



## CITY OF BANNING

### **Request for Proposals**

#### **Collection and Hearing Officer Services for the City of Banning Administrative Citation Contract**

#### **Proposals Due:**

**Thursday, June 28, 2012, no later than 4:00 p.m.**

#### **Deliver Proposals to:**

Community Development Department  
Attn: Zai Abu Bakar, Community Development Director  
City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

## **REQUEST FOR PROPOSALS (RFP)**

The City of Banning (hereinafter “City”) is requesting proposals for a collection agency that will collect fines related to the City of Banning Code Enforcement Administrative Citation Program. In addition, this agency will be required to provide hearing officer services for the recipients of an administrative citation who may contest the issuance of the citation by completing the request for hearing form and returning it to the City of Banning. This is to implement Chapter 1.20 of the Banning Municipal Code Section 1.20.070 relating to Hearing request which is attached hereto by reference. Proposals must be received by the City of Banning, Community Development Department (attention Zai Abu Bakar) at 99 E. Ramsey Street, Banning, CA 92220 up to the hour of 4:00 p.m. on June 28, 2012.

### **A. SCOPE OF SERVICES**

The Collection Agency will interact with the recipients of an Administrative Citation who fail to pay their fines, the City’s Code Enforcement and Finance staff, and the California Franchise Tax Board. The goal is to collect the fines from the recipients of an Administrative Citation, through their annual income tax receipt or through a Third Party Collections whether or not Legal Action is required.

### **B. REQUEST FOR CLARIFICATIONS OF THE RFP**

If a proposer has questions regarding the meaning of any part of this RFP, or finds discrepancies in or omissions from this RFP, the proposer shall submit to [zabubakar@ci.banning.ca.us](mailto:zabubakar@ci.banning.ca.us) a written request for an interpretation or clarification prior to the 4:00 p.m. deadline on June 28, 2012.

### **C. CONTENT OF PROPOSALS AND DUE DATE**

The proposal shall be submitted with a cover letter briefly describing the firm and its experience and must be signed by an officer who is authorized to bind the firm to all commitments made in the proposal. The letter shall also include the name, phone number, and e-mail address of the contact person who will be responsive to questions regarding the proposal should the City have any questions. The letter shall be accompanied with exhibits that include the following: (A) Scope of Services; (B) Billing Rates for tasks to be completed with a “Total Not to Exceed” cost; (C) Statement of Qualifications; (D) Terms of Service Agreement; and (E) References for Similar Services for cities in California.

Proposals shall be submitted in a sealed envelope clearly marked on the outside: **“SEALED PROPOSAL FOR RFP - CODE ENFORCEMENT ADMINISTRATIVE CITATION COLLECTION AND HEARING OFFICER SERVICES CONTRACT – DO NOT OPEN WITH REGULAR MAIL”** and must be submitted not later than 4:00 PM, Pacific Standard Time, Thursday, June 28, 2012 to:

Community Development Department  
Attn: Zai Abu Bakar, Community Development Director  
City of Banning  
99 E. Ramsey Street  
Banning, CA 92220

Time is of the essence, and any proposal received after the announced time and date for submittal, whether by mail or otherwise, shall not be considered.

It is the sole responsibility of the Proposer to ensure that its proposal is stamped by City of Banning personnel before the deadline. Proposals received after the announced time and date of receipt by mail or otherwise will be returned unopened. However, nothing in the RFP precludes the City from requesting additional information at any time during the proposal evaluation.

#### **D. CITY'S REVIEW OF PROPOSALS**

All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's needs for this Project. The criteria by which the City shall evaluate proposals are set based on Section C above including experience in administering similar services and costs. The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process. The City reserves the right to negotiate the terms of the Agreement for this Project with any firm that suits the need of the City.

#### **E. AWARD OF AGREEMENT**

The City currently anticipates awarding an agreement for this Project by approximately August 2012. No proposal or agreement for this Project shall be binding upon the City until the Agreement is signed by the Proposer and the City.

The successful Proposer shall submit the following items to the Project Manager or designee *within ten (10) days of request:*

- A. City of Banning business license;
- B. Copy of Certificate of Insurance which shows compliance with the attached requirements and naming the City of Banning as an additional insured (see the attached Professional Services Agreement for detailed insurance requirements).
- C. Enter into a Service Agreement (Agreement) with the City of Banning.  
The Agreement will be submitted to the City Council for approval with the award of the contract.

**COLLUSION (Submit with proposal)**

This is to certify that the undersigned bidder has neither directly nor indirectly entered into an agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal submitted this date to the City of Banning.

All terms and conditions of this Request for Proposals have been thoroughly examined and are understood.

**NAME OF BIDDER:** \_\_\_\_\_

**AUTHORIZED REPRESENTATIVE:** \_\_\_\_\_  
**SIGNATURE** \_\_\_\_\_

**TITLE** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TELEPHONE #** \_\_\_\_\_

**FAX #** \_\_\_\_\_

**E-MAIL ADDRESS:** \_\_\_\_\_

## 1.20.060

B. Any administrative citation fine paid pursuant to subsection A shall be refunded in accordance with Section 1.20.100 if it is determined, after hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation as charged in the administrative citation.

C. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation. (Code 1965, § 1-29.05.)

## 1.20.060 Late payment charges.

Any person who fails to pay to the city any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due shall also be liable for the payment of any applicable late payment charges as set forth in the schedule of fines. (Code 1965, § 1-29.06.)

## 1.20.070 Hearing request.

A. Any recipient of an administrative citation may contest that there was a violation of the code or that he or she is the responsible party by completing a request for hearing form and returning it to the city within fifteen calendar days from the date of the administrative citation, together with an advance deposit of the fine, or notice that a request for an advance hardship waiver has been filed pursuant to Section 1.20.080.

B. A request for hearing form may be obtained from the department specified on the administrative citation.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of this additional report shall be served on the person requesting the hearing at least five days prior to the date of the hearing. (Code 1965, § 1-29.07.)

## 1.20.080 Advance deposit hardship waiver.

A. Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 1.20.070(A) may file a request for an advance deposit hardship waiver.

B. The request shall be filed with the building and safety department on an advance deposit hardship waiver application form, available from the department of finance, within ten days of the date of the administrative citation.

C. The requirement of depositing the full amount of the fine as described in Section 1.20.070(A) shall be stayed unless or until the director of finance makes a determination not to issue the advance deposit hardship waiver.

D. The director may waive the requirement of an advance deposit set forth in Section 1.20.070(A) and issue the advance deposit hardship waiver only if the cited party submits to the director a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the director the person's actual financial inability to deposit with the city the full amount of the fine in advance of the hearing.

E. The administrative citation and any additional report submitted by the enforcement officer shall constitute *prima facie* evidence of the facts contained in those respective documents.

F. The determination of the finance director shall be final and not subject to appeal except as an appeal of the final action. (Code 1965, § 1-29.08.)

## 1.20.090 Hearing officer.

The city manager shall designate the hearing officer for the administrative citation hearing. The foregoing notwithstanding, the city shall grant the appellant's request for a hearing officer selected by both parties upon receipt of such request in writing and deposit with the city by the appellant of fees in an amount sufficient to cover the cost of such hearing officer. A hardship waiver may be granted for such costs under the procedures set forth herein for advance deposit of fees. (Code 1965, § 1-29.09.)

## Chapter 1.20

### ADMINISTRATIVE CITATIONS

#### Sections:

- 1.20.010      Applicability.**
- 1.20.020      Enforcement officer—Defined.**
- 1.20.030      Administrative citation.**
- 1.20.040      Amount of fines.**
- 1.20.050      Payment of the fine.**
- 1.20.060      Late payment charges.**
- 1.20.070      Hearing request.**
- 1.20.080      Advance deposit hardship waiver.**
- 1.20.090      Hearing officer.**
- 1.20.100      Hearing procedure.**
- 1.20.110      Hearing officer's decision.**
- 1.20.120      Recovery of administrative citation fines and costs.**
- 1.20.130      Right to judicial review.**
- 1.20.140      Notices.**
- 1.20.150      Procedures.**

#### **1.20.010      Applicability.**

A. This division provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this Code.

B. Prior to institution of any charge or the making of any claim for a violation of a provision of this Banning Ordinance Code or any general law enforceable by the city, and administrative citation or citations may be issued for such violation. Such citation may also be issued in conjunction with any other enforcement action. (Code 1965, § 1-29.01.)

#### **1.20.020      Enforcement officer—Defined.**

For purposes of this chapter, "enforcement officer" shall mean any city employee or agent of the city with the authority to enforce any provision of this Code. (Code 1965, § 1-29.02.)

#### **1.20.030      Administrative citation.**

A. Whenever an enforcement officer charged with the enforcement of any provision of this Code

determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

B. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The section of this Code violated and a description of the violation;
4. The amount of the fine for the code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
6. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
8. The name and signature of the citing enforcement officer. (Code 1965, § 1-29.03.)

#### **1.20.040      Amount of fines.**

A. The amounts of the fines for code violations imposed pursuant to this division shall be set forth in the schedule of fines established by resolution of the city council.

B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within thirty-six months from the date of an administrative citation.

C. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date. (Code 1965, § 1-29.04.)

#### **1.20.050      Payment of the fine.**

A. The fine shall be paid to the city within thirty days from the date of the administrative citation.

**1.20.100 Hearing procedure.**

A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section 1.20.070 or an advance deposit hardship waiver has been issued in accordance with Section 1.20.080.

B. A hearing before the hearing officer shall be set for a date that is not less than fifteen days and not more than sixty days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

C. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.

D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

E. The administrative citation and any additional report submitted by the code enforcement officer shall constitute *prima facie* evidence of the facts contained in those respective documents.

F. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision. (Code 1965, § 1-29.10.)

**1.20.110 Hearing officer's decision.**

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to either uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

B. If the hearing officer determines that the administrative citation should be upheld, the fine amount on deposit with the city shall be retained by the city. When the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, and there is no immediate danger to health or safety, the decision shall allow the appellant

ten calendar days within which to correct or otherwise remedy the violation before forfeiture of the deposit shall be deemed to have occurred.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine imposed.

D. If the hearing officer determines that the administrative citation should be canceled and the fine was deposited with the city, the city shall promptly refund the amount of the deposited fine, together with interest at the average rate earned on the city's portfolio for the period of time the fine amount was held by the city.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

F. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer. (Code 1965, § 1-29.11.)

**1.20.120 Recovery of administrative citation fines and costs.**

The city may collect any past due administrative citation fine or late payment charge by use of all available legal means. The city also may recover its collection costs. (Code 1965, § 1-29.12.)

**1.20.130 Right to judicial review.**

Any person aggrieved by an administrative decision of a hearing officer or an administrative citation may obtain review of the administrative decision by filing a petition for review with the municipal court of Riverside County in accordance with the time lines and provisions set forth in California Government Code Section 53069.4. (Code 1965, § 1-29.13.)

**1.20.140 Notices.**

The administrative citation and all notices required to be given by this chapter shall be given either by personal delivery thereof to the person to be notified

**1.20.150**

or by deposit in the United States mail, in a sealed envelope, postage prepaid, addressed to such person at his or her last known business or residence address as the same appears in the records of the county recorder, or other records pertaining to the matter to which such notice is directed. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder. (Code 1965, § 1-29.14.)

**1.20.150      Procedures.**

The city manager is hereby authorized to promulgate such policies and procedures as are necessary for the successful implementation of this division. (Code 1965, § 1-29.15.)