



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Nate Smith, Deputy Director of Public Works/City Engineer
Art Vela, Director of Public Works

MEETING DATE: January 14, 2025

SUBJECT: Consider Resolution 2025-02, Approving the Administrative Services Agreement between Riverside County and the City of Banning related to County Service Area 152, National Pollutant Discharge Elimination System Stormwater (NPDES) Assessment

RECOMMENDATION:

Adopt Resolution 2025-02.

BACKGROUND:

The National Pollutant Discharge Elimination System (NPDES) is a federally mandated program to control non-point sources of runoff pollution. The NPDES program is part of the Clean Water Act enacted by Congress in 1987. The California Regional Water Quality Control Board, Colorado River Basin, Region No. 7 ("Regional Board"), in implementing the U.S. Environmental Protection Agency's storm water NPDES permit program, requires that the Districts and Incorporated Cities within the Whitewater River Basin obtain a joint permit to discharge storm water into the various storm channels and washes throughout the Whitewater River Watershed area. The Riverside County Flood Control and Water Conservation District (RCFC&WCD) and Riverside County are acting as the Lead Agency with the City of Banning being a co-permittee, along with the various other agencies and municipalities located within the Whitewater River Basin. The current Permit was adopted by the Regional Board on June 20, 2013, expired on June 19, 2018 and has been negotiated and worked on with the affected parties over the past six years. A new permit ("2025 NPDES Permit") that has been negotiated with the Regional Board is in review. It is anticipated to be adopted by the end of FY 2024/2025 and will take effect 90 days later.

The City of Banning is required, through Best Management Practices (BMPs), to implement practices within our community which reduce pollutants entering into the storm drain system to the maximum extent practicable. The major components of the existing and 2025 NPDES Permit to implement the BMPs include: project management, attendance at Desert Task Force meetings, record keeping and Annual Report preparation; illegal dumping and illicit connection detection, inspection, spill prevention and cleanup activities; commercial and industrial facilities inspections (about 60 per year) and the review of all City issued business licenses for SB 205 compliance; implementing land development and plan review procedures including plan check, preparing Conditions of Approval, reviewing erosion control plans and WQMPs and ensuring post construction self-inspections are performed annually by required businesses; enforcing and implementing construction activities requirements of City and private development projects including construction site inspections, review of developer's BMPs, erosion control plans and SWPPPs (Stormwater Pollution Prevention Plans), and ensuring compliance with the Regional Board's Construction General Permit requirements; maintaining City facilities, including the City Corporate and Water Yards and Fire Station, and storm drains and performing inspections and

maintenance, removing trash and debris from the storm drain system, and from roads through street sweeping; and implementing public education and outreach programs by providing brochures to the public at City events and at the public counter, to businesses and contractors through inspections and storm water training of municipal staff.

The NPDES program costs the City about \$300,000 annually to manage the current NPDES Permit. The new 2025 NPDES Permit will cost more due to its new requirements. One way to generate revenue for the program would be to reinstate a “grandfathered” assessment from 1994, called the County Service Area (CSA) 152 NPDES assessment. This stormwater assessment is currently collected by the County on behalf of a number of participating cities via property tax bills. The County administers and manages the CSA 152 program funds pursuant to CSA 152 Administrative Services Agreements with the participating cities. The County last collected the assessment in the City in 1994 at a rate of \$4.72/BAU/year. A BAU is a “benefit assessment unit” as defined by the County. When the assessment is resumed, an owner of a single-family home in the City will pay 1 BAU/year, amounting to \$4.72/year. Since the rate was adopted in 1994 prior to the passage of Proposition 218, any increase in the rate would require a Proposition 218 Hearing and vote through an assessment balloting proceeding. In essence, the stormwater assessment is “grandfathered in” as an allowable assessment prior to Proposition 218 so long as the rate is not increased.

2025 CSA 152 Administrative Services Agreement

Public Works Department, Engineering Division, staff met with the Riverside County Economic Development Office and the City Attorney’s Office several times over the past year to gather information and determine if the City or County had ever withdrawn from the CSA 152 Administrative Services Agreement with the County. After researching this, it appears neither the City nor County ever withdrew from the CSA 152 Agreement and by approving the 2025 CSA 152 Agreement, the City would authorize the County to resume collecting the assessment starting in FY 2025/2026.

The County updates the CSA 152 Administrative Services Agreement every 9 years or so, and the attached CSA 152 Agreement is the 2025 version that all participating agencies will execute. The term on the Agreement is for five years, with two (2) two year renewal options allowed, for a total of nine (9) years. Either party may withdraw with 30 days of advance notice given to the other party. The Agreement establishes the responsibilities and obligations of each Party concerning the management and financing of CSA 152. The County collects the stormwater assessment on behalf of the City and then reimburses the City actual expenditures incurred from implementing the NPDES Permit each fiscal year. The County will deduct the 6% Administration Fee charge from the apportionment/assessment collected.

Background on CSA 152 NPDES Assessment

LAFCO annexed the City of Banning into County Service Area 152 when the County of Riverside adopted Resolution No. 93-454 (Attachment 2) on December 21, 1993, at the City’s request, in order to have the County place an assessment on property owner’s tax bills to fund expenditures required by the NPDES Permit. On March 22, 1994, City Council Resolution No. 1994-028 (Attachment 3) was adopted to fund the City’s NPDES program, whereby the annual assessment rate for FY 1994/1995 for CSA 152 was set at \$4.72 per Benefit Assessment Unit.

On September 27, 1994 the City Council adopted Resolution No. 1994-107, approving the Administrative Services Agreement for the CSA 152 Program between the City of Banning and Riverside County, shown as Attachment 4. The County had formed CSA 152 to finance portions of its programs and obligations associated with its Municipal NPDES Permit. The Agreement sets forth the responsibilities of the County and City with respect to the assessment. It provides for the City to annually approve a budget and report its activities in connection with its NPDES costs to the City. In addition, the City is responsible for updating parcel information for properties in the City. The County incorporates the City’s budget and the budgets of other participating cities into the County’s CSA 152 budget, holds an annual hearing, approves the assessments, and submits the assessments for collection on the Tax Roll. The County collects an Administrative Fee of 6% of the revenues collected for this work. Both County and City staff

performed research, and no records were found showing either party has ever withdrawn from this Agreement. Numerous other cities also joined CSA 152 to ensure funding of their NPDES program.

The CSA 152 Agreement (used by all member agencies) with the County of Riverside was recently updated by the County and was given to staff in mid-November of 2024 for staff and City Attorney's Office review. There are no significant changes; their Administration Fee for managing the assessment funds for the cities will remain at 6% of the revenues collected. Once the City executes this Agreement, the County will present it, along with the other member cities' signed Agreements, to the County Board of Supervisors for execution.

On September 24, 2024, a workshop was presented by the Deputy Director of Public Works/City Engineer and the City Council directed staff to pursue reinstating the CSA 152 assessment. On December 10, 2024 the City Council approved Resolution No. 2024-197 awarding a consultant contract to Webb Municipal Finance, LLC for municipal assessments services to reinstate the CSA 152 stormwater assessment for FY 2025/2026. The City Council will be asked to approve the NPDES budget and current BAU rate of \$4.72/BAU for FY 2025/2026 in the Spring of 2025. The City would need to provide the County with the list of Assessor Parcel Numbers (APNs) to place on the FY 2025/2026 Tax Roll by mid-May of 2025. Cities must provide updates/additional parcels from new developments annually to the County.

JUSTIFICATION:

The upcoming 2025 NPDES Permit will become effective in late 2025 and it has new and enhanced requirements that will significantly impact the City financially, as additional computer software, trash capture devices, consultant costs and City staff time will be needed. The execution of the 2025 CSA 152 Agreement is required for the County to collect the stormwater assessments on behalf of the City.

This action does not transmit the assessment roll to the County for collection. Separate Council action will be required at that time, and at the conclusion of the preparation of the assessment roll that is currently underway, anticipated to occur in February or March 2025.

FISCAL IMPACT:

CSA 152 provides a funding mechanism for the NPDES program. Eleven cities, including Palm Springs, Rancho Mirage, and Desert Hot Springs also joined CSA 152 to ensure funding of their NPDES program. The County has established an administration fee of 6% of the budget revenues for services to be provided under the proposed Agreement. This administration fee will be deducted from the assessment revenues collected by the County.

The re-establishment of the CSA 152 assessment will allow the City to partially offset the expenses incurred in implementing the NPDES program. The program is currently funded through the Streets Fund (Fund 100). Approval of the agreement and the fee will require less funding to be allocated from streets maintenance activities to storm water maintenance activities.

ALTERNATIVES:

If the City Council elects to not approve this Resolution, there will be no CSA 152 stormwater assessment collected. The NPDES Program would continue to be an unfunded mandate, with no revenue collected to support the program and its costs would continue to be absorbed by the Streets Fund. The new 2025 NPDES Permit has significant costs associated with it and will continue to rise over the future. The NPDES Permit must be complied with to avoid fines from Regional Board No. 7 of the State Water Resources Control Board.

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. [Resolution 2025-02, RivCo NPDES Assessment.docx](#)
2. [Exhibit A, NPDES CSA 152 2025 Agreement.docx](#)
3. [Att. 2 - County Reso. No. 93-454, formation of CSA 152, 12.21.93.pdf](#)
4. [Att. 3 - CC Reso. No. 1994-028, approving initial CSA 152 rates, 3.22.94.pdf](#)
5. [Att. 4 - CC Reso. No. 1994-107, approving CSA 152 Agree.pdf](#)