



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Arturo Vela, Interim City Manager

PREPARED BY: Art Vela, Interim City Manager

MEETING DATE: January 13, 2026

SUBJECT: Consideration of Resolution 2026-01 UA Approving the Fourth Amendment to the Professional Services Agreement with Falen Law Offices, LLC for Legal Services related to the Transfer of the San Gorgonio Flume System Increasing the Agreement Amount by \$250,000 and to Ratify \$150,000 issued on July 2025

RECOMMENDATION:

Adopt Resolution 2026-01 UA.

BACKGROUND:

For several years, the City of Banning, in cooperation with Banning Heights Mutual Water Company has been engaged in negotiations to secure control of the San Gorgonio Flume from Southern California Edison (SCE). SCE has attempted to surrender its license for the San Gorgonio hydroelectric system to the Federal Energy Regulatory Commission (FERC) for many years; however, several outstanding issues must be resolved before FERC will issue an approval of the SCE application and the Flume transfer can be completed.

Due to the complex nature of the San Gorgonio Flume transfer, as well as the significance of several other ongoing Water and Wastewater projects/activities, the City sought specialized legal services through a formal Request for Proposals (RFP) process in 2018. As a result, Falen Law Offices, LLC was selected to provide representation specific to San Gorgonio Flume project.

Falen Law Offices, LLC was chosen based upon their experience and expertise dealing with projects that involve the Federal Land Policy and Management Act (FLPMA), US Forest Service appeals, the 1891 Right of Way Act and Federal land issues, all of which relate to the San Gorgonio Flume project.

On April 23, 2019, the Banning Utility Authority approved a two-year Professional Services Agreement with Falen Law Offices, LLC in the amount of \$100,000 for Legal Counsel Services related to the Transfer of the San Gorgonio Flume Project. On February 25, 2020, City Council approved the First Amendment to the Agreement increasing the contract by \$250,000 for a total agreement amount not to exceed \$350,000. On September 14, 2021, the Banning Utility Authority approved the Second Amendment to the agreement increasing contract funds in the amount of \$50,000 for a total contract amount of \$400,000. On August 23, 2022 the Banning Utility Authority approved a Third Amendment increasing the agreement in the amount of \$100,000 for a total contract amount of \$500,000 and extending the term for an additional 5-year period through August 13, 2027. Lastly, in July, 2025 an amount of \$150,000 was to the contract for a total contract amount of \$650,000, which will be ratified with approval of Resolution 2026-01.

At this time, staff respectfully requests approval of a Fourth Amendment, increasing the agreement in the amount of \$250,000 for a total contract amount of \$900,000.

JUSTIFICATION:

Since the execution of the agreement, Falen Law Offices, LLC, has diligently worked to review and evaluate historical documents, as well as, continued to be well-versed in longstanding negotiations to resolve the San Gorgonio Flume disputes on behalf of the City. Through the FERC Dispute Resolution Service (DRS) process, negotiations continue regarding the proposed decommissioning and US Forest Service permitting agreement.

Although staff remains optimistic regarding the progress achieved thus far, additional funds are necessary to continue working towards resolution of this complex matter. Negotiations are expected to continue.

FISCAL IMPACT:

The Fourth Amendment to the Professional Services Agreement with Falen Law Offices, LLC in the amount of \$250,000 will be funded by Account 660-6300-471-90.78 (Planning/Design – Capital).

ALTERNATIVES:

1. Adopt Resolution 2026-01 UA with modifications.
2. Do not approve Resolution 2026-01 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. [Resolution 2026-01 UA.docx](#)
2. [Amendment 4 C00516 Budd Falen Law.docx](#)
3. [Resolution 2019-07 UA.pdf](#)
4. [Resolution 2020-03 UA.pdf](#)
5. [Resolution 2021-09 UA.pdf](#)
6. [Resolution 2022-10 UA.pdf](#)