitutes Release.

The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's Services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or Services performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the Services prepared by Consultant, its employees, sub-contractors and agents.

8.9 Non-Appropriation of Funds.

Payments to be made to Consultant by City for Services performed within the current fiscal year which are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's Services beyond the current fiscal year, this Agreement shall cover payment for Consultant's Services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

8.10 Headings.

The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

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8.11 Word Usage.

Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

8.12 Business Days.

"Business Days" refers to days that the Banning City Hall is open for business.

8.13 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i): such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of that Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which that Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

8.14 Electronic Signatures.

Each Party may adopt as its signature an electronic identification consisting of a symbol or code that is affixed to or contained in each document transmitted by such Party ("electronic signature"). The Parties hereto herby agree that electronic signatures are acceptable, shall have the same force and effect under the law as original wet signatures, and shall be sufficient to verify that the Parties have executed this Agreement and such other documents transmitted by the Parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF BANNING

Robert Fisher 2/27/2025

Robert Fisher, Date
Acting City Manager

ATTEST:

2/27/2025

Caroline Patton Date
Administrative City Clerk

APPROVED AS TO FORM:
Slovak, Baron, Empey, Murphy & Pinkney LLP

John Pinkney 2/21/2025

John O. Pinkney Date
City Attorney

CONSULTANT

Richard O'Neill 2/27/2025

NAME: Richard O'Neill Date
TITLE: Associate Principal

NAME: Date
TITLE:

95-1859899
Tax ID No.

Address:
Rick Engineering Company
1770 Iowa Ave, Suite 100
Riverside, CA 92507

City Council Approval: 2025-028

NOTE: PROOF OF AUTHORITY TO BIND CONTRACTING PARTY REQUIRED. APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services in connection with providing Engineer Design Services prepared in connection therewith:

II. As part of the Services, Consultant will prepare and deliver the following tangible work products and services to City:

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SCOPE OF WORK

Rick Engineering Company (RICK) will perform the following services in connection with providing the design of a new ductile iron pipe (size TBD by city) water main in Ramsey Street between Sunset Avenue and Highland Home Road based on the following scope of work.

Task 1. Project Management

1.1 Kick-off Meeting and Project Management

After execution of the contract, Rick Engineering Company (RICK) will schedule and attend a kick-off meeting with the City of Banning (City) to discuss the project scope, goals, preliminary findings and alignment selected by the City, finalize the project schedule, and identify available as-built plans and studies. RICK will prepare the meeting agenda and provide the team with meeting minutes following the meeting.

RICK will provide project management of the project that includes preparation and maintenance of a project specific Work Plan. The Work Plan will include details of methodology of design, sequence of tasks lists of deliverables, milestone submittal schedule, summary of organizational responsibilities, and a communication plan with contacts of all team members. Additionally, RICK will provide utility coordination with the utility providers that have utilities along the alignment, and perform quality assurance and quality control prior to each milestone submittal, and in conformance with federal, state, and city standards.

Deliverables – Meeting agenda and minutes, Work Plan

1.2 Progress Meetings

RICK will schedule monthly progress meetings with the City and project team, that will be face to face or virtual, and facilitate additional meetings with the City departments/stakeholders as needed for the project during the project duration. Scope assumes 8 monthly meetings, that includes milestone design review / comment resolution meetings and an additional 3 project meetings.
RICK will prepare agendas and minutes for the meetings, distribute the minutes, and will also provide a monthly progress report to be included with the monthly invoice.

Deliverables – Meeting agendas and minutes

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1.3 Invoicing

RICK will develop and provide a monthly invoice to the City. The invoice will include RICK labor costs, subconsultant invoices and direct expenses. Direct expenses will be supported by a copy of the receipt if applicable. Invoices shall include details of billed and remaining budget for each task, and will include the monthly progress report of the tasks completed, identify any outstanding issues to be resolved, and upcoming work to be performed.

Deliverable – Monthly invoices and progress reports

Task 2. Project Development

2.1 Utility Research, Base Mapping, and Site Reconnaissance

RICK will conduct research with the City of Banning, County of Riverside, and other governing agencies and utility companies for existing plans and maps of the adjacent area to be used for the design of the project.

RICK will conduct a field visit to collect visible information of project site. Research will consist of the private water systems that will be reconnected to the new/proposed waterline in Ramsey Street and the affected private properties. RICK will verify existing site data in terms of surrounding street system, geometry, parking, signing and striping, and private improvements and private water system appurtenances on the properties.

RICK will prepare a CAD file based on the boundary survey described below showing the existing utilities discovered in the research.

Deliverables - Photo log for any photos taken, letters to utility companies, utility as-built maps, and an AutoCAD drawing of the existing utilities.

2.1.1 Property Research

RICK will research City of Banning and County of Riverside survey records and record mapping for property and right of way information. RICK will also conduct a field survey to establish street centerline and rights of way of Ramsey Street within the project limits (between Sunset Avenue and Highland Home Road), Omar Street (between Ramsey and W. Jacinto View Road), W. Jacinto View Road (between Omar Street and Winchester Drive), and the property lines of the adjacent private properties and private properties that are affected by the relocation of water services. Survey basis of bearings and coordinates will be California State Plane Coordinates. Survey data and records analysis will be prepared within a CAD file establishing project mapping for centerline and right of

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way, including intersecting streets. Base mapping will include existing easements. Easements will be researched to identify their applicability/inapplicability with new waterline alignments.

Deliverables - Field Review notes, photo log for any photos taken, and an AutoCAD drawing of the rights of ways and centerline.

2.1.2 Site Topography and Surveying

RICK will provide a supplemental field topography along the existing water line points of connection and where needed and the effected private properties (where water systems will be reconnected in Ramsey Street). Consultant will locate and dip existing sewer and storm drain manholes. Topography will be vertically controlled by local published benchmarks.

Deliverables – Field Review notes, photo log for any photos taken, and CAD file with survey points.

2.1.3 Aerial Topography

RICK will provide an aerial topography of the project site consisting of surface utility appurtenances and improvements such as curb, edge of pavement, drainage inlets, valve cans, fences, driveways, mailboxes, utility vaults, power poles, signs, lights, traffic signals, sidewalks, pedestrian ramps, and notable grade features.

Deliverables – 40-scale at 1-foot contours

2.2 Potholing

RICK's subconsultant, C Below, will perform potholing for the project. C Below will perform forty (40) potholes as indicated in the RFP. A standard pothole is 12 in. x 12 in, performed to the top of pipe or encasement with sand backfill and a permanent surface patch. Potholes are assumed to be 5' in depth. Potholes include water line tie-in points and underground utility crossings. Potholes will also be used to locate the old Highway 99 concrete by setting alignment of potholes perpendicular to Ramsey Street, spaced 10' on center curb to curb. Alignments will be performed at mid-point of each project phase (3 alignments). C Below will provide a detailed potholing report at the conclusion of the investigation. Service includes Dig Alert Coordination and Delineation, Encroachment permit, vacuum excavation to top of utility, encasement, or stop depth, standard traffic control, 12-inches of hot patching (restored within 30-days of excavation activity), sand backfill, removal of debris, and pothole report. Services not included are slurry backfill, extensive traffic control, flagging for traffic control, sidewalk concrete

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panel replacement, and removal of Dig Alert marks.

Standard traffic control includes one lane closure with minimal signage not spanning an intersection.

Prior to potholing, a potholing plan will be developed showing location of potholes for connection points, intermediate points, and location of other underground utilities.

Deliverables – Potholing plan and potholing report

2.3 Geotechnical Study

Geocon is proposing to drill six (6) geotechnical borings up to 15 feet in depth, along portions of the proposed water main alignment, where the subsurface explorations of our 2018 geotechnical investigation cannot supplement. The geotechnical borings will be performed to the observe subsurface soil conditions and collect samples for laboratory testing. We expect that traffic control signage/equipment will be sufficient and flag persons will not be required. Furthermore, we expect that the Banning encroachment permit will be a no fee permit for this project, and that patching of the borings with asphalt concrete cold-patch is acceptable.

RICK's subconsultant, Geocon West, Inc, will consist of:

- Mark the planned boring locations and notify Underground Surface Alert of Southern California to mark any subsurface utility locations near the exploration locations. Additionally, the client should provide plans depicting the locations of all utilities in the project area.
- Prepare no-fee encroachment permits with the City of Banning for our work. We have assumed a traffic control plan utilizing MUTCD or Watchbook details will be sufficient, and an engineered traffic control plan will not be required.
- Provide traffic control setup and breakdown at each boring location. We plan to source traffic control signage/equipment for our work and did not include flag persons in this budget.
- Drill six (6) geotechnical borings along the portion of the proposed water main alignment that our 2018 subsurface explorations cannot supplement. We will collect bulk and ring samples of the subgrade soil for laboratory testing. Borings will be backfilled with soil cuttings and clean sand, and capped with asphalt concrete cold-patch upon completion. We expect borings of up to 15 feet will be sufficient for design of the proposed water main. Borings will be located so that there is an approximate 500-foot interval maintained between the new borings and 2018 borings, along the proposed water main alignment, to ensure an appropriate standard of care. We have budgeted one day of drilling.
- Perform laboratory testing which is expected to include in-situ moisture content and dry density determinations, maximum dry density and optimum moisture

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content, grain size analysis, corrosion screening, sand equivalent, and direct shear testing. The laboratory testing program will be based on the conditions encountered during the field investigation with respect to the proposed improvements. Our 2018 laboratory test results will be provided as supplemental information for the portion of the proposed water main alignment able to be covered by our 2018 geotechnical investigation.

- Prepare a geotechnical report presenting our findings in the field, boring logs, a map depicting the boring locations, a discussion of the geotechnical conditions at the site, and geotechnical parameters for storm drain design.

Assumptions:

- The borings can be safely performed in the vicinity of the proposed water main alignment, considering existing utilities are present and to facilitate traffic flow around our drilling operations. Where performing the borings poses a conflict with existing utilities, resulting in an unsafe working environment for property, personnel, and/or motorists/pedestrians, the planned borings will be relocated, as feasible.
- This proposal does not include any costs to re-grade, install hot-mix asphalt concrete patching, re-vegetate, landscape or otherwise repair disturbed areas.

Deliverables – Geotechnical report

Task 3. Preliminary Engineering Design

3.1 Preliminary Design Plans (30% design)

RICK will prepare waterline plans for approximately (7,200 LF) for a proposed Ductile Iron pipe in Ramsey Street between Sunset Avenue and Highland Home Road. Plans will be at 40-scale and include plan and profile. Plans will be setup for 3 construction phases:
Phase 1: The waterline between Sunset Avenue to near the property at 3929 W. Ramsey Street.
Phase 2: The continuation of Phase 1 to Omar Street, then continuing north on Omar to W. Jacinto View Road, and then east to the Winchester Drive intersection.
Phase 3: From Omar Street westerly on Ramsey Avenue to approximately Highland Home Road.

Additionally, RICK will:

a. Collect the data from the utility and property research from scope items above to use as part of the base file for the water plans. Existing utilities will be shown on the plans in locations verified by the potholing above and/or provided by the utility companies. As part of the plan preparation, RICK will contact affected

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utility companies to obtain permits if needed (utility fees to be paid by the City of Banning).

b. RICK will arrange and participate in informal meetings as necessary with City staff to review the progress of the project and exchange ideas and information.
c. Meetings with the City of Banning will discuss the key design issues and develop general project criteria for construction, including schedule and possible ways of minimizing problems. RICK will prepare and submit meeting agendas prior to the meetings.
d. RICK will provide data received and assumptions utilized to the city for approval prior to integrating the data into the project's final design.
e. RICK will prepare preliminary water plans (30-percent design) using AutoCAD for approximately 7,200 LF of water line (8-inch to 14-inch) to establish an agreement with the City of Banning on project scope, alignment, easements, parameters, hydraulic requirements, maintenance concerns, constructability and construction phasing, traffic impacts, and general disruption to the area. The preliminary design is to be submitted to the City of Banning for review and approval. The preliminary design shall address the following:
    a. Pipeline alignment/facility locations
    b. Construction schedule and phasing recommendations
    c. Construction Cost Estimate of recommended improvements
    d. Conflicts with other utilities and adjacent facilities in the area
    e. Traffic and pedestrian control
    f. Erosion Control
    g. Preferred materials for construction
    h. Areas where construction work is limited or controlled.
    i. Impacts to City water system.
    j. Impacts to surrounding business and residential areas.
    k. Easements (existing and proposed)
    l. Corrosion protection (if necessary)
f. The preliminary design will be submitted in PDF format through the City's SmartGov platform for the City of Banning's review and concurrence. The design will be at a 30% level of effort. Changes in layout and location of facilities suggested by the city will be investigated. A final layout and location of facilities will then be established.
g. As part of the meetings with the city, discussions and submittals of material will be presented to the city through the preliminary design process to reduce comment time and effort by the city.

It is assumed that the City of Banning will provide the size of the proposed new waterline. A hydraulic analysis is not included with this scope. However, we have provided it as an additional/if needed service.

It is assumed that the majority of the existing waterline will be abandoned in place.

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As part of the 30% design, RICK will prepare a traffic control conceptual staging plan for Phase 1 only identifying the assumed stages for each of the phases as noted in the Request for Proposal. The project Phase 1 proposes to construct approximately 2,600' of a water main along Ramsey Street from Sunset Avenue to 3929 W. Ramsey Street. It is anticipated that the traffic control conceptual staging plan will be prepared at 40 scale and will identify the proposed linear footage per stage and a description of the work that will be completed.

Deliverables – (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.2 Preliminary Design Plans (60% design)

Rick will prepare plans based on the 30% design and subsequent review comments by the City. Plans include a one (1) cover sheet, two (2) detail sheet, ten (10) plan and profile sheets, two (2) connection detail sheets for private landowners, and one (1) valve shut down sheet if needed, and will show the existing water services and fire hydrants to the new waterline. Due to the existing waterline being at the back of the effected parcels, water meters, backflow devised and related system components shall be moved to front Ramsey off the new proposed waterline. Detail sheets will detail the on-site design connecting to the new line to provide a water system at minimum equal to the existing condition.

RICK's subconsultant, Dexter Wilson Engineering, will assist in preparation of technical specifications, pipeline material design, pipeline deflection calculations, design of thrust restraining systems, details for phased connections, details for connection to the existing pipeline, peer review of replacement plans, and other pipeline design aspects.

Consultant will incorporate any comments received from the City of Banning on the traffic control conceptual staging plan into the 60% design plans. Consultant will prepare 40-scale traffic control plans for the work associated with the Ramsey Street Water Main for Phase 1 only. The traffic control plans will provide work zones that are staged for construction of the water main, appurtenances, laterals, and any required detours. The one stage of traffic control is assumed as follows:

Phase 1: Sunset Avenue to 3929 W. Ramsey Street. There are assumed 5 stages of traffic control; Stage 1A is to 600' west of Sunset Avenue; Stages 1B, 1C, 1D, and 1E will be up to 500' along Ramsey to 3929 W. Ramsey Street.

The traffic control plans will be prepared following the requirements of the California Manual on Uniform Traffic Control Devices (MUTCD) and the City of Banning. Three (3) submittals are assumed – 60%, 90%, and final. Five (5) sheets

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of traffic control plans are assumed for Phase 1.

A progress meeting will be coordinated with the City of Banning to discuss the 60% design plans. The meeting will discuss the comments and markups and establish a timeline for the project moving forward.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans and the preliminary opinion of probable costs.

3.3 Detailed Design Plans (90% Design)

Rick will prepare the 90% detailed design waterline plans and traffic control plans based on the 60% review comments received from the City of Banning and other entities. Plans shall follow the City of Banning standards and policies.

RICK will prepare project specifications following the Standard Specifications for Public Works Construction, SSPWC, "Greenbook", latest edition.

RICK will prepare an opinion of probable cost and bid schedule that has construction items of work, unit of measurement, unit cost, and cost based on the detailed design waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

Task 4. Final Design Plans

4.1 Final Water Plans

Upon authorization from the City, RICK will finalize the waterline plans and traffic control plans based on the final comments from the City and other entities. Plans will follow the City of Banning standards and policies. Plans will be signed by a licensed Civil Engineer and provided to the City of Banning on Mylar.

RICK will provide the City of Banning a Final set of Project specifications based on final comments from the City of Banning following the SPPWC. RICK will also provide a final opinion of probable cost and bid schedule based on the signed waterline plans.

Deliverables - (all via the city's SmartGov platform): PDF of the preliminary design plans, the preliminary opinion of probable costs, and the Standards and Specifications

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Task 5. Easement Documents

5.1 Easement Documents

RICK will prepare a legal description and plat for each easement for three (3) permanent easements to be granted to the City of Banning and ten (10) temporary construction easements that are required for reconnection of existing private water systems to the new water main. RICK will obtain and review title reports for the thirteen (13) affected properties.

RICK assumes three (3) permanent easements to be granted to the City of Banning and ten (10) Temporary Construction Easements for reconnection of existing private water systems to the new water main.

Assumptions:

- Assumes up to 13 tax parcels owned by 13 unique entities are impacted by temporary construction easements (TCE's) and/or permanent easements.
- Scope does not include any discussions with property owners.
- No appraisal work or negotiations included.
- Consultant is providing legal description and plat for the 13 easements only.

Deliverables - (all via the city's SmartGov platform): Easement documents (legal description and plat) and up to 13 preliminary title reports.

Task 6. Stormwater Pollution Prevention Plan

6.1 Stormwater Pollution Prevention Plan

The Risk Type 1 LUP SWPPP will be prepared in accordance with the requirements of the Appendix E of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order WQ 2022-0057-DWQ NPDES No. CAS000002 (adopted September 8, 2022, effective September 1, 2023).

RICK will prepare a Risk Type 1 LUP SWPPP based on the project's assumed Risk Type.

This task will also include the preparation of a Notice of Intent (NOI) on the Storm Water Multi Application Report Tracking System (SMARTS) database. The Discharger must designate RICK as a Data Entry Person to prepare the NOI. The Discharger/LRP must electronically certify and submit the NOI on SMARTS.

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RICK will act as the initial Qualified SWPPP Developer (QSD) for the preparation of the SWPPP, however the Discharger must hire a QSD and a Qualified SWPPP Practitioner (QSP) for implementation of the SWPPP throughout the life of the project.

Based on the provided bid package this project is assumed to be a Risk Type 1 LUP based on the following assumptions:

1. More than 70% of the soil disturbance will occur on paved surfaces; and
2. Areas that are disturbed will be returned to pre-project conditions at the end of each day.

Deliverables - (all via the city's SmartGov platform): SWPPP (erosion control plan submitted via drawing submittals)

Task 7. Construction Surveying and Staking

7.1 Phase One Water Stakes

RICK will maintain horizontal and vertical control for the duration of the surveying work on this project. RICK will also provide required calculations to field crew for each survey request received.

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,600 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

7.2 Phase Two Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 2,700 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (3) trips.

Deliverables – Construction Staking Cut Sheets

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7.3 Phase Three Water Stakes

RICK will provide one set of stakes at all primary points of control; beginning and ends of pipe and at not less than 50' on center along tangent sections and 25' on curves to facilitate the construction of approximately 1,900 LF of water mainline. RICK will also provide not more than two (2) stakes each; to facilitate the location of services, fire hydrants, and points of connection.

*Water stakes to be set in three (2) trips.

Deliverables – Construction Staking Cut Sheets

Task 8. Bidding/Construction Support – Phase 1 Only

8.1 Bidding

RICK will be available during the advertising and bidding of the project to assist the City of Banning in answering questions/RFI's and the preparation of plan addenda, if needed. RICK will attend one (1) pre-bid meeting for the bidding process.

Deliverables – Meeting attendance, responses to Bidder's RFI's

8.2 Construction Administration

RICK will be available during the construction of the project to answer RFI's and prepare plan addenda, if needed. RICK will attend one (1) pre-construction meeting and eight (8) site visits during construction of the project as requested by the city. RICK will review shop drawings and submittals from the contractor for conformance with the contract plans and specifications, and make recommendations for acceptance, denial or resubmittal.

Deliverables – Meeting attendance, response to Contractor's RFI's, design addenda, submittal reviews

8.3 As-Built Plans

RICK will prepare As-Built Plans and process with the City of Banning, as necessary. Scope assumes RICK will receive as-built letters from the contractors and the contractor's as-built plan markup's. Scope assumes no major changes have occurred and does not include any as-built survey time. As-built plans will be submitted to the City within one month of receiving as-built letters and markup's from the contractor.
Deliverables – As-built Plans

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Additional Services (If Needed Services)

Corrosivity Assessment

Rick's subconsultant, RF Yeager will prepare a corrosivity assessment for the proposed waterline, that will include a field resistivity testing, a review of the Geotech/soil chemical analysis data, a review for the potential of stray current interference, and a Corrosivity Assessment Letter Report. This information will be used for the determination of the type of corrosion protection and if any cathodic protection for the pipeline would be required and the corrosion control approach that the City may want to implement.

Deliverable – Corrosivity Assessment Letter Report

Corrosion Control Design

As part of the 90% design plans, RICK's subconsultant, RF Yeager, will provide Corrosion Control Design as part of the plans if Client requires joint bonds, test stations, insulators, and other standard corrosion control facilities. It is recommended the Client to use joint bonds, test stations, and insulators (steel or DIP) such that the pipeline is made electrically continuous and test stations are installed at the side of the road. This allows for monitoring and for adding cathodic protection in the future (should soil conditions/pipeline environment change) and will be much less costly because the pipe is electrically continuous and test stations are already installed. Corrosion control detail sheets, specifications, and cost estimate is included.

Cathodic Protection Design Pipeline

If it is found that Cathodic Protection is required, RICK's subconsultant, RF Yeager, will review the waterline plans, provide comments, and corrosion control design analysis/calculations. Details and specifications will be included. A cathodic protection system cost estimate will be included. RF Yeager will then address the 90% plan comments and provide final 100% design documents. Once approved for final signature, RF Yeager will sign and stamp the final drawings. Cathodic protection detail sheets, specifications, and cost estimates are included.
Deliverables – Corrosion control design analysis/calculations, specifications, and cost estimate.

Hydraulic Analysis

RICK's subconsultant, Dexter Wilson Engineering, will perform hydraulic modeling for the waterline sizing for the project site, if City does not provide the waterline

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sizing. It is assumed City will provide the necessary information to run the modeling.

Caltrans Encroachment Permit

RICK will prepare one (1) Caltrans encroachment permit application for the traffic control devices (i.e. advance signage) that are within the Caltrans right-of-way (ROW) along Sunset Avenue in the vicinity of I-10. For the Caltrans encroachment permit application, the traffic control plans are assumed to be submitted to Caltrans in City of Banning format and will include a Caltrans signature block on the plans.

Plan Processing and Coordination (Caltrans)

RICK will submit and process the traffic control plans with Caltrans District 8. It is assumed that up to two (2) sets of plan check review comments will be received, coordinated, and addressed.

Monument Preservation

Pursuant to Section 8771 of the Business and Professions Code, preconstruction corner records will be prepared and filed identifying recovered survey monuments within the proposed construction limits. Post construction corner records will also be filed reflecting replacement monuments.

Deliverables – Pre and Post construction corner records

Monument Replacement

RICK will replace destroyed survey monuments at the completion of the construction with the project limits.

Record of Survey

Pursuant to 8762 of the Business and Professions Code the filing of a Record of Survey shall be filed if the survey discloses “the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from the inspection of the subdivision map official map or record of survey.

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III. In addition to the requirements of Parts I and II of this Scope of Services, during the performance of the Services, Consultant will keep City appraised through periodic status reports regarding the performance of the Services under this Agreement as set forth below and in Section 5.2, by the following means:

a. In-person meetings and/or teleconferences.

b. Email updates/questions to applicant team and City while reviews are underway.

c. Conference calls.

IV. All work product is subject to review and acceptance by City, and must be revised by Consultant without additional charge to City until found satisfactory and accepted by City.

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EXHIBIT "B"
SPECIAL REQUIREMENTS

TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute "public works" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Consultant acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations ("DIR") implementing such statutes. Therefore, as to those Services that are "public works," Consultant shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Consultant shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Consultant shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Consultant and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Consultant or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Consultant shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Consultant's Services are subject to compliance monitoring and enforcement by DIR. Consultant shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

6. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to City, forfeit $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

7. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

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8. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Consultant shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Consultant and Subcontractors shall not be debarred or suspended throughout the duration of this Agreement pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Consultant or any subcontractor becomes debarred or suspended during the duration of the project, the Consultant shall immediately notify City.

10. Consultant acknowledges that eight hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Consultant shall, as a penalty to City, forfeit $25.00 for each worker employed in the performance of this Agreement by the Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Consultant hereby certifies as follows:

> "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
>
> **Date**_____ **Signature**_____

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12. For every subcontractor who will perform work on the project, Consultant shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Consultant shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including, without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any failure.

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EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following Scope of Services at the rates stated in Exhibit C-1.

II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.

III. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the Services performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved sub-contractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. Consultant's billing rates for all personnel are attached as Exhibit C-1.

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EXHIBIT "C-1"
CONSULTANT'S BILLING RATE AND TASK SCHEDULE

RICK ENGINEERING COMPANY

Principal Consultant (Special Projects)	$300.00
Principal	260.00
Associate Principal	240.00
Associate/Manager	225.00
Expert Witness	450.00
Court Appearance per half day or part	1,800.00
Senior Project Manager	$225.00
Principal Project Engineer/Manager	210.00
Associate Project Engineer/Manager	190.00
Assistant Project Engineer/Manager	175.00
Principal Engineering Designer	155.00
Associate Engineering Designer	140.00
Assistant Engineering Designer	130.00
Principal Engineering Drafter	125.00
Associate Engineering Drafter	115.00
Assistant Engineering Drafter	105.00
Senior Transportation/Traffic Engineer	$215.00
Principal Transportation/Traffic Engineer	210.00
Associate Transportation/Traffic Engineer	190.00
Assistant Transportation/Traffic Engineer	175.00
Principal Transportation/Traffic Designer	155.00
Associate Transportation/Traffic Designer	140.00
Assistant Transportation/Traffic Designer	130.00
Principal Community Planner	$215.00
Principal Project Planner/Manager	200.00
Associate Project Planner/Manager	185.00
Senior Planner	175.00
Associate Planner	140.00
Assistant Planner	120.00
Planning Technician	95.00
Principal Project Landscape Architect/Manager	$190.00
Associate Project Landscape Architect/Manager	170.00
Assistant Project Landscape Architect/Manager	150.00
Principal Landscape/Urban Designer	125.00
Associate Landscape/Urban Designer	120.00
Assistant Landscape/Urban Designer	115.00
Principal Environmental Project Manager	$200.00
Associate Environmental Project Manager	170.00
Assistant Environmental Project Manager	150.00
Principal Environmental Specialist	140.00
Associate Environmental Specialist	130.00
Assistant Environmental Specialist	120.00
Environmental Technician	100.00
Senior Water Quality Manager	$240.00
Principal Water Resources Designer	155.00
Associate Water Resources Designer	140.00
Assistant Water Resources Designer	130.00
GIS Manager	$190.00
Principal GIS Project Manager	180.00
Associate GIS Project Manager	165.00
Assistant GIS Project Manager	150.00
Principal GIS Analyst	145.00
Associate GIS Analyst	130.00
Assistant GIS Analyst	120.00
Principal Graphics Designer	130.00
Associate Graphics Designer	125.00
Assistant Graphics Designer	115.00
CAD Manager	180.00
Field Supervisor	$195.00
One-person Survey Party (Prevailing Wage)	270.00
One-person Survey Party w/ Robotics (Prevailing Wage)	270.00
Two-person Survey Party (Prevailing Wage)	350.00
Three-person Survey Party (Prevailing Wage)	390.00
3D Laser Scanning Crew (One-Person)	$235.00
3D Laser Scanning Crew (Two Person)	280.00
Principal 3D Laser Scanning Project Manager	$190.00
Associate 3D Laser Scanning Project Manager	175.00
Assistant 3D Laser Scanning Project Manager	160.00
Principal 3D Laser Scanning Specialist	140.00
Associate 3D Laser Scanning Specialist	130.00
Assistant 3D Laser Scanning Specialist	120.00
Principal 3D Laser Scanning Technician	115.00
Associate 3D Laser Scanning Technician	100.00
Assistant 3D Laser Scanning Technician	90.00
Photogrammetry Supervisor	$185.00
Principal Photogrammetrist	155.00
Associate Photogrammetrist	120.00
Assistant Photogrammetrist	110.00
Principal Survey Analyst	$185.00
Associate Survey Analyst	150.00
Assistant Survey Analyst	125.00
Associate Project Administrator	$80.00
Assistant Project Administrator	70.00
Administrative Assistant/Manager	75.00

Rates subject to change for prevailing wage contracts.
When authorized, overtime shall be charged at the listed rates times 1.5.
Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.
A fifteen (15) percent fee for administration, coordination and handling will be added to all subcontracted services.

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Structural Engineer
$185.00 Per Hour

SKS Engineering, Inc.

Position	Hourly Rates
Principal	$205-275
Senior Associate	$150-220
Associate	$110-170
Senior Analyst	$105-135
Analyst	$70-105
Assistant Analyst	$60-115
Administrative Support	$65-105

URBAN CROSSROADS

General

(1) Reimbursable direct costs, such as reproduction, supplies, and messenger service will be billed at cost.
(2) Hourly rates apply to work time, travel time, and time spent at public hearings and meetings. For overtime work, the above rates may be increased 50 percent.
(3) Monthly billing statements are due within thirty (30) days of receipt.

TURNING MOVEMENT COUNTS (TMC)
$226.00 – 2-hour Peak Period Counts – Pedestrian & Bicycles Included
$226.00 – 4-hour Peak Period Counts – Pedestrian & Bicycles Included
$339.00 – 6-hour Peak Period Counts – Pedestrian & Bicycles Included

BI-DIRECTIONAL VOLUME (ADT) – TUBE COUNTS
$100.00 – 24 hours (1-day)
$200.00 – 48 hours (2-day)
$300.00 – 72 hours (3-day)
$400.00 – 96 hours (4-day)
$500.00 – 120 hours (5-day)
$600.00 – 144 hours (6-day)
$700.00 – 168 hours (7-day)

BI-DIRECTIONAL SPEED OR CLASSIFICATION – TUBE COUNTS
$198.00 – 24 hours (1-day)
$396.00 – 48 hours (2-day)
$594.00 – 72 hours (3-day)
$792.00 – 96 hours (4-day)
$990.00 – 120 hours (5-day)
$1,188.00 – 144 hours (6-day)
$1,386.00 – 168 hours (7-day)

OTHER STUDIES – QUOTES BASED ON SCOPE
Pedestrian Gap Studies
Parking Duration Studies
Video Turning Movement Counts
Radar Studies – Non Intrusive
Travel Time Studies – GPS
Many more customized studies available

Veracity Traffic Group

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EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all Services timely, and deliver the specified tangible work products to City in accordance with the schedule attached as Exhibit D-1.

II. The Contract Officer may approve extensions for performance of the Services in accordance with Sections 1.8 and 3.3.

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EXHIBIT "D-1"
PROPOSED PROJECT SCHEDULE

EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant/Associate Designer/Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
TASK 1 - PROJECT MANAGEMENT														
1.1 Kick-off Meeting and Project Management		2		24							$ 5,800.00			$ 5,800.00
1.2 Progress Meetings		2		33							$ 7,780.00			$ 7,780.00
1.3 Invoicing				8							$ 1,760.00			$ 1,760.00
SUBTOTAL TASK 1:	**0**	**4**	**0**	**65**	**0**	**0**	**0**	**0**	**0**	**0**	**$ 15,340.00**	**$ -**	**$ -**	**$ 15,340.00**
Task 2 - Project Development														
2.1 Utility Research, Base Mapping & Site Reconnaissance				20		32	40				$ 15,080.00			$ 15,080.00
2.1.1 Property Research			8				8		24	40	$ 19,440.00			$ 19,440.00
2.1.2 Supplemental Field Topography									40	2	$ 14,790.00			$ 14,790.00
2.1.3 Aerial Topography									24	6	$ 9,810.00		$ 15,000.00	$ 24,810.00
2.2 Potholing - C Below											$ -	$ 92,195.00		$ 92,195.00
2.3 Geotechnical Study - Geocon											$ -	$ 12,875.00		$ 12,875.00
SUBTOTAL TASK 2:	**0**	**0**	**8**	**20**	**0**	**32**	**48**	**0**	**88**	**48**	**$ 59,120.00**	**$ 105,070.00**	**$ 15,000.00**	**$ 179,190.00**
Task 3 - Preliminary Engineering Design														
3.1 Preliminary Design Plans (30% design) - Civil	2	4		12		50	80				$ 23,280.00	$ 2,990.00		$ 26,270.00
Conceptual Staging Plan - Traffic					4		16				$ 2,960.00			$ 2,960.00
3.2 Preliminary Design Plans (60% design) - Civil, Dexter Wilson	2	4		20		80	100				$ 32,690.00	$ 2,150.00		$ 34,840.00
Preliminary Design Plans (60% design) - Traffic		1			3		36				$ 5,720.00			$ 5,720.00
3.3 Detailed Design Plans (90% design) - Civil, Dexter Wilson	2	4		16		60	88				$ 26,890.00	$ 1,075.00		$ 27,965.00
Detailed Design Plans (90% design) - Traffic		1			2		23				$ 3,765.00			$ 3,765.00
SUBTOTAL TASK 3:	**6**	**14**	**0**	**48**	**9**	**190**	**343**	**0**	**0**	**0**	**$ 95,305.00**	**$ 6,215.00**	**$ -**	**$ 101,520.00**
Task 4 - Final Design Plans, Specifications and Estimate (100% Design)														
4.1 Final Water Plans - Civil, Dexter Wilson	1	4		12		24	40				$ 13,315.00	$ 645.00		$ 13,960.00
Final Water Plans - Traffic		1			3		12				$ 2,480.00			$ 2,480.00
SUBTOTAL TASK 4:	**1**	**5**	**0**	**12**	**3**	**24**	**52**	**0**	**0**	**0**	**$ 15,795.00**	**$ 645.00**	**$ -**	**$ 16,440.00**

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EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/Assistant Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RICK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Task 5 - Easement Documents														
5.1 Easement Documents			26							130	$ 31,590.00		$ 9,750.00	$ 41,340.00
SUBTOTAL TASK 6:	**0**	**0**	**26**	**0**	**0**	**0**	**0**	**0**	**0**	**130**	**$ 31,590.00**	**$ -**	**$ 9,750.00**	**$ 41,340.00**
Task 6 - Stormwater Pollution Prevention Plan														
6.1 Stormwater Pollution Prevention Plan				6		32					$ 6,600.00			$ 6,600.00
SUBTOTAL TASK 6:	**0**	**0**	**0**	**6**	**0**	**32**	**0**	**0**	**0**	**0**	**$ 6,600.00**	**$ -**	**$ -**	**$ 6,600.00**
Task 7 - Construction Surveying and Staking														
7.1 Phase One Water Stakes							10	2	24		$ 10,430.00			$ 10,430.00
7.2 Phase Two Water Stakes - 3 staking days											$ -			$ -
7.3 Phase Three Water Stakes - 2 staking days											$ -			$ -
SUBTOTAL TASK 5:	**0**	**0**	**0**	**0**	**0**	**0**	**10**	**2**	**24**	**0**	**$ 10,430.00**	**$ -**	**$ -**	**$ 10,430.00**
Task 8 - Bidding/Construction Support - Phase 1 only														
8.1 Bidding				1		4					$ 880.00			$ 880.00
8.2 Construction Administration		2		32		12					$ 9,540.00	$ 1,160.00		$ 10,700.00
8.3 As-Built Plans		1		1		1	6				$ 1,455.00			$ 1,455.00
SUBTOTAL TASK 7:	**0**	**3**	**0**	**34**	**0**	**17**	**6**	**0**	**0**	**0**	**$ 11,875.00**	**$ 1,160.00**	**$ -**	**$ 13,035.00**
Reimbursables													$ 3,000.00	$ 3,000.00
	0	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**$ -**	**$ -**	**$ 3,000.00**	**$ 3,000.00**
SUBTOTAL TASKS 1-7:	**7**	**26**	**34**	**185**	**12**	**295**	**459**	**2**	**112**	**178**	**$ 246,055.00**	**$ 113,090.00**	**$ 27,750.00**	**$ 386,895.00**

Less $230,670.97 revised total $156,224.03

Exhibit "D-1" - 2

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EXHIBIT B

RAMSEY STREET WATER MAIN PROJECT

TASK DESCRIPTION:	Principal	Associate Principal	Associate	Principal Project Engineer	Associate Project Engineer	Principal Designer	Assistant Designer/A ssistant Project Analyst	Field Supervisor	Two-Person Survey Crew	Principal Survey Analyst	RWCK FEE	Subconsultants	Expenses	Task Total($):
Hourly Rate	$275.00	$260.00	$240.00	$220.00	$200.00	$165.00	$135.00	$220.00	$360.00	$195.00				
Additional Services (if needed)														
Additional Potholing (daily rate) - C Below											$ -	$ 12,725.00		$ 12,725.00
Corrositivity Assessment - YF Yeager											$ -	$ 4,980.00		$ 4,980.00
Corrosion Control Design - YF Yeager											$ -	$ 12,180.00		$ 12,180.00
Cathodic Protection Design Pipeline - YF Yeager											$ -	$ 18,400.00		$ 18,400.00
Hydraulic Analysis - Dexter Wilson											$ -	$ 3,480.00		$ 3,480.00
Caltrans Encroachment Permit Application											$ 1,480.00			$ 1,480.00
Caltrans Processing and Coordination											$ 2,020.00			$ 2,020.00
Phase 1 Monument Preservation											$ 3,120.00			$ 3,120.00
Phase 1 Monument Replacement											$ 5,980.00			$ 5,980.00
Record of Survey											$ 15,000.00			