



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Emery Papp, Senior Planner

MEETING DATE: June 11, 2024

SUBJECT: Consideration of Resolution 2024-94, Approving a Deposit Reimbursement Agreement for the Sansone Group

RECOMMENDATION:

Approve Resolution 2024-94.

BACKGROUND:

The City of Banning in its role as Lead Agency has issued a Notice of Availability for a Draft Environmental Impact Report (Draft EIR) for the Banning Commerce Center Project to evaluate the environmental impacts of the Project and related entitlements, in accordance with the requirements of the California Environmental Quality Act (CEQA).

The Project site is located north of I-10 Freeway, east of N. Hathaway Street, and bisected by Wilson Street. The City's Land Use and Zoning designation for the Project site is Business Park. The Project proposes the development of an approximately 1,320,000 square feet (SF) speculative industrial warehouse building that includes approximately 39,600 SF of office space and approximately 1,280,400 SF of warehouse area on approximately 130.72 acres. The Environmental Impact Report will evaluate whether implementation of the Project may potentially result in one or more significant environmental impacts.

Chapter 3.36 of the Banning Municipal Code provides for reasonable recovery of costs borne by the City for expenses relating to land development. The Developer has agreed to fund and be solely responsible for all third party consulting costs and the City's legal costs associated with the preparation of plans, studies and agreements for the Project. Moreover, the Developer has agreed to terms set forth in the Deposit Reimbursement Agreement for the Project, which may include deposits, reimbursements, eligible expenses, deposit administration and other provisions related to the cost of processing the entitlements.

JUSTIFICATION:

The primary reasons to support authorization of a Deposit Reimbursement Agreement between the City of Banning and the Sansone Group are threefold. First, such an agreement allows the City to recover costs for processing entitlements related to the proposed development of the Banning Commerce Center Project. The Banning Municipal Code provides authority to recover expenses from the developer for third party consulting costs and any potential for City's legal costs associated with the processing of plans, studies, agreements, and entitlements for the Project.

Second, the Agreement gives the City sole discretion and control in hiring and managing contractors and consultants for their work on the project. This includes environmental consultants, which allow the City

to have independent judgement over the environmental studies, technical studies, and preparation of the Environmental Impact Report.

Lastly, this Agreement further supports that the City is under no obligation to take any action to approve the project. It also provides that this Agreement or any other agreement between the City and the Developer does not create a debt or a liability other than to return unexpected or uncommitted portions of the deposit from the Developer. The Agreement also provides that the Developer must indemnify and hold harmless the City, its officials, officers, employees and agents from any and all actions resulting from or related to the entitlements. The Developer may be required to deposit funds within five days of the request to cover its indemnification obligations for ninety days or to provide other forms of security. The deposit account must not fall below the amounts specified in the attached Deposit Agreement.

FISCAL IMPACT:

All costs shall be borne by the Developer. There is no Fiscal Impact to the City.

ALTERNATIVES:

1. Adopt Resolution 2024-94 as recommended.
2. Adopt Resolution 2024-94 with modifications.
3. Do not approve Resolution 2024-94 and provide alternative direction to staff.

ATTACHMENTS:

1. [Resolution 2024-94, Sansone Agreement.docx](#)
2. [Sansone Deposit-Reimbursement Agreement.doc](#)