



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Lincoln Bogard, Administrative Services Director

MEETING DATE: September 10, 2024

SUBJECT: Presentation of Initial Results of the Citywide Forensic Investigation

RECOMMENDATION:

Receive and file.

BACKGROUND:

The City hired a new Finance Director on June 23, 2022. Fiscal Year 2021-22 ended on June 30, 2022. As a part of the year-end close process and completion of the audited financial statements, the Finance Director determined that the Electric Utility had approximately \$4 million in unrestricted cash at fiscal year end. In approximately October 2022, the City Manager, Finance Director, and Deputy Finance Director held discussions with the then Electric Utility Director, about the low levels of cash reserves at the electric utility. The Council had previously determined that the Electric Utility would maintain an unrestricted cash reserve of \$11 million. The audited financial statements confirmed that \$4 million level of unrestricted cash. Continuing conversations occurred over the remainder of FY 2022-23, and the Finance Director (now Administrative Services Director) conducted a much more thorough analysis as the department's unrestricted cash ultimately moved negative department-wide in March and April of 2023. When the Administrative Services Director brought the June 30, 2023, negative unrestricted cash balance of approximately \$9 million (later revised based on year-end GASB 31 entries to negative \$8.6 million) to the City Manager, we agreed on the critical importance of reporting the results to Council. The analysis was presented to Council in a Special Session on August 15, 2023. Also in August, we moved forward with contracting GHJ Associates to perform a Phase 1 forensic investigation into the results of operations since 2018. Council expanded the scope of the forensic investigation twice. The final results were presented to Council and the public on February 27, 2024.

The forensic investigation confirmed the reporting that was made to Council on August 15, 2023. That meeting can be viewed online and is accessible from the City's website. The majority of cash spend related to capital asset construction and was approved by Council as a part of the Capital Improvement Plan. While there were issues of non-conformance with procurement policy issues, Council retroactively approved all instances identified, and no allegations of fraud were noted in the forensic investigation. Almost all areas of concern from a financial operations perspective can be identified through a thorough analysis of cash. Ultimately, the Electric Utility unrestricted cash balances decreased by over \$30M during Mr. Miller's tenure (2018-2024, and as of June 30, 2023).

When Council and the public were informed about the cash decline that electric incurred over the last five years, some Councilmembers and residents expressed a desire to have a Citywide investigation performed. The Administrative Services Director stated that no other issues were identified in his Citywide analysis, but that he and the City Manager were agreeable to a Citywide investigation into treasury functions (cash in particular). The Administrative Services Director obtained Council approval to

issue a Request for Proposals (RFP) for this investigation. Staff also recommended that the evaluation of submissions be conducted by Finance Directors from other area local governments in the Pass Area and Coachella Valley. Council approved and those Finance Directors and the elected City Treasurer for the City of Banning conducted the evaluation of the six proposals that were submitted for consideration. Council conducted interviews with the top three evaluated firms (Marsh Minick, P.C., FORVIS, LLP, and BDO USA, P.C.) on February 27, 2024.

JUSTIFICATION:

City Council voted to have the Administrative Services Director conduct the citywide investigation rather than hiring an external firm to provide that service. The Administrative Services Director is a Certified Fraud Examiner (CFE) and a Certified Public Accountant (CPA). Council felt that the accuracy of the initial staff presentation on August 15, 2023, provided confidence in the Administrative Services Director to perform the citywide forensic investigation.

Staff has performed a citywide analysis of cash for the past seven year and identified only three additional funds that should be investigated further. Those funds are the General Fund, the Risk Management Fund, and the Information Technology Fund.

There are some factors that mitigate the likelihood of significant findings as discussed below:

General Fund - Financial Projections performed in 2018 for ballot measures N, O, and P, showed that the General Fund would be bankrupt by June 30, 2023. The actual performance of the General Fund has been better than those projections, but not significantly. Staff determined that cash declines in at least one year deviate from the results of operations enough to warrant further investigation. Upon completion of that additional analysis, staff will bring any identified concerns or explanations to Council for discussion.

Risk Management Fund - Insurance costs have increased at a rate of around thirty percent (30%) per year for at least the last three years. In addition to that, legal and investigative costs were higher than historical in Fiscal Years 2022-23 and 2023-24. We are seeing some reductions in those costs in 2024. Since this fund's revenue is generated through the Cost Allocation Plan, a growing deficit is explainable. Staff will be bringing this Internal Service Fund back to breakeven through the Cost Allocation Plan within the next five years. Even with those mitigating factors, staff will perform more investigative analysis to ensure that no deeper concerns have remained unidentified.

Information Technology Fund - This fund has slowly fallen behind over the years with the Cost Allocation Plan failing to keep pace with the growth of the City's Information Technology needs. In Fiscal Year 2023-24, a large net cash outflow for the year occurred. This is at least partially explained by the network infrastructure overhaul that took place over the last year. Even with those mitigating factors, staff will perform more investigative analysis to ensure that no deeper concerns have remained unidentified.

FISCAL IMPACT:

None. Council previously approved a contract with Eide Bailly to provide Year-End Close assistance to help remove some duties from the Administrative Services Director to help provide bandwidth for the performance of this investigation.

ALTERNATIVES:

Provide feedback and direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Results Summary By Fund](#)
2. [Citywide Budget-to-Actual Analysis By Fund](#)