

**AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA**

December 10, 2012
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

The following information comprises the agenda for a regular meeting of the City Council and a Joint Meeting of the City Council and the Banning Housing Authority and a Joint Meeting of the City Council and the Banning Utility Authority.

Per City Council Resolution No. 2010-38 matters taken up by the Council before 9:00 p.m. may be concluded, but no new matters shall be taken up after 9:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.

I. CALL TO ORDER

- Invocation – Pastor Todd Oldenburg, Legacy Christian Center
- Pledge of Allegiance
- Roll Call – Councilmembers Miller, Peterson, Welch, Mayor Franklin

II. REPORT ON CLOSED SESSION

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL AND THE BANNING HOUSING AUTHORITY.

III. SWEARING IN OF NEW COUNCIL MEMBER

- City Clerk (ORAL)

IV. REORGANIZATION OF CITY COUNCIL AND THE BANNING HOUSING AUTHORITY

- City Clerk (ORAL)

Adjourn Joint Meeting of the Banning City Council, and the Banning Housing Authority and reconvene regular City Council Meeting.

V. PUBLIC COMMENTS/CORRESPONDENCE

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens

PUBLIC COMMENTS -- *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, and appropriate Council Action.) See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

CORRESPONDENCE: Items received under the category may be received and filed or referred to staff for future research or a future agenda.

VI. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless a member of the City Council wishes to remove an item for separate consideration.)

Motion: That the City Council approve Consent Item 1 through 13

Items to be pulled _____, _____, _____ for discussion.

(Resolutions require a recorded majority vote of the total membership of the City Council)

1.	Approval of Minutes – Special Meeting – 11/12/13 (<i>Workshop</i>)	1
2.	Approval of Minutes – Special Meeting – 11/12/13 (<i>Closed Session</i>)	13
3.	Approval of Minutes – Regular Meeting – 11/22/13	14
4.	Approval of Minutes – Special Meeting – 11/19/13	32
5.	Ordinance No. 1470 – 2 nd Reading: An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 13-97504 Amending a Section of the Zoning Ordinance Pertaining to Walls and Fences in the Business Park Zoning District	36
6.	Resolution No. 2013-106, Authorizing Expenditure of Funds Obtained From American Medical Response Fine Money Distribution (April 2012 – March 2013)	42
7.	Resolution No. 2013-100, Approving the Projects for Fiscal Year 2014-2015 Community Development Block Grant (CDBG) Program.	46
8.	Resolution No. 2013-110, Accepting the Community Development Block Grant Program Funds for Fiscal Year 2013-2014	55
9.	Resolution No. 2013-111, Amending the Contract for Project No. 2013-04 EL, City of Banning Hydroelectric Facility Rehabilitation Contract Awarded to Charles King Company of Signal Hill, CA, to Appropriate Funds for the 10% Contingency in the amount of \$63,850.00.	93
10.	Resolution No. 2013-112, Approving the Agreement Between City of Banning Electric Utility and Verizon Communication Inc. for Verizon Communication Cable Pole Transfers in the amount not to exceed \$187,471.68	98
11.	Resolution No. 2013-113, Amending the Contract for Project No. 2013-03 EL, Downtown Underground Project-Phase 2, Awarded to Southern California West Coast Electric Inc. of Beaumont, CA, to Appropriate Funds for the 10% Contingency in the amount of \$36,848.20	106

12.	Ad Hoc Committee for Rate Study Review.	111
13.	Acceptance of Notice of Completion for Project No. 2013-05, Construction of New Bathroom, City Hall.	118

- Open for Public Comments
- Make Motion

**RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING
OF THE BANNING CITY COUNCIL AND THE BANNING UTILITY AUTHORITY.**

VII. CONSENT ITEM

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| 1. | Resolution No. 2013-20-UA, Approving a Contribution of \$1,500.00
to the San Gorgonio Pass Regional Water Task Force | 122 |
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Recess joint meeting and reconvene the regular City Council Meeting.

VIII. PUBLIC HEARINGS

(The Mayor will ask for the staff report from the appropriate staff member. The City Council will comment, if necessary on the item. The Mayor will open the public hearing for comments from the public. The Mayor will close the public hearing. The matter will then be discussed by members of the City Council prior to taking action on the item.)

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| 1. | Ordinance No. 1468, Adoption of the Latest Edition of California
Fire Code
Staff Report | 131 |
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Recommendations: That the City Council open the public hearing and take testimony and approve the second reading of Ordinance No. 1468.

Mayor asks the City Clerk to read the title of Ordinance No. 1468:

*“An Ordinance of the City Council of the City of Banning, California,
Repealing chapter 8.16 of the Banning Municipal code and Adopting
The 2013 California Fire code as it is Amended in this Ordinance For:
1) Regulating and Governing the Safeguard of Life and Property From
Fire and Explosion Hazards (Arising From the Storage, Handling
and Use of Hazardous Substances, Materials and Devices) and From
Conditions Hazardous to Life or Property in the Occupancy of Buildings
and Premises in the City of Banning, and 2) Providing for the Issuance
of Permits and the Collection of Fees Therefor.”*

Motion: I move to waive further reading of Ordinance No. 1468.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1468 pass its second reading and be adopted.

2. Resolution No. 2013-107, and Ordinance No. 1475: Negative Declaration, General Plan Amendment GPA No. 13-2505, and Zone Change ZC No. 13-3503 to Change the General Plan and Zoning Designations for Five (5) Properties Located at the Northeast Corner of Hargrave and Charles Streets from Industrial to Very Low Density Residential.
- Staff Report 155
- Recommendations: That the City Council: 1) adopt Resolution No. 2013-107, approving Negative Declaration (Exhibit “A”), General Plan Amendment No. GPA 13-2505, and Zone Change No. ZC13-3503 to change the General Plan Land use and Zoning designations, respectively for five (5) parcels designated on the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No street address – Vacant Lot) from Industrial to Very Low Density Residential (Exhibit “B”); and 2) Adopt Ordinance No. 1475, adopting Zone Change No. ZC 13-3503 to Change the Zoning designations of five (5) parcels designated on the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No street address – Vacant Lot) from Industrial to Very Low Density Residential (Exhibit “B”).

Motions:

- a) **That the City Council and adopt Resolution No. 2013-107, Approving the Negative Declaration, General Plan Amendment No. 13-2503 and Zone Change No. 13-3503 to Change the General Plan and Zoning Designations from Industrial to Very Low Density Residential, Respectively for Five (5) Properties that are Located at the Northeast Corner of Charles and Hargrave Streets.**

- b) **Mayor asks the City Clerk to read the title of Ordinance No. 1475:**

“An Ordinance of the City Council of the City of Banning, California, Approving Negative Declaration and Zoning Change No. 13-3503 and Making Findings In Support Thereof.”

Motion: I move to waive further reading of Ordinance No. 1475.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1475 pass its first reading.

IX. REPORTS OF OFFICERS

1. Approval of a Professional Services Agreement with the Planning Center | DC & E of Santana Ana – Request to Take Off the Table.
- Staff Report 280

Recommendation: That the City Council take off the table the approval of a Professional Services Agreement with The Planning Center | DC & E of Santa Ana, California, in an amount “Not to Exceed” \$186,013.00 to prepare the Environmental Impact Report for the Rancho San Gorgonio Specific Plan.

2. Approval of a Professional Services Agreement with Romo Planning Group, Inc. for Rancho San Gorgonio Project Manager Services – Request to Take Off the Table.

Staff Report 328

Recommendation: That the City Council take off the table the approval of a Professional Services Agreement with Romo Planning Group, Inc. of Covina, California, in an amount “Not to Exceed” \$60,480.00 for the Rancho San Gorgonio Project Manager Services.

3. Discussion of Tagline “Proud History, Prosperous Tomorrow”.

Staff Report 369

Recommendation: That the City Council approving adding “Stagecoach Town USA” back as a part of the City’s branding in addition to the use of “Proud History, Prosperous Tomorrow”. If there is no consensus to Proceed, it is suggested that the Council go back out to the citizens to seek Their input with regard to the City’s branding.

X. ANNOUNCEMENTS/REPORTS *(Upcoming Events/Other Items if any)*

- City Council
- City Committee Reports
 1. Ratification of Community Advisory Committee 393
(Staff Report – Mayor Franklin)
- Report by City Attorney
- Report by City Manager

XI. ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items

1. Schedule Meetings with Our State and County Elected Officials
2. Report on Moving Station 20 back to original firehouse. *(wait for new Battalion Chief)*
3. Discussion on how to handle loans or distributions to charities.
4. Discussion on how the City Council handles donations to the City.

XII. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Thursday, 7 a.m. to 5 p.m.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II]

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/12/2013
SPECIAL MEETING

A special meeting workshop of the Banning City Council was called to order by Mayor Franklin on November 12, 2013 at 3:04 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
David J. Aleshire, City Attorney
June Overholt, Administrative Services Dir./Deputy City Manager
Duane Burk, Public Works Director
Zai Abu Bakar, Community Development Director
Bill Manis, Economic Development Director
Doug Clark, Fire Marshal
Marie A. Calderon, City Clerk

STUDY SESSION ITEM

1. Airport Master Plan Update
(Staff Report – Duane Burk, Public Works Director)

Director Burk addressed the Council stating that this is an update on the City of Banning's airport and some of the projects that they have done and a brief history of where they are at today. He stated that in the audience today is David Cushing, Manager of the Los Angeles Airports District Office (ADO), Margie Drilling, Airport Planner, Los Angeles ADO, and the City's consultant, Michael Hotaling, Vice President of C&S Engineers, Inc.

Director Burk at this time started his power point presentation (see Exhibit A) stating that one of the reasons why we are here is that we are following the Strategic Plan from 2011 to 2016 and one of the goals is the Infrastructure and City Facilities for the airport. The AWOS (Automated Weather Observing System) System back then was already in and approved and we are moving forward with the Airport Master Plan that was approved by the FAA (Federal Aviation Administration) and the City. He said that before 2004 the City did not have an approved Master Plan up-to-date. It was started in the early 1990's and so one of the requests to get into the financial planning or get on the grant approval process was to have an updated Airport Master Plan so staff requested proposals in 2004 and in 2005 C & S Engineers, Inc. was selected and it

took two years to do the airport layout plan and the Master Plan and in 2008 the Airport Master Plan was adopted by the City Council by Resolution No. 2007-118 and since then they have been doing improvements to the airport through grants where the FAA sponsors at this time 95% of the funding and the other 5% comes from the City and/or the Department of Transportation Caltrans so both of our regulatory sponsors are Caltrans Department of Transportation and the FAA. He pointed out that you can see from the list of projects as we get down to 2013 the Taxiway "A" Relocation -Phase 1B Relocation of Fueling Facility construction was approved and the notice to proceed was issued and we are waiting to do the projects based on the material and the equipment per the contractor. He pointed out the grants that the City has received since he has taken over the airport in 2005 and stated that the City did receive grants prior to that but he did not look those up but they date back to the 1980's and Mr. Cushing may be able to speak to that a little bit today. The total amount that the City received in grants over the last five years is approximately \$2.5 million and approximately \$32,700.00 from the Department of Transportation. He said that all of those projects have been approved and have been built on the airport and they followed the Airport Master Plan that was adopted.

Director Burk said at this time maybe David Cushing and Margie Drilling can speak to what the Airport Master Plan is about and how beneficial it is for the City to have the airport.

David Cushing, Manager of the Los Angeles Airports District Office addressed the Council and stated that he appreciates the Council's interest in this subject and they have many airports in Southern California and some are very large, some the same size as Banning and some even smaller and so they do believe in a system of airports nationwide and Banning's airport is very important to the system and he knows it is important to the community and he appreciates the Council's interest. He knows that Mr. Burk has worked really hard with the airport and has provided a lot of improvements and has worked well with Margie Drilling, the Airport Planner for the airport. He said that they are very excited about moving forward with the taxiway project that is currently underway and they see a future for Banning's airport and they know that there are 40 based aircraft and a 5,000 foot runway. This is an important resource so it is certainly a well-used airport and thinks it has a future and they look forward to working with the City to meet standards and keep the airport in good working order.

Councilmember Miller asked how many flights the airport has per day.

Mr. Cushing said that he doesn't have that information but the Airport Manager might know but he can tell the Council that from your 5010 Form that the operations at the airport on a yearly basis show 39 based aircraft, annual operations of \$4,600 of which is General Aviation operations and that was for the period ending July 1, 2012.

Councilmember Miller said our airport is part of the system and therefore is valuable to the entire system and does the City receive any funds besides those for improving the airport for having so much of our acreage being used by this system.

Mr. Cushing said that they consider the airport a proprietary enterprise; it is your proprietary enterprise. So you have opted to run the airport and accept federal funds from us which would only go into planning and capital improvements largely at this airport and we have purchased

land for you back in 1983. So with that the only thing that you have promised us to do is to continue to run the airport and to meet standards and generally follow grant assurances. Instead of 30 rules about being fair to the aeronautics, being reasonable with regards to availability and aeronautical access and not to discriminate amongst aeronautical businesses and not to grant a monopoly; none of which you are doing. So the rule in place is just that you run the airport and retain the revenues generated by the airport for airport purposes. If you were to make money on the airport like through the fuel flowage fee or fuel sales and rents, which are the typical things that you make money off an airport, then that needs to go into the operating or capital costs of the airport all of which he believes the City is doing.

Mayor Franklin said you stated that you see a future for the airport and what type of future are you talking about.

Mr. Cushing said that they see a big future in just the fact that you have operations here. You have aircraft that operate, agricultural operation he would presume, business aircraft coming in, and recreation is an activity that they feel is important to support. Also if you look at the geography, you have 40 based aircraft so that means there is a demand, there is not an airport right next door, this is a relatively spread out area right next to an emerging and growing metropolitan area. There are certainly all sorts of businesses which take advantage of aviation including professionals, and professional services. He would have to leave it to the Airport Manager, Mr. Burk, to tell you what kind of activity you have specifically at your airport but growth is certainly a possibility. They don't require you to have grandiose plans for the airport and don't require you to put money, if it is not airport revenue, into your airport. The citizens of Banning are not required to put general fund monies into the airport as long as you can meet basic standards and they think this airport can without a lot more development with the exception of what we already have planned which is some land acquisitions for runway safety areas and just to make sure our lighting and marking is in good order. There is no need for a real runway extension, no obligation for these sorts of large capital plans; just basic standards.

Mayor Franklin said in the report it talks about emerging trends and talked about the type of aircraft that is being developed and that they are lighter and a more modern type of technology so if the planes seem to be getting a little bit lighter do we still have to have the same length of runway that we have been required to have in the past.

Mr. Cushing said most likely. A 5,000 foot runway is the basic standard runway. He said he has a favorite phrase "I come from compliance" so he believes in your ability to plan for the future of your airport as long as it makes sense. You have to make the argument about what kind of runway you need and they don't walk away from pavement in the FAA lightly but if your plan makes sense and the future is clear, then they would listen to what you have to say about the length of the runway.

Mayor Franklin said that you talked about the broader area for us and you are finding in areas that are a little more developed than what we have now that they are actually increasing in their usage looking at airports about the same size.

Mr. Cushing said it really depends. The trends that are happening in terms of your based aircraft your local airport management would be a better place. He does believe that planning and demand and understanding what the future is, is on you because they want to respect that. He said that Banning is between Palm Springs and Los Angeles and you are near some very major areas of development and you got transportation infrastructure. There is no guarantee about how things will develop but if I were a small town with rail, interstate and an airport and the future of the airport was basically maintaining and keeping it in good order, he thinks that would be a good deal.

Councilmember Miller said it was said that there are 4600 uses per year for the airport and do you have any information about what that usage is. Are they touch and go type of use by private aircraft or do we have commercial usage.

Mr. Cushing said that there are no commercial users at the airport. They are all considered general aviation and that does not mean that they are not business aviation and in fact, he suspects a lot of them are but they do not have those figures and that would be part of your Master Plan to determine that.

Councilmember Miller said who would have that information about how many commercial flights we have, how many people coming from other areas use our airport or whether it is just those people who have planes here flying up and then landing again.

Director Burk said that general aviation is all we do at the airport. They do have an attendant there eight hours a day, seven days a week and that attendant primarily assists with fueling needs and one of the projects that was approved and sponsored by the FAA was the ability to go to 24-hour fueling and then the relocation of the taxiway to the south but the fueling station was in the way of the relocation of the radius of when planes swing in and out so moving the fueling island was a project that was approved in July. General aviation is all we really have and the attendant doesn't really take information from the people coming in and out. A lot of our pilots that have hangers here really don't live here primarily is what they have learned in the past. It is kind of a disposable income process. People have money and planes are not cheap and pilots will fly anywhere for 5 cents a gallon cheaper so we try to be competitive with that market because that is kind of how we make our revenue.

Director Manis addressed the Council stating that his job here tonight is to kind of talk about development around the site of the airport, the airport itself and the surrounding uses. Last year around March the City looked at going out to bid of sorts to find out what the highest and best use of the airport property and surrounding properties might be. We own a total of about 186 acres and the map on screen shows you what that acreage looks like. It is the actual airport runway, surrounding properties and the vacant land in front of the airport which is just to the west. If you look at the configuration that is really not a very good outline of what a development project might in fact look like. As you can see it goes in and out and up and down and it is not a very well rounded site just to build a large manufacturing facility, a large logistics company or what not. It would take land around the airport to actually make a better and bigger project. So we looked at it from a staff's standpoint as to what the airport could do essentially and felt it could essentially fall into three different categories. You could keep the airport just as

it is now and maintain the grants that the City is currently receiving and do the various improvements as it relates to those grants. Most of the development around the actual airport at that point in time would be considered small and/or medium size development. Buildings in the neighborhood have probably 50,000 square feet maybe as much as 250,000 square feet in size which is not a large scale development. If you were to expand airport facilities and bring in larger planes it would take an increase in the runway size of about 1000 feet and if you look to the east of our property it is actually Morongo Tribal property and that is a possibility but it would take getting into a joint agreement with them to expand 1000 feet. If we were to go to the west on that vacant piece of property, that is a possibility perhaps but it hasn't been looked at and/or studied and he is not sure what it would do as far as the setback requirements around all the various uses around there if you brought in bigger planes or freight planes, what it would do as far as a lot of our existing structures and if it is even feasible and that would take a study. The last possibility would be the possibility of closing airport operations and that in itself is a process. It is a time process and a financial commitment and the various grants that have been received to date would have to be paid back obviously. He referred the Council to the screen showing a slide of what the proposed overall site plan would look like if we were to close the airport. This is not the only site plan configuration possible certainly but it shows that it would open up properties a little bit more if we could have maybe a specific plan around the whole area which is probably the most appropriate way as far as doing this. But again, this is assuming it could be done and assuming it worked out financially and time wise but to gather big box manufacturing companies and logistic companies would take more than just our configuration as you see on the screen; it would take the whole area out there. That being said, we are seeing development being pushed out further to the east and Banning is a very attractive city when it comes to large scale development because of our land prices and our cost of living and in the next three to five years he would imagine we will see a lot of interest from buyers, investors, tenants and building owners who would like to locate larger facilities out here something other than a 50,000 square foot facility or a 250,000 square foot facility but maybe a million or five million square foot building. So when you look at highest and best use currently our site area is not being utilized to its highest and best use. Currently we have 39 hangers and of those we have 30 leases in place on the hangers and we have one tie-down lease so we have approximately 31 active pilots according to our City's business license which he pulled last week. Back in 2004 he pulled a study that was done by the Airport Land Use Commission and at that point in time it showed that we had a total of 75 active pilots so it appears over the course of the last 9 to 10 years that the usage at the airport has gone down from a pilot perspective. We don't have an amenities out there currently as far as any cafes to bring outside folks in to the airport. He said he has approached Director Burk recently as far as the possibility of doing air shows as far as attracting people to Banning who might come and eat here and see Banning while they attend an air show and Director Burk said it is a possibility. So perhaps that is something down the road if we do keep things like they are at the airport and we could increase it from a tourism standpoint by doing something like air shows, car shows or something but again if you are talking about the highest and best use, putting 10 million square feet of logistics for a large, large manufacturing use out there is going to generate between 5000 and 7000 jobs that is with 10 million square feet of use; it is an actual projection. Those jobs would create in wages per year between \$180 million and \$280 million dollars per year as far as wages in the community. One time construction job impacts you would have between 2,400 and 3,600 new jobs created and one time wages between \$114 million and \$165 million as far as construction related jobs with 10

million square feet of use. He said that this is a very complicated topic when it comes to the best use out here. Council did last year want to look at this and this is where we are today.

Councilmember Peterson said after this last summer and he thinks all of us can relate to the amount of fires that we had in the area and he lives over in that area and he saw a vast huge city go up overnight filled with firefighters and Cal Fire and the National Forest people. He saw helicopters coming in and out, maintenance crews coming in and tearing down engines and repairing the helicopters and this vast city of works was occurring while these guys were out fighting the various fires. They also brought out much equipment such as port-a-potties, ice machines and sleeping facilities and his big concern would be living in the area where we are at and losing that facility if we were to have some major catastrophic event like we had with this last wildfire, where would all these firemen have to set up camp, how far would that be away from us and what would that do to the response we would get from Cal Fire or the Forest Service.

Director Burk said the intent behind the workshop today is exactly that, what are the dynamics and the benefits of having an airport. Obviously he would agree the benefits of having the airport and staging for surrounding fires is obviously a huge benefit for the community.

Councilmember Miller asked when it came to the fires the helicopters and the aircraft didn't land or use our airport; is that correct.

Director Burk said they actually used our airport the entire time for all three fires. They did land and stage and set up towers and closed the airport and it was actually their facility during the time of the fires.

Councilmember Miller said we are the City Council of Banning and what we are trying to do is to determine what is best for Banning in the long run and maybe he is over-simplifying but he sees two statements: 1) if we keep the airport, all the facilities, all the money that comes from the airport is back to the airport and therefore, if we look at our City the net sum that the airport will produce for the City's coffers is essentially zero; and 2) if on the other hand we convert the airport into some other type of commercial facility, we can get \$5 to \$10 million dollars and 2400 people working per year. If he looks at these two and say keeping the airport is zero, changing it in the long run into a commercial use can bring us a great deal of money for our city. Our Mayor had a very good interview with National Public Radio which he heard part of and she said this is a low income city and a low income city amazingly enough, as a City Council Member, he is looking for income. He would like to know why it would be preferable to have an airport that produces zero for the City as compared to some commercial development that can bring in a great deal of money.

Director Burk said he doesn't have a personal view of whether the City should have an airport or not. It is just that he is following the regulations of the FAA and the DOT. A personal view of it as he often says is for the longest period of time the City was not in compliance with the regulatory agencies and to bring them back into compliance the City has spent a lot of time, money, energy and effort in doing that. He said that David Cushing might be able to speak a little bit as it relates to the obligations the City has entered into as it relates to having an airport

and 1) is that we are the benefactor of the benefits of the grants and that is why we applied for them, and 2) they are the grantee giving us the grants and moving it forward. So whether or not the City can sell the land or what the implications are he does not know what they are and whether they are a benefit to the General Fund or not. He said he is following the Master Plan and the grant applications.

Councilmember Welch said should a decision be made, if possible to do this, to do away with the airport and offer this up as developable land, what kind of a dollar amount are we committed back to the FAA. He thinks we need that information to even consider any real major change here and whether the City could afford that and the person buying the land would it pencil out for them to do it but we need some kind of an input from that area. Also, the first gentleman talked about us being part of a system of airports of what importance to the system is our airport.

Councilmember Peterson said that Mr. Cushing said that our requirements are really minimal is what he believes he said, as far as what we really have to do, it is a minimal cost. Is that what he heard?

Mr. Cushing said other than the taxiway and the safety areas we believe that is the capital improvements that they would like to see at the airport but once that happens it gets you up to standard and that is what they care about so pilots can have confidence that they understand what is going to be at this airport and it is run safely. So he doesn't think that they see anything else out on the horizon to greatly expand or increase your costs from a capital basis.

Councilmember Peterson said that we talked about airshows and different ways to increase the revenue from the airport. One of the things that he was surprised at was that our airport doesn't have a restaurant and he knows that when flyers go talking off on the weekends they will fly and pick a spot on the map and have their group meet there for some reason and everyone flies in and eats and refuels and away they go or whatever the case may be. He thinks as far as things for people to do once they come to Banning there is nothing here. He asked if the FAA provides any type of grant funding or anything to build such a facility.

Mr. Cushing said no, not in an airport. They would have the ability once your airfield needs are taken care of to help with revenue producing hangar space or that kind of thing. He said that airport restaurants are a burden until they become wildly successful and it is one of those entities that require fair market value and it is a non-aeronautical thing. He is a big supporter of restaurants being exactly what you are talking about; it is an amenity. You could have a variety of financial arrangements with a restaurant but you would probably want to check with the FAA first to make sure you are doing it right. He does agree that this airport as configured with some changes to the taxiway and the safety area has got a solid future and serves a good purpose and we don't have any other ideas in mind. It is a good airport for where it is and the role it is serving.

Mr. Cushing said that the exit from the system is perhaps not as easy as what he is hearing the Council talk about. There is no buying yourself out of your obligations and that is because you have taken a land grant back in 1983 and you have taken grants since then so the number associated with how much federal money has gone into the airport, the \$5.5 million dollars

which a lot of it is probably amortized anyway because they do a 20-year amortization, that is not the measure. The measure is that you are obligated by airport revenue use so selling airport land is airport revenue so you have to pile that back in so if you sell the whole airport, all that money is still airport revenue. That is one level of requirement. The other minimal requirement is that the utility be replaced so instead of doing that perhaps you could build me a new airport somewhere so you are not really getting anything. So what they would recommend is that you take the airport and its utility and its marketing ability and you develop around it. You can develop some property on the airport for non-aeronautical purposes but that does have to go back to the airport but the stuff around it doesn't. So industrial development and commercial development around the airport can be for whatever purpose because they do not have any strings on that. But for the footprint of the airport property itself, if you sell it or lease it, that revenue comes back to the airport and you have to go to the FAA if you are going to release it for sale or disposal. This is not just Banning but every airport. That is federal law, as well as, the agreements you signed up for by your grant history.

City Manager said that the City of Rialto had their airport and they decided that they didn't want an airport, so correct him if he is wrong, but they probably had to pay back all of their grants and if there was land, they had to pay that back also and then they also had to pay another airport \$24 million dollars and he doesn't know if that is a true amount or not in order to take their traffic based on their traffic pattern. So you can close one and go through that thing but it cost a little bit of money to do that.

Mr. Cushing said yes and Rialto is a very specific circumstance because in fact it had special legislation to achieve this so it is also a situation where your second scenario is more nearly the case. It is the only instance where Congress was involved but you are right the deal was structured in a very specific way because of that very specific circumstance including the geography of the area and the nearby airport abilities and even then that airport, San Bernardino, didn't have the general aviation abilities that it needed. So that was a very specific situation. He said the other airport closures that he has been involved with, even with legislation, still did not have a deal like that. All of the money from the deal goes back for the airport system, all of it. So there was no residual revenue; at least all the ones he knows of.

Councilmember Peterson asked if there was any value to our airport regarding homeland security or for military purposes.

Mr. Cushing said he can't speak to homeland security specifically but they do know that every public use airport is available for use by the military. He does know from anecdotal information of surveying the airports in the area that fire protection, homeland security, border patrol, drug interdiction, police rescue are all big uses that your competing airports are really eager to tell him how often their airports are used for these purposes and they don't have the advantage of being so close to population centers and other attractive areas in your area.

Councilmember Miller said that he tends to look at the long, long term possibly the next 50 to 70 years and what he is concerned about if we take a look at this we had 75 pilots six years ago and now we have 31 pilots and the statement that it is going to be very difficult to abandon the airport certainly is true but so many other cities have done so. The question really is in the long term

does it make any sense for us to maintain an airport which is going to be always minimal. As you said, this is not going to be an airport which is likely to have commercial use. If we do say, we are going to bite the bullet and look at the long term and say it is better in the long term to try to convert this into a commercial area, if we do that we have to give back to the FAA the cost of the land, if we sell or lease the land. Do we then have to give back to the FAA the money that we receive from the new jobs and the new industry that comes in or does that stay with the City.

Mr. Cushing said that you would have to convince us to release the airport so it would have to be some set of circumstances that at least both retains the revenue into the airport system so there would be no, at least for this transaction, there would be no spare funds, zero and you would have to convince us that your alternative proposal benefits civil aviation. He said that he has been involved in a couple of these so that is the rule that they use that it would have to be better for aviation than not having the airport. So that is kind of a hard case to make when you are talking about closing the airport. It doesn't mean that airports haven't tried but he can tell you that the number of obligated airports that have closed are less than five that he knows of and they kind of fell apart or had legislation. He cannot name one that wasn't that kind of situation; it was an obligated airport. You may be thinking about airports that were not obligated to the federal government.

Director Burk said one benefit that the airport does have is the life safety as it relates to fog in the area and this airport has been looked at by many pilots as kind of a safe-haven because we don't get the fog as they get towards the west. So safety is primary for some of the general aviation pilots.

City Manager said that this is one of a series of things on discussion of the airport as we go along. This is kind of an introduction to what obstacles that we could possibly have and what are some of the advantages at that point in time with the airport and without the airport.

Mayor Franklin asked do you foresee any way in regards to other activities that would produce revenue for the City utilizing the airport like if there was commercial usage that could produce a tipping fee or is there something like that or does that all have to go back to the airport also.

Mr. Cushing said generally speaking no, if it is an airport proprietary activity. If it is on the airport it has to stay on the airport. When you step into the shoes of a business on the airport then you can keep that revenue as the business person but then you kind of have to have two sets of books because you have to operate in the shoes of the airport which is basically the landowner the flat and smooth, marked and lit part of your property; prudent landowner. So you kind of have to be on both sides of the transaction. So if you were in a non-aeronautical lease you would have to charge yourselves fair market value but that which you make above you can keep. He said that he has had to make arguments with the people who watch him watch you. Activities like an industrial park around the airport manufacturing or that type of thing or a warehouse district would be something that they would definitely encourage.

Councilmember Miller asked why the number of planes and pilots has decreased in the last five to six years.

Director Burk said he would say it is just because of age and they don't fly anymore and it is expensive. He said that at one time they did have quite a few pilots out there that didn't have planes and so they were using the hangars as storage facilities and one of the requirements of the FAA is that you have to have an "N" number on your plane and then you can have the hangar rent so they scrutinized that pretty heavily. He can't say that happened in the past but the idea behind it is that we want you to have general aviation plane activities going on in your hangar and if you happen to have your car in there or something else that is fine but at the same time we get criticized from other tenants saying I got a plane and I am using the hangar appropriately and the neighbor around the corner is doing a cabinet shop and we have had that and had to evict them. He was registered at one time as a person that had a plane so those numbers did fall. They do scrutinize as it relates to who is going to be in those hangars now. Some of the older hangars on the south side, which he pointed out, are really dilapidated and they really don't rent those hangars out any more and it is staff's intent to replace those with the FAA at a later date. The reason why is because when the wind blows from the east the doors from those hangars end up on Hathaway so having a \$50,000 dollar plane in that hangar is somewhat of a liability to the City and that is why they don't rent those hangars. That is why the decline in hangar space.

Mayor Franklin opened the item for public comments. There were none. She thanked all of the guests for being at the meeting this afternoon and she would guess that they will continue this discussion at a later date.

Director Burk extended his gratitude to Margie Drilling and David Cushing and Michael Hotaling for coming out because they come a long way but he does appreciate the opportunity for them to be here and he appreciates the Council listening.

ADJOURNMENT

By common consent the meeting adjourned at 3:53 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

BANNING MUNICIPAL AIRPORT

Strategic Plan 2011-2016

- ☐ Goal #1 Fiscal Stability
 - N-1 Submittal of Grant Applications - Priority 1
- ☐ Goal #3 Infrastructure and City Facilities
 - P-3 Airport AWOS System; taxiway modifications approved - Priority 2

3

Introductions

- ☐ David Cushing, Manager Los Angeles Airports District Office (ADO)
- ☐ Margie Drilling, Airport Planner, Los Angeles ADO
- ☐ Michael Hotaling, Vice President, C&S Engineers, Inc.

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Airport Projects

- ☐ 2004
 - Request for Proposal's for Airport Master Plan Update
- ☐ 2005
 - C & S Engineers, Inc. begins Airport Master Plan Update
- ☐ 2007
 - Airport Master Plan Update completed
 - Drainage Study and Design of Drainage Improvements
- ☐ 2008
 - Airport Master Plan Update adopted by City Council Resolution No. 2007-118
- ☐ 2009
 - Airport Drainage Improvements and Lincoln Street Improvements construction
- ☐ 2010
 - Airport Rotation Beacon, Wind Cone, Segmented Circle & AWOS design and construction
- ☐ 2011
 - Taxiway 'A' Relocation design
- ☐ 2012
 - Taxiway 'A' Relocation - Phase 1B Relocation of Fuel Facility design
- ☐ 2013
 - Taxiway 'A' Relocation - Phase 1B Relocation of Fuel Facility construction approved
 - RFQ to provide Professional Airport Planning, Environmental, Engineering, and Construction Management Services

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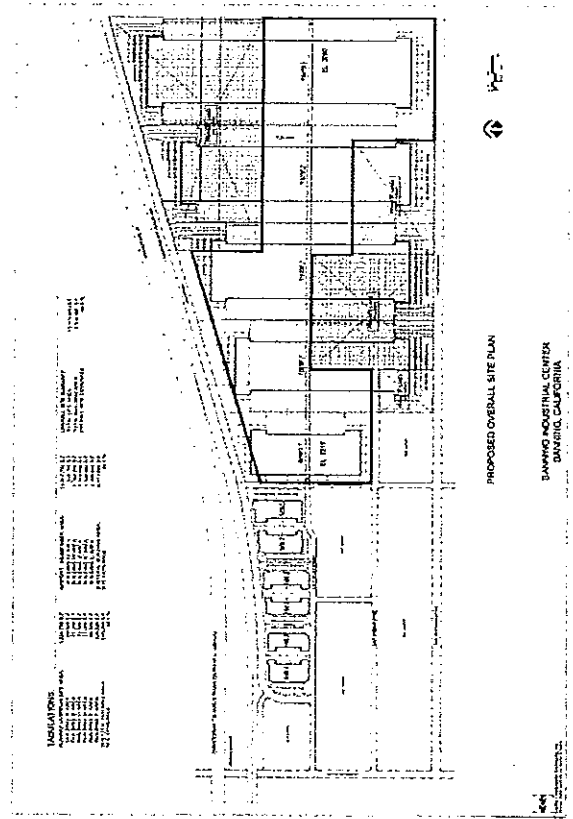
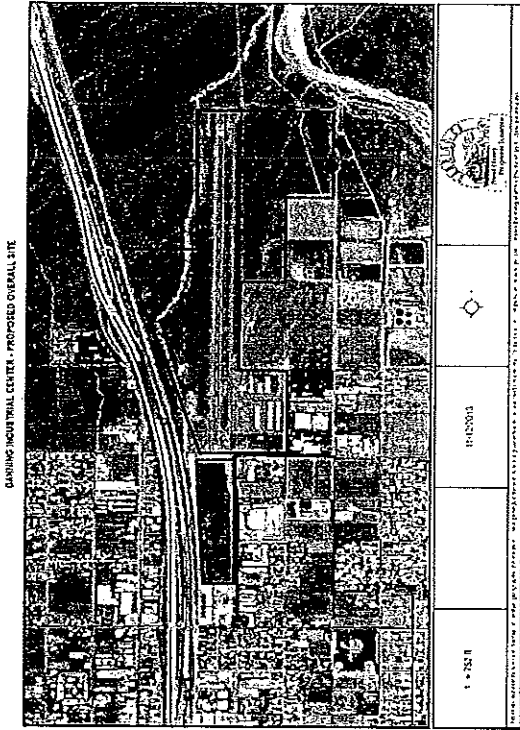
GRANTS

- ☐ July 2008 - FAA Grant Amount- \$150,000
- ☐ "Drainage Study and Design of Drainage Improvements at Banning Municipal Airport"
- ☐ February 2009 - FAA Phase I Grant Amount - \$429,693
- ☐ "Airport Drainage Improvements and Lincoln Street Improvements"
- ☐ August 2009 - FAA Phase II Grant Amount - \$561,536
- ☐ "Airport Drainage Improvements and Lincoln Street Improvements"
- ☐ September 2010 - FAA Grant Amount - \$ 536,750
- ☐ "Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS" design and construction
- ☐ October 2011 - FAA Grant Amount - \$193,922
- ☐ "Taxiway 'A' Relocation" design Phase 1A
- ☐ October 2011 - DOT Grant Amount - \$4,848
- ☐ "Taxiway 'A' Relocation" design Phase 1A
- ☐ October 2012 - FAA Grant Amount - \$93,600
- ☐ "Taxiway 'A' Relocation - Phase 1B Relocation of the Fueling Facility" design phase
- ☐ July 2013 - FAA Grant Amount - \$558, 225
- ☐ "Relocate Taxiway 'A' Relocation - Phase I Relocation of the Fueling Facility" construction phase
- ☐ July 2013 - DOT Grant Amount - \$27,911
- ☐ "Relocate Taxiway 'A' Relocation - Phase I Relocation of the Fueling Facility" construction phase

TOTAL AMOUNT OF FAA GRANTS \$ 2,523,726.00

TOTAL AMOUNT OF DOT GRANTS \$ 32,759.00

Exhibit "A"
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spec.mtg.-11/12/13



MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/12/13
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on November 12, 2013 at 4:08 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
David J. Aleshire, City Attorney
June Overholt, Administrative Services Director
Duane Burk, Public Works Director
Zai Abu Bakar, Community Development Director
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney said the items on the closed session agenda are two matters of potential litigation pursuant to the provisions of Government Code Section 54956.9; existing litigation pursuant to the provisions of paragraph (d) (1) of Section 54956.9 regarding Mascaro, et al. v. Banning Heights Mutual Water Company, et al.

Mayor Franklin opened the item for public comments. There were none.

Meeting went into closed session at 4:09 p.m. and reconvened at 5:05 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:05 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/12/2013
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Franklin on November 12, 2013 at 5:10 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
June Overholt, Administrative Services Dir./Deputy City Manager
David J. Aleshire, City Attorney
Duane Burk, Public Works Director
Bill Manis, Economic Development Director
Zai Abu Bakar, Community Development Director
Fred Mason, Electric Utility Director
Phil Holder, Police Lieutenant
Tim Chavez, Battalion Chief
Doug Clark, Assistant Fire Marshal
Marie A. Calderon, City Clerk

The invocation was given by Rev. Dave Horning, Banning United Methodist Church. Councilmember Welch led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney reported that the Council met in closed session and discussed one matter of actual litigation in regards to Mascaro, et al. v. Banning Heights Mutual Water Company, et al. and two matters of potential litigation and there was no reportable action was taken on any of the matters.

PUBLIC COMMENTS/CORRESPONDENCE

PUBLIC COMMENTS – On Items Not on the Agenda

Carl Douglas, 166 E. Barbour and member of the Banning Stagecoach Days Committee invited everyone to the Pancake Breakfast to be held on Nov. 16th from 7 to 11 a.m. at the Banning Community Center, 789 N. San Geronio. This is a fundraising event for Banning Stagecoach

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Days. They are trying to do an early kickoff and start making funds so that they can have a better Stagecoach Days event. Cost for the event is \$7.00 and children 6 and under are free with a paying adult.

Fred Sakurai resident of Banning addressed the Council stating that he knows the Council Members are protected by the Brown Act and do not have to reply and he doesn't know if they are prohibited from replying or just saying that they do not have to reply. Last meeting he asked a question in regards to the appropriateness of Mr. Peterson in a negotiation with the police unit since he is, he is assuming, drawing a police pension for his time and service with the police department. Mr. Sakurai said he never received a reply and so he doesn't know if Mr. Peterson is still drawing a pension or if not, since the Council Members are protected or hiding behind the wall of the Brown Act. He does not have a definite definition of the Brown Act other than the fact that the Council Members don't have to reply to questions put forth in the public speaking portion of the meeting. He does not know if legal counsel and the City Manager are also protected by that. What is the Brown Act other than saying two or three Council Members cannot assemble and talk about anything or they have to stay away from it or whatever the reasoning is. It seems like people come up here and ask simple questions and they never get an answer. He doesn't know what the reasoning is for the public comment period, if they cannot get an answer.

Charlene Sakurai resident of Banning addressed the Council stating that she was at the Banning Women's Club today and they had a wonderful presentation by a veteran and someone who is very involved in veteran's affairs. One of things they talked about was that there will be a Veteran's Expo in Beaumont on Saturday, January 25, 2014, from 9 a.m. to 1 p.m. One thing she wanted to mention was that in the planning last year they honored WWII and Korean Veterans and this year they plan to honor women veterans from all branches of the service all wars and would like anyone who happens to be a women veteran to contact them because if they have the names they can plan ahead for recognition and you can contact them at 951-769-9858 with any names or if you would like more information.

Mike Rose addressed the Council inviting everyone to join him on Saturday evening, November 16th at 7:00 p.m. at the Gathering Hall at the Dorothy Ramon Learning Center for a presentation by Michael Sanborn the Director of the Banning Museum in Wilmington, California. He said that Mr. Sanborn has been the director there for 15 years. He said the name of the museum and our town are the same because it is the same guy, Phineas Banning, who came to California in 1851 and got involved in railroading and shipping and all kinds of other ventures including sheep raising and he built the port of Los Angeles and had a home there in Wilmington which became a museum. He would encourage everyone to come out and meet Michael Sanborn and hear more about our namesake. Also the Phineas Festival will be held December 7th and will start at approximately 3:30 p.m. and this will be the last activity for the Banning Centennial.

Mayor Franklin asked the City Attorney to explain very briefly what the Brown Act is and why we do not get into discussions with members of the public.

City Attorney said that we are only allowed to talk about things on the agenda. The Brown Act doesn't want people to be surprised by things so the idea is that there is an agenda and it lists

those things that are going to be talked about. In terms of what is the point of public comment if there aren't answers to questions, the theory behind the Brown Act is that the public gets the right to communicate and give its opinion about things to the Council. There isn't anything in the Brown Act that necessarily demands a response; it is in the judgment of the Body how you would go about responding. If questions are raised that merit research and time, energy and effort then staff reports can be prepared and it can be placed on a future agenda. There are times when Councilmembers might have just a very brief question about something and the City Manager or the City Attorney could clarify something just as we are doing now to provide information.

CORRESPONDENCE: There was none.

PRESENTATIONS

1. Banning Stagecoach Day Committee Presentation of Sponsorship Plaques

Bill Lamb, Chairman for Banning Stagecoach Days addressed the Council stating that he was here to present three plaques to the major sponsors for Stagecoach Days with one of them being the City of Banning. He said that one of the things that they focus on with their all-volunteer nonprofit group, as they have put on Stagecoach Days here for the last 8 years, they try to be a stand-alone organization and they try to focus on is making sure that during the course of a 12-month period they can put together fundraising, receipts of the gate, sponsorships, vendors and the carnival and generate all this income so that they can put on the event and have that money for a 12-month cycle and pay for the event without having to dip into any extra funds and they do have a reserve fund and they have done that again this year. They actually received a little over \$48,000 income and had expenses of a little bit over \$47,000 so they were basically able to pay for themselves and make a small amount of money. They have been able to carry over for the last four years a reserve fund of approximately \$24,000. Historically the City Council used to give money to the Banning Chamber of Commerce to put on the event and in 2007 that was no longer possible and one thing that the Council pleaded to them was to please be stand-alone and not be in a position to ask for money from the City and they have been able to do that now for the last 8 years and he is proud of that. This last year they had a real stressful time because they had some attrition in their committee and got down to seven people right before the event and actually pulled that event off with seven people which he feels was a great accomplishment. They have been fortunate to have 15 people show up to their meetings now and they are up to 21 people.

Mr. Lamb presented a plaque to Bill Hawk of Lamar Outdoor Advertising for their outstanding contribution and continuous support for the use of a billboard for the last two years and it is about a \$3,000 cost for that billboard. He presented a plaque to Helen Barnes and Stan Stossel of I.B.E.W. (International Brotherhood of Electrical Workers) Local 47 for their generous sponsorship of \$2,500. He presented the last plaque to the City of Banning for in-kind services to Mayor Franklin and the City Council and stated that without the City's support that probably could not put on this event.

Mayor Franklin thanked Mr. Lamb and his committee and everyone who is associated with Stagecoach Days for doing such a great job not only this past year but for many years in the past and we look forward to them doing the same in the future.

CONSENT ITEMS

Mayor Franklin stated that Consent Items 5 and 6 have been pulled for discussion.

1. Approval of Minutes – Special Meeting (*Closed Session*) – 10/22/13

Recommendation: That the minutes of the Special Meeting of October 22, 2013 be approved.

2. Approval of Minutes – Regular Meeting – 10/22/13

Recommendation: That the minutes of the Regular Meeting of October 22, 2013 be approved.

3. Approval of Minutes – Special Meeting (*Study Session*) – 10/22/13

Recommendation: That the minutes of the Special Meeting of October 22, 2013 be approved.

4. Report of Investments for September

Recommendation: The City Council receive and file the monthly Report of Investments.

7. Resolution No. 2013-108, Authorizing the Appropriations Related to the Fiscal Year 2013 State Homeland Security Program Grant.

Recommendation: That the City Council adopt Resolution No. 2013-108, authorizing the acceptance of the grant and the necessary budget appropriations related to the Fiscal Year 2013 State Homeland Security Program Grant that is offered by Homeland Security for the use of Emergency Management Programs.

8. Approval of Settlement of Litigation Matter Entitled Stephen J. Mascaro, et al. v. Banning Heights Mutual Water Company, et al. (San Bernardino County Superior Court Case No. CIVDS 1104447).

Recommendation: That the City Council approve the Settlement Agreement and Mutual Release, subject to the Settlement Agreement and Mutual Release being recorded with the County Recorder's Office.

Motion Peterson/Welch to approve Consent Items 1 through 4 and 7 and 8. Mayor Franklin opened the item for public comments. There were none. **Motion carried, all in favor.**

5. Approval of Accounts Payable and Payroll Warrants for Month of September 2013.

Recommendation: That the City Council review and ratify the following reports per the California Government Code.

Councilmember Peterson asked about the purchase of three Chevrolet Caprice vehicles from Diamond Hills Auto Group in the amount of approximately \$85,000. He asked if we went out to bid for those vehicles or did we have spec sheets that were submitted to other dealers and how was it that these were purchased over the \$25,000 dollar each budget and didn't come before Council.

Director Overholt said that Lt. Holder may be able to give the long story behind it but in essence Council approved the purchase last year, at least 12 months ago, and in the ordering process there a glitch on their end and so when it finally came together you are seeing it now being finalized. Yes spec sheets were done and followed CMAS and the discount that is already approved through State contracts.

Councilmember Peterson also asked in regards to Fire for April through June the amount was \$468,000 and is that our normal fee or was it more because of the fires.

Director Overholt said that was normal and typically what happens is that we pay on a quarterly basis and then at the end of the year we have a clean-up payment where we catch up and they do their final reconciliations and she believes that is the quarter that completed the fiscal year; it would be the fourth quarter of the fiscal year and the second quarter of the calendar year.

Councilmember Miller said that we have the purchase of auto parts from Napa, Star and O'Reilly and he was wondering, even though it is not a great amount through the years it does add up, and it is really quite common to get one contract with one company like that to get a special discount and have we done something like that and is there an attempt to get a discount on a contract.

Director Overholt said she would have to check and see but she is making an assumption that the department uses the different vendors because they carry specific parts that the other vendor doesn't have. Preference is often given to the local provided because that is what our purchasing ordinance asks us to do and it also provides us with discounts so we tend to want to purchase from them.

Councilmember Miller asked Director Overholt to check on that because if you look at the items, he thinks that every one of them carries all of those items.

Councilmember Peterson said he doesn't know who E.S. Babcock & Sons are. Director Overholt said that they provide analysis services for the water and wastewater treatment plant. They analyze the water that comes up from the wells on a daily and weekly basis to make sure that they are meeting all the standards. They are under contract with the City of Banning.

Mayor Franklin opened the item for public comments. There were none.

Motion Miller/Peterson that Consent Item No. 5 be approved. Motion carried, all in favor.

6. Resolution No. 2013-105, Amending the Contract Amount for the Sunset Grade Separation Phase 1 – Pole Realignment Contract to Henkels & McCoy, Inc. of Pomona, California, in the amount of \$16,838.42 for a total contract amount not to exceed \$247,018.42 including taxes.

Recommendation: That Resolution No. 2013-105 be adopted.

Councilmember Peterson said in regards to the unforeseen circumstances that required an increase of \$16,000 what where they.

Director Mason said that the cross arms are typically bolted on and that is what they assumed but when they actually got up there and looked at the cross arms they were welded and that created a significant amount of additional work to remove the cross arms.

Councilmember Peterson said that he doesn't see a lot of electrical contracts come through but on Duane's contracts he always notices that he has an additional 10% contingency built into the contract for unforeseen items.

Director Mason said that they will be doing that from this point forward and it was not in this contract.

Councilmember Peterson said the \$16,000 that they are claiming that he would guess is an override on their \$230,000 dollar contract seems like such a menial amount of money on \$230,000 and would they be willing to split that with us. Director Mason said actually they did and he explained.

Councilmember Miller said in the original request for bid did it specify that all the poles would have screws and not welded.

Director Mason said it was an error on their part because typically the cross arms are screwed on and so the assumption was made that they would be and obviously the poles are very tall and it wasn't until they got up there that they realized they had been welded.

Councilmember Miller asked if the request for bid specified that they were screwed on. Director Mason said that was the assumption and would have to go back and actually see if it said that they are screwed on but that was the way the job was bid with that assumption.

Councilmember Miller said it always disturbs him that if a business person signs a contract, they are held to that contract and if there is nothing in that contract that specifies whether they are welded or screwed on, then that should be the bid amount. So again, he is wondering does it specifically specify that these things are not welded on.

Director Mason said that he didn't know the answer to that. Councilmember Miller said that we should make certain that all the bids are very specific so that we don't have the problem of adding on extra cost. He thinks that one of the problems with government is that when it comes to bids and

paying off these bids and agreeing on the bids it is not our money and it is the general attitude and if this was a private business he thinks there would be a lot of fuss about the fact that the contract has been signed, the amount has been agreed upon and if the person who signed the contract didn't notice that they were welded instead of screwed on, that was the mistake of the person who signed the bid and not the City.

Mayor Franklin opened the item for public comments. There were none.

Motion Peterson/Miller that Consent Item No. 6 be approved. Motion carried, all in favor.

PUBLIC HEARING

1. Ordinance No. 1472 -- 2nd Reading: Adoption of the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes
(Staff Report -- Zai Abu Bakar, Community Development Director)

Director Abu Bakar stated that the Council approved the first reading of the ordinance at their meeting on Oct. 22nd and staff requesting that you hold the public hearing because this is something special in that when you adopt a code by reference you have to hold a public hearing. Every three years local governments are required to adopt the new building codes and they will be effective January 1, 2014.

Mayor Franklin opened the public hearing on this item for comments from the public. Seeing no one come forward, she closed the public hearing.

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1472. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 15.08 of the Banning Municipal Code by Adopting By Reference the entirety of the Latest California Building Code, Residential Code, Green Building Standards Code, Plumbing Code, Mechanical Code, Electrical Code and International Property Maintenance Code, All As Relative to Construction Codes.

Motion Miller/Welch to waive further reading of Ordinance No. 1472. Motion carried, all in favor.

Motion Miller/Welch that Ordinance No. 1472 pass its second reading and be adopted. Motion carried, all in favor.

2. Ordinance No. 1470 -- Amending a Section of the Zoning Ordinance Pertaining to Walls and Pertaining to Walls and Fences in the Business Park Zoning District.
(Staff Report -- Zai Abu Bakar, Community Development Director)

Director Abu Bakar gave the staff report as contained in the agenda packet in regards to the wall requirements in the Business Park Zoning District and this is an attempt to make it more flexible to

give people the opportunity to have choices whether they want to build a wall or not if there is no need for it and also to allow for material choices.

Mayor Franklin opened the public hearing on this item for comments from the public. Seeing no one come forward, she closed the public hearing.

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1470. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 13-97504 Amending a Section of the Zoning Ordinance Pertaining to Walls and Fences in the Business Park Zoning District.

Motion Welch/Miller to waive further reading of Ordinance No. 1470. Motion carried, all in favor.

Motion Welch/Miller that Ordinance No. 1470 pass its first reading. Motion carried, all in favor.

3. Ordinance No. 1474, Interim Urgency Ordinance Establishing Interim Development Regulations Regarding the Permitting Process for Certain Businesses that Currently Require Approval of a Conditional Use Permit to Operate in the Commercial and Industrial Zones. (Staff Report – Zai Abu Bakar, Community Development Director)

Director Abu Bakar gave the staff report on this item as contained in the agenda packet and said that this is an example of where the zoning code is very restrictive and she explained. What they are trying to do with this interim urgency ordinance is to determine the appropriate way to process lesser uses in the Code either permitted by right, conditional use or prohibited. She also explained that during this interim period the list of businesses that she included in Exhibit B of the staff report which is basically professional office and real estate office are allowed to be permitted during the period provided that they 1) apply and receive approval of a business license from the City, and 2) pass inspection from the Building and Safety Department and the Fire Department and in addition, they are going into existing storefronts and not construction of new buildings. During the interim period staff will be doing an analysis of the uses to see if they are in the appropriate zones and then come back with an ordinance that will go to the Planning Commission and then the City Council for final approval. She said that in Exhibit B of the staff report on page 95, Item A-3 and it says, "In the future the businesses listed in Exhibit A..." and it should say "Exhibit B". It was a typographical error.

Mayor Franklin said her understanding is that this is not going to keep any business that meets the City's requirements to be able to open during this moratorium period. Director Abu Bakar said that was correct with respect to those two uses.

Mayor Franklin opened the public hearing on this item for comments from the public.

Don Smith addressed the Council urging them to pass this ordinance and to encourage staff to greatly widen the types and volume of businesses that can operate in that section so that we can get all of those buildings rented.

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1474. City Clerk read: An Interim Urgency Ordinance of the City Council of the City of Banning, California, Adopting Interim Development Regulations Regarding the Permitting Process for Certain Businesses That Currently Require a Conditional Use Permit to Operate in the Commercial Zones.

Motion Peterson/Welch to waive further reading of Ordinance No. 1474. Motion carried, all in favor.

Motion Peterson/Welch that Ordinance No. 1474 be adopted. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Resolution No. 2013-91, Approving the Award of a Professional Services Agreement to Aragon Geotechnical, Inc. for Robertson's Mine Reclamation Plan Review and Inspection Services.
(Staff Report –Zai Abu Bakar, Community Development Director)

Director Abu Bakar said that in 2012 Aragon did the annual inspection for Robertson's mine and we still need their services to be able to perform the annual inspection or 2013 and staff is recommending approval of the professional services agreement. She said the issues that we are dealing with in regards to Robertson's is very complex so we need technical expertise to be able to address the annual report findings and also additional issues that have arisen. The cost of the contract will be paid by Robertson's and not the Banning taxpayers. City Manager said the amount of the contract is \$50,000 as opposed to \$30,000.

There were some Council and staff discussion regarding payment and also comments that Aragon's services are very good.

Mayor Franklin opened the item for public comments. Seeing no one come forward, she closed the public comments.

Motion Welch/Peterson the City Council adopt Resolution No. 2013-91, Awarding a Professional Services Agreement to Aragon Geotechnical, Inc. of Riverside, California, in an amount "Not to Exceed" \$50,000.00 for Robertson's Mine Reclamation Plan Review and Inspection Services. Motion carried, all in favor.

2. Resolution No. 2013-98, To Become a Healthy Eating, Active Living (H.E.A.L.) City.
(Staff Report – June Overholt, Administrative Services Director/Deputy City Manager)

Director Overholt gave the staff report on this item as contained in the staff report. She said that the City has a wonderful opportunity to become a Healthy Eating, Active Living City which is called H.E.A.L. There are several organizations that are working together on this project but the League of California Cities is the primary moving force behind it. At this time she started her power-point presentation (see Exhibit A). She stated that Dr. Cameron Kaiser with us this evening and he is with the Public Health Office of the County.

Dr. Cameron Kaiser, Public Health Officer for the County of Riverside addressed the Council stating that being here tonight really brings him full circle because it was his first job right out of residency right here in Banning at the old Public Health Clinic and it was there that he had a first-hand look at the burden that Banning's diabetics, patients with heart disease and patients with high blood pressure and the people who have survived a stroke deal with every day. Really all of this is preventable and in the medical field we have been on people's cases for years and the impact which their behaviors has on their health for good or bad is well understood. We want to make sure that people are aware of those impacts. If there is nowhere for them to walk, how can we expect them to exercise. If the outlets around them just sell fast food, how do we expect them to eat better? This isn't about him coming out here establishing the french-fry police or something like that. We want to make sure that people are aware of their choices and make sure that people can keep them but more importantly we also want to make sure that choices are expanded so that those people who have never had a healthy option before will now be able to get the chance. The resolution before you acknowledges the impact that our surroundings and our built environment have on our health and our behaviors. It makes the City of Banning a leader to its residents and a leader to the surrounding community but more importantly it also establishes health as part of the very fabric of this city; it makes it systematic. And as someone who started off in this city and learned first-hand the impact that these disease have on its residents he became the Health Officer of this County so that he could try and make a positive step towards them and the resolution before you gives you that chance and he is delighted and gratified to see that the city where he had his first medical job in has taken that step tonight.

Mayor Franklin opened the item for public comments. There were none.

Mayor Franklin thanked staff and Dr. Kaiser because this is something that they have been trying to get passed for at least a year and this is one of those things that you can't always get done when you don't have a lot of staff. The reason this is important to our city in addition to the things that June mentioned was that this has a direct impact on the economic health of our city also. It has been proven that when you do not have a healthy workforce it does impact what kind of businesses will come to town, impacts how much money people will make and it does impact their children. Our city has an obesity rate for our children of 47%. We have started a program at one of our elementary schools that we hope will catch on and the children actually named the program "Happy Healthy Hoffer" and the school principal has allowed us to come into the classroom every other week and we promote not only physical activity, nutrition education, as well as, character building and so far it seems like the kids are moving forward with it.

Motion Welch/Miller that the City Council adopt Resolution No. 2013-98, To Become a Healthy Eating, Active Living City. Motion carried, all in favor.

3. Resolution No. 2013-93, Updating the City of Banning's Internal Renewable Portfolio Standard Enforcement Program and Renewable Energy Resources Procurement Plan.
(Staff Report - Fred Mason, Electric Utility Director)

Director Mason gave the staff report on this item as contained in the agenda packet giving background information on the legislation and explaining all of the compliance measures that need to be done.

There were various Council questions and discussion with staff regarding renewable energy, cap and trade, the San Juan plant, possible rate increases, offsetting additional costs, penalties, and what is happening with our competitors and their rate structure.

Mayor Franklin opened the item for public comments. There were none.

Motion Peterson/Welch that the City Council adopt Resolution No. 2013-93, Updating the City's Internal Renewable Portfolio Standards Enforcement Program and Renewable Energy Resources Procurement Plan in response to the California Energy Commission's recently adopted Enforcement Procedures for the Renewable Portfolio Standard for Local Publicly Owned Electric Utilities, to include and adopt the City's Cost Limitations Policy and to allow for the optional compliance measure of Portfolio Balance Requirement Reduction. Motion carried, all in favor.

4. Resolution No. 2013-103, Update of City Council Manual of Meeting Procedures to Comport With Recent Case Law Pertaining to Restrictions on Public Comment at Legislative Body Meetings.
(Staff Report – David J. Aleshire, City Attorney)

City Attorney gave the staff report on this item as contained in the agenda packet stating that some things have occurred since the Manual of Meeting Procedures was approved by the Council and the three areas that are changed deal with posting of notices on the City's website, allowing the City Attorney with the City Manager to make minor technical changes to contracts that are approved by the City Council and the most important has to deal with conduct of citizens at Council Meetings which disrupt the meeting and non-disruptive conduct at meetings. City Attorney gave some examples of non-disruptive behavior. He said that this is to give the Council better criteria for their guidance in conducting the meeting.

Mayor Franklin opened the item for public comments. There were none.

Motion Peterson/Welch that the City Council adopt Resolution No. 2013-103, updating the City's "Manual of Meeting Procedures" regarding regulations of public speech at legislative body meetings, such update conforming with recent changes in the law. Motion carried, all in favor.

5. Resolution No. 2013-104, 2013/14 Avoid the 30 Enforcement Program Grant.
(Staff Report – Lieutenant Phil Holder)

Lt. Holder gave the staff report on this item as contained in the agenda packet.

Councilmember Miller asked Lt. Holder to explain what the program is about for the audience. Lt. Holder said the 30 Enforcement Program accounts for the 30 law enforcement agencies in

Riverside County that will be participating in this program. During the saturation patrols you will have every agency in Riverside County in their respective jurisdictions out on pro-active patrol looking for DUI drivers, as well as, people who are driving while drowsy, texting, using a cell phone, etc.

Mayor Franklin opened the item for public comments. There were none.

Motion Miller/Welch that the City Council adopt Resolution No. 2013-104, Authorizing the City of Banning to Sign An MOU (Memorandum of Understanding) with the City of Riverside, Thus Allowing the Banning Police Department to Participate in the 2013/14 Avoid the 30 Enforcement Program. Motion carried, all in favor.

6. Ordinance No. 1468, Adoption of the Latest Edition of California Fire Code
(Staff Report – Doug Clark, Assistant Fire Marshal)

Assistant Fire Marshal Clark gave the staff report on this item as contained in the agenda packet stating that every three years the model codes come up for adoption and this code cycle all of the cities got together except for four and met as one group to set up an ordinance completely county-wide so it makes it a lot more contractor friendly so when they go from city to city or go from city to the county they have all the same rules.

Councilmember Peterson asked what cities didn't join. Assistant Fire Marshall Clark said City of Palm Springs, City of Murrieta, City of Riverside and City of Corona.

Mayor Franklin opened the item for public comments. There were none.

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1468. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Repealing chapter 8.16 of the Banning Municipal code and Adopting The 2013 California Fire Code as it is Amended in this Ordinance For: 1) Regulating and Governing the Safeguard of Life and Property From Fire and Explosion Hazards (Arising From the Storage, Handling and Use of Hazardous Substances, Materials and Devices) and From Conditions Hazardous to Life or Property in the Occupancy of Buildings and Premises in the City of Banning, and 2) Providing for the Issuance of Permits and the Collection of Fees Therefor.

Motion Welch/Miller to waive further reading of Ordinance No. 1468. Motion carried, all in favor.

Motion Welch/Peterson that Ordinance No. 1468 pass its first reading. Motion carried, all in favor.

ANNOUNCEMENTS/REPORTS (Upcoming Events/Other Items if any)

City Council

Councilmember Miller –

- He stated that he and Councilmember Welch and the City Manager met with the Superintendent of the Banning Unified School District and School Board Member Ellis to discuss the possibility of opening up the school's play areas and athletic fields and they will continue those meetings hopefully with some positive results.

Councilmember Welch–

- He said he wanted to pick up on the announcement that Charlene Sakurai made earlier. He said that five years ago we started a committee here in the Pass Area called the Veterans Expo Committee and since that time they have been holding an annual expo and the next one will be held on January 25, 2014 at the Beaumont Civic Center starting at 9 a.m. to approximately 1:00 p.m. The first year they had the expo there was about 65 to 70 veterans in attendance and last year they had over 500 in attendance. The significance of this expo is to be sure that all veterans, family members whether you are active or retired, male or female have an understanding of what the benefits programs are for our veterans and will also give you an update of services.

Mayor Franklin –

- She said in regards to both the Western Riverside Council of Governments (WRCOG) and the Southern California Association of Governments (SCAG) in both of those meetings one thing was brought up in that SCAG has representatives throughout Southern California and there were four representatives at their last meeting and it was approved to have 2 more representatives for our region. What that means to us is that we were involved in a region that included Moreno Valley, Calimesa and Beaumont and our district has now changed so we are no longer a part of the district that included Moreno Valley but we are one with San Jacinto and Hemet. So we do have a representative right now, Jim Hyatt, who is a Council Member from Calimesa and that won't change but in the future we may see something different for us.
- At the SCAG Meeting they also talked about more grants being available and it was announced that there is one now open for low income areas that may be doing projects near parks that may be available to us. We have to check to see whether or not we qualify since we did not have our certified Housing Element so that is another area that impacts us when we don't have our Housing Element certified.
- In regards to the Water Taskforce they did meet a couple of weeks ago and they are still working on what they can do as a regional area working on the water supply for us and hopefully at their next meeting they will have the memorandum of understanding for the Council to review and hopefully approve.
- She commended the Banning Police Department on their very successful community clean-up day and there was one person from the community, Susan Savolainen and several police officers brought their children and some high school students from the Key Club and the amount of trash that was picked up was enormous. She thanked the police department for organizing it and participating in it and having community spirit to actually work to try to clean up an area that was sorely in need of clean-up.
- She commended the Community Services Department on the Halloween Fest that was held on Oct. 26th for the community and if you didn't get a chance to go it was really a treat. The weather was gorgeous and there was a full crowd. It was a really good effort put forth by our Community Services Department to make sure that we had some more youth activities that were fun and safe for our community.

- She commended the Little Broncos Football Team and they are now in the playoffs. Their ages range from 6 to 7 years old. She also stated that Banning High School is also in the playoffs.
- For the group that put together the City Gala it was a very nice event to celebrate our City's 100th Anniversary. She said that she has heard nothing but compliments for the event and she congratulated them on a job well done.
- She and Councilmember Welch participated in an Ad Hoc meeting with representatives from the Morongo Tribal Council and they talked about the Fields transfer and it is now in the hands of higher government so we are waiting to see how that moves. They also expressed a desire to work with the City on regional programs. It was a very productive meeting.
- She said that there are a couple of community members Susan Savolainen and Charlie Varga that met with her and Councilmember Welch. A couple of weeks ago the Council agreed that we could get together and try to work on a Community Advisory Committee so they had a couple of meetings and they have put together the guidelines and hope to present it to the Council at the next meeting. This would be a committee made up of neighborhoods across the city, made up of 21 members, 6 different neighborhoods with 3 members each, and the business community would have 3 representatives. The two basic goals are to improve two-way communication across the city not only for the City to be able to get more information out to the community but also to hear back from both residents and businesses; and 2) start a leadership academy to help with the education of the public in regards to what is involved in City leadership. They hope to be able to offer a format where people can learn what all the City departments do and have a better understanding of how a City works. They are hoping to get this started at the beginning of next year and this will be a way for people who have an interest in becoming a city council member or a planning commissioner or any kind of commissioner for our City to have a better understanding of what it takes. She hopes to have this at the next City Council meeting.

City Committee Reports - None

Report by City Attorney – None at this time.

Report by City Manager

- In regards to not having a certified Housing Element we have to have ours in by February 12, 2014 and the only good thing about that is that we did not get what he calls "the death penalty". It is not the combination of the 1,400 homes giving us roughly in the 3,000 some odd. Obviously it wasn't certified but we know what we need to do on this next one and we are working with the State to make sure we follow-up on that. But the good thing is that you don't have to double your number of very high density.
- Nov. 19th Special Meeting time has been revised to start at 1:00 p.m. so the Council is able to go over the process to nominate for the Council position. This meeting will not be televised live but will be televised after it is done and the meeting will be held in the Large Conference Room. The reason it is not being televised live is because it gives the candidate who goes towards the end a great advantage because they can watch and listen to the questions and they can also hear the answers and go on top of those answers as opposed to not hearing the question beforehand. The plan is not to do it live unless the Council would like it live.

Mayor Franklin asked the Council if they had any concerns about it not being televised live. Seeing none there was a consensus that everyone is okay with the process of televising it the next day.

- City Manager said we usually go dark the second meeting in November due to the Thanksgiving holiday and also we usually go dark the week of December 25th.

ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items

1. Schedule Meetings with Our State and County Elected Officials *(Oct.)*
2. Report on Moving Station 20 back to original firehouse. *(wait for new Battalion Chief)*
3. Discussion on how to handle loans or distributions to charities.
4. Discussion on how the City Council handles donations to the City.

ADJOURNMENT

By common consent the meeting adjourned at 6:54 p.m. in memory of John Machisic who was a Council Member from December 2002 to December 2012 and Mayor from Dec. 2004 to 2006; lost Dorothy Ellis who was an active member of our community to cancer and she was very active in cancer cures and awareness programs and she is credited in bringing the VNA and Hospice Programs to the Pass Area in 1992 and she also started the Pass Relay for Life Program where we were able to raise over \$200,000 dollars the first year; Jerry Trimble who was a former Banning Police Officer; Paul Lesh a former Banning Police Officer with 29 years of service and retired from the City as a Sergeant; Adolfo T. Mediano who worked for approximately 20 years with the City as a Building Inspector; Adelaide Presley who was a former Chair of the Morongo Band of Mission Indians and who was first elected to the Tribal Council in 1962 at the age of 22 and served more than five years on the Tribal Council; and for Troy Ware who is the brother of one of our employees, Kenny Ware, and many of you know him as one of our bus drivers.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

CITY OF BANNING



Cities for
Workforce
Health



HEALTHY EATING
ACTIVE LIVING
CITIES
CAMPAIGN



HEALTHY EATING
ACTIVE LIVING
CITIES
CAMPAIGN

2

ACTIVE CITIES

- * Have already adopted and implemented two policies in at least one campaign area. ACTIVE CITIES join the campaign by adopting a HEAL Cities Campaign Resolution that includes at least two commitments for further policy development. OR by adopting an additional policy in one of the campaign areas they have not yet addressed.
- * City of Banning should meet this designation

HEAL CITIES CAMPAIGN DESIGNATIONS

EAGER CITIES

- * Join the campaign by deciding to focus on a HEAL Cities Campaign area or a policy related to a campaign area.



HEALTHY EATING
ACTIVE LIVING
CITIES
CAMPAIGN

/

29

HEAL CITIES CAMPAIGN DESIGNATIONS

HEAL CITIES CAMPAIGN DESIGNATIONS

FIT CITIES

- * Have already adopted and implemented at least one policy in each of the three campaign areas. FIT CITIES join the campaign by adopting a HEAL Cities Campaign Resolution that includes at least two commitments for further policy development OR by adopting an additional policy in one of the campaign areas



HEALTHY EATING
ACTIVE LIVING
CITIES
CAMPAIGN

3

POLICIES

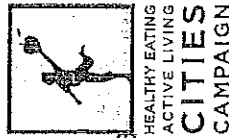
- ✗ Healthy Community
 - + Land use
 - ✗ In development with WRCOG
 - + Healthy Food choices
 - ✗ To be considered
- ✗ Employee Wellness
 - + Policy already established



4

HEALTHY COMMUNITY

- ✗ Joint use MOU with school district intended to maximize recreational and sports opportunities
- ✗ New developments include biking, walkway corridors and parks that promote active living
- ✗ Efforts are being made to establish a local farmers' market



6

EMPLOYEE WELLNESS

- ✗ Policy RM-01 allows for 15 minutes to participate in an exercise or fitness activity
- ✗ Free monthly lunchtime classes on specific health topics have been (continue to be) given to employees by City health care providers
- ✗ Free financial classes have been (continue to be) given to employees by the local credit union



5

CITIES FOR WORKFORCE HEALTH

The League of California Cities, in partnership with Kaiser Permanente, Keenan & Associates, Inc. and the Healthy Eating Active Living Cities Campaign, launched Cities for Workforce Health, an initiative to support California cities in improving the health of its employees.

Cities for
Workforce
Health ⁷

30

CITIES FOR WORKFORCE HEALTH

The *Cities for Workforce Health Initiative* provides much needed resources to cities to help improve employee health, productivity and morale. Online resources are immediately available to League members. A series of webinars and a competitive grant program will be available to HEAL Cities that meet initiative criteria.

- × Webinars
 - × Tools and Resources
 - × Consultations/possible Grants
- Cities for
**Workforce
Health** ⁶

NEXT STEPS

- × Submit resolution to HEAL Cities Campaign
- × Promote HEAL campaign
 - + Community
 - + Employees
- × Utilize resources and pursue grant opportunities

Cities for
**Workforce
Health**



MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/19/2013
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on November 19, 2013 at 1:05 p.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
Zai Abu Bakar, Community Development Director
Marie A. Calderon, City Clerk

PUBLIC COMMENTS

There were none.

CITY COUNCIL CANDIDATE INTERVIEWS

1. Discussion on Process of Council Member Appointment & Interview

Mayor Franklin went over the process of how they will be handling the interviews. Each of the Councilmembers were handed a list of extensive questions and were asked to select two questions from the list that they would like to ask the candidates. The same two questions will be asked of each of the candidates. The Council can ask for elaboration on the questions but cannot switch to another question that is not being asked of each of the candidates. There will be 45 minutes in between each candidate so that they actually have a chance to get the questions asked and not be rushed. She stated that she would ask the first question and then end it with asking each candidate if they had any questions they wanted to ask of the Council. The interview should take roughly 30 minutes. There was Council consensus to the process and at this time each the Councilmembers picked two questions that they would like to ask each of the candidates. She said that was the first part of the process.

Mayor Franklin said the second part will be the Council's discussion. After they interview each person there will be no discussion at that point. Once they finish the interviews the Council will recess and go over to the Council Chambers and that portion of the meeting will be televised live and then the Council will have discussion of the candidates and then it will be open for nominations and voting. There was Council discussion in regards to the nomination and voting process.

City Manager said that if the Council is stuck and cannot agree then he would suggest that the meeting be adjourned to another meeting. The Council would need to make the appointment by December 8th and the City Council meeting is on December 10th so you can still revisit this one more time if needed prior to December 10th.

Councilmember Welch asked for clarification and stated that for whomever we vote for that it would take a majority vote. Mayor Franklin said yes, there needs to be three votes.

After some further discussion Mayor Franklin went over the nominating and voting process that there was a consensus to using.

City Manager said that on the City's website they did put that the voting would go live between 6:15 and 6:30 p.m. because the last candidate is at 5:45 p.m. The candidate portion of the meeting will be available for viewing tomorrow after 10:00 a.m.

Meeting recessed at 1:28 p.m. and reconvened at 1:50 p.m. with the candidate interviews.

The first candidate was Jerry Westholder followed by Lyndon Taylor, George Moyer, Mary Hamlin, Sonia Barandiaran and Diego Rose. The City Councilmembers asked each of the candidates the two questions that they had picked.

Meeting recessed at 5:27 p.m. reconvened at 6:17 p.m.

Mayor Franklin stated that earlier today the Council held the first part of the meeting in the selection of a Council Member. The candidates had been asked to come in and be interviewed and were all asked the same two questions. That portion of the meeting was taped and will be available for anyone to view tomorrow morning after 10:00 a.m. She said that this is a very important decision for the Council and one that they take very seriously and she thanked all the candidates and the public for their interest but especially for those that took the time to apply, as well as, coming in and being interviewed. The Council will now start on the second portion of the meeting and will at this point discuss the candidates, make nominations and have further discussion and vote. If there is tie or no majority, then the Council will go through the process again and hopefully be able to narrow down the choices and if they don't at that time, then the Council will take a break and come back and try the process again. The goal of the Council is to make a selection tonight of the candidate who best represents the city. Speaking on behalf of the Council all of the candidates are qualified and the Council received very good answers to the questions asked and the Council will do the best they can to make sure they pick the best candidate that represents the city as a whole.

Mayor Franklin opened the item to the Council for discussion of candidates. At this time each of the Councilmembers commented on the qualifications of the candidates and what they are looking for in a Council Member to represent the city as a whole and each of them gave the name or names of those that they would like to see on the City Council.

Mayor Franklin called for nominations at this time.

Councilmember Miller nominated Lyndon Taylor.
Councilmember Welch nominated George Moyer
Councilmember Peterson nominated Jerry Westholder.
Mayor Franklin nominated Jerry Westholder.

At this time the City Clerk took a roll call vote of the Council in alphabetical order for their choice of candidate:

Mayor Franklin voted for Westholder
Councilmember Miller voted for Taylor
Councilmember Peterson voted for Westholder
Councilmember Welch voted for Moyer.

Mayor Franklin said that they will now go through this again because right now they do not have a majority.

At this time each of the Councilmembers gave their reasons why the person they nominated should be on the Council and tried to convince the other Councilmember to go with their nomination.

Mayor Franklin said we will try again and hopefully be able get a majority vote for one person.

Councilmember Miller said before voting he wanted to say something. He said that they had an organization meeting today from 1 to 2 p.m. before meeting with the candidates and he said that they should have 37 votes before they declare an impasse and go to a general election. We cannot afford a general election and we can afford 37 votes but by listening to everyone it is obvious that no one is going to change their mind and we have two members who are firmly committed to Mr. Westholder who is certainly an excellent candidate, as all the candidates are. Councilmember Miller said that he is firmly committed to Mr. Taylor as being the best but that is just his opinion. His feeling is instead of having 37 votes we might as well stop it now and since we have two members who are firmly committed to Mr. Westholder, he intends to change his vote to Mr. Westholder.

Councilmember Welch said he would also like to reflect on what Councilmember Miller just said. He is firmly convinced that George Moyer or Jerry Westholder will do an excellent job for the city of Banning. His hope would be that the person who comes up short on the vote doesn't walk away after they made comments on their interview today because all six of these people are very, very important to the continuing future and growth of our city and we have some real needs in positions of responsibility and recommendations to this Council. So to make it a unanimous vote this evening and with due respect to George Moyer and applauding Jerry Westholder, he will also vote for Jerry Westholder.

At this time the City Clerk took a roll call vote of the Council in alphabetical order for their choice of candidate:

Mayor Franklin voted for Westholder
Councilmember Miller voted for Westholder
Councilmember Peterson voted for Westholder
Councilmember Welch voted for Westholder

Mayor Franklin congratulated Jerry Westholder on his appointment and stated that the swearing in will be held on December 10, 2013. She thanked all of the candidates and all of the public who paid attention to what happened but knowing that people took a chance on filling out the application, on being interviewed and then sitting through the Council's discussion is not an easy process. In echoing what Councilmember Welch said for the other five candidates, don't give up, we do have other areas that she is sure everybody will be able to play a part in our city and if we all work together we will be prosperous here in the city.

ADJOURNMENT

By common consent the meeting adjourned at 7:04 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.

ORDINANCE NO. 1470

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA APPROVING
ZONING TEXT AMENDMENT NO. 13-97504
AMENDING A SECTION OF THE ZONING
ORDINANCE PERTAINING TO WALLS AND
FENCES IN THE BUSINESS PARK ZONING
DISTRICT

WHEREAS, commercial development is a critical component for growth in most communities, as the sale of goods and services can generate significant sales tax revenue and employment opportunities; and

WHEREAS, the City of Banning ("City") recognizes that zoning regulations may have an indirect effect on commercial and development by adding additional regulations and time to review project applications; and

WHEREAS, it is a goal of the Land Use element of the City's General Plan to provide for complimentary commercial uses; specifically the Commercial Goal states that provision for "Complementary commercial uses which meet the needs of the City's residents, increase the City's revenues, and provide a range of employment opportunities" shall be provided; and, more specifically Policy 3 states that "*the Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality commercial projects*"; and

WHEREAS, the Planning Commission requested that the Zoning Ordinance regulating Business Park development be amended to allow, not just decorative block walls, but other types of walls and fencing, for example wrought iron fencing, in accordance with the development guidelines of the Zoning Ordinance; and

WHEREAS, the City Council desires to respond to the concerns of its citizens including the Planning Commission regarding improving the development guidelines of the Zoning Ordinance to encourage commercial development projects and believes that it is in the best interest of its citizens to amend the Zoning Ordinance to facilitate said development; and

WHEREAS, the City of Banning is proposing to amend the Zoning Ordinance specifically pertaining to the placement of decorative block walls in the Business Park zoning district; and

WHEREAS, the City Council has authority per Chapter 17.116 of the Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, the Planning Commission at its regularly scheduled meeting held October 2, 2013, recommended adoption of Ordinance No. 1470 amending the Zoning Ordinance at various places by approving Planning Commission Resolution No. 2013-13 as stated in writing; and

WHEREAS, on the 1st day of November, 2013, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Zoning Ordinance would be considered; and

WHEREAS, on the 12th day of November, 2013, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed amendment, and at which time the City Council considered Zone Text Amendment No. 13-97504; and

WHEREAS, at this public hearing on the 12th day of November, 2013, the City Council considered and heard public comments on the proposed Zone Text Amendment; and

WHEREAS, at this public hearing, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 12th day of November, 2013;

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the staff report dated November 12, 2013, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no

possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. Multiple Species Habitat Conservation Plan (MSHCP).

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS.

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the City Council. The following findings are provided for consideration:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use element Goal is *"A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents"*. By amending the Zoning Ordinance specifically pertaining to the placement of walls and fences in the Business Park zoning district, it is anticipated that the proposed amendment will encourage development within the district that will ultimately enhance the quality of life for Banning residents who may utilize the commercial services provided by these developments.

Furthermore, it is a goal of the Land Use element of the City's General Plan to provide for complimentary commercial uses; specifically the Commercial Goal states that provision for *"Complementary commercial uses which meet the needs of the City's residents, increase the City's revenues, and provide a range of employment opportunities"* shall be provided; and, more specifically Policy 3 states that *"the*

Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality commercial projects". It is anticipated that allowing other than solid block walls in the Business Park zoning district, will encourage and facilitate small business development that increases tax revenue for the City through the sale of additional goods and services as well as employment opportunities.

2. The proposed Zone Text Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The proposed amendments will amend the existing Zoning Ordinance pertaining to business development within the present limits and development standards established by the Zoning Ordinance. Staff has reviewed and compared the proposed changes and finds no conflicting statements or inconsistencies in the Zoning Ordinance.

3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. Amend paragraph 3 of the Use specific standards of Section 17.12.050(E) *Business Park Development on Ramsey Street* as follows:

3. Walls and fences may be provided in the front, sides and rear yards. Wall, fences, and gates that are to be used for screening purposes shall be decorative solid block walls, or stucco block walls, or wrought iron (open fencing shall be backed by solid or perforated metal colored to match the fence or gate) or a combination of decorative block wall and wrought iron grill work. Colors and materials for the

walls and fences shall be compatible with the building architecture. The wall shall be located at the interior boundary of the landscaped setback if required in #2, above.

SECTION 4. Amend paragraph 2 of the Use specific standards of Section 17.12.050(F) *Business Park Development Not on Ramsey Street* as follows:

2. Walls and fences may be provided in the front, sides and rear yards. Wall, fences, and gates that are to be used for screening purposes shall be decorative solid block walls, or stucco block walls, or wrought iron (open fencing shall be backed by solid or perforated metal colored to the match the fence or gate) or a combination of decorative block wall and wrought iron grill work. Colors and materials for the walls and fences shall be compatible with the building architecture. The wall shall be located at the interior boundary of the landscaped setback if required in #1, above.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 6. PUBLICATION; EFFECTIVE DATE.

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

PASSED, APPROVED, AND ADOPTED this 10th day of December, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1470 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of November, 2013, and was duly adopted at a regular meeting of said City Council on the 10th day of December, 2013, by the following vote, to wit:

AYES:

NOES:

ABSEN:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California

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CITY COUNCIL AGENDA

Date: December 10, 2013
To: City Council
From: Tim Chavez, Fire Services Battalion Chief
Subject: Resolution 2013-106 authorizing expenditure of funds obtained from American Medical Response Fine Money Distribution (April 2012 – March 2013).

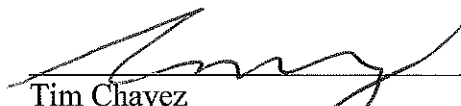
RECOMMENDATION: That the City Council adopt Resolution No. 2013-106, authorizing the expenditure of \$13,030.64 received from American Medical Response (AMR).

DISCUSSION: The Emergency Medical Service Agreement with AMR requires a specific response time to each event. When the timelines are not met, penalty fees are obtained through late ambulance response times. The fees collected must be spent on medical and/or rescue equipment

The fire department uses various types equipment in the rescue and treatment of people involved in medical and fire emergencies. Most of this equipment is reaching it useful life expectancy and is in need of replacement.

FISCAL DATA: Because it is unknown whether the City will receive penalty fees each year, budget is not assumed and established in the normal budget process. Council approval is requested to appropriate the funds to replace aging and/or broken EMS/Rescue equipment in the amount \$13,030.64 received from AMR in FY 2012-2013.

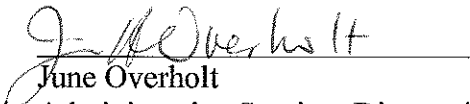
RECOMMENDED BY:


Tim Chavez
Fire Services, Battalion Chief

APPROVED BY:


Andy Takata
City Manager

REVIEWED BY:


June Overholt
Administrative Services Director/
Deputy City Manager

RESOLUTION NO. 2013-106

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING THE EXPENDITURE OF LATE AMBULANCE PENALTY FEES FOR
THE PURCHASE OF EMERGENCY MEDICAL AND RESCUE EQUIPMENT.**

WHEREAS, as set forth in the Emergency Medical Service Agreement (EMSA) penalty fees are assessed for late ambulance response times, and

WHEREAS, for the 2012–2013 reporting period, the City of Banning has recovered \$13,030.64 in late ambulance response penalty fees, and

WHEREAS, the recovered penalty fees are utilized to purchase Emergency Medical and Rescue Equipment to upgrade and enhance the Emergency Medical Service capabilities of the Fire Department to protect the citizens of Banning;

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning hereby authorize the expenditure of \$13,030.64 for the purchase of medical and rescue related equipment and authorize the City Finance Department to make the appropriate budget adjustments.

PASSED, APPROVED, AND ADOPTED this 10th day of December 2013.

Deborah Franklin,
Mayor

ATTEST:

Marie A. Calderon,
City Clerk of the City of Banning

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-106 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of December, 2013.

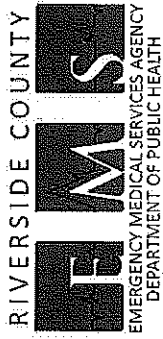
AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning



AMR Fine Money Distribution 2012-2013 - Allocations

CITY TO RECEIVE	AMOUNT DUE	PHONE	CONTACT PERSON	ATTN:	ADDRESS
City of Moreno Valley	\$51,712.14	(951) 413-3076	Nancy Williams	Finance Department	PO BOX 88005, Moreno Valley, CA 92552-0805
City of Perris	\$25,432.20	(951) 943-4610 x267	S. Blackman	Finance Department	101 North D Street, Perris, CA 92570
City of Palm Springs	\$28,283.13	(760) 323-8181	Fire Chief	Fire Department	300 North Cielo Road, Palm Springs, CA 92262
City of La Quinta	\$10,007.88	(760) 777-7012	Tom Hartung	Building & Safety Department	PO BOX 78-495 Calle Tampico, La Quinta, CA 92253
City of Desert Hot Springs	\$20,015.75	(760) 329-6411	Glenn White	Finance Department	66950 Pierson Blvd., Desert Hot Springs, CA 92240
City of Coachella	\$7,832.25	(760) 398-3502	Bill Pattison	Accounts Receivable	1515 Sixth Street, Coachella, CA 92236
City of Corona	\$25,836.00	(951) 736-2317	NA	Finance Department	PO BOX 940, Corona CA 92878
City of Norco	\$4,521.30	(951) 737-8097	Andy Okoro	Finance Department	2870 Clark Avenue, Norco, CA 92860-1903
City of Calimesa	\$3,295.11	(909) 795-9801 x249	Teresa Simmons	Finance Department	908 Park Avenue, Calimesa, CA 92320
City of Banning	\$13,030.64	(951) 922-3110	Joyce Phillips	Accounts Receivable	PO BOX 998, Banning, CA 92220
City of Beaumont	\$10,035.09	(951) 769-8520	Shaina Harwood	Finance Department	550 East 6th Street, Beaumont, CA 92223
City of Hemet	\$26,078.36	(951) 765-2342	Rita Conrad	Accounts Receivable	445 East Florida, Hemet, CA 92543-2342
City of San Jacinto	\$10,245.07	(951) 654-7337	NA	Finance Department	PO BOX 288, San Jacinto, CA 92581
City of Temecula	\$25,025.10	(951) 694-6430	NA	Finance Department	PO BOX 9033, Temecula, CA 92589-9033
City of Lake Elsinore	\$17,726.11	(951) 674-3124 x214	Grant Yates	Finance Department	130 S. Main St., Lake Elsinore, CA 92530
City of Murrieta	\$18,247.47	(951) 461-6431	Kim Lytle	Finance Department	1 Town Square, 24601 Jefferson Av., Murrieta, CA 92562
City of Wildomar	\$7,820.34	(951) 677-7751	Misty V. Cheng	Finance Department	23873 Clinton Keith Rd, #201, Wildomar, CA 92595
City of Menifee	\$21,896.96	(951) 672-6777	Terri Willoughby	Finance Department	29714 Haun Road, Menifee, CA 92586
City of Canyon Lake	\$2,085.43	(951) 244-2955	Nancy	Finance Department	31516 Railroad Canyon Road, Canyon Lake, CA 92587
City of Eastvale	\$5,167.20	(951) 361-0900 x1210	Anna Montoya	Finance Department	12363 Limonite Ave. Suite 910, Eastvale, CA 91752
City of Jurupa Valley	\$19,377.00	951-332-6464	Alan Kreimeier	Finance Department	8304 Limonite Avenue Suite "M", Jurupa Valley, CA 92509
Riverside County Fire	\$67,538.98	(951) 940-6979	Lori Williams	Administration	210 W. San Jacinto Avenue, Perris, CA 92570

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CITY COUNCIL AGENDA

Date: December 10, 2013

TO: City Council

FROM: Kahono Oei, City Engineer

SUBJECT: Resolution No. 2013-100, "Approving the Projects for Fiscal Year 2014-2015 Community Development Block Grant (CDBG) Program"

RECOMMENDATION: Resolution No. 2013-100, "Approving the Projects for Fiscal Year 2014-2015 Community Development Block Grant (CDBG) Program," and authorize staff to submit said applications to the Riverside County Economic Development Agency.

JUSTIFICATION: The approval of this resolution is essential in order to utilize federal grant funds available through the Community Development Block Grant (CDBG) Fiscal Year 2014-2015 program.

BACKGROUND: The City of Banning, through the Riverside County Economic Development Agency, has been submitting various projects annually for funding under the CDBG program.

Requests for applications were announced by the Public Works Department on September 23, 2013, to City Departments and non-profit organizations that serve the community within the City of Banning. Additionally, a press release was published in the Press Enterprise on September 24, 2013, notifying the public of application availability, as shown in Exhibit "A."

As part of the CDBG guidelines, the proposed projects/activities must meet the following criteria:

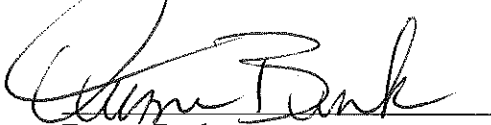
1. The project or activity must primarily benefit the low and moderate-income community.
2. The project or activity must aid in the prevention or elimination of slums and blight areas.
3. The project or activity must be designed to meet the Community's development needs and have a particular urgency.

On October 22, 2013, at its regular meeting, the City Council appointed a committee to review the applications. On October 23, 2013, the applications were given to the committee and the recommendations are as shown in Exhibit "B." All project applications are available for public review at the City Clerk's office.

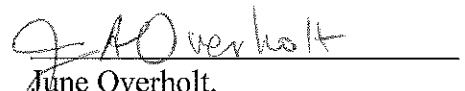
As set forth in the guidelines for utilization of the Community Development Block Grant funding, the City Council may allocate up to 15% of the total allocation to service oriented non-profit agencies.

FISCAL DATA: The estimated funding under the CDBG Fiscal Year 2014-2015 program is approximately \$133,000.00. Upon approval of the City Council, the projects will be submitted to the Riverside County Economic Development Agency, and it is anticipated that final funding approval will be conveyed to the City by August of 2014.

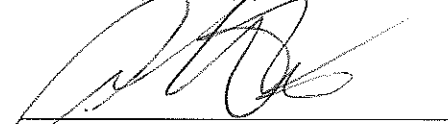
RECOMMENDED BY:


Duane Burk,
Director of Public Works

REVIEWED BY:


June Overholt,
Administrative Services Director/
Assistant City Manager

APPROVED BY:


Andy Takata,
City Manager

RESOLUTION NO. 2013-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PROJECTS FOR THE FISCAL YEAR 2014-2015 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

WHEREAS, the City of Banning has been submitting the applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Economic Development Agency annually; and

WHEREAS, on September 23, 2013, the City of Banning announced that applications were available to eligible organizations that serve the community within the City of Banning and a press release was published in the Press Enterprise on September 24, 2013, as shown in Exhibit "A"; and

WHEREAS, on October 22, 2013, at its regular meeting, the City Council appointed a committee to review the applications and on October 23, 2013, the applications were given to the committee and the recommendations are listed as shown in Exhibit "B" and;

WHEREAS, the projects/activities submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is essential that the projects/activities be approved by the City Council through resolution in order for the City and its citizens to utilize the federally-funded CDBG grant funds.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. Resolution No. 2013-100, approving the projects/activities submitted for funding under the Community Development Block Grant Program for Fiscal Year 2014-15, as listed in Exhibit "B" is hereby adopted.

SECTION 2. Staff is authorized to submit CDBG applications to the Riverside County Economic Development Agency for approval by their Board.

PASSED, ADOPTED AND APPROVED this 10th day of December, 2013.

Deborah Franklin, Mayor
City of Banning

(SIGNATURES ON NEXT PAGE)

ATTEST:

Marie A. Calderon
City Clerk of the City of Banning

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-100, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of December, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning
Banning, California

EXHIBIT “A”

**PRESS RELEASE NOTIFYING THE PUBLIC OF
APPLICATION AVAILABILITY**



Game night highlights and scores
Download the free HS GameTime app

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BANNING: Community grant applications due Sept. 30

A Text Size

BY GAIL WESSON | STAFF WRITER | September 24, 2013; 10:40 AM | [Comments \(\)](#)

Public service organizations may apply for a share of federal Community Development Block Grant funds by a Monday, Sept. 30, deadline for money that will be awarded to the city of Banning in the future.

After the deadline, the Banning City Council will recommend a package of projects for the 2014-15 fiscal year. The city is a partner in the application process administered by the Riverside County Economic Development Agency.

Eligible public services include child care, health care, job training, services for the homeless, recreation programs, services for seniors and public safety services.

Past recipients in the city have included the Boys & Girls Clubs of the San Geronio Pass, San Geronio Childcare Consortium and Court Appointed Special Advocates. For example, in the 2011-12 year, almost \$16,000 was distributed to community nonprofits. Most of the city's share goes to capital projects.

EXHIBIT “B”
AD-HOC COMMITTEE RECOMMENDATION

**Requested Projects for FY 2014-2015
Community Development Block Grant (CDBG) Program
SERVICE RELATED PROJECTS**

NO.	AGENCY	DESCRIPTION	FY 2014-15 REQUESTED	AD-HOC RECOMMENDATI ON
1.	Boys and Girls Club	Teen – Town (Youth Development Services)	\$20,000.00	\$ 5,000.00
2.	Habitat for Humanity of the San Geronio Pass	House Rehabilitation	\$35,242.00	\$ 10,000.00
	Total		\$55,242.00	\$15,000.00

**Requested Project for FY 2014-2015
Community Development Block Grant (CDBG) Program
CITY PROJECTS**

NO.	PROJECT NAME	DESCRIPTION	FY 2014-2015 REQUESTED	AD-HOC RECOMMENDATION
1.	Design and Reconstruction of Playground Equipment at Various Locations	Reconstruction of playground equipment at: <ol style="list-style-type: none"> 1. Repplier Park 2. Sylvan Park 3. Roosevelt Williams Park 4. Lions Park 5. Richard Sanchez Park 	\$118,000.00	\$ 118,000.00
	Total		\$118,000.00	\$ 118,000.00

CITY COUNCIL AGENDA

DATE: December 10, 2013

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2013-110, "Accepting Community Development Block Grant Program Funds for Fiscal Year 2013-2014"

RECOMMENDATION: Adopt Resolution No. 2013-110, "Accepting Community Development Block Grant Program Funds for Fiscal Year 2013-2014".

JUSTIFICATION: This Supplemental Agreement is essential in order for the City to obtain and utilize funds for Community Development Block Grant projects to assist the City with meeting Strategic Plan Goal #1 – Fiscal Stability Strategic Priority Action Step N-1 - Submittal of Grant Applications.

BACKGROUND: On an annual basis, the City of Banning has participated in the federally funded Community Development Block Grant (CDBG) program. On November 13, 2012 the City Council adopted Resolution No. 2012-84, approving the projects as shown in Exhibit "A" for funding by the CDBG program, Fiscal Year 2013-2014. The City submitted these projects and requested funding in the amount of \$140,000.00 to the Riverside County Economic Development Agency (EDA). On November 21, 2013, the Parks and Recreation Commission desired to change the City's application submission from Repplier Park to Lions Park. This change was approved by City Council on January 8, 2013 with Resolution No. 2013-07. CDBG funds have been approved in the amount of \$133,380.00 for all projects submitted.

In order to utilize these funds for Fiscal Year 2013-2014, the City is required to execute a Supplemental Agreement. The approval letter and proposed Supplemental Agreement are attached herein as Exhibit "B". A copy of the Supplemental Agreement will also be available at the City Clerk's Office for review by the public.

FISCAL DATA: These projects are funded through Community Development Block Grant (CDBG) program funds, Fiscal Year 2013-2014, and the City anticipates receiving \$133,380.00.

RECOMMENDED BY:

Duane Burk
Director of Public Works

REVIEWED BY:

June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:

Andrew J. Takata
City Manager

RESOLUTION NO. 2013-110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ACCEPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS FOR FISCAL YEAR 2013-2014"

WHEREAS, on an annual basis, the City of Banning has participated in the federally funded Community Development Block Grant (CDBG) program; and

WHEREAS, the proposed projects for Fiscal Year 2013-2014 were approved by the City Council under Resolution No. 2012-84 on November 13, 2012; and

WHEREAS, the City submitted these projects and requested funding in the amount of \$140,000.00 to the Riverside County Economic Development Agency (EDA) and was approved in an amount of \$133,380.00; and

WHEREAS, in order to utilize Community Development Grant Funds, the City Council is required to execute the Supplemental Agreement, as attached herein, for FY 2013-2014.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning as follows:

SECTION 1. The City Council of the City of Banning hereby approves the acceptance of Fiscal Year 2013-2014 Community Development Block Grant program funds.

SECTION 2. The City Council of the City of Banning authorizes the Mayor to execute any Supplemental Agreement for Fiscal Year 2013-2014 covering the use of Community Development Block Grant funds allocated by the Riverside County Economic Development Agency.

SECTION 3. The City Council of the City of Banning authorizes the Administrative Services Director to make necessary budget adjustments and appropriations related to Fiscal Year 2013-2014 Community Development Block Grant program funds in an amount "Not to Exceed" \$133,380.00.

PASSED, APPROVED AND ADOPTED this 10th day of December, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-110, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 10th day of December, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon
City Clerk of the City of Banning

EXHIBIT "A"

RESOLUTION NO. 2012-84

RESOLUTION NO. 2012-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PROJECTS FOR THE FISCAL YEAR 2013-2014 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM

WHEREAS, the City of Banning has been submitting applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Economic Development Agency annually; and

WHEREAS, on September 24, 2012, the City of Banning mailed out requests for applications to the eligible organizations that serve the Community within the City of Banning and a press release was published in the Record Gazette on October 5, 2012 as shown in Exhibit "A"; and

WHEREAS, on October 27, 2012 at its regular meeting, the City Council appointed a committee to review the applications and on October 29, 2012 the applications were given to the committee and the recommendations as shown as Exhibit "B" and;

WHEREAS, the projects/activities submitted herein meet the CDBG program guidelines and/or requirements; and


WHEREAS, it is essential that the projects/activities be approved by the City Council through resolution in order for the City and its citizens to utilize the federally funded CDBG grant funds.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. Resolution No. 2012-84, approving the project/activities submitted for funding under the Community Development Block Grant programs for Fiscal Year 2013-2014 as listed in Exhibit "B" is hereby adopted.

SECTION 2. Staff is authorized to submit Fiscal Year 2013-2014 Community Development Block Grant program applications to Riverside Economic Development Agency for approval by their Board.


PASSED, ADOPTED AND APPROVED this 13th day of November, 2012.


Don Robinson, Mayor
City of Banning

ATTEST:


Marie A. Calderon, City Clerk

**APPROVED AS TO FORM
AND LEGAL CONTENT:**


David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2012-84, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 13th day of November, 2012 by the following vote, to wit:

AYES: Councilmembers Botts, Hanna, Machisic, Mayor Robinson

NOES: None

ABSTAIN: Councilmember Franklin

ABSENT: None

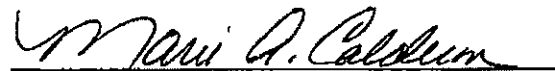

Marie A. Calderon, City Clerk
City of Banning, California

EXHIBIT “B”

**APPROVAL LETTER
AND PROPOSED SUPPLEMENTAL AGREEMENT**



CITY OF BANNING

October 15, 2013

OCT 22 2013

PUBLIC WORK DEPT

Mr. Kahono Oei, City Engineer
City of Banning
P.O. Box 998
Banning, CA 92220

RE: SUPPLEMENTAL AGREEMENT FOR THE 2013-2014
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
PROGRAM YEAR

Dear Mr. Oei:

Enclosed please find two (2) copies of the above referenced Supplemental Agreement for your city's 2013-2014 CDBG program year. This agreement covers the following activities:

5.BN.28-13	Lions Park Improvement Project	\$114,700
0.112-13	Teen Town Program	\$9,340
0.113-13	S.G. Childcare Program	\$9,340

Please make note of the insurance requirements found in Section 8 of the Agreement.

Upon review of the agreement, please have all copies executed and returned to this office, together with the following documentation:

1. Your City Council's approval of the Agreement and authorization to execute;
2. Evidence of Workmen's Compensation Insurance pursuant to *Section 8 A* of the Supplemental Agreement; and
3. Original Certificates of Insurance and certified copies of endorsements pursuant to *Section 8 D (3)* of the Supplemental Agreement.

The executed agreements must be returned to this office no later than forty-five (45) days from the date of this letter.

A fully-executed Supplemental Agreement will be forwarded to you as well as the authorization to incur costs. Please be advised that this is not a notice to proceed. The County will not reimburse the City of for any expenditure prior to the issuance of the *Authorization to Incur Costs*. **Furthermore, the County will not issue the Notice to Proceed until the appropriate city representative has completed the online CDBG subrecipient training. The training tutorial can be accessed at <http://www.rivcoeda.org>.**

1000 1000 Riverside California 92220 951-738-8916 Fax 951-738-8916

www.rivcoeda.org

Administration
Aviation
Business Intelligence
Cultural Services
Community Services
Custodial

Housing
Housing Authority
Information Technology
Maintenance
Marketing

Economic Development
Edward-Dean Museum
Environmental Planning
Fair & National Date Festival
Foreign Trade
Graffiti Abatement

Parking
Project Management
Purchasing Group
Real Property
Redevelopment Agency
Workforce Development

61

Should you have any questions, please contact Melissa Valdivia at (951) 955-8916.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sterlon Sims', with a large, stylized flourish at the end.

Sterlon Sims
CDBG/ESG Program Manager

**SUPPLEMENTAL AGREEMENT FOR THE USE OF
2013-2014 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

The COUNTY OF RIVERSIDE of the State of California, herein called, "COUNTY," and the CITY OF BANNING, herein called "CITY," mutually agree as follows:

1. GENERAL. COUNTY and CITY have executed a Cooperation Agreement, dated July 2011, whereby CITY elected to participate with COUNTY, which has qualified as an "Urban County" for purposes of receiving Community Development Block Grant (CDBG) funds, and to assist and undertake essential community development and housing assistance activities pursuant to the Housing and Community Development Act of 1974, Title 1, as amended, Public Law 93-383 hereinafter referred to as "Act". Said Cooperation Agreement, dated July 2011, is incorporated herein by reference and made a part of this Agreement as if each and every provision was set forth herein.

2. PURPOSE. CITY promises and agrees to undertake and assist with the community development activities, within its jurisdiction, by utilizing the sum of \$133,380, CDBG Entitlement Funds, as specifically identified in Exhibits A, B, and C are attached hereto and by this reference are incorporated herein, for the projects:

A.	5.BN.28-13	Lions Park Improvement Project	\$114,700
B.	0.112-13	Teen Town Program	\$ 9,340
C.	0.113-13	S.G. Childcare Program	\$ 9,340

3. TERM OF AGREEMENT. The term of this Agreement for the projects shall be for a period of one (1) year from July 1, 2013, to June 30, 2014, and proceed consistent with the completion schedule set forth in Exhibits A, B, and C. In the event that the projects are not substantially completed by the time set forth in the completion schedule due to unforeseen or uncontrollable causes, the COUNTY may consider extending the schedule for the completion of the project. Times of performance for other activities may also be extended in writing by

1 COUNTY. If substantial progress toward completion in conformance with the completion
2 schedule, as determined by COUNTY, of the projects are not made during the term of the
3 Supplemental Agreement, COUNTY may suspend or terminate this agreement by the
4 procedures set forth in the Section titled "Termination", of this agreement and the entitlement
5 funds associated with the projects may be reprogrammed by COUNTY after appropriate notice
6 is given.

7 4. DISPOSITION OF FUNDS.

8 A. COUNTY's Board of Supervisors shall determine the final disposition and
9 distribution of all funds received by COUNTY under the Act consistent with the provisions of
10 Paragraphs 2 and 3 of this Agreement. COUNTY, through its Economic Development Agency,
11 shall: (1) Make payment of the grant funds to CITY as designated in Exhibits A, B, and C; and
12 (2) It is the CITY's responsibility to monitor all project activities of Exhibits A, B, and C to
13 ensure compliance with applicable federal regulations and the terms of this Agreement.

14 B. CITY shall comply with timely drawdown of CDBG funds by
15 expeditiously implementing and completing County-approved, CDBG-funded projects. CITY
16 acknowledges that CITY's drawdown performance directly impacts the COUNTY's overall
17 program drawdown rate. If the CITY's unobligated CDBG fund balance, as of January 15, 2014,
18 exceeds two-times (200%) the CITY's 2013-2014 CDBG allocation, the COUNTY may take the
19 necessary administrative actions to reduce the CITY's CDBG fund balance. Necessary actions
20 include reprogramming the excess CDBG fund balance to other eligible activities as selected by
21 COUNTY. COUNTY may authorize CITY in writing, prior to January 15, 2014, to exceed the
22 CDBG fund balance requirement.

23 C. CITY shall comply with timely drawdown of funds by submitting monthly
24 requests for reimbursement or other County-approved reimbursement schedule. All
25 disbursements of grant funds will be on a reimbursement basis and made within thirty (30) days
26 after the CITY has submitted its letter identifying payments and documentation supporting
27 expenditures.
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1 D. All authorized obligations incurred in the performance of the Agreement
2 for projects eligible under the following regulations must be reported to COUNTY no later than
3 by June 15, 2013:

- 4 1. Public Services [24 CFR 570.201 (e)]
- 5 2. Acquisition [24 CFR 570.201 (a)]
- 6 3. Clearance Activities [24 CFR 570.201 (d)]
- 7 4. Interim Assistance [24 CFR 570.201 (f)]
- 8 5. Code Enforcement [24 CFR 570.202 (c)]

9 All other eligible activities under this Agreement must be implemented, completed, and
10 obligations reported by the CITY no later than the completion schedules set forth in the Exhibits
11 to this Agreement.

12 The COUNTY will directly manage and monitor projects identified in Exhibits B and C.
13 These projects have been determined to be of Countywide benefit, receiving grant funding from
14 multiple sources; therefore, these projects will be managed and monitored by the COUNTY.

15 5. COOPERATION WITH HOUSING ACTIVITIES. CITY shall cooperate with
16 COUNTY in undertaking essential community development and housing assistance activities,
17 specifically urban renewal and public assistance housing, and shall assist COUNTY in carrying
18 out its Strategic Plan of the Consolidated Plan and other requirements of the Community
19 Development Block Grant Program.

20 6. LEAD AGENCY FOR COMPLIANCE WITH THE CALIFORNIA
21 ENVIRONMENTAL QUALITY ACT (CEQA). Pursuant to Section 15051(d) of Title 14 of the
22 California Administrative Code, CITY is designated as the lead agency for the projects that are
23 the subject matter of this Agreement.

24 7. HOLD HARMLESS AND INDEMNIFICATION. In contemplation of the
25 provisions of Section 895.2 of the California Government Code imposing certain tort liability
26 jointly upon public entities solely by reason of such entities being parties to an agreement as
27 defined by Section 895 of the Code, the Parties hereto, pursuant to the authorization contained in
28

1 Section 895.4 and 895.6 of the Code, agree that each Party shall be liable for any damages
2 including, but not limited to, claims, demands, losses, liabilities, costs and expenses including
3 reasonable attorneys fees, resulting from the negligent or wrongful acts or omissions of their
4 employees or agents in the performance of this Agreement, and each Party shall indemnify,
5 defend and hold harmless the other Parties from such claims, demands, damages, losses or
6 liabilities for their negligence

7 8. INSURANCE. Without limiting or diminishing the CITY'S obligation to
8 indemnify or hold the COUNTY harmless, CITY shall procure and maintain or cause to be
9 maintained, at its sole cost and expense, the following insurance coverage's during the term of
10 this Agreement.

11 A. Workers' Compensation:

12 If the CITY has employees as defined by the State of California, the CITY shall maintain
13 statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State
14 of California. Policy shall include Employers' Liability (Coverage B) including Occupational
15 Disease with limits not less than \$1,000,000 per person per accident. The policy shall be
16 endorsed to waive subrogation in favor of The County of Riverside, and, if applicable, to provide
17 a Borrowed Servant/Alternate Employer Endorsement.

18 B. Commercial General Liability:

19 Commercial General Liability insurance coverage, including but not limited to, premises
20 liability, contractual liability, products and completed operations liability, personal and
21 advertising injury, and cross liability coverage, covering claims which may arise from or out of
22 CITY'S performance of its obligations hereunder. Policy shall name the County of Riverside, its
23 Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board
24 of Supervisors, employees, elected or appointed officials, agents or representatives as Additional
25 Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined
26 single limit. If such insurance contains a general aggregate limit, it shall apply separately to this
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1 agreement or be no less than two (2) times the occurrence limit.

2 C. Vehicle Liability:

3 If vehicles or mobile equipment are used in the performance of the obligations under this
4 Agreement, then CITY shall maintain liability insurance for all owned, non-owned or hired
5 vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If
6 such insurance contains a general aggregate limit, it shall apply separately to this agreement or
7 be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, its
8 Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board
9 of Supervisors, employees, elected or appointed officials, agents or representatives as Additional
10 Insureds.

11 D. General Insurance Provisions - All lines:

12 1) Any insurance carrier providing insurance coverage hereunder
13 shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII
14 (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the
15 County's Risk Manager waives a requirement for a particular insurer such waiver is only valid
16 for that specific insurer and only for one policy term.

17 2) The CITY'S insurance carrier(s) must declare its insurance self-
18 insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such
19 retentions shall have the prior written consent of the County Risk Manager before the
20 commencement of operations under this Agreement. Upon notification of self insured retention
21 unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CITY 'S
22 carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement
23 with the COUNTY, or 2) procure a bond which guarantees payment of losses and related
24 investigations, claims administration, and defense costs and expenses.

25 3) CITY shall cause CITY'S insurance carrier(s) to furnish the
26 County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and
27 certified original copies of Endorsements effecting coverage as required herein, and 2) if
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1 requested to do so orally or in writing by the County Risk Manager, provide original Certified
2 copies of policies including all Endorsements and all attachments thereto, showing such
3 insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall
4 contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given
5 to the County of Riverside prior to any material modification, cancellation, expiration or
6 reduction in coverage of such insurance. In the event of a material modification, cancellation,
7 expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County
8 of Riverside receives, prior to such effective date, another properly executed original Certificate
9 of Insurance and original copies of endorsements or certified original policies, including all
10 endorsements and attachments thereto evidencing coverage's set forth herein and the insurance
11 required herein is in full force and effect. *CITY shall not commence operations until the*
12 *COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of*
13 *endorsements and if requested, certified original policies of insurance including all*
14 *endorsements and any and all other attachments as required in this Section.* An individual
15 authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for
16 each policy and the Certificate of Insurance.

17 4) It is understood and agreed to by the parties hereto that the CITY'S
18 insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or
19 deductibles and/or self-insured retention's or self-insured programs shall not be construed as
20 contributory.

21 5) If, during the term of this Agreement or any extension thereof,
22 there is a material change in the scope of services; or, there is a material change in the equipment
23 to be used in the performance of the scope of work which will add additional exposures (such as
24 the use of aircraft, watercraft, cranes, etc.); or, the term of this Agreement, including any
25 extensions thereof, exceeds five (5) years the COUNTY reserves the right to adjust the types of
26 insurance required under this Agreement and the monetary limits of liability for the insurance
27 coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the
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1 amount or type of insurance carried by the CITY has become inadequate.

2 6) CITY shall pass down the insurance obligations contained herein
3 to all tiers of subcontractors working under this Agreement.

4 7) The insurance requirements contained in this Agreement may be
5 met with a program(s) of self-insurance acceptable to the COUNTY.

6 8) CITY agrees to notify COUNTY of any claim by a third party or
7 any incident or event that may give rise to a claim arising from the performance of this
8 Agreement.

9 9. RECORDS AND INSPECTIONS.

10 A. CITY shall establish and maintain records in accordance with 24 CFR Part
11 570, Part 85, OMB Circular A-87, A-133 and 24 CFR 91.105, as applicable, and as they relate to
12 the acceptance and use of federal funds under this Agreement.

13 B. CITY shall obtain an external audit in accordance with the U.S.
14 Department of Housing and Urban Development single audit regulations (24 CFR Part 44.6).
15 Audits shall usually be performed annually but not less frequently than every two years.
16 Nonprofit institutions and government agencies that expend less than \$500,000 a year in
17 Federal awards are exempt from Federal audit requirements, but records must be available for
18 review by appropriate officials of the Federal grantor agency or subgranting entity. The audit
19 report shall be submitted to the COUNTY within 180 days after the end of the COUNTY'S
20 fiscal year.

21 C. CITY shall maintain a separate account for CDBG Entitlement funds
22 received as set forth in Exhibits (A, B, and C).

23 D. CITY shall, during the normal business hours, make available to
24 COUNTY, the U.S. Department of Housing and Urban Development (HUD), or other authorized
25 representative, for the examination and copying, all of its records and other materials with
26 respect to matters covered by this Agreement.

27 E. CITY shall not retain any program income as defined in Section 570.500
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1 of Title 24 of the Federal Code of Regulations. Said program income shall be used only for the
2 activities that are the subject of this Agreement. Further, all provisions of this Agreement shall
3 apply to such activities.

4 F. The CITY shall ensure that at least fifty-one percent (51%) of the persons
5 benefiting from all CDBG-funded activities or projects designated as serving limited clientele
6 [570.208(a)(2)(i)] are of low and moderate-income and meet the program income guidelines
7 attached as Exhibits (A, B, and C). The CITY and City's Sub-recipients must provide the
8 required income certification and direct benefit documentation.

9 10. COMPLIANCE WITH LAWS. CITY shall comply with all applicable federal,
10 state, and local laws, regulations, and ordinances and any amendments thereto and the federal
11 regulations and guidelines now or hereafter enacted pursuant to the Act. More particularly, CITY
12 is to comply with those regulations found in Part 85 and Part 570 of Title 24 of the Code of
13 Federal Regulations. CITY is to comply with OMB Circular A-87, or any subsequent
14 replacement. CITY is to abide by the provisions of the Community Development Block Grant
15 Manual, prepared by COUNTY and cited in the above-mentioned Cooperation Agreement.
16 CITY will comply with Section 3 of the Housing & Urban Development Act of 1968, as
17 amended, attached hereto as Exhibit "S". CITY will comply with the provisions of 24 CFR Part
18 570.200 (j), attached as Exhibit "R," pertaining to inherently religious activities.

19 11. INDEPENDENT CONTRACTOR. CITY and its agents, servants, and employees
20 shall act at all times in an independent capacity during the term of this Agreement, and shall not
21 act as, shall not be, nor shall they in any manner be construed to be agents, officers, or
22 employees of the COUNTY.

23 12. TERMINATION.

24 A. CITY. CITY may not terminate this Agreement except upon express
25 written consent of COUNTY.

26 B. COUNTY. Notwithstanding the provisions of Paragraph 12a, COUNTY
27 may suspend or terminate this Agreement upon a thirty (30) day written notice to CITY of action
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1 being taken and the reason for such action:

2 (1) In the event CITY fails to perform the covenants herein contained
3 at such times and in such manner as provided in this Agreement; and

4 (2) In the event there is a conflict with any federal, state or local law,
5 ordinance, regulation or rule rendering any of the provisions of this Agreement invalid or
6 untenable; or

7 (3) In the event the funding from the Department of Housing and
8 Urban Development referred to in Paragraphs 1 and 2 above is terminated or otherwise becomes
9 unavailable.

10 C. Upon suspension of this Agreement, CITY agrees to return any
11 unencumbered funds which it has been provided by COUNTY. In accepting said funds,
12 COUNTY does not waive any claim or cause of action it may have against CITY for breach of
13 this Agreement.

14 D. Reversion of Assets

15 1. Upon expiration of this Agreement, the CITY shall transfer to the
16 COUNTY any CDBG funds on hand at the time of expiration of the Agreement as well as any
17 accounts receivable held by CITY which are attributable to the use of CDBG funds awarded
18 pursuant to this Agreement.

19 2. Any real property under the CITY'S control that was acquired or
20 improved in whole or in part with CDBG funds (including CDBG funds provided to the
21 SPONSOR in the form of a loan) in excess of \$25,000 is either:

22 (i) Used to meet one of the National Objectives in Sec.
23 570.208 until five years after expiration of this agreement, or for such longer period of time as
24 determined to be appropriate by the COUNTY; or

25 (ii) Not used in accordance with Section (i) above, in which
26 event the SPONSOR shall pay to the COUNTY an amount equal to the current market value of
27 the property less any portion of the value attributable to expenditures of non-CDBG funds for the
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1 acquisition of, or improvement to, the property.

2 13. NONDISCRIMINATION. CITY shall abide by Sections 570.601 and 570.602 of
3 Title 24 of the Federal Code of Regulations which requires that no person in the United States
4 shall on the grounds of race, color, national origin, or sex, be excluded from participation in, be
5 denied the benefits of, or be subjected to discrimination under any program or activity funded in
6 whole or in part with Community Development funds.

7 14. PROHIBITION AGAINST CONFLICTS OF INTEREST

8 A. CITY and its assigns, employees, agents, consultants, officers and elected
9 and appointed officials shall become familiar with and shall comply with the CDBG regulations
10 prohibiting conflicts of interest contained in 24 CFR 570.611, attached hereto as Exhibit "CI"
11 and by this reference incorporated herein.

12 B. CITY and its assigns, employees, agents, consultants, officers, and elected
13 and appointed officials shall become familiar with and shall comply with Section A-11 of the
14 County's CDBG Policy manual, attached hereto as Exhibit "CI" and by this reference
15 incorporated herein.

16 C. CITY understands and agrees that no waiver of exception can be granted
17 to the prohibition against conflict of interest except upon written approval of HUD pursuant to
18 24 CFR 570.611 (d). Any request by CITY for an exception shall first be reviewed by COUNTY
19 to determine whether such request is appropriate for submission to HUD. In determining whether
20 such request is appropriate for submission to HUD, COUNTY will consider the factors listed in
21 24 CFR 570.611 (e).

22 D. Prior to any funding under this Agreement, CITY shall provide COUNTY
23 with a list of all employees, agents, consultants, officers and elected and appointed officials who
24 are in a position to participate in a decision making process, exercise any functions or
25 responsibilities, or gain inside information with respect to the CDBG activities funded under this
26 Agreement. CITY shall also promptly disclose to COUNTY any potential conflict, including
27 even the appearance of conflict that may arise with respect to the CDBG activities funded under
28

1 this Agreement.

2 E. Any violation of this section shall be deemed a material breach of this
3 Agreement, and the Agreement shall be immediately terminated by the COUNTY.

4 15. PROJECT ELIGIBILITY. As to CITY or its claimants, COUNTY shall bear no
5 liability for any later determination by the United States Government, the Department of
6 Housing and Urban Development or any other person or entity that CITY is or is not eligible
7 under 24 CFR Part 570 to receive CDBG funds.

8 16. USE OF PROPERTY. Whenever federal CDBG funds or program income are
9 used, in whole or in part, for the purchase of equipment or personal property, the property shall
10 not be transferred from its originally funded use, by CITY or sub-recipient, for a period of five
11 (5) years from the close-out date of the grant from which CDBG assistance was provided. The
12 CITY shall maintain a current inventory for COUNTY monitoring and review.

13 17. EMPLOYMENT OPPORTUNITIES TO BE CAUSED BY PROJECT. CITY
14 agrees to notify and to require any lessee or assignee to notify Riverside County Workforce
15 Development Center of any and all job openings that are caused by this project.

16 18. PUBLICITY. Any publicity generated by CITY for the project funded pursuant to
17 this Agreement, during the term of this Agreement, will make reference to the Contribution of
18 the County of Riverside, the Economic Development Agency, and the Community Development
19 Block Grant Program in making the project possible.

20 19. PROGRAM MONITORING AND EVALUATION. CITY and its sub-recipients
21 shall be monitored and evaluated in terms of its effectiveness and timely compliance with the
22 provisions of this Agreement and the effective and efficient achievement of the Program
23 Objectives. Quarterly reports shall be due on the last day of the month immediately following the
24 end of the quarter being reported. The quarterly written reports shall include, but shall not be
25 limited to, the following data elements:

26 A. Title of program, listing of components, description of
27 activities/operations.
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1 B. The projected goals, indicated numerically, and also the goals achieved
2 (for each report period). In addition, identify by percentage and description, the progress
3 achieved towards meeting the specified goals and identify any problems encountered in meeting
4 goals.

5 C. If the CDBG-funded Activity meets a National Objective under 24 CFR
6 570.208 (a)(2)(i), CITY will report the following:

7 1) Total number of direct beneficiaries (clientele served) with
8 household incomes at:

- 9 • Above 80% MHI
- 10 • Between 50% and 80% MHI (Low-Income)
- 11 • Between 30% and 50% MHI (Very Low-Income)
- 12 • Less than 30% MHI (Extremely Low-Income)

13 2) Total number and percent (%) of the clientele served that have
14 household incomes at or below 80% MHI

15 3) Racial ethnicity of clientele

16 4) Number of Female-Headed Households

17 D. CITY and its sub-recipients shall report beneficiary statistics monthly to
18 EDA on the pre-approved *Direct Benefit Form* and *Self-Certification Form* (certifying income,
19 family size, and racial ethnicity) as required by HUD. Updated forms are to be provided to CITY
20 by EDA should HUD implement changes during the term of this agreement. CITY and sub-
21 recipients will collect and provide all necessary data required by HUD pertaining to the Specific
22 Outcome Indicators as identified in the CPD Outcome Performance Measurement System.

23 20. SOURCE OF FUNDING. CITY acknowledges that the source of funding
24 pursuant to this Agreement is Community Development Block Grant (CFDA 14.218).

25 21. ENTIRE AGREEMENT. It is expressly agreed that this Agreement together with
26 the cooperation Agreement between the parties, embodies the entire agreement of the parties in
27 relation to the subject matter thereof, and that no other Agreement or understanding, verbal or
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1 otherwise, relative to this subject matter, exists between the parties at the time of execution.

2 22. MINISTERIAL ACTS. The Assistant County Executive Officer/EDA or
3 designee(s) are authorized to take such ministerial actions as may be necessary or appropriate to
4 implement the terms, provisions, and conditions of this Agreement as it may be amended from
5 time to time by COUNTY.

6 23. PRIOR AUTHORIZATION. CITY shall obtain COUNTY's written approval
7 from the Economic Development Agency prior to implementing the following "high risk"
8 activities funded with CDBG assistance:

- 9 A. Construction of public facilities (project plans and specifications);
- 10 B. Acquisition of real property;
- 11 C. Historic Preservation;
- 12 D. Relocation; and
- 13 F. Economic Development

14 23. MODIFICATION OF AGREEMENT. This Agreement may be modified or
15 amended only by a writing signed by the duly authorized and empowered representative of
16 COUNTY and CITY respectively.

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24 **SIGNATURES ON NEXT PAGE**
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1
2 IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Agreement as
3 of the date listed below.
4

5 DATED: _____
6
7

8 COUNTY OF RIVERSIDE
9

10 By: _____
11 **Suzanne Holland**
12 **Assistant Director of EDA**
13
14

15 CITY OF BANNING
16

17 By: _____
18 Mayor
19

20 SH:JT:mmv
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EXHIBIT CI

Prohibition Against Conflicts of Interest

Page 1 of 4

§ 570.611 Conflict of interest.

(a) Applicability.

(1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(c)), the conflict of interest provisions in 24 CFR 85.36 and OMB Circular A 110, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and OMB Circular A-110, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, by its subrecipients, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to § 570-203, § 570.204 or § 570.455).

(b) Conflicts prohibited. Except for the use of CDBG funds to pay salaries and other related administrative or personnel costs, the general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a CDBG assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) Persons covered. The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients which are receiving funds under this part.

(d) Exceptions: threshold requirements. Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

EXHIBIT CI

Prohibition Against Conflicts of Interest

Page 2 of 4

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not Violate State or local law.

(e) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

Exhibit CI

Prohibition Against Conflicts of Interest
Page 3 of 4

Community Development Block Grant
Policy Manual
I.D. # A-11
(pg. 1 of 2)

TOPIC: CONFLICT OF INTEREST CODED
RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY

DATE: October 1989

This Conflict of Interest Code is written to comply with Federal Regulations (24 CFR Part 85). These Regulations. "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments" require that grantees and sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts.

1) No employee, officer or agent of the grantee shall participate in the selection, in the award or in the administration of a contract supported by Federal Funds if a conflict of interest, real or apparent, would be involved.

2) Such a conflict will arise when:

- i) The employee, officer or agent;
- ii) Any member of the immediate family;
- iii) His/Her partners, or;
- iv) An organization which employs, or is about to employ any of the above has a financial or other interest in the firm's selection for award.

3) The grantee's or sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to sub-agreements except as noted in Section 4.

4) A grantee's or sub-grantee's officers, employees or agents will be presumed to have a financial interest in a business if their financial interest exceeds the following:

- i) Any business entity in which the official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
- ii) Any real property in which the official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

EXHIBIT CI

Prohibition Against Conflicts of Interest

Page 4 of 4

Community Development Block Grant
Policy Manual
I.D. # A-11
(pg. 2 of 2)

TOPIC: CONFLICT OF INTEREST CODE
RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY

DATE: October 1989

- iii) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the official within 12 months prior to the time when the decision is made.
 - iv) Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management.
 - v) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.
- 5) For purposes of Section 4, indirect investment or interest means any investment or interest owned by the spouse or dependent child of an official, by an agent on behalf of an official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or more.

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EXHIBIT "R"

CONSTITUTIONAL PROHIBITION

Page 1 of 2

In accordance with First Amendment Church/State Principles, as a general rule, CDBG/ESG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG/ESG funds.

(1) CDBG/ESG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (j) (2) of this section with respect to rehabilitation and under paragraph (j) (4) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with CDBG/ESG funds at no more than fair market value for a non-religious use.

(2) CDBG/ESG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(i) The building (or portion thereof) that is to be improved with the CDBG/ESG assistance has been leased to an existing or newly-established wholly secular entity (which may be an entity established by the religious entity);

(ii) The CDBG/ESG assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-leased part of the building will be allocated to and paid for by the lessor;

(vi) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

EXHIBIT "R"

CONSTITUTIONAL PROHIBITION

Page 2 of 2

(vii) The lessee must remit the amount received from the lessor under subparagraph (2)(vi) of this section to the recipient or subrecipient from which the CDBG/ESG funds were derived.

The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case,

the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (j)(3) of this section.

(3) As a general rule, CDBG/ESG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the recipient or subrecipient from which the CDBG/ESG funds are derived that, in connection with the provision of such services:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.

(ii) It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(iii) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

(iv) The portion of a facility used to provide the public services shall contain no religious symbols or decorations, other than those permanently affixed to or part of the structure.

(4) Where the public services provided under paragraph (j)(3) of this section are carried out on property owned by the primarily religious entity, CDBG/ESG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG/ESG expenditure for the public services.

EXHIBIT "S"

Page 1 of 2

Economic Opportunities for Section 3 Residents and Section 3 Business Concerns

Sec. 135.38 Section 3 clause.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

EXHIBIT "S"

Page 2 of 2

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

**SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(NON-PUBLIC SERVICE)**

I. GENERAL INFORMATION

CITY NAME: City of Banning
ADDRESS: P.O. Box 998
Banning, CA 92220
PROGRAM CONTACTS: Kahono Oei, City Engineer
PHONE: (951) 922-3130 FAX: (951) 922-3141
E-MAIL: koei@ci.banning.ca.us
PROJECT NAME: Lions Park Improvement Project
PROJECT LOCATION: 955 South Hargrave Street, Banning, CA 92220
LEVEL OF ENVIRONMENTAL CLEARANCE: Categorical Exclusion
CDBG ELIGIBILITY CODE: 570.201 (c)
PROJECT FUNDING SUMMARY: \$114,700

Project to be administered by County (EDA) on behalf of City: YES ☐ NO ☒

II. SCOPE OF SERVICE

A. Activities

City will be responsible for administering a **2013-2014** Community Development Block Grant for the **Lions Park Improvement Project** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

- Activity #1 The City of Banning will use CDBG funds leveraged with existing funds for the design and construction of improvements to Lions Park. Improvements will be made to the parking lot, two soccer fields, and landscaping.

B. National Objective

All activities funded with CDBG funds must comply with one of more of the CDBG program's National Objective Criteria as required under 24 CFR 570.200(a)(2). City certifies that the activity(ies) carried out under this Agreement will meet the following National Objective:

National Objective Criteria: 570.208 (a)(1)(i)

CFR Reference: Low Mod Area

C. Levels of Accomplishment – Goals and Performance Measures

The City agrees to implement and complete the following activity(ies):

Activity #1 Construct improvements to the Lion's Park

CPD OUTCOME PERFORMANCE MEASUREMENT

Objectives (select one): ☒ Creating Suitable Living Environments
☐ Providing Decent Affordable Housing
☐ Creating Economic Opportunities

Outcome (select one): ☐ Availability/Accessibility
☐ Affordability
☒ Sustainability (promoting livable or viable communities)

D. City Capacity

By executing this Supplemental Agreement, the City certifies that it has the appropriate number of trained and knowledgeable staff, adequate facilities, proper equipment, required licensing and permitting, and sufficient amount of financial resources necessary to implement and carry out the activities funded with CDBG funds.

City will immediately notify County of any significant changes in organizational management, assigned staff, change in facilities, loss or change in matching funds, or any other event that could potentially impact the City or subrecipient's performance under this Agreement.

Any changes in the above items are subject to the prior approval of the County.

E. Performance Monitoring

The County of Riverside will monitor the performance of the City and its subrecipients against goals and performance standards as stated above. Substandard performance as determined by the

County will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the City within a reasonable period of time after being notified by the County, contract suspension or termination procedures will be initiated.

F. Program Budget

It is expressly agreed and understood that the total amount to be paid by the County under this Agreement shall not exceed **\$114,700**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in this Section and in accordance with performance. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

The County may require a more detailed budget breakdown than the one contained herein, and the City shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the County. Any amendments to the budget must be approved in writing by both the County and City.

Line Item	CDBG Granted Funds	Total of Non-CDBG Funds	Total Activity/Project Budget	Notes
Design/Engineering Costs				
Project Administration Costs				
Construction Costs	114,700			
Acquisition Costs				
Relocations Costs				
Capital Equipment Costs				
Code Enforcement				
Clearance				
Interim Assistance				
Other:				
TOTAL CDBG BUDGET	\$114,700			

G. Total Amount of Non- CDBG Leveraging

TYPE	SOURCE	AMOUNT	SOURCE	AMOUNT	SOURCE	AMOUNT	TOTAL
FEDERAL	Prior Year CDBG	120,735					120,735
STATE/LOCAL							
PRIVATE							
OTHER							

TOTAL: \$120,735

III. ADMINISTRATIVE REQUIREMENTS

A. Accounting Standards

The City agrees to comply with 24 CFR 84 or 85 as applicable and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. Cost Principles

The City shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," A-21, "Cost Principles for Educational Institutions," or OMB Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

C. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- i. Records providing a full description of each activity undertaken;
- ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- iii. Records required to determine the eligibility of activities;
- iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- vi. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21-28; and
- vii. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Records Retention

The City shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years. The retention period begins on the date of the submission of the County's annual performance and evaluation report to HUD in which the activities assisted under the Agreement are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Client Data

The City shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to County monitors or their designees for review upon request.

4. Disclosure

The City understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the County's or City's responsibilities with respect to services provided under this contract, is prohibited by applicable federal and State law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The City's obligation to the County shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the County), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the City has control over CDBG funds, including program income.

6. Audits & Inspections

All City records with respect to any matters covered by this Agreement shall be made available to the County, HUD, and the Controller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the City within 30 days after receipt by the City. Failure of the City to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The City hereby agrees to have an annual agency audit conducted in accordance with current County policy concerning subrecipient audits and OMB Circular A-133.

IV. PROJECT IMPLEMENTATION AND SCHEDULE

Unless pre-approved by County, City will perform and complete the activities described in Section II in conformance with the schedule of tasks and milestones listed below:

<u>Tasks / Milestone</u>	<u>Start Date</u>	<u>Completion Date</u>
Complete Online Mandatory Cooperating City Training	July 2013	October 2013
Implement Project Activities	on going	
Execute Supplemental Agreement & Notice to Incur Cost	September 2013	November 2013
<u>Tasks / Milestone</u>	<u>Start Date</u>	<u>Completion Date</u>
Submit Quarterly Performance Reports to County		October 15, 2013 January 15, 2014 April 15, 2014 July 31, 2014
County Monitoring of City Program/Performance	To be determined by Program Manager	
Specific Project Activities	To be determined by Program Manager	
City Submits Reimbursement Requests		
Monthly Submittal <input type="checkbox"/>		
Other Schedule <input checked="" type="checkbox"/>		
CDBG-funded Project Complete	TBD	
City Submits Monthly Direct Benefit Reports	Upon Notification by EDA	

V. SPECIAL CONDITIONS /PERFORMANCE REQUIREMENTS

City must follow proper procurement and construction policies and procedures of the City and Riverside County, EDA as deemed by HUD. No construction will shall commence using CDBG funding without prior Notice to Proceed. Pre-Construction meeting required.

City is required to contact the County Program Manager for review prior to submission of RFP, construction activity or cost without prior written approval. County must be contacted 10 days in advance for attendance of Pre-Construction meeting. Original Certified payrolls to be submitted on a weekly basis to County.

EXHIBIT B**SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)****I. GENERAL INFORMATION**

SPONSOR NAME:	Boys & Girls Club of the San Geronio Pass		
ADDRESS:	P.O. Box 655		
	Beaumont, CA 92223		
PROGRAM CONTACTS:	Amy Herr, Executive Director		
PHONE:	(951) 922-3259	FAX:	(951) 922-2141
E-MAIL:			
PROJECT NAME:	Teen Town Program		
PROJECT LOCATION:	1101 E. George St., Banning, CA 92220		

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**PROJECT FUNDING SUMMARY: **\$14,340**

5 th District	\$5,000
Banning	\$9,340

Project to be administered by County (EDA) on behalf of CITY: YES ☒ NO ☐**II. SCOPE OF SERVICE****A. Activities**

Sponsor will be responsible for administering a **2013-2014** Community Development Block Grant for the **Teen Town Program** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The Boys and Girls Club provides an after school Teen Town program that includes Skills Mastery And Resistance Training (SMART) for low-income youth in the community. Activities include character building, substance abuse prevention, health and nutrition program, and other related activities. CDBG funds will be used for staff salaries (direct cost) and consumable supplies.*

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EXHIBIT C

**SUPPLEMENTAL AGREEMENT
SCOPE OF WORK
(PUBLIC SERVICE)**

I. GENERAL INFORMATION

SPONSOR NAME:	San Gorgonio Child Care Consortium
ADDRESS:	671 N. Florida St., Ste. A Banning, CA 92220
PROGRAM CONTACTS:	Linda Phillips, Executive Director
PHONE: (951) 849-2930	FAX: (951) 849-2262
E-MAIL:	
PROJECT NAME:	S.G. Childcare Program
PROJECT LOCATION:	671 N. Florida St., Ste. A, Banning, CA 92220

LEVEL OF ENVIRONMENTAL CLEARANCE: **EXEMPT [24 CFR 58.34 (a)(4)]**CDBG ELIGIBILITY CODE: **24 CFR 570.201 (e) Public Services**PROJECT FUNDING SUMMARY: **\$14,340**

5 th District	\$5,000	Banning	\$9,340
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Project to be administered by County (EDA) on behalf of CITY: YES ☒ NO ☐**II. SCOPE OF SERVICE****A. Activities**

Sponsor will be responsible for administering a 2013-2014 Community Development Block Grant for the **S.G. Childcare Program** in a manner satisfactory to the County of Riverside and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant program:

Activity #1 *The San Gorgonio Child Care Consortium (SGCC) program provides services in early childhood development and learning for children from low-income families. The program also offers additional attention to children that exhibit learning and gross motor delays. CDBG funds will be used for program related supplies and staff benefits/salaries (direct cost).*

CITY COUNCIL AGENDA

Date: December 10, 2013
To: Honorable Mayor and City Council
From: Fred Mason, Electric Utility Director
Subject: Resolution No. 2013-111, "Amending the Contract for Project No. 2013-04EL 'City of Banning Hydroelectric Facility Rehabilitation' to Appropriate Funds for the 10% Contingency"


RECOMMENDATION: Adopt Resolution No. 2013-111, amending the City of Banning Hydroelectric Facility Rehabilitation contract awarded to Charles King Company of Signal Hill, California, to appropriate funds for the 10% contingency in the amount of \$63,850.00 (Sixty Three Thousand, Eight Hundred Fifty Dollars and no Cents) including taxes.

JUSTIFICATION: The rehabilitation of the City of Banning's electrical and mechanical components at the Hydroelectric facility is required to ensure that all Federal Energy Regulatory Commission (FERC) permit obligations are met, which requires that the Lower and Middle hydroelectric generator units are functioning as designed.

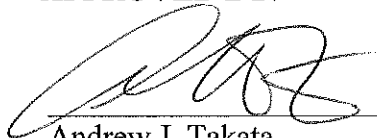
BACKGROUND: Staff solicited bids for the City of Banning Hydroelectric Facility Rehabilitation project and received one bid proposal in the amount of \$638,500.00 received by Charles King Company, which was approved by City Council. However, while the original Resolution No. 2013-81 authorized the Administrative Services Director to approve required change orders within the 10% contingency, it inadvertently omitted authorization for the appropriation of the referenced \$63,850.00. Staff is now requesting that Council approve Resolution 2013-111 to correct that oversight in Resolution 2013-81.

FISCAL DATA: An appropriation of funds in the amount of \$63,850.00 from the Electric Capital Improvement Fund to account 673-7000-473.96-34 to cover the 10% contingency in the above referenced project.

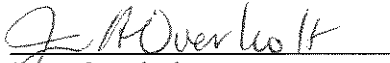
RECOMMENDED BY:


Fred Mason
Electric Utility Director

APPROVED BY:


Andrew J. Takata
City Manager

REVIEWED BY:



June Overholt

Deputy City Manager/Administrative Services Director

Prepared by Brandon Robinson

RESOLUTION NO. 2013-111

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE CONTRACT FOR PROJECT NO. 2013-04EL "CITY OF BANNING HYDROELECTRIC FACILITY REHABILITATION" TO APPROPRIATE FUNDS FOR THE 10% CONTINGENCY

WHEREAS, the City of Banning owns and operates its Municipal Electric Utility; and

WHEREAS, it is essential that the City of Banning continues to maintain and upgrade electric utility systems to accommodate projects within the city limits; and

WHEREAS, the City of Banning adopted Resolution 2013-81 which approved the construction contract for Project No. 2013-04EL City of Banning Hydroelectric Facility Rehabilitation to Charles King Company of Signal Hill, CA in the amount of \$638,500.00; and

WHEREAS, the authorization for the appropriation of the \$63,850.00 for the 10% contingency was inadvertently omitted from Resolution 2013-81; and

WHEREAS, the City of Banning Electric Utility will require a contingency fund in an amount equal to 10% of the contract value for Project No. 2013-04EL;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Banning as follows:

SECTION 1. Adopt Resolution No. 2013-111, approving the amendment of the City of Banning Hydroelectric Facility Rehabilitation contract appropriating \$63,850.00 for the 10% contingency fund, and authorize the Administrative Services Director to complete the necessary account transfers as required for the completion of said project.

SECTION 2. The Administrative Services Director is authorized to approve change orders within the 10% contingency of \$63,850.00.

PASSED, ADOPTED AND APPROVED this 10th day of December 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire and Wynder, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-111 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of December 2013 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning, California

CITY COUNCIL AGENDA

Date: December 10, 2013

To: Honorable Mayor and City Council

From: Fred Mason, Electric Utility Director

Subject: Resolution No. 2013-112, "Approving the Agreement between City of Banning Electric Utility and Verizon Communications Inc. for Verizon Communication Cable Pole Transfers"

RECOMMENDATION: Adopt Resolution No. 2013-112, approving the agreement between the City of Banning Electric Utility and Verizon Communications Inc. ("Verizon"), in the amount not to exceed \$187,471.68 (One Hundred Eighty Seven Thousand, Four Hundred Seventy One Dollars and Sixty Eight Cents) including taxes to cover expenses related to the communication cable pole transfers along Lincoln Street from Sunset Avenue to Hargrave Street in Banning, CA.

JUSTIFICATION: The transfer of Verizon's utilities from the obsolete wood utility poles to the new light weight steel poles is required to allow the displaced facilities to be disposed of.

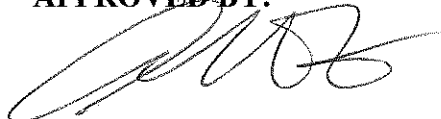
BACKGROUND: In April 2008, the City of Banning Electric Utility began installing new lightweight steel poles to add overhead transmission capacity versus the existing wood poles that would be replaced entirely from Southern California Edison's Banning Substation to City of Banning's Midway Substation. The existing wood poles on Lincoln Street needed to be replaced to handle the City of Banning's current electric facilities. When installing the new poles, it was critical for the Electric Utility to follow the City Council approved General Plan from 2006, which required all utility structures to comply with the newly proposed street widths for Lincoln Street. Per Resolution 2006-13, Lincoln Street was designated a major highway which gives an ultimate right-of-way ranging from 100 to 110 feet depending on available space. This required the utility poles and overhead cables to be modified accordingly. As a result, a total of 56 incomplete pole transfers have been identified that are directly related to Verizon facilities. The transfers must be completed to allow for obsolete facilities to be pulled, transported, and disposed of. Each pole transfer will be carried out through the Joint Pole Agreement protocol, which was initiated by the Southern California Joint Pole Committee.

FISCAL DATA: An appropriation of funds in the amount of \$157,471.68 from the Electric Capital Improvement Fund Account is needed in Account No. 674-7000-473-96-18, which currently has a balance of \$30,000.00.


RECOMMENDED BY:

 FOR FRED MASON
Fred Mason
Electric Utility Director

APPROVED BY:


Andrew J. Takata
City Manager

REVIEWED BY:


June Overholt
Deputy City Manager/Administrative Services Director

Prepared by Brandon Robinson

RESOLUTION NO. 2013-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE AGREEMENT BETWEEN CITY OF BANNING ELECTRIC UTILITY AND VERIZON COMMUNICATIONS INC. FOR VERIZON COMMUNICATION CABLE POLE TRANSFERS

WHEREAS, the City of Banning owns and operates its own Municipal Electric Utility;
and

WHEREAS, it is essential that the City of Banning continues to maintain and upgrade electric utility systems within the city limits; and

WHEREAS, the City of Banning Electric Utility installed lightweight steel poles on Lincoln Street from SCE's Banning Substation to COB's Midway Substation so that additional overhead transmission capacity may be supported along with existing electric facilities; and

WHEREAS, Verizon has submitted an Agreement Letter to facilitate the transfer of their communication facilities for the amount of \$187,471.68 as shown on Exhibit "A"; and

WHEREAS, each pole transfer will be carried out through the Joint Pole Agreement protocol, as initiated by the Southern California Joint Pole Committee;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Banning as follows:

SECTION 1. Adopt Resolution No. 2013-112, approving the Agreement with Verizon, in the amount of \$187,471.68, for the Verizon communication cable pole transfers in Banning, CA, and authorize the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers to fund this project.

PASSED, ADOPTED AND APPROVED this 10th day of December 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire and Wynder, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-112 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of December 2013 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning, California

RESOLUTION NO. 2013-112

EXHIBIT "A"



9 South Fourth Street
Redlands, CA 92373

November 22, 2013

Mr. Fred Mason
City of Banning
Electric Utility Department
176 E. Lincoln
Banning, CA 92220

Re: Verizon Work Order #0568-8P0A0BM

Dear Mr. Mason:

This is in response to your request for Verizon to perform the following work:
Verizon to complete the placing, splicing and pole transfers on Lincoln Street from Sunset
Avenue to Hargrave Street in Banning, CA

We have estimated the cost of the requested work will be: \$ 187,471.68
Balance due to Verizon: \$ 187,471.68

City of Banning has elected to have City of Banning Electrical Utility Department perform some pole transfer work (where noted on the plan) pursuant to the SCJPC "JPA" process. Of which, said work is not included in the above estimate, which Verizon has authorized, pursuant to inspection.

This is the amount of the advance payment that you will be required to make. You must return this signed agreement, along with the full advance payment, before your work will be scheduled.

Upon job completion you will be issued either: (1) a refund of any overpayment, or (2) an invoice, if the final actual costs exceed the advance payments received. Any unapplied portion of advance payments will be refunded to you within sixty (60) days of the final bill or cancellation of the job.

If you agree to these terms, please print, sign and mail this letter agreement to:

Verizon
Attention: Sam Carroll
Engineering Department
9 South Fourth Street
Redlands, CA 92373

103

Mr. Fred Mason -- City of Banning
November 22, 2013
Page 2

If you are signing for a company or other entity, then by signing below, you warrant that you are authorized to bind the company or entity to the terms of this letter agreement.

Upon receipt of your signed agreement the documentation will be forwarded to our billing center, which will send you detailed instructions for making the advance payment. Your work order will be released for scheduling with our Construction Department once the advance payment is received.

Verizon shall not be responsible to the extent its performance is delayed or prevented due to causes beyond its control, including but not limited to acts of God or the public enemy, terrorism, civil commotion, embargo, acts of government, any law, order, ordinance, regulation, or requirement of any government, fires, explosions, weather, quarantine, strikes, labor disputes, lockouts, and other causes beyond the reasonable control of Verizon.

Please be advised that the price estimate quoted above is only valid for sixty (60) days from the date of this letter. If this work request is cancelled after you have signed the agreement, you will be billed for any Engineering and Construction cost incurred after the date of signature that may include the cost to place and/or remove facilities.

If we do not receive this signed agreement and your full advance payment within the sixty (60) day period, we will assume that you do not want the work to be undertaken and the project will be **cancelled**.

Should you have any questions or concerns regarding these terms, please contact me at 909-748-6665.

Sincerely,

Sam Carroll

Sam Carroll
Engineer IV Specialist

(sc:vkr)

Mr. Fred Mason – City of Banning
November 22, 2013
Page 3

I agree to the terms of this agreement:

Accepted (Signature): _____

Print Name & Title: _____

Company: _____

Billing Address: _____

Telephone Number: _____

Date: _____

CITY COUNCIL AGENDA

Date: December 10, 2013
To: Honorable Mayor and City Council
From: Fred Mason, Electric Utility Director
Subject: Resolution No. 2013-113, "Amending the Contract for Project No. 2013-03EL 'Downtown Underground Project – Phase 2' to Appropriate Funds for the 10% Contingency"

RECOMMENDATION: Adopt Resolution No. 2013-113, amending the Downtown Underground Project – Phase 2 contract awarded to Southern California West Coast Electric Inc. of Beaumont, California, to appropriate funds for the 10% contingency in the amount of \$36,848.20 (Thirty Six Thousand, Eight Hundred Forty Eight Dollars and Twenty Cents) including taxes.

JUSTIFICATION: The conversion of overhead utilities to an underground electric distribution system through the downtown corridor of the City of Banning will reduce the number of aging overhead utility systems and provide beautification throughout the area.


BACKGROUND: Staff solicited bids for the Downtown Underground Project –Phase 2 and received one bid proposal in the amount of \$368,482.00 received by Southern California West Coast Electric Inc., which was approved by City Council. However, while the original Resolution No. 2013-74 authorized the Administrative Services Director to approve required change orders within the 10% contingency, it inadvertently omitted authorization for the appropriation of the referenced \$36,848.20. Staff is now requesting that Council approve Resolution 2013-113 to correct that oversight in Resolution 2013-74.

FISCAL DATA: An appropriation of funds in the amount of \$36,848.20 from the Electric Revenue Bond Project Fund Account to account 673-7000-473-96-29 to cover the 10% contingency in the above referenced project.

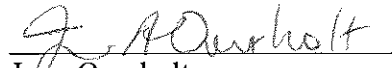
RECOMMENDED BY:


Fred Mason
Electric Utility Director

APPROVED BY:


Andrew J. Takata
City Manager

REVIEWED BY:



June Overholt

Deputy City Manager/Administrative Services Director

Prepared by Brandon Robinson

RESOLUTION NO. 2013-113

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE CONTRACT FOR PROJECT NO. 2013-03EL "DOWNTOWN UNDERGROUND PROJECT – PHASE 2" TO APPROPRIATE FUNDS FOR THE 10% CONTINGENCY

WHEREAS, the City of Banning owns and operates its Municipal Electric Utility; and

WHEREAS, it is essential that the City of Banning continues to maintain and upgrade electric utility systems to accommodate projects within the city limits; and

WHEREAS, the City of Banning adopted Resolution 2013-74 which approved the construction contract for Project No. 2013-03EL Downtown Underground Project – Phase 2 to Southern California West Coast Electric of Beaumont, CA in the amount of \$368,482.00; and

WHEREAS, the authorization for the appropriation of the \$36,848.20 for the 10% contingency was inadvertently omitted from Resolution 2013-74; and

WHEREAS, the City of Banning Electric Utility will require a contingency fund in an amount equal to 10% of the contract value for Project No. 2013-03EL;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Banning as follows:

SECTION 1. Adopt Resolution No. 2013-113, approving the amendment of the Downtown Underground Project – Phase 2 contract appropriating \$36,848.20 for the 10% contingency fund, and authorize the Administrative Services Director to complete the necessary account transfers as required for the completion of said project.

SECTION 2. The Administrative Services Director is authorized to approve change orders within the 10% contingency of \$36,848.20.

PASSED, ADOPTED AND APPROVED this 10th day of December 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire and Wynder, LLP

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-113 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of December 2013 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning, California

CITY COUNCIL AGENDA

DATE: December 10, 2013

TO: Mayor and Members of the City Council

FROM: June Overholt, Administrative Services Director/Deputy City Manager

SUBJECT: Ad hoc committee for Rate Study review

RECOMMENDATION:

That the City Council re-activate the Public Utility Advisory Committee to review the findings of the Rate Study and request applications for committee member appointments.

DISCUSSION:

On October 8, 2013, Council approved a professional service agreement with Willdan Financial to perform a rate study of the water, wastewater and reclaimed water utilities. At the meeting on October 8th, there was discussion on establishing an Ad Hoc committee comprised of Council members and members of the community. Councilmember Welch and Councilmember Miller volunteered to represent the Council on the committee. Council should confirm this appointment.

The purpose of this staff report is to set forth a process Council can use to establish the members of the committee. In order to simplify the process, staff is recommending that Council follow some of the recommendations established in the April 2006 staff report (see attached Exhibit A) regarding Commissions/Committees/Boards. In 2006, the City Council approved recommendations by the City Manager to consolidate and rename several committees. One committee that was established at that time is named the Public Utility Advisory Committee. The committee has not been active for many years. However, with the rate study that was recently approved, it appears appropriate to reestablish the committee.

The guidelines for appointing committee members per the recommendations approved in the April 25, 2006 staff report Recommendation #1, were to follow the requirements used for the Planning Commission. As such, staff is recommending that Council request applications from Banning residents to participate in the Committee. Appointments will be made by the City Council. Committee members will be limited to five to seven members. Council has the authority to make exceptions to the guidelines established in the 2006 Council adopted report.


Although the 2006 Recommendation #1 recommends a commitment of four years, staff is recommending that the initial commitment for participation in the committee should be at least one year. It is expected that the Committee will have reviewed and provided input for the Council recommendation within six months of being established. Unforeseen circumstances may require the committee to remain active for a full year. Council may consider extending the

committee commitment for a longer period of time up to four years, if the need exists. The rules that will govern the committee are the same as those adopted by Council. Committee members will be asked to participate in approximately five meetings but this could be more.

Upon Council approval, the City Clerk will take the next steps to request applications for participation in the Public Utility Advisory Committee, obtain the required background fingerprint check and schedule an interview with the Council for committee appointment.

FISCAL DATA: Costs of posting the agenda, staff time and providing meeting space will be absorbed through operations.

RECOMMENDED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

APPROVED BY:




Andy Takata
City Manager

Attachments:

- April 25, 2006 Staff report

CITY COUNCIL AGENDA REPORT OF OFFICERS

Date: April 25, 2006
TO: Honorable Mayor and City Council
FROM: Randy Anstine, City Manager 
SUBJECT: Analysis of City Commissions/Committees/Boards

OBJECTIVE

The purpose of this report is to propose changes to the City's Commissions, Boards and Committees in order to comply with Banning Ordinance 1332.

RECOMMENDED ACTION

It is respectfully recommended that the City Council after hearing a presentation from staff provide direction to staff concerning appointments to and function of City Commissions, Boards, and Committees.

BACKGROUND

Banning, like virtually every city in America, has a number of citizen commissions and committees, organized in a variety of ways and performing a variety of functions. Council has asked staff to explore the current status and how Commission/Committee/Boards are established and assigned to the various departments of the City.

Historically, each member of the City Council has been allowed to nominate one member whose appointment is subject to ratification by the City Council. After consultation with the various City departmental directors, this report will attempt to outline some suggested changes related to the manner of appointment and assignments of members to boards and committees.

LEGAL AUTHORITY

Presently the legal authority governing the appointment of City Commissions and Committees is governed by:

- Banning Municipal Code Section 1-10 – Residence Requirements For Members of Commissions
- Banning Municipal Code Section 2-5 through 2-9 – Planning Commission
- Banning Municipal Code Section 2-51 - 2-54

CURRENT LIST OF COMMISSION, COMMITTEES AND BOARDS

At present the following Commission, Committees and Boards exist:

- Planning Commission
- Parks and Recreation Committee
- Ruth Hooker Committee
- Transit ADA Advisory Committee
- Pass Area Transit Task Force
- Skatepark Task Force
- Public Works Advisory Committee
- Water Utility Advisory Committee
- Economic Development Committee

RESPONSIBILITIES

Planning Commission (Legal Authority – Government Code Section 65100, 65101 and 65102; Banning Municipal Code Section 2-5 through 2-9): This Commission shall exercise those functions of the planning agency of the City delegated to it in the Banning Municipal Code. The Commission prepares, reviews, adopts and recommends to the City Council for its adoption, a long range, comprehensive General Plan to guide the future physical development and conservation of the City and its adjoining environs based on geographic, social, economic and political characteristics of the community. Commission prepares, reviews, adopts and recommends to the City Council for its adoption special area specific plans for identifiable areas wherein more detailed guidelines are needed to supplement the objectives of the General Plan. Commission reviews development applications submitted to the City for consistency with adopted plans and ordinances. Approves or denies applications when final authority is granted to the Planning Commission. Makes a recommendation on those actions for which the City Council is the final reviewing approval authority. Commission acts as the appeal body on decisions made by the Community Development Director. Commission performs such other functions and duties as the City Council may from time to time direct and/or provide within the Banning Municipal Code.

Parks and Recreation Advisory Committee (Legal Authority – Banning Municipal Code Section 15-1 through 15-3): The City Park and Recreation Advisory Committee serves as an advisory Committee to the City Council and the Director of Community Services for the purpose of the formulation of rules, regulations, and policies for all parks and recreation programs, activities, and fees.

Ruth Hooker Committee (Legal Authority – Banning City Council): This Committee was created by a majority of the City Council several years ago. Its purpose is to oversee the use of a \$60,000.00 bequest to the Banning Senior Center (made by Ruth M. Hooker). The bequest was given with the intent that it

be used to provide meals for the elderly of Banning. The Committee meets on an "as needed basis" and has not met in many years.

Transit ADA Advisory Committee (Legal Authority – Federal Mandate): This Committee was formed by staff and meets quarterly. The Committee is required for the City's transit system to be in compliance with the Federal Americans With Disabilities Act (ADA) of 1990. The Committee reviews dial-a-ride statistics, advises transit staff on accessibility issues, and serves as the appeal board for the ADA complementary paratransit certification process.

Pass Area Transit Task Force (Legal Authority – Banning City Council): This Task Force was created by a majority vote of the City Council. The Task Force was formed to review the work of a consultant hired to conduct a transit needs assessment of the Pass Area and to develop a transit plan that addresses identified needs. The Task Force is made up of one City Council member from Banning, Beaumont, and Calimesa, a representative from the County Supervisors Office, representative from the Morongo Band of Mission Indians, Banning Community Services Director, Beaumont Transit Manager, RTA staff, SunLine staff and RCTC staff. This group meets on an "as needed basis".

When the study was completed, the Task Force chose to continue to meet to advise staff on the implementation of the Pass Area Transit Plan and serve as a forum to discuss regional transit issues. The current membership was expanded to include a representative from the Riverside County Employment Development Division office in Banning.

The Task Force meets on an "as-needed basis", which turns out to be about once every two to three months. The Task Force has shown itself to be a valuable link between the different agencies represented.

Skatepark Task Force (Legal Authority – Banning City Council): This Task Force was created by a majority vote of the City Council. The Task Force was formed to assess the feasibility of building a skatepark in Banning. This purpose quickly shifted to finding the funds to build the facility. The Task Force membership is made up of two City Council members, the City Manager, Community Services Director, a representative of the Banning Police Department, a Parks and Recreation Committee member, two community members at-large, and seven skateboarders. There are no established guidelines for the Task Force. This Task Force is essentially dark. Several of the members have resigned from the Task Force. A letter was sent to the members asking them if they wanted to recommit to the effort. No one responded. The last meeting of the Task Force was held in December 2001.

Public Works Advisory Committee (Legal Authority – Banning Municipal Code Section 2-51): This Committee was formed in May 1996. The primary function of the committee is to review the public Works programs, utility rates &

other related functions. This committee meets on regular basis as set forth in the Ordinance. Per Ordinance the Committee is scheduled to meet quarterly, but historically, the Committee has met monthly. This Committee was mainly formed to advise the City Council utility rates, cable television franchise agreement and act as the airport committee.

Water Utility Advisory Committee (Legal Authority – Banning City Council):

The Water Utility Advisory Committee was created in August, 2002 by City Council action. It appears the intent of the City Council was to have this Committee work as an adhoc Committee and meet on an "as needed basis" with no termination date set. The Committee has 9 members including two former Council members, a Planning Commissioner, a Public Works Advisory Committee member & four members from Community at large. There are no specific guidelines for this Committee. The Committee has not met for at least last 10 months. Water Superintendent has coordinated the meetings for this group. There is definitely some overlap between these this committee and the Public Works Advisory Committee.

Economic Development Committee (Legal Authority – Banning Municipal Code Section 2-94):

The Economic Development Committee was established for the purpose of participating in the implementation of the City's economic strategic plan/implementation plan as approved by the City Council. The Committee is to advise the City Council on the economic impacts of proposed development within the City. The Committee reviews and advises the City Council on proposed economic development project within the City, as well as advising the City Council on economic development trends and/or program that may impact the City fiscally or economically.

STAFF RECOMMENDATION(S)

On October 25, 2005, the City Council adopted Ordinance No. 1332, which amended the Banning Municipal Code Sections 2-5 through 2-9. This Ordinance set forth the manner in which Planning Commissioners are appointed. It details the Membership Requirements, Term and Vacancies, Compensation, Rules of Procedure, Duties and Responsibilities.

Recommendation 1: Staff would respectfully recommend that for the sake of uniformity and continuity, Council utilize the requirements imposed on the Planning Commission for all City commissions, committees and boards. Specifically:

- All members shall be residents of the City of Banning who hold no other municipal office in the City.
- Members may not be employees of the City of Banning.
- Members shall serve four (4) year terms which shall be staggered every two years concurrent with the City elections.
- All appointments shall be made by the City Council.

- Members shall serve at the pleasure of the Council and may be removed at any time by a majority vote of the entire Council.
- Any member who is unexcused for two consecutive regular meetings or six meetings within a 12 month period, whether the six meetings are excused or not, will be deemed to have resigned their office and the City Council may appoint a new member to serve the resigned Members place for the remainder of their term.
- To be excused from any such meeting, a Member shall notify the appropriate City Department 48 hours prior to any such meeting. If a Member is unable to attend due to illness, injury or family matters, a statement by the Member at the next regular meeting shall constitute an excused absence.
- Members shall not receive compensation; reasonable traveling expenses to and from conferences and/or special field trips and training sessions shall be reimbursed.
- Members shall adopt rules for the transaction of business and shall keep a record of its transactions, findings, and determinations. The Brown Act and "Robert's Rules in Plain English" by Doris P. Zimmerman (Harper Perennial) shall be incorporated into such rules.
- Members shall follow all applicable City fiscal and administrative policies and procedures.

Recommendation 2: Following consultation with the Director of Community Services it is respectfully recommended that the Ruth Hooker Committee, and the Skatepark Task Force be disbanded. They have served their specific purpose and are no longer necessary.

Recommendation 3: Following consultation with the Directors of Public Works, Electric Utility and Public Utility it is respectfully recommended that the Water Utility Advisory Committee be Disbanded. With the recent reorganization of the Public Works Department it is felt that the Committee would better serve the City if it was merged with the Public Works Advisory committee and renamed the Public Utility Advisory Committee. The primary function of the new Committee would be to review and recommend the Utility rates of City owned utilities as well as review of special projects as deemed necessary by the City Council.

Recommendation 4: Councilmembers have expressed an interest in having the Banning youth actively participate in the government process. Staff would recommend that Council give consideration to creating and appointing a Youth member to each of the various committees.

Strategic Plan Integration

N/A

Budget/Cost Impact

N/A

CITY COUNCIL AGENDA

DATE: December 10, 2013

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2013-05, "Construction of a New Restroom at City Hall"

RECOMMENDATION: That the City Council accepts Project No. 2013-05, "Construction of a New Restroom at City Hall" as complete and direct the City Clerk to record the Notice of Completion.


JUSTIFICATION: Staff has determined that the project has been completed per the City of Banning Plans and Specifications.

BACKGROUND: On September 10, 2013, the City Council adopted Resolution No. 2013-82, "Awarding the Construction Contract for Project No. 2013-05, 'Construction of a New Restroom at City Hall' and Rejecting all other bids."

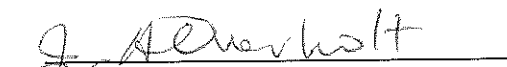
The scope of work under this project included the construction of a single accommodation bathroom at an exterior corner of City Hall adjacent to the receptionist area.

FISCAL DATA: The original contract amount for this project was \$29,990.00. The final contract amount is equal to \$32,770.00, approximately 9% over the original contract amount and within the approved 10% contingency.

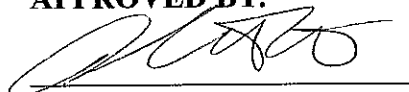
RECOMMENDED BY:


Duane Burk,
Director of Public Works

REVIEWED BY:


June Overholt,
Administrative Services Director
Deputy City Manager

APPROVED BY:


Andrew J. Takata
City Manager

1 WHEN RECORDED MAIL TO:

2
3 Office of the City Clerk
4 City of Banning
5 P.O. Box 998
6 Banning, California 92220
7

8 FREE RECORDING:
9 Exempt Pursuant to
10 Government Code §6103
11

12
13 NOTICE OF COMPLETION

14 PROJECT NO. 2013-05

15 CONSTRUCTION OF A NEW BATHROOM AT CITY HALL

16
17 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
18 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
19 the Civil Code of the State of California, and is hereby accepted by the City of Banning,
20 pursuant to authority conferred by the City Council this December 10, 2013, and the
21 grantees consent to recordation thereof by its duly authorized agent.
22

23 That the OWNER, the City of Banning, and Whitmore Construction Inc. of Banning,
24 California, the vendee, entered into an agreement dated September 30, 2013, for
25 Construction of Project No. 2013-05, "Construction of a New Restroom at City Hall."
26

27 The scope of work under this project included the construction of a single
28 accommodation bathroom at City an exterior corner of the City Hall building adjacent to
29 the receptionist area.
30

31 That the work of improvement was completed on December 5, 2013, for Project No.
32 2013-05, "Construction of a New Restroom at City Hall.

33 (1) The Nature of Interest was to provide building improvements.

1 (2) That the City of Banning, a municipal corporation, whose address is
2 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work
3 of improvement.

4 (3) That said work of improvement was performed at the City Hall located at
5 99 E. Ramsey Street in Banning, California 92220.

6 (4) That the original contractor for said improvement was Whitmore
7 Construction, Inc., State Contractor's License No. 445152.

8 (5) That Performance and Payment bonds were required for this project.

9 (6) The nature of interest is in fee.

10
11 Dated: December 20, 2013

12 CITY OF BANNING
13 A Municipal Corporation
14

15
16
17 By _____
18 Andrew J. Takata
19 City Manager
20

21 APPROVED AS TO FORM:
22
23
24

25 _____
26 David J. Aleshire, City Attorney
27 Aleshire & Wynder, LLP
28
29
30
31
32
33
34

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 2013 by _____ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

Notary Public in and for said County
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and is authorized to execute this Notice of Completion on behalf of said City; that I have read the foregoing Notice and know the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning. I declare under perjury that the forgoing is true and correct.

Executed on _____, 2013 at Banning, California.

City Clerk of the City of Banning

CITY COUNCIL/BANNING UTILITY AUTHORITY AGENDA

Date: December 10, 2013

TO: Banning Utility Authority

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2013-20 UA, "Approving a Contribution of \$1,500.00 to the San Gorgonio Pass Regional Water Task Force"

RECOMMENDATION: The Banning Utility Authority adopt Resolution No. 2013-20 UA, "Approving a Contribution of \$1,500.00 to the San Gorgonio Pass Regional Water Task Force."


JUSTIFICATION: To assist the City with implementing Strategic Plan Goal # 7: Regional Cooperation and Partnerships, Strategic Priority Step J-7 by working collectively with the Multi-Jurisdictional Agencies with discussions on regional water issues within the county.

BACKGROUND: The Riverside County Board of Supervisors approved the appointment of a San Gorgonio Pass Regional Water Task Force on November 6, 2012, attached hereto as Attachment "A." The San Gorgonio Regional Water Task Force held its first meeting on May 20, 2013, since that time, it has met monthly and has formed two subcommittees – one for technical issues and one for administrative issues.

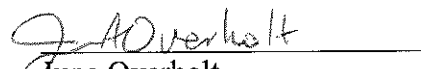
The Task Force drafted a preliminary budget of \$48,000 at its meeting on June 17, 2013, attached hereto as Exhibit "B." After further discussion during the October 14, 2013 meeting, the Task Force approved a revised, reduced [with in-kind services] budget of \$24,560.00, attached hereto as Exhibit "C." Of this amount, \$5,000.00 is being contributed by the County. The Task Force is suggesting that all members contribute \$1,500.00 initially to move forward. If each of the twelve members contribute \$1,500.00, this would total \$18,000.00 when combined with the \$5,000.00 from the County would add up to \$23,000.00.

FISCAL DATA: According to the Strategic Plan, \$1,300.00 annually, is listed as Necessary Resources. The City contribution for financial support of the Task Force is \$1,500.00. Funds for the proposed contribution are available in the Watermaster Services Account No. 660-6300-471.42-43.


RECOMMENDED BY:


Duane Burk,
Director of Public Works

REVIEWED BY:


June Overholt,
Administrative Services Director/
Deputy City Manager

APPROVED BY:


Andrew J. Takata,
City Manager

RESOLUTION NO. 2013-20 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, "APPROVING A CONTRIBUTION OF \$1,500.00 TO THE SAN GORGONIO PASS REGIONAL WATER TASK FORCE"

WHEREAS, the Riverside County Board of Supervisors approved the appointment of a San Gorgonio Pass Regional Water Task Force on November 6, 2012; and

WHEREAS, the San Gorgonio Regional Water Task Force has been meeting monthly since May 20, 2013 and has formed two subcommittees – one for technical issues and one for administrative issues; and

WHEREAS, the Task Force drafted a preliminary budget of \$48,000 at its meeting on June 17, 2013; and

WHEREAS, after further discussion during the October 14, 2013 meeting, the Task Force approved a revised, reduced [with in-kind services] budget of \$24,560.00, of this amount, \$5,000.00 is being contributed by the County; and

WHEREAS, the Task Force is requesting that all twelve members contribute \$1,500.00 initially to move forward.

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority of the City of Banning as follows:

SECTION 1. Adopt Resolution No. 2013-20 UA – "Approving a Contribution of \$1,500.00 to the San Gorgonio Pass Regional Water Task Force."

SECTION 2. Authorize funds in the amount \$1,500.00 in FY 2013-14 from Watermaster Services budget line item 660-6300-471-42.43.

PASSED, APPROVED, AND ADOPTED this 10th day of December, 2013.

Deborah Franklin, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, Authority Counsel
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-20 UA was duly adopted by the Banning Utility Authority of the City of Banning at its joint meeting thereof held on the 10th day of December, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, Secretary
Banning Utility Authority

EXHIBIT "A"

**RIVERSIDE COUNTY BOARD OF SUPERVISORS APPROVAL
OF SAN GORGONIO PASS WATER TASK FORCE**

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



FROM: Supervisor Ashley

SUBMITTAL DATE: October 30, 2012

SUBJECT: Water policy for the future - San Gorgonio Pass communities

RECOMMENDED MOTION: That the Board of Supervisors:

1. Support creation of a Pass Water Policy Panel of representatives in the San Gorgonio Pass area to identify challenges in water supply and water quality for the region, to develop mutually beneficial solutions that include coordinating plans and infrastructure development that ultimately delivers clean, reliable and affordable water supplies for the citizens of the San Gorgonio Pass area for the foreseeable future; and
2. Authorize the 5th District Supervisor to appoint members of the Pass Water Policy Panel and to convene discussion as necessary; and to report Panel findings in a public meeting to be held prior to the Autumn of 2013;

BACKGROUND: In an era of limited public funding for vital water infrastructure sustaining a strong economy and healthy environment, the citizens of Riverside County benefit when agencies cooperate with each other by integrating land use planning and water resource development in ways that deliver multiple benefits in addition to securing a safe, reliable water supply.

Responsible leaders in the San Gorgonio Pass Area recognize a growing need to address coming changes in local water supplies as well as changes in water quality regulations. These changes are expected to accelerate, and in the absence of cooperative action among water resource agencies and land use planning authorities, could negatively impact the quality of life for the residents and businesses of this vitally important region of Riverside County.

The quality of groundwater in some areas of the Pass is already the subject of scrutiny by the Regional Water Quality Control Board responsible for ensuring nitrate levels do not exceed standards of the Clean Water Act. Elsewhere, relative water supply abundance in the western area of the Pass cannot be shared efficiently with drier areas due to lack of regional facilities and institutional concerns. Similar issues between neighboring jurisdictions in the Pass Area impact the efficient use of recycled water supplies.

As a result, planning and investment that may otherwise deliver new supplies of secure, affordable water for the area is failing to move forward. This is not in the best interests of those who live, work and visit the Pass Area, particularly future generations who will benefit most from successful cooperation to achieve peace in water policy matters throughout the Pass Area.

In order to address these concerns and to accomplish the shared mission of all water agencies and land use authorities in the Pass Area, a Pass Water Policy Panel is recommended to open the dialogue and explore the best options available to efficiently deliver clean, reliable supplies of water throughout the Pass Area for the foreseeable future.

Marion Ashley
Marion Ashley, Supervisor
Fifth District

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: November 6, 2012
xc: Supvr. Ashley

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

AGENDA NO.

126
3.66

EXHIBIT “B”

**SAN GORGONIO PASS WATER TASK FORCE PRELIMINARY
DRAFT BUDGET**

San Geronio Pass Regional Water Task Force

Draft preliminary Annual Budget FY 2013-14

For discussion 6.17.13

ADMIN	6,400
Facilities (Room, water, coffee)	360
Board & Work Group support	
Printing, supplies	480
Staff coordination	3600
Communcation	400
Minutes, agendas	360
Legal	1200
OUTREACH	17,280
Stakeholder communication	3600
Media Plan	2400
Web devel & maintenance	4800
News releases	2400
Collateral	3600
Survey	480
PROJECTS	25200
Maps	600
Data, analysis	2400
Working Group support	7200
Report of findings and recommendations	15,000
TOTAL	48,880

EXHIBIT “C”

**SAN GORGONIO PASS WATER TASK FORCE REVISED
APPROVED BUDGET**

San Geronio Pass Regional Water Task Force

Annual Budget FY 2013-14

Revised with In-Kind

ADMIN		5,280
Facilities (Room, water, coffee)	Banning	
Board & Work Group support		
Printing, supplies		120
Coordination		3600
Minutes, agendas		360
Legal		1200
OUTREACH		1,280
Stakeholder communication		1200
Media Plan	County	
Web devel & maintenance	BCVWD	
News releases	County	
Survey		80
PROJECTS		18000
Maps		600
Data, analysis		2400
Working Group support	County	
Report of findings and recommendations		15,000
TOTAL		24,560

ORDINANCE NO. 1468

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA REPEALING CHAPTER 8.16 OF THE BANNING MUNICIPAL CODE AND ADOPTING THE 2013 CALIFORNIA FIRE CODE AS IT IS AMENDED IN THIS ORDINANCE FOR, 1) REGULATING AND GOVERNING THE SAFEGUARD OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS [ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES] AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE CITY OF BANNING, AND 2) PROVIDING FOR THE ISSUANCE OF PERMITS AND THE COLLECTION OF FEES THEREFOR.

WHEREAS, the California Fire Code contains regulations consistent with nationally recognized accepted practices for safeguarding, to a reasonable degree, life and property from the hazards of (i) fire and explosion, (ii) dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and (iii) hazardous conditions in the use or occupancy of buildings or premises; and

WHEREAS, the City of Banning has historically adopted and followed the most current standards set forth in California Fire Code (the "Fire Code"); and

WHEREAS, the California Fire Code was recently updated to a 2013 Edition;

NOW THEREFORE BE IT HEREBY ORDAINED that an Ordinance of the City of Banning adopting the 2013 Edition of the California Fire Code in its entirety be referred to as the Fire Code of the City of Banning, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Banning providing for the issuance of permits and collection of fees. The above-referenced codes are adopted in their entirety as amended herein below.

SECTION 1. FINDINGS IN SUPPORT OF ADOPTING THE INTERNATIONAL AND STATE CODES

The City Council of the City of Banning hereby finds as follows:

- (1) Every three years the State of California adopts a new California Fire Code, as part of the California Building Standards Code, which becomes effective as to the City of Banning 180 days after publication by the California Building Standards Commission.

- (2) The California Fire Code, California Building Code, California Mechanical Code, California Plumbing Code, California Electrical Code 2013 Edition, and the California Fire Code Standards published by International Code Council, are nationally recognized compilations of proposed rules, regulations, and standards of said organization.
- (3) The International Fire Code has been printed and published as a code in book form within the meaning of Section 50022.2 et seq., of the California Government Code and said code has been adopted and amended by the California Building Standards Commission into the California Code of Regulations (CCR) as Title 24 Part 9, Title 24 Part 2, Title 24 Part 3, Title 24 Part 5, California Building Code, California Mechanical Code, California Plumbing Code, and California Electrical Code 2013 Edition.
- (4) That one (1) copy of each of the California Fire Code and the California Code Standards, California Building Code, California Plumbing Code, California Mechanical Code, California Residential Code and California Electrical Code, has been certified by the City Clerk of the City of Banning to be a true copy, and has been filed for use and examination by the public in the office of the City Clerk of the City of Banning prior to the adoption of this ordinance.
- (5) That the sections of the California Fire Code and California Fire Code Standards may be referred to by the same number used in said published compilation preceded by the words "City of Banning Fire Code Section" or "International Fire Code Section" or "Fire Code Section."
- (6) That added protection for new development is necessary to supplement normal Fire Department response resources available in areas impacted by new development to provide immediate fire protection for life and safety of single-family residential and multiple occupancy occupants during fire occurrence. The additional requirements and standards herein, including, but not limited to, enhanced on-site protection of property and occupants, are necessary to properly protect the health, safety, and welfare of the existing and future residents and workers of the City of Banning, and based thereon, Riverside County may establish more restrictive standards reasonably necessary to provide fire protection for life and property because of local climatic, geological or topographical conditions.
 - (a) Climatic Conditions: Generally, the City of Banning has an arid climate. Annual rainfall averages about 15 inches. Hot, strong, dry Santa Ana winds are common to areas within the City. These winds constitute a contributing factor that causes small fires originating in high density development presently being constructed in the City of Banning that spread quickly and create the need for an increased level of fire protection. This added protection, including, but not limited to, on-site protection, will supplement normal Fire Department response available in new development, and provide immediate fire protection

for life and safety of multiple occupancy occupants during fire occurrence.

(b) Geologic and Topographic:

1. The City of Banning includes mountainous, brush covered wildlands, and agricultural lands. Elevation ranges from twenty-two hundred (2,200) feet above sea level to over six thousand (6,000) feet high. Topography extends from flat to 25% slope for habitable land. Travel distances in rural and wildland areas often place Fire Department response times to emergencies at risk. This condition makes the need for enhanced on-site protection for property occupants necessary.
2. Traffic and circulation in urban areas are an impetus to extreme travel distances in rural and wild land areas, often increasing Fire Department response time to emergencies, thus increasing risk to life and property, thus creating a need for enhanced on-site protection.
3. There is a major earthquake fault, the San Andreas, which bisects the City. In addition, there are numerous minor faults. There are numerous areas within the City that are subject to earthquakes, landslides, wind erosion, blown sand, flooding, and wildfires. Placement of multiple occupancy buildings, location of arterial roads, and Fire Department staffing constraints due to revenue limiting State legislation, have made it difficult for the Fire Department to locate additional fire stations and provide staffing to fire companies and personnel sufficient to control fires in single and multi-story retail, commercial and industrial buildings, making enhanced built-in protection necessary.

SECTION 2. ADOPTION OF INTERNATIONAL AND STATE FIRE CODES

Chapter 8.16 of the City of Banning's Municipal Code is hereby repealed in its entirety and fully replaced to read as follows:

"Chapter 8.16 FIRE PROTECTION CODE

- 8.16.010 Adoption of the international and state codes.
- 8.16.020 Amendments to California Fire Code
- 8.16.030 Full copy of codes; maintenance of codes
- 8.16.040 'Municipality' defined
- 8.16.050 Penalties

Section 8.16.010 Adoption of the international and state codes.

The City Council of the City of Banning hereby adopts as amended, revised and supplemented the California Fire Code edition 2013 California Code of Regulations Title 24 Part 9 and Part 2 in its entirety. The provisions of the above referenced codes,

standards and appendices shall apply to all the unincorporated areas and to incorporated areas of the City of Banning through ratification.

The provisions of the above-referenced codes, chapters, standards, and appendices adopted shall include any amendments, revisions, and supplements made subsequent to the adoption of this ordinance.

Section 8.16.020 Amendments to California Fire Code.

The codes, chapters, standards and appendices are amended as specifically set forth in the following chapters herein:

CHAPTER 1. ADMINISTRATION PERMITS

Section 101.4 of the California Fire Code is hereby amended to read as follows:

Section 101.4 SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, it being expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

Section 103.4 of the California Fire Code is hereby amended to read as follows:

Section 103.4 LIABILITIES

Any liability against the City of Banning or any officer or employee shall be as provided for in California Government Code and case law.

Fire suppression, investigation and rescue or emergency medical costs are recoverable in accordance with California Health and Safety Code Sections 13009 and 13009.1.

Any person who negligently or intentionally, or in violation of law, causes an emergency response, including but not limited to, a traffic accident or spill of toxic or flammable fluids or chemicals, is liable for the costs of securing such emergency, including those costs set out in Government Code Section 53150, et seq. Any expense incurred by the fire department for securing such an emergency situation shall constitute a debt of such person and shall be collectable by the City of Banning or political subdivision thereof, if incorporated, in the same manner as in the case of an obligation under contract, expressed or implied.

GENERAL AUTHORITY AND RESPONSIBILITIES

Section 104.3.2 of the California Fire Code is hereby added to read as follows:

Section 104.3.2 AUTHORITY OF THE FIRE CHIEF AND FIRE DEPARTMENT

1. The Fire Chief is authorized and directed to enforce all applicable State fire laws and provisions of this ordinance and to perform such duties as directed by the Board of Supervisors.
2. The Fire Chief is authorized to administer, interpret and enforce this ordinance. Under the Fire Chief's direction, the Riverside County Fire Department is authorized to enforce ordinances of Riverside County pertaining to the following:
 - a. The prevention of fires.
 - b. The suppression or extinguishment of dangerous or hazardous fires.
 - c. The storage, use and handling of hazardous materials.
 - d. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.
 - e. The maintenance and regulation of fire escapes.
 - f. The maintenance of fire protection and the elimination of fire hazards on land, in buildings, structures and other property, including those under construction.
 - g. The maintenance of means of egress.
 - h. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.
3. The following persons are hereby authorized to interpret and enforce the provisions of this ordinance and to make arrests and issue citations as authorized by law:
 - a. The Unit Chief, Peace Officers and Public Officers of the California Department of Forestry and Fire Protection.
 - b. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department.
 - c. The Riverside County Sheriff and any deputy sheriff.
 - d. The Police Chief and any Police Officer of any city served by the Riverside County Fire Department.
 - e. Officers of the California Highway Patrol.
 - f. Code Officers of the Riverside County Code Enforcement Department.
 - g. Peace Officers of the California Department of Parks and Recreation.
 - h. The law enforcement officer of the Federal Bureau of Land Management.

Section 104.6.5 of the California Fire Code is hereby added to read as follows:

Section 104.6.5 RECORDS AND REPORTS

Requests for copies of public and legal documents, photographs, etc., relating to department activities are available as authorized by law through the Fire Department's Custodian of Records. All document requests shall be in writing,

accompanied by a check made payable to the City of Banning, in the amount(s) set forth in the City of Banning's municipal code.

Section 104.12 of the California Fire Code is hereby added to read as follows:

104.12 AUTHORITY OF THE FIRE CHIEF

The chief is hereby given the authority to officially determine and publicly announce the closure of any hazardous fire area or portion thereof. However, any closure by the chief for a period of more than fifteen (15) days must be approved by the City Council of Banning within fifteen (15) days of the chief's original order of closure. No person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas therein, during such time as the area is closed to entry. This section shall not prohibit residents or owners of private property within any closure area, or their invitees, from going in or being upon their lands. This section does not apply to any entry, in the course of duty by a peace officer or any duly authorized public officer, member of any fire department, Riverside County Fire Department or member of the U.S. Forest Service or California Department of Forestry and Fire Protection, nor does this section apply to National Forest Land in any respect. During periods of closure, the chief shall erect and maintain at all entrances to the closed area, sufficient signs giving adequate notice of closure.

Section 113.6 of the California Fire Code is hereby added to read as follows:

Section 113.6 INSPECTION AND PERMIT FEES

A fee shall be charged for each inspection and permit issued. The fee schedule shall be established by the City of Banning's City Council and reviewed annually.

CHAPTER 2. DEFINITIONS are adopted in its entirety with the following amendments:

Section 202 of the California Fire Code is hereby amended to add the following to the list of definitions:

FIRE CHIEF or CHIEF shall mean the Fire Chief of the County of Riverside or his authorized representative.

FIRE PROTECTION ENGINEER shall mean a professional engineer with the education and experience to understand the engineering problems related to safeguarding life and property from fire and fire-related hazards, to identify, evaluate, correct or prevent present or potential fire and fire related panic hazards in buildings, groups of buildings, or communities, and to recommend the arrangement and use of fire resistant building materials and fire detection and extinguishing systems, devices, and apparatus in order to protect life and property and be licensed in California.

HAZARDOUS FIRE AREA is land other than State designated fire hazard severity zone of FHSZ or local designation of FHSZ which is covered with grass, grain, brush, or forest, whether privately or publicly owned, which is so situated or is of such inaccessible location that a fire originating upon such land would present an abnormally difficult job of suppression or would result in great and unusual damage through fire or resulting erosion.

SKY LANTERN is an unmanned device that incorporates an open flame in order to make the device airborne

CHAPTER 3. GENERAL PRECAUTIONS AGAINST FIRE is adopted in its entirety with the following amendments:

Section 304.1.2.1 of the California Fire Code is hereby added to read as follows:

Section 304.1.2.1 FUEL MODIFICATION REQUIREMENTS FOR NEW CONSTRUCTION

All new buildings to be built or installed in areas containing combustible vegetation shall comply with the following:

1. Preliminary fuel modification plans shall be submitted to and approved by the Banning Fire Marshal's office concurrent with the submittal for approval of any tentative map.
2. Final fuel modification plans shall be submitted to and approved by the Banning Fire Marshal's office prior to the issuance of a grading permit.
3. The fuel modification plan shall meet the criteria set forth in the fuel modification policy of the Banning Fire Marshal's office guidelines.
4. The fuel modification plan may be altered if conditions change. Any alterations to the fuel modification areas shall be approved by the Banning Fire Marshal's office.
5. All elements of the fuel modification shall be maintained in accordance with the California Fire Code.

Section 304.1.2.2 of the California Fire Code is hereby added to read as follows:

Section 304.1.2.2 UNUSUAL CIRCUMSTANCES

The Banning Fire Marshal's office may suspend enforcement of the vegetation management requirements and require reasonable alternative measures designed to advance the purpose of this code if determined that in any specific case any of the following conditions exist:

1. Difficult terrain
2. Danger of erosion

3. Presence of plants included in any state and federal resources agencies, California Native Plant Society and County approved list of wildlife, plants, and rare, endangered and/or threatened species.
4. Stands or groves of trees or heritage trees
5. Other unusual circumstances that make strict compliance with the clearance of vegetation provisions undesirable or impractical.

Section 304.1.2.3 of the California Fire Code is hereby added to read as follows:

Section 304.1.2.3 TRESPASSING ON POSTED PROPERTY

When the Fire Chief determines that a specific area within a hazardous fire area presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be closed until conditions warrant termination of closure. Such areas shall be posted as herein provided.

1. Signs. Approved signs prohibiting entry by unauthorized persons and referring to applicable fire code chapters shall be placed on every closed area.
2. Trespassing. Entering and remaining within areas closed and posted is prohibited. Exception: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

Section 304.1.2.4 of the California Fire Code is hereby added to read as follows:

Section 304.1.2.4 OUTDOOR FIRES

Outdoor fires shall not be built, ignited or maintained in or upon hazardous fire areas, except by permit from the Riverside County Fire Department.

Exception: Outdoor fires within habited premises or designated campsites where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are a minimum 30 feet from a grass, grain, brush, or forest covered area. Permanent barbecues, portable barbecues, outdoor barbecues, outdoor fireplaces or grills shall not be used for the disposal of rubbish, trash or combustible waste material.

Section 308.1.6.3 of the California Fire Code is hereby added to read as follows:

SECTION 308.1.6.3 SKY LANTERNS

No person shall release or cause to be released an untethered sky lantern

Section 309.7 of the California Fire Code is hereby added to read as follows:

309.7 SPILL CONTAINMENT

Each track of batteries or group of racks shall be provided with a liquid tight four (4) inch spill control barrier which extends at least one (1) inch beyond the battery rack or group of racks in all directions.

CHAPTER 4. EMERGENCY PLANNING AND PREPAREDNESS is adopted in its entirety with the following amendments:

Section 404 of the California Fire Code is hereby amended to add as follows:

Section 404.2 - #16 FIRE SAFETY AND EVACUATION PLANS

An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings:

16. Windowless buildings having an occupant load of 50 or more.

CHAPTER 5. FIRE SERVICE FEATURE FIRE is adopted in its entirety with the following amendments:

Section 501.2 of the California Fire Code is hereby amended to add as follows:

501.2 TIMING OF INSTALLATION

Fire apparatus access roads and a permanent water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. Temporary/permanent street signs shall be installed at each intersection when construction of new roadways allows passage by vehicles.

Exception: When alternative methods are approved by the Chief.

Section 503.1 of the California Fire Code is hereby amended to add as follows:

503.1 WHERE REQUIRED

Fire apparatus access roads shall be provided and maintained in accordance with Section 503.1.1 through 503.1.3 set forth herein below. The Riverside County Fire Department shall be the only authority authorized to designate fire lanes.

Section 503.1.1 of the California Fire Code is amended to add the following exception:

Section 503.1.1 Exception 2

Where approved by the fire code official, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.

Section 503.2.2 of the California Fire Code is amended to add the following exception:

Section 503.2.2 AUTHORITY

The Riverside County Fire Department shall be the only authority authorized to designate fire apparatus access roads and fire lanes as defined in Section 502. The fire code official shall have the authority to modify the minimum fire lane access widths where they are inadequate for fire or rescue operations.

Section 503.3 of the California Fire Code is deleted in its entirety and replaced with the following:

Section 503.3 MARKING

Fire apparatus access roads, where required, shall be identified by curbs painted red on both the top and face along the entire length of the fire apparatus access road. Where no curbs exist or a rolled curb is installed, a six (6) inch wide red strip shall be applied the full length of the fire apparatus access road or approved posted signs shall be installed in accordance with the Riverside County Fire Department Standards.

Exception: On school grounds this requirement shall be implemented as approved by the fire code official.”

Section 503.2 of the California Fire Code is hereby amended to add as follows:

503.2 FIRE APPARATUS ACCESS ROADS

Fire apparatus access roads, where required, shall be identified by curbs painted red on both the top and face along the entire length of the fire apparatus access road. Where no curb exists or a rolled curb is installed, a 6 inch wide red strip or approved posted signs applied the full length of the fire apparatus access road shall be installed.

Exception: On school grounds this requirement shall be implemented as approved by the Chief.

Section 503.7 of the California Fire Code is hereby amended to add as follows:

Section 503.7 LOADING AREAS AND PASSENGER DROP-OFF AREAS

On private properties, where fire apparatus access roads are utilized for loading or unloading or utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the minimum required width for the fire apparatus access road.”

Section 504.1 of the California Fire Code is amended to add the following language to the end of the first paragraph:

Section 504.1 REQUIRED ACCESSES:

Where ground ladder access is the only means to reach the highest point on the building, the finished grade on all exterior sides of buildings shall be flat and free of any obstructions that would interfere with ground ladder placement. This distance from the building to finished grade shall be determined by the Fire Chief.

Section 505.1 of the California Fire Code shall be further amended to read as the follows:

505.1 PREMISES IDENTIFICATION

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where access is by means of private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Commercial, multi-family residential and industrial buildings shall have a minimum of twelve (12) inch numbers with suite numbers being a minimum of six (6) inches in size. All suites shall have a minimum of six (6) inch high letters and/or numbers on both front and rear doors. Single-family residences and multi-family residential units shall have four (4) inch letters and/or numbers, as approved by the fire code official.

Section 507.1 of the California Fire Code is hereby amended to add the following information at the end of the first paragraph:

507.1 REQUIRED WATER SUPPLY

An approved permanent water supply capable of supplying the required fire flow for fire protection shall be provided by the developer prior to the commencement of construction to all premises upon which buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Water supplies for fire protection and hydrants shall be in accordance with Appendix B and C.

Section 507.5.5 of the California Fire Code is amended to add the following language:

507.5.5 CLEAR SPACE AROUND HYDRANTS

A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants, Fire Department connections, exterior fire protection system control valves, or any other exterior fire protection system component that may require immediate access, except as otherwise required or approved.

Section 507.5.7 of the California Fire Code is hereby amended to add as follows:

507.5.7 FIRE HYDRANT SIZE AND OUTLETS

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Fire hydrant size and outlets shall be required as determined by the fire code official.

- A. Residential Standard—one 4 inch outlet, and one 2 ½ inch outlet.
- B. Super Hydrant Standard—one 4 inch outlet, and two 2 ½ inch outlet.
- C. Super Hydrant Enhanced—two 4 inch outlet, and one 2 ½ inch outlet.

Fire hydrant locations shall be visually indicated with approved blue dot hydrant marker. Any hydrant marker damaged or removed during the course of street construction or repair shall be immediately replaced by the contractor, developer, or person responsible for the removal or damage.

CHAPTER 6. BUILDING SERVICES AND SYSTEMS is adopted in its entirety with the following amendments:

Section 606.10.1.2 of the California Fire Code is amended to read as follows:

606.10.1.2 MANUAL OPERATION

When required by the fire code official, automatic crossover valves shall be capable of manual operation. The manual valves shall be located in an approved location immediately outside of the machinery room, in a secure metal box or equivalent and marked as Emergency Controls.

Section 609.2 of the California Fire Code is hereby amended to add as follows:

Added 609.2 WHERE REQUIRED

Exception: Fire Stations where the use of the commercial appliance is by station personnel and not for the intention of a commercial cooking facility as defined by the California Mechanical Code.

CHAPTER 7. FIRE RESISTIVE-RATED CONSTRUCTION shall be adopted in its entirety without amendments or deletions.

CHAPTER 8. INTERIOR FINISH, DECORATIVE MATERIALS AND FURNISHINGS shall be adopted in its entirety without amendments or deletions.

CHAPTER 9. FIRE PROTECTION SYSTEMS is adopted in its entirety with the following amendments:

Section 903.2 of the California Fire Code is deleted in its entirety and replaced with the following:

Section 903.2 WHERE REQUIRED

In all new buildings and structures which are 3,600 square feet or greater an approved automatic sprinkler system shall be provided regardless of occupancy classification. Where the California Fire Code is requiring more restrictive requirements in Sections 903.2.1, 903.2.1.1, 903.2.1.2, 903.2.1.3, 903.2.1.4, 903.2.1.5, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.5.2, 903.2.6, 903.2.7, 903.2.8, 903.2.9, 903.2.10, 903.2.11.6, 903.2.16, 903.2.18, the more restrictive requirement shall take precedence. The following exceptions in the California Fire Code shall not be allowed:

- a. Exception in Section 903.2.3
- b. Exception in Section 903.2.6.2
- c. Exception in Section 903.2.8
- d. Exception in Section 903.2.11.3

One and two-family dwellings shall have an automatic fire sprinkler system regardless of square footage in accordance with the California Residential Code. Fire sprinkler systems shall be installed in mobile homes, manufactured homes and multi-family manufactured homes with two dwelling units in accordance with Title 25 of the California Code of Regulations.

CHAPTER 10. MEANS OF EGRESS shall be adopted in its entirety without amendments or deletions.

CHAPTER 11. CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS shall only adopt the California State Fire Marshal's amendments.

CHAPTERS 12 THROUGH 19 ARE RESERVED

CHAPTER 20. AVIATION FACILITIES shall be adopted in its entirety without amendments or deletions.

CHAPTER 21. DRY CLEANING shall be adopted in its entirety without amendments or deletions.

CHAPTER 22. COMBUSTIBLE DUST-PRODUCING OPERATIONS shall be adopted in its entirety without amendments or deletions.

CHAPTER 23. MOTOR FUEL DISPENSING FACILITIES AND REPAIR GARAGES shall be adopted in its entirety without amendments or deletions.

CHAPTER 24. FLAMMABLE FINISHES shall be adopted in its entirety without amendments or deletions.

CHAPTER 25. FRUIT AND CROP RIPING shall be adopted in its entirety without amendments or deletions.

CHAPTER 26. FUMIGATION AND INSECTICIDAL FOGGING shall be adopted in its entirety without amendments or deletions.

CHAPTER 27. SEMICONDUCTOR FABRICATION FACILITIES shall be adopted in its entirety without amendments or deletions.

CHAPTER 28. LUMBER YARDS AND WOODWORKING FACILITIES shall be adopted in its entirety without amendments or deletions.

CHAPTER 29. MANUFACTURE OF ORGANIC COATINGS shall be adopted in its entirety without amendments or deletions.

CHAPTER 30. INDUSTRIAL OVENS shall be adopted in its entirety without amendments or deletions.

CHAPTER 31. TENTS AND OTHER MEMBRANE STRUCTURES shall be adopted in its entirety without amendments or deletions.

CHAPTER 32. HIGH-PILED COMBUSTIBLE STORAGE is adopted in its entirety with the following amendments:

Section 3204.2 of the California Fire Code is hereby added as follows:

3204.2.1 MINIMUM REQUIREMENTS FOR CLIENT LEASED OR OCCUPANT OWNED WAREHOUSES

Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible fire protection engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The fire protection engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall describe the basis for determining the commodity and sprinkler design selection, how the commodities will be isolated or separated, and include referenced design document(s), including NFPA 13 or the current applicable factory mutual data sheets. If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

CHAPTER 33. FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION shall be adopted in its entirety without amendments or deletions.

CHAPTER 34. TIRE REBUILDING AND TIRE STORAGE shall be adopted in its entirety without amendments or deletions.

CHAPTER 35. WELDING AND OTHER HOT WORK shall be adopted in its entirety without amendments or deletions.

CHAPTER 36. MARINAS shall be adopted in its entirety without amendments or deletions.

CHAPTERS 37 THROUGH 47 – RESERVED

CHAPTER 48. MOTION PICTURE AND TELEVISION PRODUCTION STUDIO SOUND STAGES, APPROVED REPRODUCTION FACILITIES AND PRODUCTION LOCATIONS shall be adopted in its entirety without amendments or deletions.

CHAPTER 49. REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS is adopted in its entirety with the following amendments:

Section 4904 of the California Fire Code is hereby amended to add a new Section 4904.3 to read as follows:

Section 4904.3 HIGH FIRE HAZARD SEVERITY ZONE MAPS

The County of Riverside Board of Supervisors hereby designates Very High Fire Hazard Severity Zones as recommended by the Director of the California Department of Forestry and Fire Protection and pursuant to Government Code Sections 51175 through 51189, as designated on a map titled "Very High Fire Hazard Severity Zones in LRA", dated 4/8/2010, and retained on file at the Clerk of this Board, the office of the County and pursuant to Government Code Sections 51175 through 51189, as designated by the Fire Chief of Riverside County, the Office of the State Fire Marshal, and is more readily available at:

http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones.php.

This map will supersede other maps previously adopted by the County of Riverside designating high fire hazard areas.

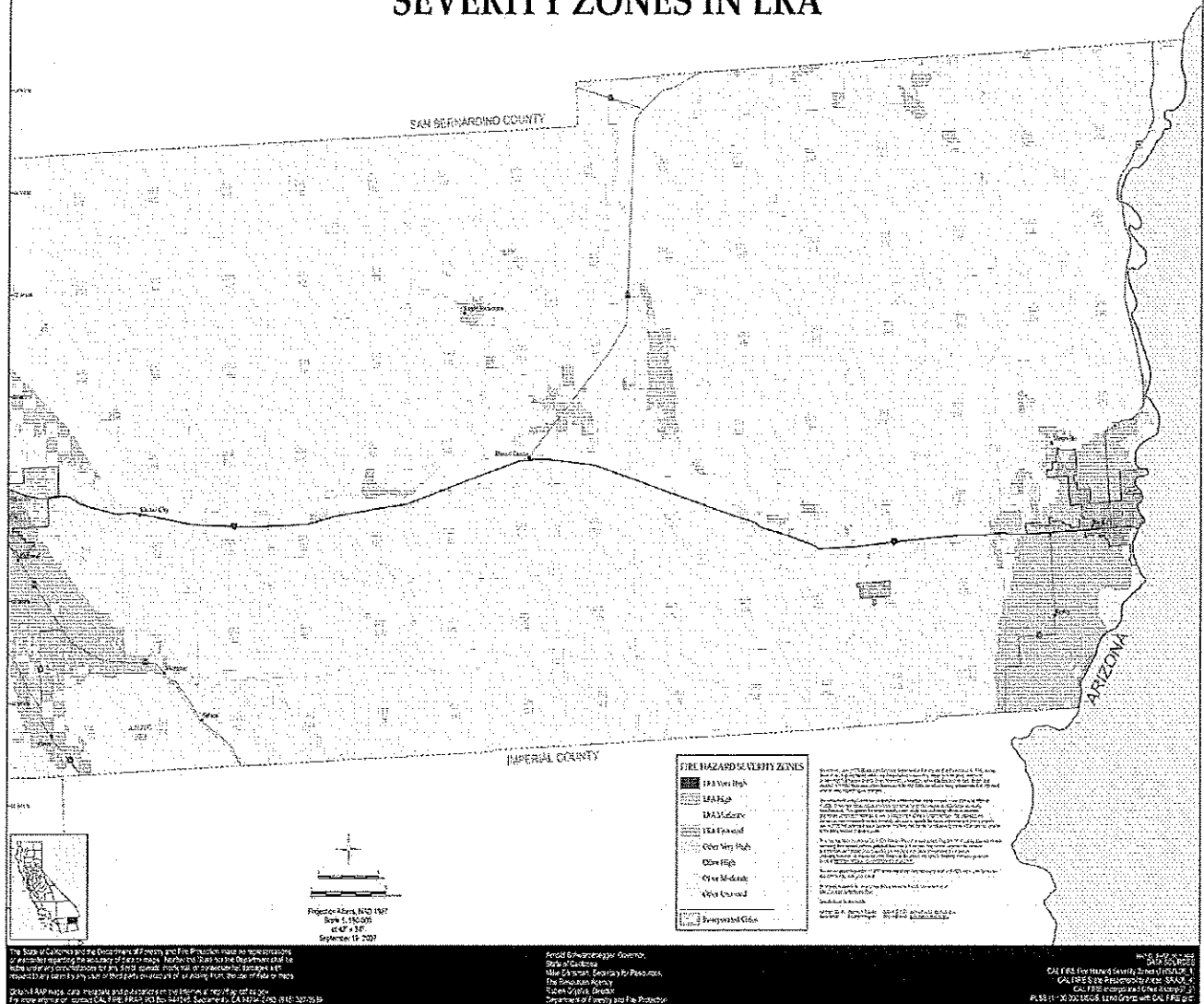
Within the designated land areas as adopted by the County of Riverside Board of Supervisors and in accordance with the Government Code Sections 51175 through 51189, and in accordance with section 104.3 the following shall apply when required: Per section 51182(a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency (Riverside County Fire Department) pursuant to Section 51179, shall at all times do all of the following:

- (1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in following paragraphs.
- (2) The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100 foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.
- (3) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.
- (4) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the fire chief or fire official from the authority having jurisdiction, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.
- (5) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.
- (6) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.
- (7) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

- (8) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in that zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification (approved building plan/job card) from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure. (b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property. (c) The Department of Forestry and Fire Protection shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat, and suggestions to minimize or eliminate the risk of flammability of non-vegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

See the following maps for reference and contact the Riverside County Fire Department for further information.

DRAFT FIRE HAZARD SEVERITY ZONES IN LRA



CHAPTER 50. HAZARDOUS MATERIALS – GENERAL PROVISIONS shall be adopted in its entirety without amendments or deletions.

CHAPTER 51. AEROSOLS shall be adopted in its entirety without amendments or deletions.

CHAPTER 52. COMBUSTIBLE FIBERS shall be adopted in its entirety without amendments or deletions.

CHAPTER 53. COMPRESSED GASES shall be adopted in its entirety without amendments or deletions.

CHAPTER 54. CORROSIVE MATERIAL shall be adopted in its entirety without amendments or deletions.

CHAPTER 55. CRYOGENIC FLUIDS shall be adopted in its entirety without amendments or deletions.

CHAPTER 56. EXPLOSIVES AND FIREWORKS shall be adopted in its entirety without amendments or deletions.

CHAPTER 57. FLAMMABLE AND COMBUSTIBLE LIQUIDS shall be adopted in its entirety without amendments or deletions.

CHAPTER 58. FLAMMABLE GASES AND FLAMMABLE CRYOGENIC FLUIDS shall be adopted in its entirety without amendments or deletions.

CHAPTER 59. FLAMMABLE SOLIDS shall be adopted in its entirety without amendments or deletions.

CHAPTER 60. HIGHLY TOXIC AND TOXIC MATERIALS shall be adopted in its entirety without amendments or deletions.

CHAPTER 61. LIQUIFIED PETROLEUM GASES shall be adopted in its entirety without amendments or deletions.

CHAPTER 62. ORGANIC PEROXIDES shall be adopted in its entirety without amendments or deletions.

CHAPTER 63. OXIDIZERS, OXIDIZING GASES AND OXIDIZING CRYOGENIC FLUIDS shall be adopted in its entirety without amendments or deletions.

CHAPTER 64. PYROPHORIC MATERIALS shall be adopted in its entirety without amendments or deletions.

CHAPTER 65. PYROXYLIN (CELLULOSE NITRATE) PLASTICS shall be adopted in its entirety without amendments or deletions.

CHAPTER 66. UNSTABLE (REACTIVE) MATERIALS shall be adopted in its entirety without amendments or deletions.

CHAPTER 67. WATER-REACTIVE SOLIDS AND LIQUIDS shall be adopted in its entirety without amendments or deletions.

CHAPTERS 67 THROUGH 79 RESERVED

CHAPTER 80. REFERENCE AND STANDARDS shall be adopted in its entirety without amendments or deletions.

APPENDICES

All Appendices to the California Fire Code are adopted in their entirety except as follows:

APPENDIX B

Section B-105.2 EXCEPTION FIRST SENTENCE

A reduction in required fire flow of up to 50 percent as approved is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2 of the California Fire Code.

APPENDIX BB shall NOT be adopted or amended.

APPENDIX C Fire hydrant locations are amended to read as follows:

Section C102.1

Fire hydrants shall be provided at street intersections and along required fire apparatus access roads and adjacent public streets. Fire hydrants used or installed for the frontage requirements as stated by Table C105.1 shall be on the building side of fire department access roads and adjacent public streets.

APPENDIX CC shall NOT be adopted or amended.

APPENDIX D shall NOT be adopted or amended.

APPENDIX E shall be adopted in its entirety without amendments or deletions.

APPENDIX F shall be adopted in its entirety without amendments or deletions.

APPENDIX G shall be adopted in its entirety without amendments or deletions.

APPENDIX H shall be adopted in its entirety without amendments or deletions.

APPENDIX I shall NOT be adopted or amended.

APPENDIX J shall NOT be adopted or amended.

APPENDIX K shall NOT be adopted or amended.

Section 8.16.030 Full copy of codes; maintenance of codes

One full copy of the state fire codes described in this chapter has been deposited in the office of the city clerk and shall be at all times maintained by the city clerk for use and examination by the public, excepting that one copy of the adopted codes may be kept in the office of the chief enforcement officer for such codes.

Section 8.16.040 'Municipality' defined

Wherever the word "municipality" is used in the fire prevention code adopted by this chapter, it means the city.

Section 8.16.050 Penalties

It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this ordinance. Any person, firm, corporation or association of persons violating any provision of this ordinance or the provisions of any permit granted pursuant to this ordinance, shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person or entity shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance or the provisions of any permit granted pursuant to this ordinance is committed, continued or permitted.

Any person, firm, corporation or association of persons so convicted shall be (1) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a first violation; (2) guilty of an infraction offense and punishable by a fine not exceeding three hundred dollars (\$300.00) for a second violation on the same site. The third and any additional violations on the same site shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six months in jail, or both. Notwithstanding the above, a first

offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person or entity from the responsibility for correcting the violation.”

SECTION 3. FURTHER PROCESS FOR ADOPTION

After first reading, this ordinance shall be adopted pursuant to the procedures set forth in Government Code Section 50022.3. To wit, after the first reading of the title of the adopting ordinance and of the title of the code to be adopted hereby the City Clerk is directed to schedule a public hearing thereon. Notice of the hearing shall be published pursuant to Section 6066 in a newspaper of general circulation. The notice shall state the time and place of the hearing. It shall also state that copies of the codes being adopted by reference are on file with the Clerk and are open to public inspection. The notice shall also contain a description which the legislative body deems sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof.

SECTION 4. SEVERABILITY

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2013.

Deborah Franklin, Mayor
City of Bannng

ATTEST:

Marie A. Calderon, City Clerk

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

Dave J. Aleshire, City Attorney

Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1468 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of November, 2013, and was duly adopted at a regular meeting of said City Council on the ___ day of _____, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California

**CITY COUNCIL
PUBLIC HEARING**

DATE: December 10, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Resolution No. 2013-107 and Ordinance No. 1475: Negative Declaration, General Plan Amendment GPA No. 13-2505, and Zone Change ZC No. 13-3503 to change the General Plan and Zoning Designations for Five (5) properties located at the Northeast corner of Hargrave and Charles Streets from Industrial to Very Low Density Residential

RECOMMENDATION: That the City Council:

1. Adopt Resolution No. 2013-107 approving Negative Declaration (Exhibit "A"), General Plan Amendment No. GPA 13-2505, and Zone Change No. ZC 13-3503 to change the General Plan land use and Zoning designations, respectively for five (5) parcels designated on the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot) from Industrial to Very Low Density Residential (Exhibit "B").
2. Adopt Ordinance No. 1475 adopting Zone Change No. ZC 13-3503 to change the Zoning designations of five (5) parcels designated on the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot) from Industrial to Very Low Density Residential (Exhibit "B").

PLANNING COMMISSION REVIEW: On November 6, 2013, the Planning Commission voted unanimously (5-0) and recommended approval of the General Plan Amendment No. GPA 13-2505 and Zone Change No. ZC 13-3503 to the City Council. Prior to voting, the Planning Commission asked questions regarding future subdivision of the properties, animal keeping, and if there were concerns from other residents regarding rezoning of similar properties from Industrial to Residential. Staff responded to the Commissions' questions. Any future subdivisions must comply with the minimum standards for the Very Low Density Residential Zone for lot size, lot width, and lot depth. The minimum lot size is 20,000. The minimum lot width is 100 feet, and the minimum lot depth is 100 feet. Animal keeping is permitted and subject to the requirements of the Municipal Code. If other locations are requested to be changed from Industrial to Residential zone, the City Council will need to provide direction to staff.

BACKGROUND: On January 31, 2006, the five (5) parcels (Attachment 1) referenced in this report were zoned Industrial when the current General Plan and Zoning Code were adopted. The

homes on the property are currently considered legal non-conforming. At the time the homes were built the residential uses were considered conforming; however, the adoption of the General Plan in 2006 resulted in these properties becoming legal non-conforming. Some of the challenges that arose as a result of legal non-conforming properties include difficulty in qualifying for home improvement loans to make improvements to the properties, purchasing homeowner's insurance, or selling the homes under the current Zoning. Any addition to the homes requires approval of a conditional use permit from the Planning Commission. The size of the addition to the home is limited to a maximum of 50% of the size of their current home.

Four (4) of the five (5) property owners who own properties that are located at the northeast corner of Hargrave and Charles Streets have requested that the City change the current General Plan and Zoning designations of their properties from Industrial to a Very Low Density Residential Zone.

On September 24, 2013, the City Council adopted Resolution No. 2013-86 directing staff to initiate a General Plan Amendment and Zone Change for these properties. The existing Zoning is shown in Attachment 1. The aerial map of the five properties is attached as Attachment 2. The proposed Zoning is shown in Exhibit "B".

DISCUSSION AND ANALYSIS: The proposal is to change the General Plan Land Use and Zoning designations for the properties from Industrial to Very Low Density Residential. No specific development is currently proposed on any of the sites. The proposed General Plan Amendment and Zone Change will bring the structures and their use as single-family homes into conformance with the City's General Plan and Zoning. In addition, the structures and their use will be compatible with the neighborhood to easterly and southerly areas along Charles Street.

The total acreage for the five (5) properties is 9.28 acres. The following table provides information on Assessor's Parcel Numbers, Addresses, Parcel Size, and Existing Use.

APN	ADDRESS	PARCEL SIZE (in acres)	PARCEL SIZE IN SQUARE FEET (sf)	EXISTING USE
543-090-003	963 Charles Street	1.13	49,222.8	Single-family homes and accessory structures
543-090-004	981 Charles Street	1.26	54,885.6	Single-family homes and accessory structures
543-090-014	941 Charles Street	0.17	7,405.2	Single-family homes and accessory structures
543-090-016	911 Charles Street	3.0	130,680.0	Single-family homes and accessory structures
543-090-017	None	3.72	162,043.2	Vacant
Total		9.28 acres		

Development Standards: The current development standards for Very Low Density Residential are as shown in the table below:

Max. Density (Units/Ac.)	0-2
Min. Lot Size (Ac. or s.f.) Single Family Lot ^{3,4}	20,000 s.f.
Min. Lot Size (Ac.) Multi-Family Units	N/A
Min. Lot Width (Feet)	100
Min. Lot Depth (Feet)	100
Min. Front Setback (Feet)	35
Min. Rear Setback (Feet)	35
Min. Side Yard Setback (Feet)	15
Min. Street Side (Feet)	20
Max. Bldg. Coverage (%) ⁹	25
Min. Private Outdoor Space (s.f.)	N/A
Min. Common Outdoor Space (s.f.) ⁶	N/A
Maximum Height (stories/feet)	2/35
Maximum Fence/Wall Height (ft)	6
Floor Area Ratio (FAR)	
One-story home	.25
Multi-story home	.40

The recommendation to change these parcels from Industrial to Very Low Density is based on analysis of the lot size and development standards, animal keeping, and compatibility with the existing residential developments that are located in the area to the easterly and southerly of the parcels. The existing single-family homes development to the easterly and southerly of the project site is designated Very Low Density Residential on the General Plan and Zoning maps. The proposed General Plan and Zoning designations for the five (5) parcels are consistent and compatible with these developments.

Four (4) of the five (5) parcels meet the minimum lot size of 20,000 square feet for Very Low Density Residential. Parcel 543-090-014 is 0.17 acre or 7,405 square feet, which does not meet the minimum lot size standard. This parcel can continue to exist and be developed in the future. Any future development on these properties must comply with the development standards in the Very Low Density Residential Zone as indicated in the table above.

Animal Keeping: In addition to the request to change the zoning designation from Industrial to Very Low Density Residential, one property owner has also requested that they be allowed to keep animals. Chapter 17.40 of the Banning Municipal Code (attached) provides regulations on Animal Keeping. This chapter addresses the keeping of small and large animals, the lot size standards that one must have in order to keep a certain number of animals on a property and the maximum number of animals that is allowed based on lot size.

ENVIRONMENTAL DETERMINATION:
California Environmental Quality Act (CEQA)

In accordance with the California Environmental Quality Act (CEQA), the proposed General Plan Amendment and Zone Change are considered a "Project". CEQA defines the project as an activity that has a potential for resulting in either a direct physical change in the environment. Examples of projects include an activity that is directly undertaken by any public agency including but not limited to amendment to zoning ordinances and general plan elements.

In compliance with CEQA, an Initial Study/Negative Declaration was prepared and made available for public review from October 11, 2013 through November 4, 2013. A Negative Declaration means that the project can be seen with certainty that it will not have any negative impacts to the physical environment.

Multiple Species Habitat Conservation Plan (MSHCP):

General Plan Amendment and Zone Change do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS FOR GENERAL PLAN AMENDMENT NO. 13-2505 AND ZONE CHANGE NO. 13-3503 PRIOR TO APPROVAL:

State law and the Banning Zoning Code require that General Plan Amendments and Zone Changes meet certain findings prior to approval by the decision makers. The following findings are provided in support of the approval of the General Plan Amendment and Zone Change.

Finding No. 1: The proposed General Plan Amendment and Zone Change are internally consistent with the General Plan.

Findings of Fact: The current General Plan Land Use and Zoning Overlay Map show the five (5) properties are zoned Industrial. The proposed General Plan Amendment and Zone Change will amend the current land use for the five (5) parcels from Industrial to Very Low Density Residential. The Very Low Density Residential land use designation would allow the properties to be developed with single-family homes at two (2) dwelling units per acre. Four (4) of the five (5) parcels have been developed with single-family homes and accessory structures. Under the current Zoning, these homes are legal non-conforming. The proposed General Plan Amendment and Zone Change will make the current use on the property to be consistent with General Plan and Zoning.

Additionally, the proposed General Plan Amendment and Zone Change have been reviewed against the development standards for Very Low Density Residential within the Banning Zoning Code for internal consistency within all of the General Plan elements' text, diagrams, and maps and have concluded that the proposed General Plan Amendment and

Zone Change will not create any conflicts among the various General Plan elements goals, policies, and objectives, including the maps and diagrams of all the elements in the General Plan. Therefore, the proposed General Plan Amendment and Zone Change will make the current use on the property to be consistent with General Plan and Zoning.

Finding No. 2: The proposed General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.

Finding of Facts: The General Plan Goal 1 for Residential Land Uses states, "Preserve and enhance the City's neighborhoods."¹ The proposed General Plan Amendment and Zone Change provides conformity between existing single-family homes that have been developed on the property and the General Plan land use and Zoning designations. Furthermore, an Initial Study/Negative Declaration was prepared for compliance with the California Environmental Quality Act (CEQA). The Negative Declaration concluded that the proposed General Plan Amendment and Zone Change would not have any negative impacts on the environment. The Negative Declaration was made available for a 20-day public review from October 11, 2013 through November 4, 2013.

With regard to compatibility with existing neighborhoods, the proposed General Plan land use amendment and Zone Change for the five (5) parcels will not create an island within an existing neighborhood. This amendment and zone change make the existing development, land use, and future development of the five (5) parcels consistent and compatible with the existing neighborhoods to the easterly and southerly area of the parcels in that the General Plan and Zoning for these adjacent areas are Very Low Density Residential. The existing uses on the four of the five parcels (one parcel is currently vacant) are single-family homes and accessory structures and are compatible with the existing development to the easterly and the southerly of subject properties.

Based on the above finding of facts provided in this subsection, the proposed General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the project has been reviewed for compliance with the City of Banning Zoning Code and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

Finding No. 3: The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City.

¹ City of Banning General Plan, page III-16

Findings of Fact: The General Plan Build out Summary, Table III-1, on page III-10 shows that the City presently has 420.8 acres of land area that is zoned Industrial. The five (5) parcels that are proposed for General Plan Amendment and Zone Change from Industrial to Very Low Density Residential totaled 9.28 acres. The proposed General Plan Amendment and Zone Change would reduce the amount of Industrial properties by 9.28 acres (or 2.2%) from 420.8 acres to 411.52 acres and increase the Very Low Density Residential zone by the same amount of acreage. The 2.2% reduction in land area designated for Industrial Zone is relatively a minor reduction when compared with the actual development that exists within the 9.28 acre land area zoned for Industrial. Sixty (60) percent (or 5.5 acres) of the 9.28 acre land zoned for Industrial is already developed with single-family homes. This means that future industrial development could occur on the 3.7 acre of land that is currently vacant if it is to remain an Industrial land. The conversion of 3.7 acres of Industrial land to Very Low Density Residential is insignificant compared to the overall land that is available. Therefore, the City is still maintaining an appropriate balance of land use in the City.

Finding No. 4: With regard to the General Plan Amendment and Zone Change to the General Plan Land Use, the subject property is physically suitable for the requested land use designation(s) and the anticipated land use development(s).

Finding of Fact: Four of the five parcels are currently developed with single-family homes. The proposed General Plan Amendment and Zone Change will bring the existing development on the properties to be in conformance with the General Plan and Zoning. In addition, the proposed General Plan Amendment and Zone Change will bring the five (5) properties to be compatible and consistent with the General Plan and Zoning designations for existing residential neighborhoods to the easterly and southerly of the project site.

Based on the facts indicated in this subsection and subsections above, the project site is suitable for requested land use designation(s) and the anticipated land use development(s).

PUBLIC COMMUNICATION: The proposed Zone Text Amendment was advertised in the Record Gazette newspaper on November 29, 2013. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

The public hearing notices were also sent to the owners of the five (5) properties that are subject to the proposed General Plan Amendment and Zone Change and also mailed to the surrounding property owners that are located within a 300' radius of the subject properties for the re-zoned.

REVIEWED BY THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION:


The project site is located within Banning Airport Land Use Compatibility (ALUC) Zone D. When projects or proposed properties are located within an airport land use compatibility zone, including General Plan Amendment and Zone Change, the project is required to be reviewed by ALUC. The application for review was submitted to ALUC for review in advanced of the Planning Commission meeting; however, the application was not forwarded to them by the County Clerk.

ALUC is advisory and it does not prohibit the City Council from making a decision on the first reading of the ordinance. This item is proposed to be on ALUC's agenda on January 9th. The Council will have an opportunity to review any comments from ALUC before it adopts the second reading of the Ordinance for the Zone Change.


STRATEGIC PLAN INTEGRATION: The proposed project is consistent with Goal #5, Quality of Life, which states, *"Build and maintain a high standard of community appearance, character and livability by effective planning"*

FISCAL DATA: The total costs related to the adoption of the General Plan amendment and zone change for this project is \$4,000.00 which does not include staff time. This cost was not planned in the Community Development Budget and was absorbed by the General Fund.

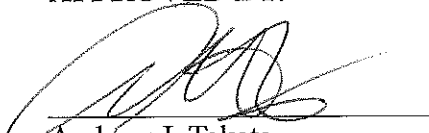
PREPARED BY:


Zai Abu-Bakar
Community Development Director

REVIEWED BY:


June Overholt,
Deputy City Manager /
Administrative Services Director

APPROVED BY:

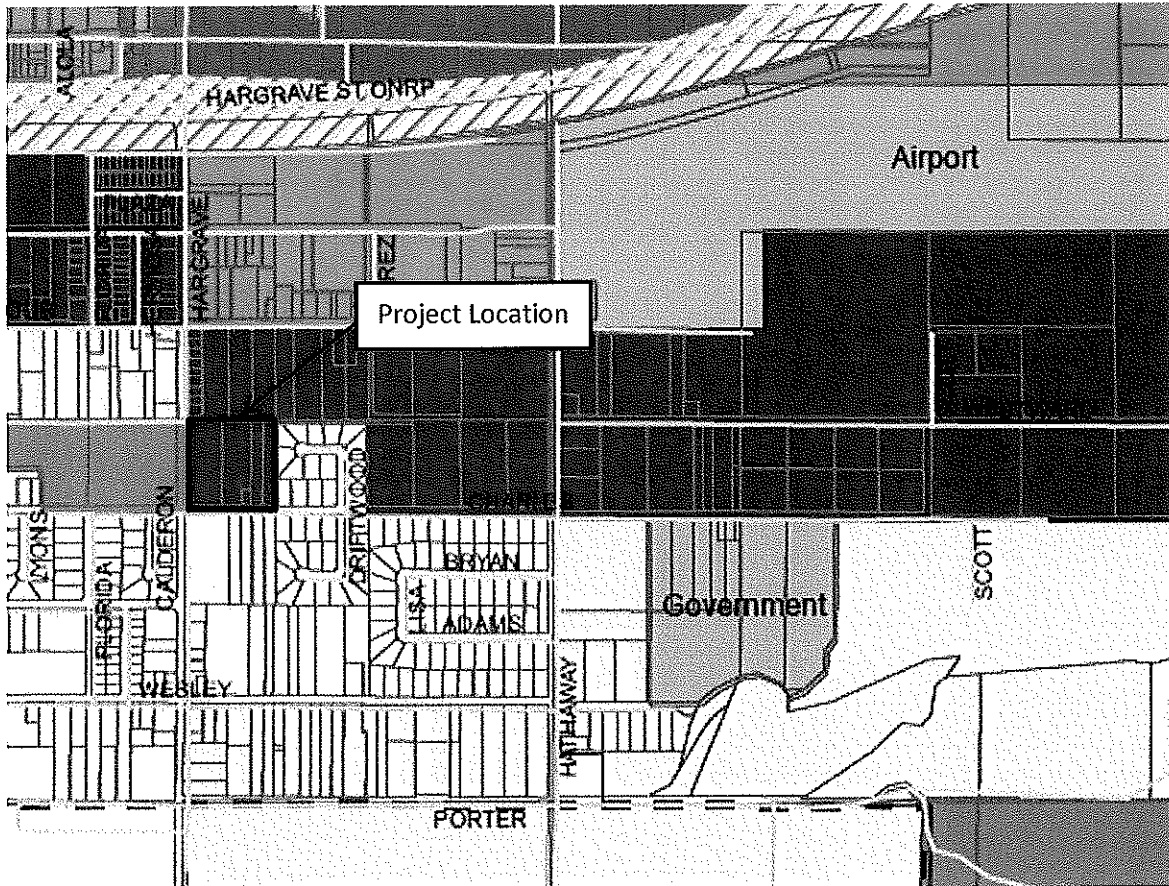

Andrew J. Takata
City Manager

Attachments:

1. Existing General Plan and Zoning Map
2. Aerial Map Showing the Five Parcels and Surrounding Area
3. Resolution No. 2013- 107
4. Ordinance No. 1475
5. Chapter 17.40 of the Banning Zoning Code regarding Animal Keeping Standards
6. Public Hearing Notice
7. Mailing Labels

Attachment 1
Existing General Plan and Zoning Map

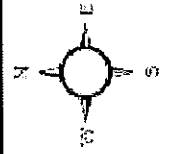
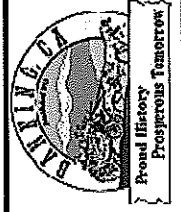
General Plan and Existing Zoning



General Plan & Existing Zoning = Industrial (I)

Attachment 2
Aerial Map Showing the Five Properties and
Surrounding Area

5 Parcels



1" = 188 ft

9.28 Acres

08/15/2013

This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

Attachment 3
Resolution No. 2013- 107

RESOLUTION NO. 2013-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING NEGATIVE DECLARATION, GENERAL PLAN AMENDMENT NO. 13-2503 AND ZONE CHANGE NO. 13-3503 TO CHANGE THE GENERAL PLAN AND ZONING DESIGNATIONS FROM INDUSTRIAL TO VERY LOW DENSITY RESIDENTIAL, RESPECTIVELY FOR FIVE (5) PROPERTIES THAT ARE LOCATED AT THE NORTHEAST CORNER OF CHARLES AND HARGRAVE STREETS

WHEREAS, five (5) properties designated by the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot) and that are located at the northeast corner of Charles and Hargrave Streets were re-zoned from residential to Industrial when the current General Plan and Zoning Code were adopted on January 31, 2006; and

WHEREAS, four (4) of the five (5) property owners who own properties that are located at the northeast corner of Hargrave and Charles have requested that the City change the current General Plan and Zoning designations of their properties from Industrial to Very Low Density Residential Zone; and

WHEREAS, the reasons for the requested change are because the subject properties are considered legal non-conforming which creates difficulties in qualifying for home improvement loans to make property improvements; purchasing homeowner's insurance; or selling homes under the current Zoning. There are restrictions and limitations with regard to expansion to existing properties such as size of the additions and the approval process for additions. Additions to the homes require approval of a conditional use permit from the Planning Commission. The size of the addition to the home is limited to a maximum of 50% of the size of their current home; and

WHEREAS, on September 24, 2013, the City Council adopted Resolution No. 2013-86 initiating a General Plan Amendment (GPA No. 13-2505) and a Zone Change (ZC No. 13-3503) for five (5) parcels that are located at the northeast corner of Hargrave and Charles; and

WHEREAS, the City has reviewed the proposed General Plan Amendment and Zone Change for compliance with the California Environmental Quality Act (CEQA) and it is determined that the General Plan Amendment and Zone Change are defined as "project" under CEQA Guidelines 15378 and has prepared an Initial Study; and

WHEREAS, the Initial Study recommended the preparation of a Negative Declaration for compliance with CEQA; and

WHEREAS, the Negative Declaration was prepared and made available for a 20-day public review from October 11, 2013 to November 4, 2013; and

WHEREAS, on October 11, 2013, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing before the Planning Commission concerning the project, which included the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503). In addition, the City mailed public hearing notices to the owners of properties that are directly affected by the General Plan Amendment and Zone Change; the property owners that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project; and

WHEREAS, on November 6, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered the Negative Declaration, General Plan Amendment (GPA No. 13-2505), and Zone Change (ZC #13-3503); and

WHEREAS, on November 29, 2013, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503). In addition, the City mailed public hearing notices to the owners of properties that are directly affected by the General Plan Amendment and Zone Change; the property owners that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project; and

WHEREAS, on December 10, 2013, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the project and at which the City Council considered the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503).

NOW THEREFORE, the City Council of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

Compliance with the California Environmental Quality Act (CEQA): The City Council has analyzed this proposed in accordance with the California Environmental Quality Act (CEQA). Based on the analysis, the proposed General Plan Amendment and Zone Change are considered a "Project". CEQA defines the project as an activity that has a potential for resulting in either a direct physical change in the environment. Examples of projects include an activity that is directly undertaken by any public agency including but not limited to an amendment to zoning ordinances and general plan elements.

In compliance with CEQA, an Initial Study/Negative Declaration was prepared and made available for a 20-day public review from October 11, 2013 through November 4, 2013. A Negative Declaration means that the project can be seen with certainty that it will not have any negative impacts to the physical environment.

Multiple Species Habitat Conservation Plan (MSHCP): The proposed General Plan Amendment and Zone Change do not relate to any one physical project and are not subject to the MSHCP.

Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR GENERAL PLAN AMENDMENT NO. 13-2505 AND ZONE CHANGE NO. 13-3503:

Finding No. 1: The proposed General Plan Amendment and Zone Change are internally consistent with the General Plan.

Findings of Fact: The current General Plan Land Use and Zoning Overlay Map shows the five (5) properties are zoned Industrial. The proposed General Plan Amendment and Zone Change will amend the current land use for the five (5) parcels from Industrial to Very Low Density Residential. The Very Low Density Residential land use designation would allow the properties to be developed with single-family homes at two (2) dwelling units per acre. Four (4) of the five (5) parcels have been developed with single-family homes and accessory structures. Under the current Zoning, these homes are legal non-conforming. The proposed General Plan Amendment and Zone Change will make the current use on the property to be consistent with General Plan and Zoning.

Additionally, the proposed General Plan Amendment and Zone Change have been reviewed against the development standards for Very Low Density Residential within the Banning Zoning Code for internal consistency within all of the General Plan elements' text, diagrams, and maps and have concluded that the proposed General Plan Amendment and Zone Change will not create any conflicts among the various General Plan elements goals, policies, and objectives, including the maps and diagrams of all the elements in the General Plan. Therefore, the proposed General Plan Amendment and Zone Change will make the current use on the property to be consistent with General Plan and Zoning.

Finding No. 2: The proposed General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.

Finding of Facts: The General Plan Goal 1 for Residential Land Uses states, "Preserve and enhance the City's neighborhoods.¹" The proposed General Plan Amendment and Zone Change provides conformity between existing single-family homes that have been developed on the property and the General Plan land use and Zoning designations. Furthermore, an Initial Study/Negative Declaration was prepared for compliance with the California Environmental Quality Act (CEQA). The Negative Declaration concluded that the proposed General Plan Amendment and Zone Change

¹ City of Banning General Plan, page III-16

would not have any negative impacts on the environment. The Negative Declaration was made available for a 20-day public review from October 11, 2013 through November 4, 2013.

With regard to compatibility with existing neighborhoods, the proposed General Plan land use amendment and Zone Change for the five (5) parcels will not create an island within an existing neighborhood. The make the existing development and the use and future development of the five (5) parcels consistent and compatible with the existing neighborhoods to the easterly and southerly area of the parcels in that the General Plan and Zoning for these adjacent areas are Very Low Density Residential. The existing uses on the four of the five parcels (one parcel is currently vacant) are single-family homes and accessory structures and are compatible with the existing development to the east and the south of subject properties.

Based on the above finding of facts provided in this subsection, the proposed General Plan Amendment and Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the project has been reviewed for compliance with the City of Banning Zoning Code and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

Finding No. 3: The proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City.

Findings of Fact: The General Plan Build out Summary, Table III-1, on page III-10 shows that the City presently has 420.8 acres of land area that is zoned Industrial. The five (5) parcels that are proposed for General Plan Amendment and Zone Change from Industrial to Very Low Density Residential totaled 9.28 acres. The proposed General Plan Amendment and Zone Change would reduce the amount of Industrial properties by 9.28 acres (or 2.2%) from 420.8 acres to 411.52 acres and increase the Very Low Density Residential zone by the same amount of acreage. The 2.2% reduction in land area designated for Industrial Zone is relatively a minor reduction when compared with the actual development that exists within the 9.28 acre land area zoned for Industrial. Sixty (60) percent (or 5.5 acres) of the 9.28 acre land zoned for Industrial is already developed with single-family homes. This means that future industrial development could occur on the 3.7 acre of land that is currently vacant if it is to remain an Industrial land. The conversion of 3.7 acres of Industrial land to Very Low Density Residential is insignificant compared to the overall land that is available. Therefore, the City is still maintaining an appropriate balance of land use in the City.

Finding No. 4: With regard to the General Plan Amendment and Zone Change to the General Plan Land Use, the subject property is physically suitable for the requested land use designation(s) and the anticipated land use development(s).

Finding of Fact: Four of the five parcels are currently developed with single-family homes. The proposed General Plan Amendment and Zone Change will bring the existing development on the properties to be in conformance with the General Plan and Zoning. In addition, the proposed General Plan Amendment and Zone Change will bring the five (5) properties to be compatible and consistent with the General Plan and Zoning designations for existing residential neighborhoods to the east and south of the project site.

Based on the facts indicated in this subsection and subsections above, the project site is suitable for requested land use designation(s) and the anticipated land use development(s).

SECTION 3. CITY COUNCIL ACTIONS. The City Council hereby takes the following action:

1. Adopt Initial Study/Negative Declaration for compliance with CEQA (Exhibit "A"); and
2. Approve General Plan Amendment No. 13-2505 to change the land use designations for five (5) parcels that are located at the northeast corner of Charles and Hargrave Streets from Industrial to Very Low Density Residential (Exhibit "B"); and
3. Adopt Zone Change No. 13-3503 to change the Zoning designations for five (5) parcels that are located at the northeast corner of Charles and Hargrave Streets from Industrial to Very Low Density Residential (Exhibit "B").

PASSED, APPROVED AND ADOPTED this 10th day of December 2013.

Deborah Franklin, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-107 was duly introduced and adopted at a regular meeting of the City Council of the City of Banning, held on the 10th day of December, 2013, by the following vote, to wit:

AYES:

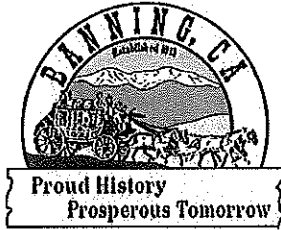
NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

Exhibit "A"
Initial Study/Negative Declaration



CITY OF BANNING
Initial Study/Negative Declaration

GENERAL PLAN AMENDMENT NO. 13-2505
AND ZONE CHANGE NO. 13-3503

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

October 8, 2013

City of Banning
Initial Study/Negative Declaration

Project Title:

- 1. General Plan Amendment No. 13-2505 and Zone Change No. 13-3503**
- 2. Lead Agency Name and Address:** City of Banning, 99 E. Ramsey Street , Banning, CA 92220
- 3. Contact Person and Phone Number:** Zai Abu Bakar, Community Development Director, (951) 922-3131
- 4. Applicant Name and Address:** City of Banning, 99 E. Ramsey Street, Banning, CA 92220
- 5. Project Location:** Northeast corner of Hargrave and Charles Street (See Figure 1)
- 6. General Plan Designation:** Industrial
- 7. Project Description (describe the whole action involved, including, but not limited to, later phases of the project, and any secondary, support, or off-site features that are necessary for its implementation).**

The Project evaluated in this Initial Study is an amendment to the General Plan Land Use and Zoning maps to change the land use designations for five (5) properties from Industrial to Very Low Density Residential (See Figures 1 and 2). The total acreage for the five (5) properties is 9.28 acres. The size of each parcel is indicated in the Table on page 3 of this Initial Study.

The Assessors Parcel Numbers and addresses for the five (5) properties are: 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot). No new home construction is currently proposed on any of the sites at this time. See Figures 3 and 4 for the location and aerial view of the properties.

This Initial Study/Mitigated Negative Declaration analyzes the potential environmental impacts that would be expected to result from the proposed changes to General Plan land use and zoning designations on the General Plan and Zoning maps from Industrial to Very Low Density Residential for the above-mentioned parcels. Since there is no new home development is proposed at this time, future home construction will be reviewed for compliance with all applicable City policies, standards, regulations and the California Environmental Quality Act (CEQA)..

Figure 1
Existing Zoning

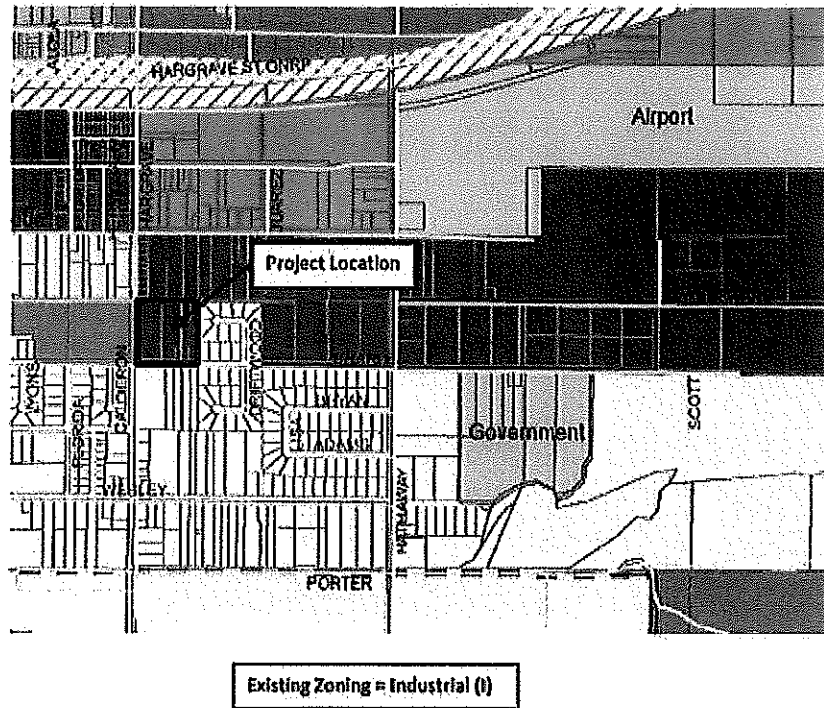
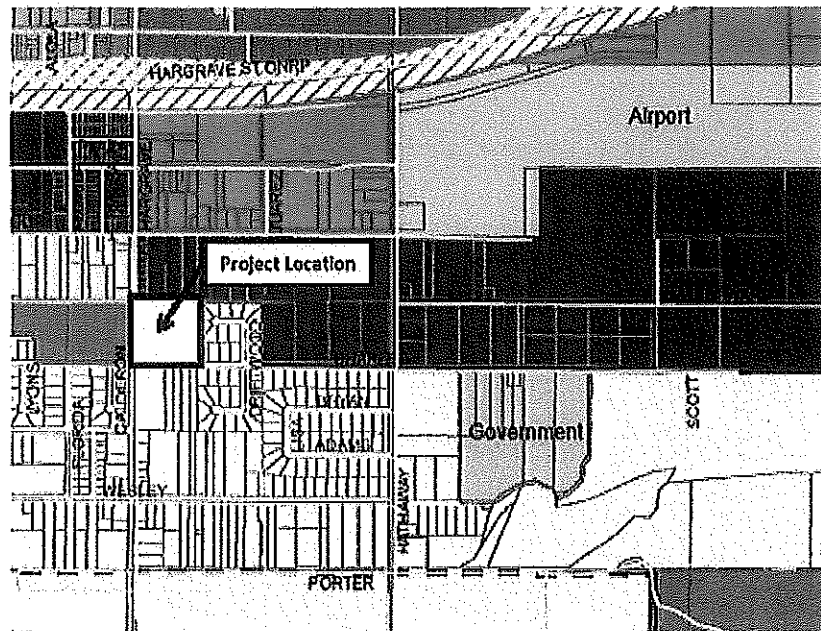
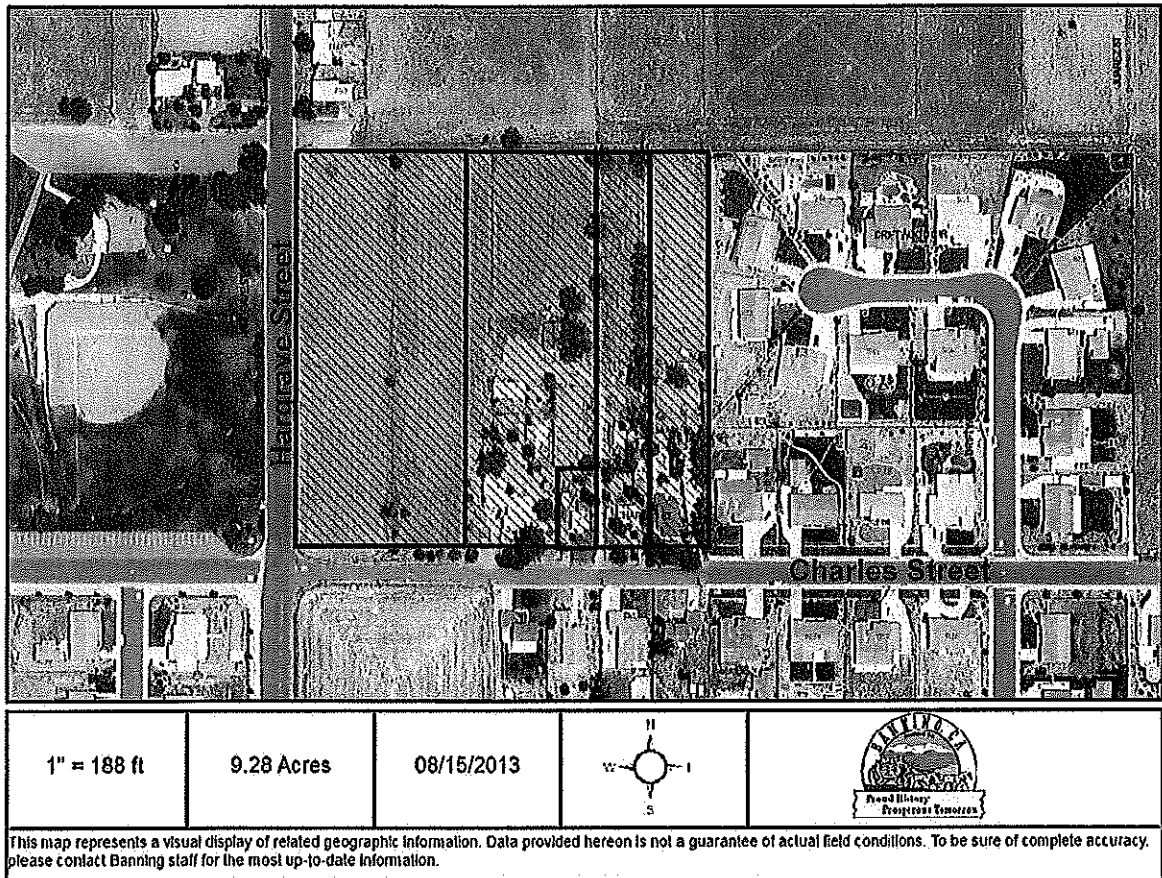


Figure 2
Proposed Zoning



Proposed Zoning = Very Low Density Residential (VLDR)

Figure 3
Aerial View of the Five Parcels



Note: The (5) five parcels are delineated within the dark lines that are crosshatched.

8. Surrounding Land Uses and Environmental Setting (describe the project's surroundings):

The project site is located at the northeast corner of Hargrave and Charles Street. Four (5) of the five (5) parcels currently have existing homes and accessory structures and there is one vacant parcel. The table below provides information with regard to the existing use on uses surrounding each of the properties

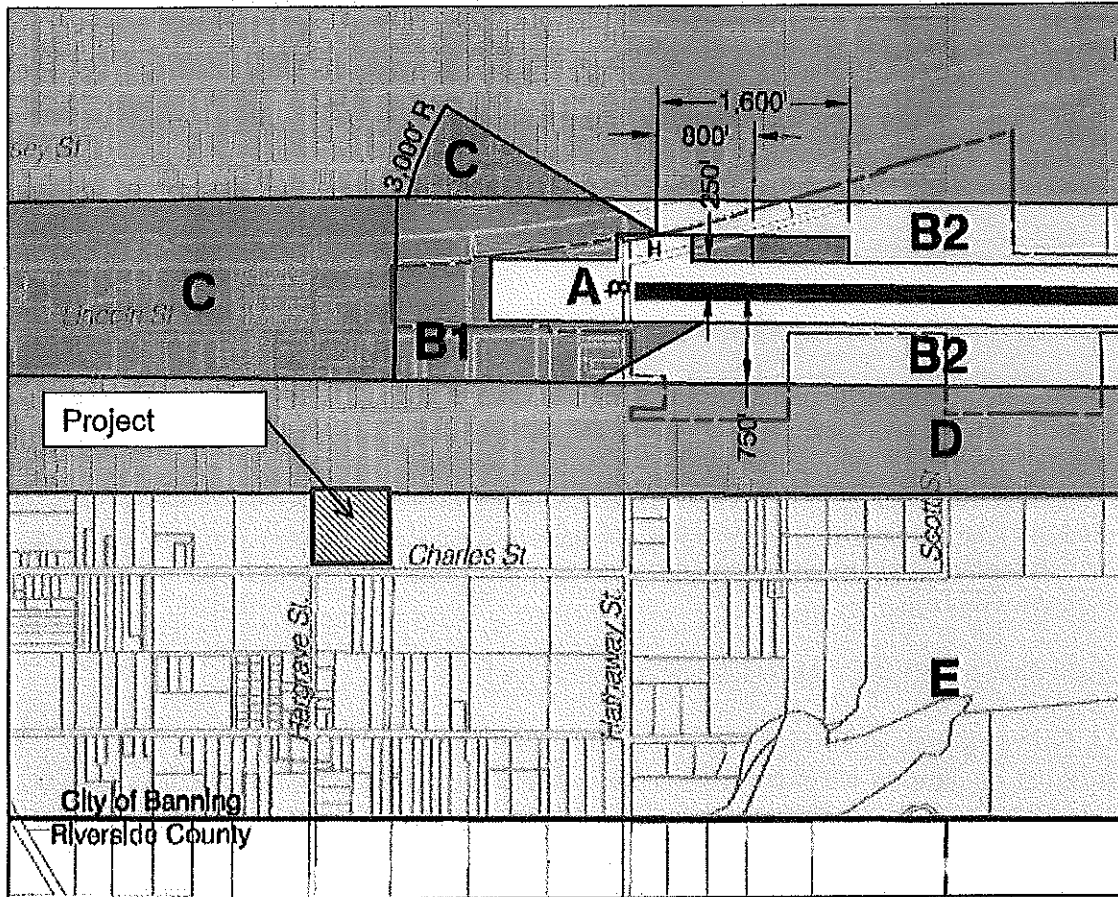
APN/ Address	ACR ES	EXISTING USE	NORTH	SOUTH	EAST	WEST
543-090-003 963 Charles Street	1.13	Single-family homes and accessory structures	Vacant Land	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-004 981 Charles Street	1.26	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-014 941 Charles Street	0.17	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-016 911 Charles Street	3.0	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-017 No Address	3.72	Vacant	Single-family Home/Vacant Land	Charles Street/Vacant Land	Single-family Home	Hargrave Street/Lions Park
Total	9.28 acres					

9. Public Agencies whose approval or Participation is Required (i.e., for permits, financing approval, or participation agreements):

The General Plan Amendment and Zone Change is required to be reviewed by the Airport Land Use Commission as the project site is located within Zone E of the Banning Airport Land Use Compatibility Zone. Figure 2 shows the five parcels in relation to the airport.

City review of specific development proposals by the property owners will be required prior to development of the properties in the future.

Figure 4
Parcels location in relation to the Banning Municipal Airport



ENVIRONMENTAL ANALYSIS

1. INTRODUCTION

Purpose and Scope

This Initial Study/Mitigated Negative Declaration serves as the environmental review of the proposed Project, as required by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the State CEQA Guidelines, and the City of Banning Local Guidelines for Implementing CEQA.

In accordance with Section 15063 of the State CEQA Guidelines, the City of Banning is the lead agency and is required to prepare an Initial Study to determine if the Project may have a significant effect on the environment. This Initial Study is intended to be an informational document providing the Planning Commission, City Council, other public agencies, and the general public with an objective assessment of the potential environmental impacts that could result from the adoption of the Housing Element and related implementation actions. Since there is no specific housing project proposed on any of the sites affected by the proposed General Plan and zoning amendments, the environmental analysis evaluates impacts that would be anticipated as a result of the implementation of the Housing Element to the extent they can be known at this time.

PREVIOUS ENVIRONMENTAL DOCUMENTATION

A Final Environmental Impact Report (FEIR) for the Banning General Plan was prepared by the City of Banning in accordance with the California Environmental Quality Act (CEQA). The FEIR analyzed the environmental consequences of the development of the city according to the General Plan. The General Plan and FEIR were adopted by the Banning City Council on January 31, 2006 (Resolution No. 2006-13).

Prior to approval of subsequent actions, the City is required to determine whether the environmental effects of such actions are within the scope of the project covered by the FEIR, and whether additional environmental analysis is required. If the agency finds that pursuant to Sections 15162, 15164, and 15183 of the CEQA Guidelines no new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur, then no supplemental or subsequent EIR is required.

PURPOSE OF THIS INITIAL STUDY

Pursuant to state law, the City is required to evaluate the consequences of an amendment to the General Plan Land Use and changes to the Zoning designations for properties. The adoption of amendments to the General Plan and Zone Change is a "project" under CEQA. This Initial Study provides an analysis of whether the proposed General Plan amendment and Zone Change would result in any new or more substantial adverse environmental effects than were previously analyzed in the General Plan FEIR pursuant to CEQA Guidelines Sections 15162. The City, as

Lead Agency, has the authority for project approval and certification of the accompanying environmental documentation.

BASIS FOR A SUBSEQUENT NEGATIVE DECLARATION

Section 15162 of the State CEQA Guidelines states:

(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but project proponents decline to adopt the mitigation measure or alternative.

The Final EIR certified in 2006 for the Banning General Plan evaluated the potential impacts of development of the City according to the land use designations set forth in the Land Use Element of the General Plan. The General Plan EIR evaluated the impacts associated with development of 32,198 additional housing units during the time horizon of the General Plan within the 23,555-acre study area, of which 14,824± acres are within the City limits. The proposed amendments to the General Plan Land Use Element and Zoning Map would replace the current land use and Zoning designations of five (5) properties from Industrial to Very Low Density Residential (0-2 dwelling units per acre). Four of the properties are already developed with single-family homes. The existing vacant lot that is located at the northeast corner of Hargrave and Charles Streets could be developed with up to two (2) dwelling units per acre. This increase is a negligible increase in residential development under the 2006 General Plan and current zoning.

The level of development reflected in the proposed general plan amendment and zone change is consistent with the current regional growth forecast, the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), and the City is required by state law to adopt land use plans and zoning regulations consistent with these regional plans and growth forecast.

Through the analysis presented in this document, the City of Banning has determined that potential impacts associated with the proposed General Plan amendment and Zone Change are not substantial. There are no new significant impacts resulting from these changes; in fact the impacts will be significantly reduced since the land use intensity and density will change from commercial to residential. In addition, the changes with respect to the circumstances under which the project will be undertaken would not result in new or more severe significant environmental impacts than previously analyzed.

SUMMARY OF FINDINGS

Based on the Environmental Checklist prepared for the project and supporting environmental analysis and pursuant to Section 15162 of the CEQA Guidelines, the City of Banning has determined, on the basis of substantial evidence in the light of the whole record, that:

- (a) The proposed General Plan Amendment and the Zone Change do not propose substantial changes to the project which would require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the General Plan FEIR;
- (b) There have been no substantial changes in circumstances under which the project will be undertaken that will require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the FEIR; and
- (c) No new information of substantial importance as described in subsection (a)(3) of Section 15162 has been revealed that would require major revisions to the FEIR or its conclusions.

There is no negative impacts resulting from the adoption of the proposed General Plan Amendment and Zone Change since the intensity and density of the land use will be significantly reduce by having the properties rezoned from Industrial to Very Low Density Residential.

2. EVALUATION OF ENVIRONMENTAL IMPACTS

An Environmental Checklist Form has been used to evaluate the potential environmental impacts associated with the proposed Project. The Form has been prepared by the Resources Agency of California to assist local governmental agencies, such as the City of Banning, in complying with the requirements of the Statutes and Guidelines for implementing CEQA.

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is "Potentially Significant Impact". Based on the analysis contained in this Initial Study, the following environmental factors are affected by the proposed project.

- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | Significance |
| <input type="checkbox"/> Greenhouse Gas Emissions | | |

In the Form, a series of questions is asked about the Project for each of the above-listed environmental factors. A brief explanation is then provided for each question on the Form. There are four possible responses to each question:

A. Potentially Significant Impact.

This response is used when the Project has the potential to have an effect on the environment that is considered to be significant and adverse.

B. Potentially Significant Unless Mitigation Incorporated.

This response is used when the Project has the potential to have a significant impact, which is not expected to occur because:

- Mitigation measures have been incorporated into the Project design in order to reduce the impact to a less than significant level; or,
- Adherence to existing policies, regulations, and/or design standards would reduce the impact of the Project to a less than significant level.

C. Less Than Significant Impact.

This response is used when the potential environmental impact of the Project is determined to be below known or measurable thresholds of significance and thus would not require mitigation.

D. No Impact.

This response is used when the proposed Project does not have any measurable impact.

3. ENVIRONMENTAL DETERMINATION

On the basis of this initial evaluation, the City finds that:

- ☒ The proposed Project could not have a significant effect on the environment, and a Negative Declaration will be prepared.
- ☐ Although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures, described in Exhibit C (attached), have been added to the Project. A Mitigated Negative Declaration will be prepared.
- ☐ The proposed Project may have a significant effect on the environment, and an Environmental Impact Report is required.
- ☐ The proposed Project may have a potentially significant impact unless mitigation is incorporated, but at least one of the impacts has been: 1) adequately analyzed in an earlier document pursuant to applicable legal standards and 2) addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An Environmental Impact Report is required, but it is to analyze only those impacts that have not already been addressed.
- ☐ Although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier Environmental Impact Report (EIR) or in a Negative Declaration pursuant to applicable legal standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

Approved for distribution by:

Signature:


Zai Abu Bakar, Community Development Director

Prepared by: Zai Abu Bakar, Community Development Director

Date: October 8, 2013

Public Review: October 11, 2013 through November 4, 2013

4. ENVIRONMENTAL ANALYSIS CHECKLIST

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the Project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item I.c) thorough d) Scenic Vista, Scenic Resources, Visual Character, and Light and Glare. No Impact.

The proposed General Plan Land Use and Zone Change from Industrial to Residential will not negatively impact the environment because the land use intensity and density will be reduced significantly by changing the land use and zoning from Industrial to Very Low Density Residential. The overall building height for Industrial zone is 2 stories or 60' maximum. The overall building height for Very Low Density Residential Zones is two stories or 35' maximum. Maximum lot coverage by building for an Industrial Zone is 60% while maximum lot coverage for a home on a Very Low Density Residential Lot is 25%. The overall height and bulk impact is significantly reduced with Very Low Density Residential Land Use and Zoning and; therefore, it minimizes view and aesthetic impacts for the area. In addition, lighting for the buildings and parking lot will be significantly reduced with the change in land use and zoning designations from Industrial to Very Low Density Residential since single-family homes do not have commercial parking lots.

Explanation of Item I. a) and b). Scenic Vista and Scenic Resources. No Impact.

The California Department of Transportation regulates scenic resources within State highway. In 1963, the California State Scenic Highway Program was established by State legislation (SB 1467). The purpose of the program is to help communities protect and enhance their natural and cultural uniqueness and beauty. According to Caltrans, a highway may be designated scenic depending upon how much of the natural landscape can be seen by travelers, the scenic quality of the landscape, and the extent to which development intrudes upon the travelers' enjoyment of the view. Caltrans defines a State Scenic Highway as any freeway, highway, road, or other public

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<p>right-of-way that traverses an area of exceptional scenic quality, containing striking views, flora, geology, or other unique natural attributes.</p> <p>I-10 from SR-38 and SR 62 is an "eligible" State Scenic Highway. To be designated as "eligible" for State Scenic Highway status, this Section of I-10 must meet the following criteria:</p> <ul style="list-style-type: none"> a. Consist of scenic corridor that is comprised of a memorable landscape that showcases the natural scenic beauty or agriculture of California; b. Existing visual intrusions do not significantly impact the scenic corridor; c. Demonstration of strong local support for the proposed scenic highway designation; and d. The length of the proposed scenic highway is not less than a mile and is not segmented. <p>The City must apply to Caltrans for the official designation, adopt the Corridor Protection Program, and receive notification from Caltrans that the highway has been officially designated State Scenic Highway. To receive Scenic Highway official designation, the scenic corridor of the highway must be identified and defined. Scenic corridor consists of land that is visible from the highway right-of-way and is comprised primarily of scenic and natural features. Topography, vegetation, viewing distance, and/or jurisdictional lines determine the corridor boundaries. The City must adopt ordinances, zoning, and/or planning policies that are designed to protect the scenic quality of the corridor. These ordinances and/or policies make up the official "Corridor Protection Program."</p> <p>The City of Banning has not adopted a Corridor Protection Plan for the portion of the I-10 that traverses the City. Though eligible for designation, this section of the I-10 is not officially designated State scenic highway.</p> <p>State Route 243 starts at Lincoln Street in Banning and traverses through the San Jacinto Mountains is designated State Scenic Highway. This portion of the highway is mostly visible from properties that are located immediately adjacent to State Route 243. The closest project site at the corner of Hargrave and Charles streets are approximately one-half (1/2) mile away from State Route 243. Therefore, there is no negative impact on scenic highway.</p>				
II. AGRICULTURAL RESOURCES.				
Would the Project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
non-agricultural use?				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for , or cause rezoning of, forestland (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forestland or conversion of forestland to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation for II. a) and e). Farmland and Conversion of Farmland. No Impact.

The California Department of Conservation maintains information related to mapping and monitoring of farmland and farmland subject to Williamson Act contract. Based on the California Department of Conservation website at www.consrv.ca.gov/dlrip/FMMP and Riverside County Land Management System, there is no farmland that are of Statewide and regional importance on any of the candidate project sites. Therefore, the Project has no impact on Williamson Act Contract/Agriculture Preserve and it will not convert farmland to non-agricultural use.

Explanation for II. b). Williamson Act Contract. No Impact.

With regard to Williamson Act/Agricultural Preserve contract's existence on the parcels, research was done on the Riverside County Transportation and Land Use Department's website at: <http://www3.tlma.co.riverside.ca.us/pa/rcdis/viewer>. The County's website reveals no Williamson Act/Agricultural Preservation contracts in the City of Banning. Therefore, the project has no conflict with zoning for agriculture use and it also has no impact on Williamson Act/Agriculture Preserves contract.

Explanation for II. c) and d) Forestland. No Impact.

As indicated in the Explanation for Item II. b) above, the parcels proposed for General Plan

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<p>Amenagement and Zone Change are currently designated as Industrial on the General Plan and Zoning maps and is not zoned for forestland (as defined in PRC section 12220(g), timberland (as defined by PRC section 4526, or timberland zoned for timberland production (as defined by Government Code Section 51104(g). Therefore, the Project has no impact on forestland, timberland, or timberland zoned for timberland production and it will not convert any forestland to non-forest use. No mitigation measure is required.</p>				
III. AIR QUALITY. Would the Project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions with exceeded quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation for III. a) through e) Air Quality. No Impact.</u> The City of Banning is located within the South Coast Air Basin where air quality is regulated by the South Coast Air Basin. The South Coast Air Basin regulates short-term and long term air quality impact from stationary and non-stationary pollution sources. The South Coast Air Quality Management District (SCAQMD) adopted the latest Air Quality Management Plan (AQMP) in December 2012¹. The Air Quality Management Plan includes development information from the cities general plan within the South Coast air district boundaries including the City of Banning. The adopted AQMD included development industrial development at the time of adoption since the current General Plan and Zoning designations for the properties are Industrial. Industrial Zoning include assumptions that more emissions are to be generated because of the nature of land</p>				

¹ <http://www.aqmd.gov/aqmp/2012aqmp/index.htm>

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use. These are emissions from vehicles such as trucks, passenger vehicles, and air quality related to the use and operations of the buildings. With the change from Industrial to Very Low Density Residential, the land use activities for the site will be less intense. Therefore, the air quality impact will be significantly reduced.				
IV. BIOLOGICAL RESOURCES.				
Would the Project:				
a) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservancy Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation Item IV. a) through c) Habitat and Wildlife Resources. No Impact.</u> The City of Banning is a signatory to the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP). Within the MSHCP, there are requirements for which the City must comply with if the biological resources are affected. There are three features that are present in the City of Banning General Plan Study area which include: criteria areas, special linkage areas, and special survey area. The General Plan EIR on pages III-126 and III-127 and General Plan on page IV-48 define these areas in detail. The sites for the Project are located on vacant land that are either surrounded by existing development or located adjacent to an existing development and are not located in the criteria cell, special linkage areas, and special survey area. Therefore, there is no impact to habitat and wildlife resources.</p> <p><u>Explanation Item IV. d) through f) . Fish or Wildlife Species, Biological Resources, Trees, and Conservation Plan. No Impact</u> The project will not impact fish or wildlife species, habitat, corridors or wildlife nursery sites or conflict City policies or ordinances protecting biological resources including tree preservation or habitat conservation as the project area is not a pristine site. There is no development proposed with the General Plan amendment and Zone Change at this time; therefore, there is no impact to fish or wildlife species, biological resources, trees and conservation plan. Future development on the site will need to comply with the City's Municipal Code and environmental review at the time that the application is submitted for entitlement processing.</p>				
V. CULTURAL RESOURCES. Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of V. a). Historical Resources. No Impact.

The City's General Plan and General Plan EIR (pages IV-62 through IV-64) provides a listing of structures that are designated heritage properties and recorded historic era buildings. Review of the listing concluded that there is no listing of structures that are designated heritage properties and recorded historic era buildings on the project site. Therefore, there is no impact on historical resources.

Explanation of V. b) and c). Archeological and Paleontological Resources. Less Than Significant.

The General Plan indicated that less than one-third of the total acreage within the General Plan study area has been surveyed for archeological resources. The majority of the areas previously surveyed are located in the southern portion of the City on the Valley Floor, and these surveys encountered relatively few archeological sites or other cultural resources. The project site is located within an area that is low probability for archeological resources. The City's standard practice during development is that monitoring by a qualified archeologist shall be required during all earthmoving activities, grading, grubbing, trenching or other earth-moving activities on the project site. A City-approved project archeologist must create a mitigation-monitoring plan prior to earth-moving in the project area, a pre-grade meeting associated with the details of that plan must occur between the monitoring archeologist, the City representative, and the grading contractor before issuance of a grading permit. The Plan must discuss contingency plans associated with Native American tribal representation if any pre-historic artifacts are found during earth-moving. The mitigation-monitoring plan document must contain a description of how and where artifacts will be curated if found during monitoring. Because of the low probability of archeological and paleontological resources findings and with the City's standard operating procedure, there is no impact to archeological and paleontological resources. At this time, there is no development proposed with the General Plan Land Use amendment and Zone Change; therefore, there is no impact on the environment.

Explanation of V. d). Human Remains. Less Than Significant

There is no development proposed with the General Plan Land Use Amendment and the Zone Change. However, at the time of future development, the Health and Safety Code Section 7050.5 requires that the Project follow the proper protocol when human remains are found on a construction project site. The City's standard operating procedure is that if previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant

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to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the discovery site. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. With the standard operating procedure, impact to human remains is less than significant. There is no proposal for development with the proposed General Plan Land Use amendment and the Zone Change; therefore, there				
VI. GEOLOGY AND SOILS. Would the Project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems if sewers are not available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item VI a) i) through iii) and c) Exposure to Risk to Earthquake. No Impact.

The City's General Plan Table V-1² shows the various faults names, proximity to Banning, and seismic intensities. Exhibit V-3³ shows approximate locations of these fault zones including San Andreas fault. The entire area of the City is therefore susceptible to seismically induced ground shaking. There is no development project proposed at this time with the General Plan Land Use Amendment and Zone Change from Industrial to Very Low Density Residential. Therefore, there is no exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury. In the future, should development takes place within the project site, all buildings and construction must comply with the California Building Code for occupancies.

Explanation on Item VI. a). iv) Landslides. No Impact.

The Project site is relatively flat and is not in the vicinity of slopes that are susceptible to landslide. Therefore, there is no landslide impact.

Explanation on Item VI. b) Soil Erosion. No Impact.

There is no development proposed with this General Plan Land Use Amendment and Zone Change from Industrial to Very Low Density Residential. Should there be any future development on the sites that would create the potential for soil erosion by removing existing vegetation or existing structures, the Project is required to adhere to conditions under the National Pollution Discharge Elimination System permit issued by the Regional Water Quality Control Board and prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) to be administered through out project construction. The SWPPP will incorporate best management practices to ensure that the potential water quality impacts during construction from soil erosion would be reduced to less than significant levels. In the long-term, previously undisturbed soil will be replaced with structures, pavement, and new landscaping as part of the project. These improvements will not contribute to the conditions that result in on-site soil erosion or off-site.

² Page V-12 of the Banning General Plan, Environmental Hazards

³ Page V-13 of the Banning General Plan, Environmental Hazards

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Therefore, there is no impact on soil erosion.				
<p><u>Explanation on Item VI. d) Expansive Soil. Less Than Significant Impact</u></p> <p>The Project sites are located in low-lying areas of the City that are proposed for development. The General Plan indicates that low-lying areas of the City are underlain by alluvial fan sediments that are composed primarily from granular soils and thus the expansion potential for soils ranges from low to very low⁴. There is no development proposed at this time with this General Plan Amendment and Zone Change from Industrial to Very Low Density Residential. Should a development is proposed on the project site, the project is required to submit a soils and geotechnical report and recommendations in the soils report are to be incorporated into the project which reduced the project impact to less than significant. No mitigation measure is required.</p>				
<p><u>Explanation on Item VI. e) Septic Tank. No Impact</u></p> <p>The Project is required to use the City's sewer system and not use a septic system. No mitigation measure is required.</p>				
VII. GREENHOUSE GAS EMISSIONS.				
Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><u>Explanation of Item VII. a) and b). Greenhouse Gas Emission. Less than Significant Impact.</u></p> <p>The proposed General Plan Amendment and Zone Change from Industrial to Very Low Density Residential designations would significantly reduce the generation of greenhouse gas emissions. This is due to the intensity of the land use has been reduced significantly because Very Low Density Residential development would generate significantly less traffic compared to Industrial Development. Low Density Residential Development at the most would generate approximately 20 homes on the gross land size of 9.28 acres compared to 242,542 square feet of industrial building.</p> <p>There is no development proposed with the General Plan Amendment and Zone Change therefore</p>				

⁴ Banning General Plan, Paragraph 1, page V-9, Environmental Hazards

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there is no increase in the greenhouse gas. In fact, the greenhouse gas would be significantly reduced based on the residential land use.				
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the Project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site included on the list of hazardous materials sites compiled per Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would it result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation of Item VIII. a), b), c), e), and f). Hazardous Materials. No Impact</u> There is no new development proposed with the General Plan Amendment and Zone Change. However, should there be additional and new residential construction on the project site in the future, the project is required to comply with the the South Coast Air Quality Management District regulations regarding pollution generated from construction equipment.</p> <p>Additionally in the future, construction water impact is regulated through the National Pollution Discharge Elimination System (NPDES) and State Water Pollution and Prevention Program as part of grading plan requirements. In the long-term, housing developments typically use cleaning and solvent products for household cleaners, swimming pool, landscape maintenance, and washing of automobiles. Use of these products are governed by the manufacturer's materials safety and data sheet which will not create hazards to people, environment, schools, and airport. No mitigation measure is required.</p> <p><u>Explanation of Item VIII. d) Hazardous Materials Site. No Impact</u> The project site is not located on list of hazardous materials sites compiled per Government Code Section 65962.5. No mitigation measure is required.</p> <p><u>Explanation of Item VIII. g) Emergency Response. No Impact</u> There is no development proposed with the General Plan Amendment and Zone Change. Should there be a development proposed on the project site in the future, the project is required to meet the fire department and emergency personnel access and route for emergency response and therefore will not interfere with the emergency response and evacuation plan. Additionally, the building Code currently requires that new homes provide fire sprinklers to mitigate fire impact. No mitigation measure is required beyond compliance with the building code.</p> <p><u>Explanation of Item VIII. h) Wildland Fire. No Impact</u> The Project sites are located in low-lying areas within and adjacent to other developments and not adjacent to wildlands. Furthermore, the homes are required to comply with the Fire Code for which a sprinkler system is required for fire protection. No mitigation measure is required.</p>				
IX. HYDROLOGY AND WATER QUALITY. Would the Project:				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing or planned land uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in such a way as to result in flooding either on-site or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water exceeding the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place, within a 100-year flood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
hazard area, structures that would impede or redirect flood flows?				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item IX. a) Water Quality & Waste Discharge. No Impact.

There is no new residential project proposed in conjunction with the General Plan Amendment and Zone Change. As there is no new construction, there is no new impact to water quality and waste discharge. In the future, construction activities associated with new housing development is subject to the National Pollutant Discharge Elimination System (NPDES) requirements. NPDES requires best management practices for site design, source control, and treatment of pollutants which include conservation of natural area, construct street, sidewalks, and parking lot aisles to the minimum width necessary, and minimize the use of impervious surfaces in landscape design. Source control best management practices include street sweeping, roof run-off controls, and water efficient irrigation systems for landscaping. Treatment control best management practices include biofilters for trash and debris, bacteria and viruses, and oils and grease.

The U.S. Environmental Protection Agency (EPA) regulates the Clean Water Act. Under Section 402 of the Clean Water Act, the EPA regulates and control storm water discharge into the waters of the U.S. through a program called National Pollution Discharge Elimination System (NPDES). In California, the State Water Resources Control Board (SWRCB) administers the NPDES permitting program. The SWRCB works in coordination with the local Water Quality control Board to preserve, protect, enhance, and restore water quality. The City of Banning is within the jurisdiction of the Colorado River Water Quality Control Board and is required to comply with the Clean Water Act.

Explanation of Item IX. b). Ground Water Supply and Ground Water Recharge. No Impact

There is no new housing construction proposed with the General Plan Amendment and the Zone Change. In the future, should there be new residential construction, the project will be required to connect to the City's water supply system for household use and irrigation. The City is a water purveyor and evaluates the water supply needs every five (5) years through its water master plan. The demand included in the water master plan is sufficient to accommodate the projected water demand for the proposed project as . The Banning Municipal Code requires that the project pay for its demand for water through water connection fees to reduce impact to water supply. Compliance with the Municipal Code ensures that the project impact is less than significant. The

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>project sites are located in areas proposed for development and are not being used as ground water recharge so it is not anticipated that the natural aquifer recharge process will be impacted. No mitigation measure is required.</p> <p><u>Explanation of Item IX. c), d), and e) Drainage Pattern and Water Run-Off. No Impact.</u> There is no new housing construction proposed with the General Plan Amendment and the Zone Change therefore the project will not alter the existing drainage pattern of the area. In addition, there is no stream or river on the project site and therefore, the project will not impact any streams or river.</p> <p>Any future housing development that are proposed on the project site require that it complies with the City of Banning Municipal Code to contain the storm water run-off on site so as not to exceed the pre-development condition so that the drainage pattern in the area is not altered. In addition, the City of Banning Municipal Code requires that the project submit a hydrology study that will determine pre- and post development flow of storm water. The recommendation of the hydrology study is required to be incorporated onto the grading plan to ensure that the project does not create flooding on- and off-site. No mitigation measure is required.</p> <p><u>Explanation of Item IX. f) Water Quality. No Impact.</u> There is no new housing construction proposed with the General Plan Amendment and the Zone Change; therefore, the project will not create new water pollutants that could be released from the project site. The project would not otherwise degrade water quality.</p> <p><u>Explanation of Item IX. g), h), i) and j) Flooding. Inundation. No Impact.</u> According to the National Flood Insurance Program, the Project sites are located on Map Index Community Panel No. 06065C, Map revised August 28, 2008. The site is within Zone X, which is outside of a 100-year flood hazard area, in and adjacent area to the levee or dam area. All structures must comply with the City's Grading Ordinance. Therefore, no structures will be placed within the flood hazard area. There is no water bodies in the area where in the event of an earthquake could create inundation by seiche, tsunami, or mudflow. No mitigation measure is required.</p>				
X. LAND USE AND PLANNING.				
Would the Project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
environmental effect?				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item X a) and c). Community and Habitat Conservation Plan. No Impact.

The proposed General Plan Amendment and Zone Change will change the land use designation and zoning from Industrial to Very Low Density Residential. Four (4) of the five parcels are currently developed mostly with single-family homes and associated accessory structures, the general plan land use and zone change will remove the land use and zoning non-conformity and would make the project site consistent with what was built and the general plan and zoning and also compatible with the land use and zoning for the neighborhood to the east of the project site and properties across the street.

The proposed General Plan Amendment and Zone Change will not conflict with any applicable habitat conservation plan or natural community conservation plan as there is no housing development that is proposed. Should there be any future housing construction, the developer of the housing development will be required to comply with the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP). The City is a signatory to the MSHCP; therefore, any development project that are proposed within the City are required to pay in-lieu fees for development or provide mitigation consistent with the MSHCP.

Explanation of Item X b). No Impact.

The proposed General Plan Amendment and a Zone Change from Industrial to Very Low Density Residential would allow the existing structures/uses to conform to the land use and zoning. Therefore, there is no impact on the land use plan.

XI. MINERAL RESOURCES. Would the Project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XI. a) and b). Mineral Resources. No Impact

Based on the General Plan Map for Mineral Resources Zone, the Project sites are located outside

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
of the area zones for Mineral Resources Zone ⁵ . Therefore, the project will not result in loss of the availability of known mineral resources that are of value to the State, the Pass Area, and to the City. No mitigation measure is required.				
XII. NOISE. Would the Project:				
a) Expose persons to a generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose persons to a generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation of Item XII. a), b), and d). Noise Exposure, Groundborne Vibration, Ambient Noise. No Impact.</u></p> <p>The proposed General Plan Amendment and Zone Change will change the land use designation and zoning from Industrial to Very Low Density Residential. There is no housing development</p>				

⁵ Exhibit IV-8 of the City of Banning General Plan, page IV-84.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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proposed with the General Plan Amendment and Zone Change; therefore, there is no new noise impacts resulted from the proposal.

Explanation of Item XII. c), and e). Permanent Increase in Noise and Exposure of People to Airport Noise. Less Than Significant Impact

The proposed General Plan Land Use Amendment and Zone Change will not create an increase in noise levels since there is no homes construction are proposed. Future home construction requires compliance with the Municipal Code regarding noise that would be generated by construction and noise after the project is occupied. The General Plan policy⁶ and its EIR⁷ require that interior noise levels for residential development shall not exceed 45 dBA in accordance with the California Noise Insulation standards. During plan check process, the building and safety division will ensure that the interior noise levels of the residence meet the standard.

Explanation of Item XII. f). Private Airstip. No Impact

The project will not impact a private air strip as there is no private airport within the City.

XIII. POPULATION AND HOUSING. Would the Project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace a substantial number of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XIII. a). Population Growth. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Should a housing development is proposed, the entire project site could accommodate up to 18 dwelling units. Based on the current persons per household of 2.7, the

⁶ Paragraph 1, the Community Noise and Land Use Compatibility Model, page V-49 of the General Plan Noise Element

⁷ Pages III-186 through III-188 of the General Plan Noise Element.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
project site is expected to generate 49 residents which is less than significant impact.				
<u>Explanation of Item XIII. b) and c). Displacement of Housing and People. No Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction; therefore, it would not displace existing housing and people.				
XIV. PUBLIC FACILITIES. Would the Project:				
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant Environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services.				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Explanation of Item XIV. a) through e). Public Facilities. Less Than Significant Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. The entire project site is anticipated to generate 18 dwelling units on a 9.28-acre site). The cumulative net increase of 14 housing units as compared to existing regulations, which would generate approximately additional 38 residents based on an average of 2.7 persons per dwelling unit. The increase in population will generate demand for fire protection, police protection, schools, parks, and additional public facilities.				
<u>Fire Protection</u> - The City's General Plan policy requires that the Fire Department maintain a 5-minute response time ⁸ . Currently, fire protection services are provided by the County through Cal-Fire. The City has a three-party agreement with the City of Beaumont and Cal-Fire with regard to providing fire protection services for the City using Station 20 that is located at 1550 E. 6 th Street in Beaumont in addition to services provided by the current station at 170 N. Murray Street. The California Building Code currently requires that new homes provide fire sprinkler				

⁸ Policy 9 page VI-38, Public Services and Facilities Element of the General Plan

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>system which would help reduce the impact to fire services. Additionally, new housing projects are required to pay fire impact fees which would provide for future facilities as the cities develop.</p> <p>Police Protection - The General Plan policy requires that the Police Department maintain a level of service goal of 2.0 sworn officers per 1000 residents. The Project is required to pay police impact fees to mitigate impacts to police services. Payment of the impact fees reduces the Project impact to less than significant. No mitigation measure is required.</p> <p>Schools – The Banning Unified School District provides educational facilities and services to students that would be generated by the Project. As the individual housing project site develop, the Project is required to pay school impact fees consistent with State law. Payment of school impact fees is deemed to have mitigated the impacts to schools which reduces the Project impact to less than significant. No mitigation measure is necessary.</p> <p>Parks – The City’s General Plan requires that parks are maintained at a standard of 5 acres per 1,000 population.⁹ The proposed project is required to provide amenities for its population to enjoy in addition to payment of park impact fee for future development of park and facilities as the City grows. Payment of park impact fees mitigates the project impacts to less than significant. No mitigation measure is necessary.</p> <p>Other Public Facilities – The Banning Public Library provides library services to the residents of Banning. The Library is funded by a library taxing district. The Project is required to pay its fair share costs to the County library district which in turn pays for providing the library system, including staffing and equipment.</p>				
XV. RECREATION:				
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁹ Program 1.B page III-98, Community Development Element of the General Plan

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><u>Explanation of Item XV. a) and b) Recreation. Less Than Significant Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future home construction will be required to pay parks impact fees. Payment of park impact fees will mitigation the project impacts to recreation to less than significant.</p>				
XVI. TRANSPORTATION/TRAFFIC. Would the Project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XVI. a). Circulation System Effectiveness. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Therefore, there is no impact to the existing circulation system effectiveness. Any future home construction be required to pay the adopted traffic impact and Traffic Uniform Mitigation Fees (TUMF) to minimize project impact on existing roadway network.

Explanation of Item XVI. b). Congestion Management Program. No Impact.

Riverside County Transportation Commission is the Congestion Management Agency for Riverside County. The project will not conflict with the Congestion Management program as the future home construction project will be required to pay the TUMF fee. The TUMF fee is used for improvements to freeway and major highways to minimize project traffic impacts.

Explanation of Item XVI. c). Change to Air Traffic. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development will be required to comply with the Riverside County Airport Land Use Commission's regulations to ensure that the project will not impact the airport or area surrounding the airport.

Explanation of Item XVI. d). Road Design. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development will be reviewed for compliance with the City standards as established in the City's Municipal Code and Zoning Code including road design.

Explanation of Item XVI. e). Emergency Access. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development are required to provide adequate access to

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>and from the project site to public right-of-way including road and road grade, driveway and driveway grade, drive aisle. Two points of access into and out of the project are required to be in compliance with the City's Municipal Code and Zoning Code. Future housing construction would require compliance with the City Codes prior to issuance of grading and buildings permits. No mitigation is required.</p> <p><u>Explanation of Item XVI. f). Parking Capacity. No Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development is required to provide adequate parking in compliance with the Zoning Code.</p> <p><u>Explanation of Item XVI. g). Transit, Non-motorized transportation. No Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. The General Plan encourages people to rely on other modes of transportation including public transit, walking and bicycling. Subsequent housing projects will be reviewed to ensure that the project provides adequate pedestrian access to sidewalk and streets for people to walk and ride bicycles. No mitigation measure is required as the project will not impact transit, bicycling, and pedestrian facilities.</p>				
XVII. UTILITIES AND SERVICE SYSTEMS. Would the Project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or new or expanded entitlements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
needed?				
e) Result in a determination by the wastewater treatment provider, which serves or may serve the Project, that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XVII. a) Waste Water Treatment. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future waste water to be generated by the project is domestic sewage. Future housing developments will be required to connect to the City's sewer system and pay their sewer connection fees. Any surface run-off from the project is addressed in Responses to Questions IX a), c), e), and f) of this Initial Study. Therefore, the waste water treatment requirements of the Regional Water Quality Control Board are not expected to be exceeded. In addition, the payment of fees for sewer connection will reduce the project impact to less than significant. No mitigation measure is required.

Explanation of Item XVII. b) New Waste Water or Expansion of Facility. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future home construction will be required to connect to the City's water and wastewater system. This includes on-site pipelines and unit connections to the City's existing water and wastewater system. The construction of the on-site water and wastewater have been addressed as part of the Initial Study and impacts were found to be less than significant. The project will not require or result in construction or expansion of new water or waste water treatment facilities off-site. Therefore, there is no significant environmental effects associated with respect to water and wastewater.

Explanation of Item XVII. c) New Storm Water or Expansion of Facility. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing projects are required to provide on-site storm water

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>systems to prevent on-site flooding and impact to the adjacent development. The project also will be required to tie into the City's storm drain system. The construction of the storm drain facilities has been considered in other parts of this Initial Study and is considered not to be significant. At the time of a specific project application, the City shall review the storm drain system plan in detail to ensure that it meets the requirement of the Municipal Code. Compliance with the Municipal Code will reduce the project impact to less than significant. No mitigation measure is required.</p> <p><u>Explanation of Item XVII. d) Water Supply. Less Than Significant Impact.</u> The City's 2010 Urban Water Management System which was adopted on June 28, 2011 anticipates that the City is capable of meeting the water demand of its customers in normal, single dry, and multiple dry years between 2015 and 2035. The City's water supply comes from ground water and imported State water project through San Geronio Pass Water Agency. Eighty Seven (87) percent of the water supply comes from ground water in the Banning, Banning Bench, Banning Canyon, Cabazon, and Beaumont basins and less reliance on State imported water. The 2010 Urban Water Management Plan also includes a variety of best management practices¹⁰ to comply with the State mandate for water availability and conservation. In addition, the City is currently installing recycled water infrastructure to help off-site the demand for ground water. Furthermore by 2015, the extension of pipelines for EBX1 (State Water Project) to bring water to the City of Banning. Collectively, these measures will help ensure that the City has adequate water to support the demand of its customers including the project. The project will be required to provide adequate infrastructure to serve any future development on the project site and pay the water connection fee which will reduce the project impact to less than significant.</p>				

¹⁰ Pages 98 through 114 of the adopted 2010 Urban Water Management Plan.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable future Projects?)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Item XVIII Mandatory Findings of Significance.

- a. Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?

Based on the analysis contained in this Initial Study/Negative Declaration, the Project has no impact on Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water, Land Use and Planning, Mineral Resources, Noise, and Transportation/Traffic. No mitigation measure is required.

Impacts to Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Population and Housing, Public Facilities, Recreation, and Transportation/Traffic, Utilities and Service Systems are less than significant impact.

b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable future Projects?)

The proposed General Plan Land Use amendment and Zone Change does not include a specific development proposal at this time, and future residential developments shall be required to comply with applicable policies, standards, regulations and mitigation measures identified herein, which would reduce potential impacts to a level that is less than significant..

c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

As discussed in the above Sections, future residential developments shall be required to comply with applicable policies, standards, regulations and mitigation measures identified herein, which would reduce potential impacts, either directly or indirectly, on human beings to a level that is less than significant.

INCORPORATION BY REFERENCE

This Initial Study is based in part on the information and analysis contained in other environmental and planning documents as authorized by Section 15150 of the State CEQA Guidelines. The following references were utilized during preparation of this Initial Study. These documents are available for review at the City of Banning City Hall located at 99 E. Ramsey Street, Banning, CA 92220.

City of Banning General Plan. The City of Banning General Plan ("General Plan") was adopted on January 31, 2006. It is a statement of community values and priorities and contains the plan for the future development and operation of the City. The 2006 General Plan Update, which brought the General Plan into conformance with changes in State law and other legal requirements; reflects changes in local population and economy since 1986; incorporates recent projections and assumptions regarding future growth; and responds to the issues, challenges and opportunities created by recent trends and developments.

The City of Banning General Plan incorporates the State-mandated and Non-mandated elements. The seven (7) mandated elements are: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise. The rest of the elements are non-mandated elements. The General Plan is structured into five (5) major policy areas listed below:

1. **Community Development:** The Community Development Element includes five (5) elements: Land Use, Economic Development, Circulation, Parks and Recreation and Housing elements.
2. **Environmental Resources:** The Environmental Resources include six (6) elements: Water Resources, Open Space and Conservation, Biological Resources, Archeological and Historic Resources, Air Quality, and Energy and Mineral Resources elements.
3. **Environmental Hazards:** The Environmental Hazards include Geotechnical, Flooding and Hydrology, Noise, Wildland Fire, and Hazardous and Toxic Materials elements.
4. **Public Services and Facilities:** Public Services and Facilities include Water, Wastewater, and Utilities, Public Buildings and Facilities, School and Libraries, Police, and Fire Protection, and Emergency Preparedness elements.

Background and policy information from the General Plan is utilized in several sections of this Initial Study to provide setting and context and establish the regulatory framework, which governs development of the candidate sites.

City of Banning General Plan Final Environmental Impact Report (Certified January 31, 2006). This document, which was certified through City Council Resolution 2006-13, is comprised of the Draft and Final EIR. The analysis evaluated the impacts resulting from implementation of the City of Banning General Plan 2006. The General Plan EIR concluded that implementation of the General Plan would result in housing stock between 26,595 and 31,503 dwelling units at build-out in 2030. Additionally, the General Plan EIR concluded the build-out

population would be between 67,697 and 80,226 persons. The General Plan EIR was utilized throughout this Initial Study as a source of baseline and build-out conditions.

City of Banning General Plan Circulation Element Amendment Final Environmental Impact Report (Certified March 26, 2013). This document was certified through the City Council Resolution 2013-34, and comprised of the Draft and Final EIR. The analysis evaluated the impacts resulting from changing the citywide policy for roadway level of service (LOS) from LOS C to D and removing of Highland Home Road interchange from the City's General Plan Circulation Element. This Circulation Element Final EIR is utilized throughout this Initial Study as a source of baseline and build-out conditions.

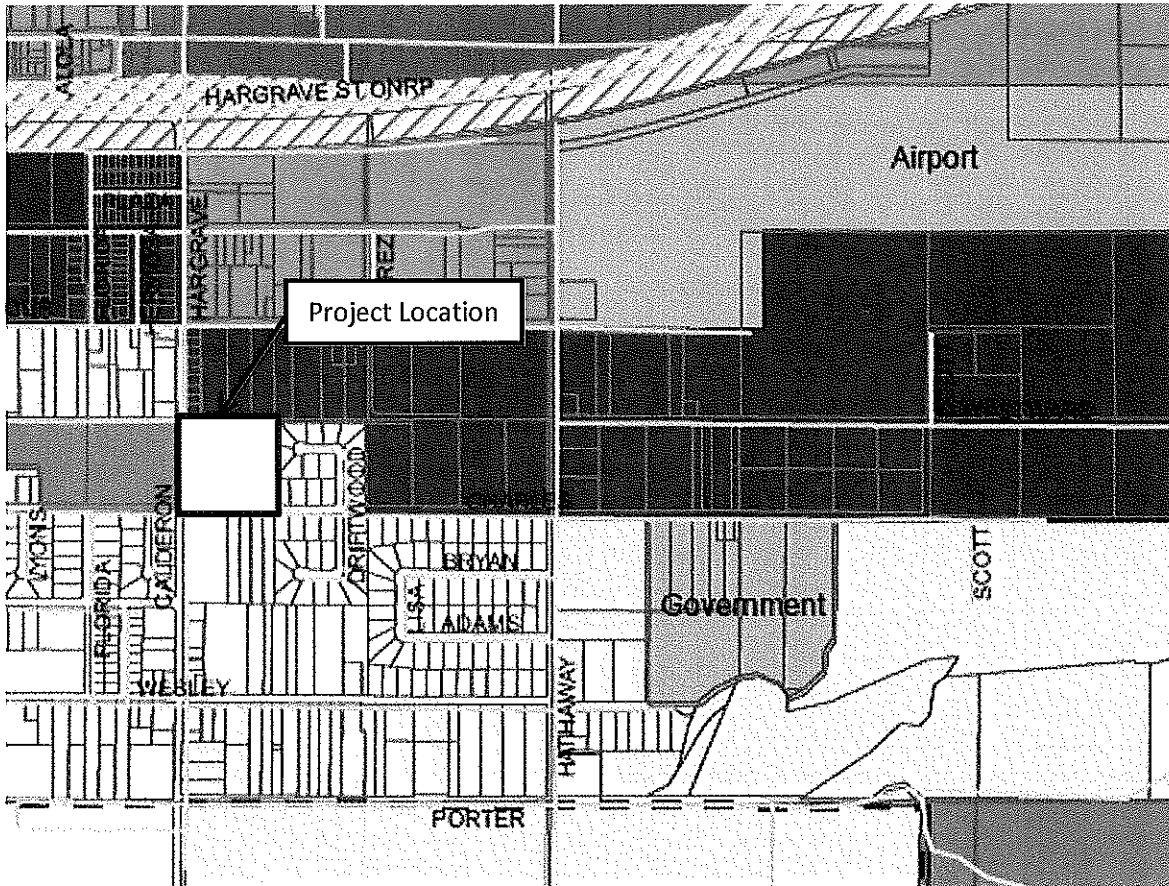
Banning Municipal Code (BMC). The City's ordinances are codified in the "Banning Municipal Code" (BMC). The BMC consists of all of the City's regulatory and penal ordinances and some of its administrative ordinances, codified pursuant to the California Government Code. Information within the BMC was utilized in various sections of this Initial Study, in order to establish the existing regulatory framework.

Banning Zoning Ordinance (BZO). In contrast with the General Plan, which is comprehensive, long-range, general policy statement for the entire community, the Banning Zoning Ordinance (BZO) is a specific statement of permissible uses of land by zoning district designed to control the use, type, bulk, height, space, and location of buildings and land. The Zoning Ordinance is the primary tool by which the City implements the General Plan policies. The Zoning Ordinance is intended to be applied to the City based on land use designations established in the General Plan. Information within the BZO was utilized in various sections of this Initial Study, in order to establish the existing regulatory framework.

LIST OF PERSONS CONSULTED IN PREPARATION OF THIS INITIAL STUDY/NEGATIVE DECLARATION

Duane Burk, Public Works Director

Proposed General Plan and Zoning



General Plan & Zoning = Very Low Density Residential (VLDR)

Attachment 4
Ordinance No. 1475

ORDINANCE NO. 1475

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING NEGATIVE DECLARATION AND ZONE CHANGE NO. ZC 13-3503 AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, five (5) properties that are designated by the Riverside County Tax Assessor as 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot) and which are located at the northeast corner of Charles and Hargrave Streets were re-zoned from residential to Industrial when the current General Plan and Zoning Code were adopted on January 31, 2006; and

WHEREAS, four (4) of the five (5) property owners who own properties that are located at the northeast corner of Hargrave and Charles have verbally requested that the City change the current General Plan and Zoning designations of their properties from Industrial to Very Low Density Residential Zone; and

WHEREAS, the reasons for the requested change are because the subject properties are considered legal non-conforming which creates difficulties in qualifying for home improvement loans to make property improvements; purchasing homeowner's insurance; or selling homes under the current Zoning. There are restrictions and limitations with regard to expansion to existing properties such as size of the additions and the approval process for additions. Additions to the homes require approval of a conditional use permit from the Planning Commission. The size of the addition to the home is limited to a maximum of 50% of the size of their current home; and

WHEREAS, on September 24, 2013, the City Council adopted Resolution No. 2013-86 initiating a General Plan Amendment (GPA No. 13-2505) and a Zone Change (ZC No. 13-3503) for five (5) parcels that are located at the northeast corner of Hargrave and Charles; and

WHEREAS, the City has reviewed the proposed General Plan Amendment and Zone Change for compliance with the California Environmental Quality Act (CEQA) and it is determined that the General Plan Amendment and Zone Change are defined as "project" under CEQA Guidelines 15378 and has prepared and Initial Study; and

WHEREAS, the Initial Study recommended the preparation of a Negative Declaration (Exhibit "A") for compliance with CEQA; and

WHEREAS, the Negative Declaration was prepared and made available for a 20-day public review from October 11, 2013 to November 4, 2013; and

WHEREAS, on October 11, 2013, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change

(ZC #13-3503). In addition, the City mailed public hearing notices to the owners of properties that are directly affected by the General Plan Amendment and Zone Change; the property owners that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project; and

WHEREAS, on November 6, 2013, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered the General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503); and

WHEREAS, on November 29, 2013, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503). In addition, the City mailed public hearing notices to the owners of properties that are directly affected by the General Plan Amendment and Zone Change; the property owners that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project; and

WHEREAS, on December 10, 2013, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the project and at which the City Council considered the Initial Study/Negative Declaration, General Plan Amendment (GPA No. 13-2505), and a Zone Change (ZC #13-3503).

NOW THEREFORE, the City Council of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

Compliance with the California Environmental Quality Act (CEQA): The City Council has analyzed this proposed in accordance with the California Environmental Quality Act (CEQA). Based on the analysis, the proposed General Plan Amendment and Zone Change are considered a "Project". CEQA defines the project as an activity that has a potential for resulting in either a direct physical change in the environment. Examples of projects include an activity that is directly undertaken by any public agency including but not limited to an amendment to zoning ordinances and general plan elements.

In compliance with CEQA, an Initial Study/Negative Declaration was prepared and made available for a 20-day public review from October 11, 2013 through November 4, 2013. A Negative Declaration means that the project can be seen with certainty that it will not have any negative impacts to the physical environment.

Multiple Species Habitat Conservation Plan (MSHCP): The proposed General Plan Amendment and Zone Change do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR ZONE CHANGE NO. 13-3503:

Finding No. 1: The proposed Amendment and Zone Change are internally consistent with the General Plan.

Findings of Fact: The current General Plan Land Use and Zoning Overlay Map show the five (5) properties are zoned Industrial. The proposed Zone Change along with the General Plan Amendment No. 13-2505 will amend the current Zoning for the five (5) parcels from Industrial to Very Low Density Residential. The Very Low Density Residential Zoning designation allows the properties to be developed with single-family homes. Four (4) of the five (5) parcels have been developed with single-family homes and accessory structures. Under the current Zoning, these homes are legal non-conforming. The Zone Change along with the General Plan Amendment No. 13-2505 will make the current Zoning on the property to be consistent with General Plan and Zoning.

The proposed Zone Change No. 13-3503, along with General Plan Amendment No. 13-2505 has been reviewed against the development standards for Very Low Density Residential within the Banning Zoning Code for internal consistency within all of the General Plan elements' text, diagrams, and maps and have concluded that the proposed Zone Change along with General Plan Amendment No. 13-2505 will not create any conflicts within the Zoning Code and among the various General Plan elements goals, policies, and objectives, including the maps and diagrams of all the elements in the General Plan. Therefore, the proposed Zone Change along with the General Plan Amendment No. 13-2505 will make the current use on the property to be consistent with Zoning and the General Plan land use.

Finding No. 2: The proposed Zone Change would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.

Finding of Facts: The General Plan Goal 1 for Residential Land Uses states, "Preserve and enhance the City's neighborhoods."¹ The proposed Zone Change provides conformity between existing single-family homes that have been developed on the property and the current Zoning designation which is Very Low Density Residential. Furthermore, an Initial Study/Negative Declaration was prepared for compliance with the California Environmental Quality Act (CEQA). The Negative Declaration concluded that the proposed Zone Change and General Plan Amendment would not have any negative impacts on the environment. The Negative Declaration was made available for a 20-day public review from October 11, 2013 through November 4, 2013.

¹ City of Banning General Plan, page III-16

With regard to compatibility with existing neighborhoods, the proposed Zone Change along with the General Plan Amendment for the five (5) parcels will not create an island within an existing neighborhood. The Zone Change will make the existing development which is single-family home and future development of the five (5) parcels consistent and compatible with the existing neighborhoods to the easterly and southerly area of the parcels in that the Zoning and the General Plan for these adjacent areas are Very Low Density Residential. The existing uses on the four of the five parcels (one parcel is currently vacant) are single-family homes and accessory structures and are compatible with the existing development to the east and the south of subject properties.

Based on the above finding of facts provided in this subsection, the proposed Zone Change along with the General Plan Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the project has been reviewed for compliance with the City of Banning Zoning Code and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)

Finding No. 3: The proposed Zone Change would maintain the appropriate balance of land uses within the City.

Findings of Fact: The General Plan Build out Summary, Table III-1, on page III-10 shows that the City presently has 420.8 acres of land area that is zoned Industrial. The five (5) parcels that are proposed for the Zone Change along with General Plan Amendment from Industrial to Very Low Density Residential totaled 9.28 acres. The proposed Zone Change along with General Plan Amendment would reduce the amount of Industrial properties by 9.28 acres (or 2.2%) from 420.8 acres to 411.52 acres and increase the Very Low Density Residential zone by the same amount of acreage. The 2.2% reduction in land area designated for Industrial Zone is relatively a minor reduction when compared with the actual development that exists within the 9.28 acre land area zoned for Industrial. Sixty (60) percent (or 5.5 acres) of the 9.28 acre land zoned for Industrial is already developed with single-family. This means that potential Industrial development will occur on the 3.7 acres of land that is currently vacant. The loss of 3.7 acres of Industrial land is insignificant compared to the overall land that is available and the City is still maintaining an appropriate balance of land use in the City.

Finding No. 4: With regard to the Zone Change and its effect on the General Plan Land Use, the subject property is physically suitable for the requested land use designation(s) and the anticipated land use development(s).

Finding of Fact: Four of the five parcels are currently developed with single-family homes. The proposed Zone Change along with the General Plan Amendment will bring the existing development on the above referenced properties to be in conformance with the Zoning and General Plan. In addition, the proposed Zone Change along with the General Plan Amendment will bring the five (5) properties to be compatible and consistent with the Zoning and General Plan designations for existing residential neighborhoods to the east and south of the project site.

Based on the facts indicated in this subsection and subsections above, the project site is suitable for requested land use designation(s) and the anticipated land use development(s).

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following action:

1. Adopt Negative Declaration as referenced herein for compliance with CEQA (Exhibit "A"); and
2. Adopt Zone Change No. 13-3503 to change the Zoning designations for five (5) parcels that are located at the northeast corner of Charles and Hargrave Streets from Industrial to Very Low Density Residential (Exhibits "B").

PASSED, APPROVED AND ADOPTED this 10th day of December 2013.

Deborah Franklin, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

222

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1475 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _____th day of _____ 2013, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2013, by the following vote, to wit:

AYES:

NOES:

ABSEN:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California

Exhibit A
Initial Studies/Negative Declaration

**Exhibit “A” to Ordinance 1475
Existing General Plan and Zoning**



CITY OF BANNING
Initial Study/Negative Declaration

GENERAL PLAN AMENDMENT NO. 13-2505
AND ZONE CHANGE NO. 13-3503

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

October 8, 2013

City of Banning
Initial Study/Negative Declaration

Project Title:

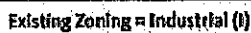
1. **General Plan Amendment No. 13-2505 and Zone Change No. 13-3503**
2. **Lead Agency Name and Address:** City of Banning, 99 E. Ramsey Street , Banning, CA 92220
3. **Contact Person and Phone Number:** Zai Abu Bakar, Community Development Director, (951) 922-3131
4. **Applicant Name and Address:** City of Banning, 99 E. Ramsey Street, Banning, CA 92220
5. **Project Location:** Northeast corner of Hargrave and Charles Street (See Figure 1)
6. **General Plan Designation:** Industrial
7. **Project Description (describe the whole action involved, including, but not limited to, later phases of the project, and any secondary, support, or off-site features that are necessary for its implementation).**

The Project evaluated in this Initial Study is an amendment to the General Plan Land Use and Zoning maps to change the land use designations for five (5) properties from Industrial to Very Low Density Residential (See Figures 1 and 2). The total acreage for the five (5) properties is 9.28 acres. The size of each parcel is indicated in the Table on page 3 of this Initial Study.

The Assessors Parcel Numbers and addresses for the five (5) properties are: 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot). No new home construction is currently proposed on any of the sites at this time. See Figures 3 and 4 for the location and aerial view of the properties.

This Initial Study/Mitigated Negative Declaration analyzes the potential environmental impacts that would be expected to result from the proposed changes to General Plan land use and zoning designations on the General Plan and Zoning maps from Industrial to Very Low Density Residential for the above-mentioned parcels. Since there is no new home development is proposed at this time, future home construction will be reviewed for compliance with all applicable City policies, standards, regulations and the California Environmental Quality Act (CEQA)..

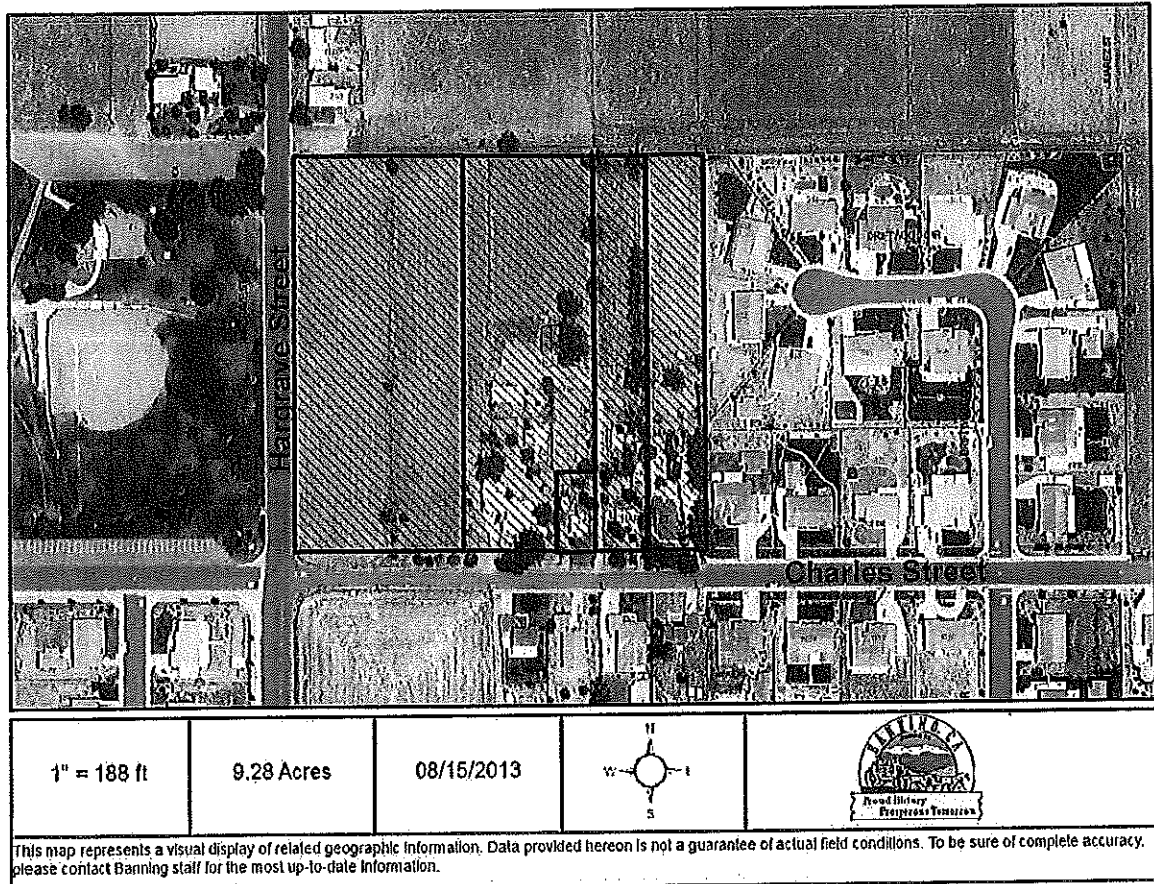
Existing Zoning



Proposed Zoning



Figure 3
Aerial View of the Five Parcels



Note: The (5) five parcels are delineated within the dark lines that are crosshatched.

8. Surrounding Land Uses and Environmental Setting (describe the project's surroundings):

The project site is located at the northeast corner of Hargrave and Charles Street. Four (5) of the five (5) parcels currently have existing homes and accessory structures and there is one vacant parcel. The table below provides information with regard to the existing use on uses surrounding each of the properties

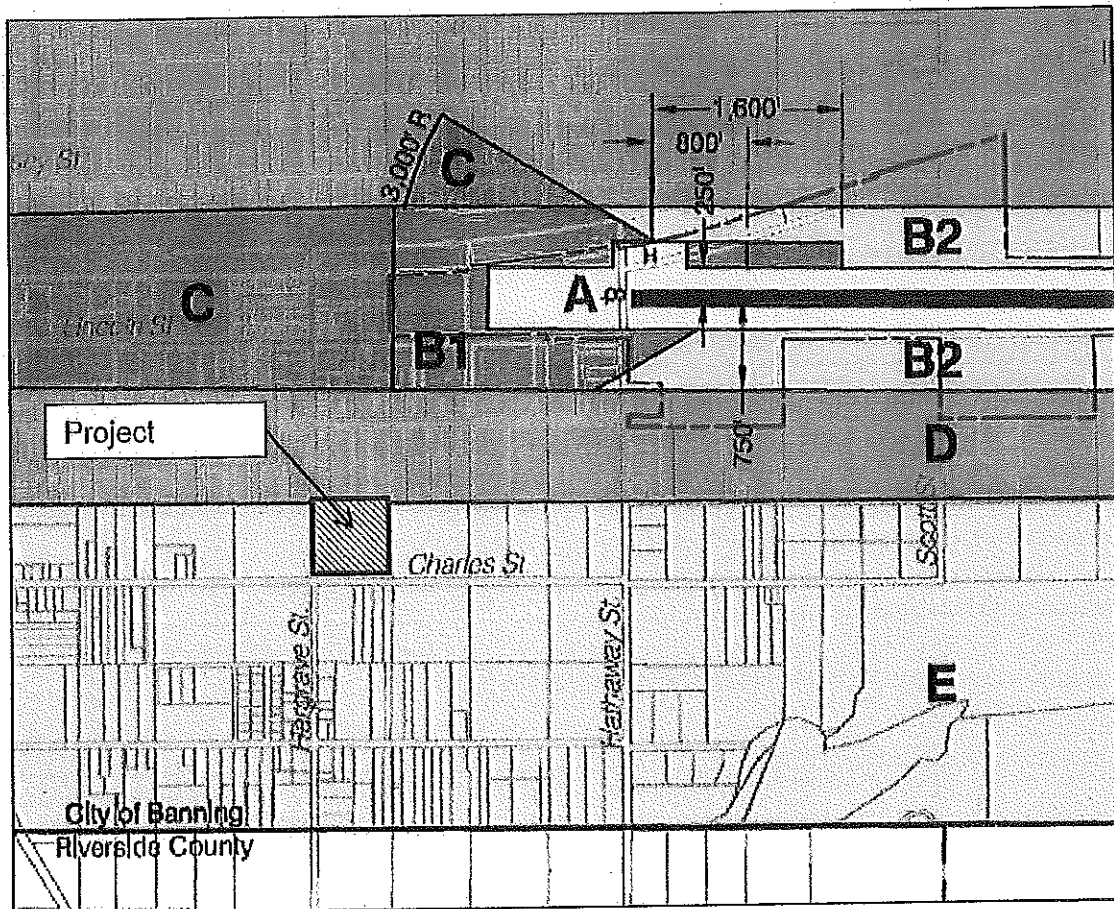
APN/ Address	ACR ES	EXISTING USE	NORTH	SOUTH	EAST	WEST
543-090-003 963 Charles Street	1.13	Single-family homes and accessory structures	Vacant Land	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-004 981 Charles Street	1.26	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-014 941 Charles Street	0.17	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-016 911 Charles Street	3.0	Single-family homes and accessory structures	Industrial	Charles Street/Very Low density Residential	Single-family Home	Single-Family Home
543-090-017 No Address	3.72	Vacant	Single-family Home/Vacant Land	Charles Street/Vacant Land	Single-family Home	Hargrave Street/Lions Park
Total	9.28 acres					

9. Public Agencies whose approval or Participation is Required (i.e., for permits, financing approval, or participation agreements):

The General Plan Amendment and Zone Change is required to be reviewed by the Airport Land Use Commission as the project site is located within Zone E of the Banning Airport Land Use Compatibility Zone. Figure 2 shows the five parcels in relation to the airport.

City review of specific development proposals by the property owners will be required prior to development of the properties in the future.

Figure 4
Parcels location in relation to the Banning Municipal Airport



ENVIRONMENTAL ANALYSIS

1. INTRODUCTION

Purpose and Scope

This Initial Study/Mitigated Negative Declaration serves as the environmental review of the proposed Project, as required by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the State CEQA Guidelines, and the City of Banning Local Guidelines for Implementing CEQA.

In accordance with Section 15063 of the State CEQA Guidelines, the City of Banning is the lead agency and is required to prepare an Initial Study to determine if the Project may have a significant effect on the environment. This Initial Study is intended to be an informational document providing the Planning Commission, City Council, other public agencies, and the general public with an objective assessment of the potential environmental impacts that could result from the adoption of the Housing Element and related implementation actions. Since there is no specific housing project proposed on any of the sites affected by the proposed General Plan and zoning amendments, the environmental analysis evaluates impacts that would be anticipated as a result of the implementation of the Housing Element to the extent they can be known at this time.

PREVIOUS ENVIRONMENTAL DOCUMENTATION

A Final Environmental Impact Report (FEIR) for the Banning General Plan was prepared by the City of Banning in accordance with the California Environmental Quality Act (CEQA). The FEIR analyzed the environmental consequences of the development of the city according to the General Plan. The General Plan and FEIR were adopted by the Banning City Council on January 31, 2006 (Resolution No. 2006-13).

Prior to approval of subsequent actions, the City is required to determine whether the environmental effects of such actions are within the scope of the project covered by the FEIR, and whether additional environmental analysis is required. If the agency finds that pursuant to Sections 15162, 15164, and 15183 of the CEQA Guidelines no new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur, then no supplemental or subsequent EIR is required.

PURPOSE OF THIS INITIAL STUDY

Pursuant to state law, the City is required to evaluate the consequences of an amendment to the General Plan Land Use and changes to the Zoning designations for properties. The adoption of amendments to the General Plan and Zone Change is a "project" under CEQA. This Initial Study provides an analysis of whether the proposed General Plan amendment and Zone Change would result in any new or more substantial adverse environmental effects than were previously analyzed in the General Plan FEIR pursuant to CEQA Guidelines Sections 15162. The City, as

Lead Agency, has the authority for project approval and certification of the accompanying environmental documentation.

BASIS FOR A SUBSEQUENT NEGATIVE DECLARATION

Section 15162 of the State CEQA Guidelines states:

(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but project proponents decline to adopt the mitigation measure or alternative.

The Final EIR certified in 2006 for the Banning General Plan evaluated the potential impacts of development of the City according to the land use designations set forth in the Land Use Element of the General Plan. The General Plan EIR evaluated the impacts associated with development of 32,198 additional housing units during the time horizon of the General Plan within the 23,555-acre study area, of which 14,824± acres are within the City limits. The proposed amendments to the General Plan Land Use Element and Zoning Map would replace the current land use and Zoning designations of five (5) properties from Industrial to Very Low Density Residential (0-2 dwelling units per acre). Four of the properties are already developed with single-family homes. The existing vacant lot that is located at the northeast corner of Hargrave and Charles Streets could be developed with up to two (2) dwelling units per acre. This increase is a negligible increase in residential development under the 2006 General Plan and current zoning.

The level of development reflected in the proposed general plan amendment and zone change is consistent with the current regional growth forecast, the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS), and the City is required by state law to adopt land use plans and zoning regulations consistent with these regional plans and growth forecast.

Through the analysis presented in this document, the City of Banning has determined that potential impacts associated with the proposed General Plan amendment and Zone Change are not substantial. There are no new significant impacts resulting from these changes; in fact the impacts will be significantly reduced since the land use intensity and density will change from commercial to residential. In addition, the changes with respect to the circumstances under which the project will be undertaken would not result in new or more severe significant environmental impacts than previously analyzed.

SUMMARY OF FINDINGS

Based on the Environmental Checklist prepared for the project and supporting environmental analysis and pursuant to Section 15162 of the CEQA Guidelines, the City of Banning has determined, on the basis of substantial evidence in the light of the whole record, that:

- (a) The proposed General Plan Amendment and the Zone Change do not propose substantial changes to the project which would require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the General Plan FEIR;
- (b) There have been no substantial changes in circumstances under which the project will be undertaken that will require major revisions to the FEIR due to new or substantially more severe significant environmental effects than previously analyzed in the FEIR; and
- (c) No new information of substantial importance as described in subsection (a)(3) of Section 15162 has been revealed that would require major revisions to the FEIR or its conclusions.

There is no negative impacts resulting from the adoption of the proposed General Plan Amendment and Zone Change since the intensity and density of the land use will be significantly reduce by having the properties rezoned from Industrial to Very Low Density Residential.

2. EVALUATION OF ENVIRONMENTAL IMPACTS

An Environmental Checklist Form has been used to evaluate the potential environmental impacts associated with the proposed Project. The Form has been prepared by the Resources Agency of California to assist local governmental agencies, such as the City of Banning, in complying with the requirements of the Statutes and Guidelines for implementing CEQA.

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is "Potentially Significant Impact". Based on the analysis contained in this Initial Study, the following environmental factors are affected by the proposed project.

- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Utilities/Service Systems |
| <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Mandatory Findings of |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Population/Housing | Significance |
| <input type="checkbox"/> Greenhouse Gas Emissions | | |

In the Form, a series of questions is asked about the Project for each of the above-listed environmental factors. A brief explanation is then provided for each question on the Form. There are four possible responses to each question:

A. Potentially Significant Impact.

This response is used when the Project has the potential to have an effect on the environment that is considered to be significant and adverse.

B. Potentially Significant Unless Mitigation Incorporated.

This response is used when the Project has the potential to have a significant impact, which is not expected to occur because:

- Mitigation measures have been incorporated into the Project design in order to reduce the impact to a less than significant level; or,
- Adherence to existing policies, regulations, and/or design standards would reduce the impact of the Project to a less than significant level.

C. Less Than Significant Impact.

This response is used when the potential environmental impact of the Project is determined to be below known or measurable thresholds of significance and thus would not require mitigation.

D. No Impact.

This response is used when the proposed Project does not have any measurable impact.

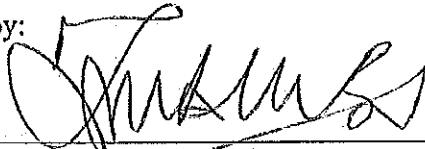
3. ENVIRONMENTAL DETERMINATION

On the basis of this initial evaluation, the City finds that:

- ☒ The proposed Project could not have a significant effect on the environment, and a Negative Declaration will be prepared.
- ☐ Although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures, described in Exhibit C (attached), have been added to the Project. A Mitigated Negative Declaration will be prepared.
- ☐ The proposed Project may have a significant effect on the environment, and an Environmental Impact Report is required.
- ☐ The proposed Project may have a potentially significant impact unless mitigation is incorporated, but at least one of the impacts has been: 1) adequately analyzed in an earlier document pursuant to applicable legal standards and 2) addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An Environmental Impact Report is required, but it is to analyze only those impacts that have not already been addressed.
- ☐ Although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier Environmental Impact Report (EIR) or in a Negative Declaration pursuant to applicable legal standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.

Approved for distribution by:

Signature:


Zai Abu Bakar, Community Development Director

Prepared by: Zai Abu Bakar, Community Development Director

Date: October 8, 2013

Public Review: October 11, 2013 through November 4, 2013

4. ENVIRONMENTAL ANALYSIS CHECKLIST

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the Project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item I.c) thorough d) Scenic Vista, Scenic Resources, Visual Character, and Light and Glare. No Impact.

The proposed General Plan Land Use and Zone Change from Industrial to Residential will not negatively impact the environment because the land use intensity and density will be reduced significantly by changing the land use and zoning from Industrial to Very Low Density Residential. The overall building height for Industrial zone is 2 stories or 60' maximum. The overall building height for Very Low Density Residential Zones is two stories or 35' maximum. Maximum lot coverage by building for an Industrial Zone is 60% while maximum lot coverage for a home on a Very Low Density Residential Lot is 25%. The overall height and bulk impact is significantly reduced with Very Low Density Residential Land Use and Zoning and; therefore, it minimizes view and aesthetic impacts for the area. In addition, lighting for the buildings and parking lot will be significantly reduced with the change in land use and zoning designations from Industrial to Very Low Density Residential since single-family homes do not have commercial parking lots.

Explanation of Item I. a) and b). Scenic Vista and Scenic Resources. No Impact.

The California Department of Transportation regulates scenic resources within State highway. In 1963, the California State Scenic Highway Program was established by State legislation (SB 1467). The purpose of the program is to help communities protect and enhance their natural and cultural uniqueness and beauty. According to Caltrans, a highway may be designated scenic depending upon how much of the natural landscape can be seen by travelers, the scenic quality of the landscape, and the extent to which development intrudes upon the travelers' enjoyment of the view. Caltrans defines a State Scenic Highway as any freeway, highway, road, or other public

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>right-of-way that traverses an area of exceptional scenic quality, containing striking views, flora, geology, or other unique natural attributes.</p> <p>I-10 from SR-38 and SR 62 is an "eligible" State Scenic Highway. To be designated as 'eligible' for State Scenic Highway status, this Section of I-10 must meet the following criteria:</p> <ol style="list-style-type: none"> Consist of scenic corridor that is comprised of a memorable landscape that showcases the natural scenic beauty or agriculture of California; Existing visual intrusions do not significantly impact the scenic corridor; Demonstration of strong local support for the proposed scenic highway designation; and The length of the proposed scenic highway is not less than a mile and is not segmented. <p>The City must apply to Caltrans for the official designation, adopt the Corridor Protection Program, and receive notification from Caltrans that the highway has been officially designated State Scenic Highway. To receive Scenic Highway official designation, the scenic corridor of the highway must be identified and defined. Scenic corridor consists of land that is visible from the highway right-of-way and is comprised primarily of scenic and natural features. Topography, vegetation, viewing distance, and/or jurisdictional lines determine the corridor boundaries. The City must adopt ordinances, zoning, and/or planning policies that are designed to protect the scenic quality of the corridor. These ordinances and/or policies make up the official "Corridor Protection Program."</p> <p>The City of Banning has not adopted a Corridor Protection Plan for the portion of the I-10 that traverses the City. Though eligible for designation, this section of the I-10 is not officially designated State scenic highway.</p> <p>State Route 243 starts at Lincoln Street in Banning and traverses through the San Jacinto Mountains is designated State Scenic Highway. This portion of the highway is mostly visible from properties that are located immediately adjacent to State Route 243. The closest project site at the corner of Hargrave and Charles streets are approximately one-half (1/2) mile away from State Route 243. Therefore, there is no negative impact on scenic highway.</p>				
II. AGRICULTURAL RESOURCES.				
Would the Project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
non-agricultural use?				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for , or cause rezoning of, forestland (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forestland or conversion of forestland to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation for II. a) and e). Farmland and Conversion of Farmland. No Impact.

The California Department of Conservation maintains information related to mapping and monitoring of farmland and farmland subject to Williamson Act contract. Based on the California Department of Conservation website at www.consrv.ca.gov/dlrp/FMMP and Riverside County Land Management System, there is no farmland that are of Statewide and regional importance on any of the candidate project sites. Therefore, the Project has no impact on Williamson Act Contract/Agriculture Preserve and it will not convert farmland to non-agricultural use.

Explanation for II. b). Williamson Act Contract. No Impact.

With regard to Williamson Act/Agricultural Preserve contract's existence on the parcels, research was done on the Riverside County Transportation and Land Use Department's website at: <http://www3.tlma.co.riverside.ca.us/pa/rcdis/viewer>. The County's website reveals no Williamson Act/Agricultural Preservation contracts in the City of Banning. Therefore, the project has no conflict with zoning for agriculture use and it also has no impact on Williamson Act/Agriculture Preserves contract.

Explanation for II. c) and d) Forestland. No Impact.

As indicated in the Explanation for Item II. b) above, the parcels proposed for General Plan

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Amednment and Zone Change are currently designated as Industrial on the General Plan and Zoning maps and is not zoned for forestland (as defined in PRC section 12220(g), timberland (as defined by PRC section 4526, or timberland zoned for timberland production (as defined by Government Code Section 51104(g). Therefore, the Project has no impact on forestland, timberland, or timberland zoned for timberland production and it will not convert any forestland to non-forest use. No mitigation measure is required.				
III. AIR QUALITY. Would the Project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions with exceeded quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Explanation for III. a) through e) Air Quality. No Impact. The City of Banning is located within the South Coast Air Basin where air quality is regulated by the South Coast Air Basin. The South Coast Air Basin regulates short-term and long term air quality impact from stationary and non-stationary pollution sources. The South Coast Air Quality Management District (SCAQMD) adopted the latest Air Quality Management Plan (AQMP) in December 2012 ¹ . The Air Quality Management Plan includes development information from the cities general plan within the South Coast air district boundaries including the City of Banning. The adopted AQMD included development industrial development at the time of adoption since the current General Plan and Zoning designations for the properties are Industrial. Industrial Zoning include assumptions that more emissions are to be generated because of the nature of land				

¹ <http://www.aqmd.gov/aqmp/2012aqmp/index.htm>

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
use. These are emissions from vehicles such as trucks, passenger vehicles, and air quality related to the use and operations of the buildings. With the change from Industrial to Very Low Density Residential, the land use activities for the site will be less intense. Therefore, the air quality impact will be significantly reduced.				
IV. BIOLOGICAL RESOURCES.				
Would the Project:				
a) Have a substantial adverse effect, either directly or through habitat modification, on any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservancy Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation Item IV. a) through c) Habitat and Wildlife Resources. No Impact.

The City of Banning is a signatory to the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP). Within the MSHCP, there are requirements for which the City must comply with if the biological resources are affected. There are three features that are present in the City of Banning General Plan Study area which include: criteria areas, special linkage areas, and special survey area. The General Plan EIR on pages III-126 and III-127 and General Plan on page IV-48 define these areas in detail. The sites for the Project are located on vacant land that are either surrounded by existing development or located adjacent to an existing development and are not located in the criteria cell, special linkage areas, and special survey area. Therefore, there is no impact to habitat and wildlife resources.

Explanation Item IV. d) through f) . Fish or Wildlife Species, Biological Resources, Trees, and Conservation Plan. No Impact

The project will not impact fish or wildlife species, habitat, corridors or wildlife nursery sites or conflict City policies or ordinances protecting biological resources including tree preservation or habitat conservation as the project area is not a pristine site. There is no development proposed with the General Plan amendment and Zone Change at this time; therefore, there is no impact to fish or wildlife species, biological resources, trees and conservation plan. Future development on the site will need to comply with the City's Municipal Code and environmental review at the time that the application is submitted for entitlement processing.

V. CULTURAL RESOURCES. Would the Project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Disturb any human remains including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of V. a). Historical Resources. No Impact.

The City's General Plan and General Plan EIR (pages IV-62 through IV-64) provides a listing of structures that are designated heritage properties and recorded historic era buildings. Review of the listing concluded that there is no listing of structures that are designated heritage properties and recorded historic era buildings on the project site. Therefore, there is no impact on historical resources.

Explanation of V. b) and c). Archeological and Paleontological Resources. Less Than Significant.

The General Plan indicated that less than one-third of the total acreage within the General Plan study area has been surveyed for archeological resources. The majority of the areas previously surveyed are located in the southern portion of the City on the Valley Floor, and these surveys encountered relatively few archeological sites or other cultural resources. The project site is located within an area that is low probability for archeological resources. The City's standard practice during development is that monitoring by a qualified archeologist shall be required during all earthmoving activities, grading, grubbing, trenching or other earth-moving activities on the project site. A City-approved project archeologist must create a mitigation-monitoring plan prior to earth-moving in the project area, a pre-grade meeting associated with the details of that plan must occur between the monitoring archeologist, the City representative, and the grading contractor before issuance of a grading permit. The Plan must discuss contingency plans associated with Native American tribal representation if any pre-historic artifacts are found during earth-moving. The mitigation-monitoring plan document must contain a description of how and where artifacts will be curated if found during monitoring. Because of the low probability of archeological and paleontological resources findings and with the City's standard operating procedure, there is no impact to archeological and paleontological resources. At this time, there is no development proposed with the General Plan Land Use amendment and Zone Change; therefore, there is no impact on the environment.

Explanation of V. d). Human Remains. Less Than Significant

There is no development proposed with the General Plan Land Use Amendment and the Zone Change. However, at the time of future development, the Health and Safety Code Section 7050.5 requires that the Project follow the proper protocol when human remains are found on a construction project site. The City's standard operating procedure is that if previously unknown cultural resources, including human remains, are identified during grading activities, a qualified archaeologist shall be retained to assess the nature and significance of the find. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
to Public Resources Code Section 5097.98. The County Coroner shall be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner shall notify the Native American Heritage Commission (NAHC), which shall determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the discovery site. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. With the standard operating procedure, impact to human remains is less than significant. There is no proposal for development with the proposed General Plan Land Use amendment and the Zone Change; therefore, there				
VI. GEOLOGY AND SOILS. Would the Project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on-	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems if sewers are not available?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item VI a) i) through iii) and c) Exposure to Risk to Earthquake. No Impact.

The City's General Plan Table V-1² shows the various faults names, proximity to Banning, and seismic intensities. Exhibit V-3³ shows approximate locations of these fault zones including San Andreas fault. The entire area of the City is therefore susceptible to seismically induced ground shaking. There is no development project proposed at this time with the General Plan Land Use Amendment and Zone Change from Industrial to Very Low Density Residential. Therefore, there is no exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury. In the future, should development takes place within the project site, all buildings and construction must comply with the California Building Code for occupancies.

Explanation on Item VI. a). iv) Landslides. No Impact.

The Project site is relatively flat and is not in the vicinity of slopes that are susceptible to landslide. Therefore, there is no landslide impact.

Explanation on Item VI. b) Soil Erosion. No Impact.

There is no development proposed with this General Plan Land Use Amendment and Zone Change from Industrial to Very Low Density Residential. Should there be any future development on the sites that would create the potential for soil erosion by removing existing vegetation or existing structures, the Project is required to adhere to conditions under the National Pollution Discharge Elimination System permit issued by the Regional Water Quality Control Board and prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) to be administered through out project construction. The SWPPP will incorporate best management practices to ensure that the potential water quality impacts during construction from soil erosion would be reduced to less than significant levels. In the long-term, previously undisturbed soil will be replaced with structures, pavement, and new landscaping as part of the project. These improvements will not contribute to the conditions that result in on-site soil erosion or off-site.

² Page V-12 of the Banning General Plan, Environmental Hazards

³ Page V-13 of the Banning General Plan, Environmental Hazards

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	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Therefore, there is no impact on soil erosion.				
<p><u>Explanation on Item VI. d) Expansive Soil. Less Than Significant Impact</u></p> <p>The Project sites are located in low-lying areas of the City that are proposed for development. The General Plan indicates that low-lying areas of the City are underlain by alluvial fan sediments that are composed primarily from granular soils and thus the expansion potential for soils ranges from low to very low⁴. There is no development proposed at this time with this General Plan Amendment and Zone Change from Industrial to Very Low Density Residential. Should a development is proposed on the project site, the project is required to submit a soils and geotechnical report and recommendations in the soils report are to be incorporated into the project which reduced the project impact to less than significant. No mitigation measure is required.</p> <p><u>Explanation on Item VI. e) Septic Tank. No Impact</u></p> <p>The Project is required to use the City's sewer system and not use a septic system. No mitigation measure is required.</p>				
VII. GREENHOUSE GAS EMISSIONS.				
Would the Project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><u>Explanation of Item VII. a) and b). Greenhouse Gas Emission. Less than Significant Impact.</u></p> <p>The proposed General Plan Amendment and Zone Change from Industrial to Very Low Density Residential designations would significantly reduce the generation of greenhouse gas emissions. This is due to the intensity of the land use has been reduced significantly because Very Low Density Residential development would generate significantly less traffic compared to Industrial Development. Low Density Residential Development at the most would generate approximately 20 homes on the gross land size of 9.28 acres compared to 242,542 square feet of industrial building.</p> <p>There is no development proposed with the General Plan Amendment and Zone Change therefore</p>				

⁴ Banning General Plan, Paragraph 1, page V-9, Environmental Hazards

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
there is no increase in the greenhouse gas. In fact, the greenhouse gas would be significantly reduced based on the residential land use.				
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the Project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site included on the list of hazardous materials sites compiled per Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would it result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation of Item VIII. a), b), c), e), and f). Hazardous Materials. No Impact</u> There is no new development proposed with the General Plan Amendment and Zone Change. However, should there be additional and new residential construction on the project site in the future, the project is required to comply with the the South Coast Air Quality Management District regulations regarding pollution generated from construction equipment.</p> <p>Additionally in the future, construction water impact is regulated through the National Pollution Discharge Elimination System (NPDES) and State Water Pollution and Prevention Program as part of grading plan requirements. In the long-term, housing developments typically use cleaning and solvent products for household cleaners, swimming pool, landscape maintenance, and washing of automobiles. Use of these products are governed by the manufacturer's materials safety and data sheet which will not create hazards to people, environment, schools, and airport. No mitigation measure is required.</p> <p><u>Explanation of Item VIII. d) Hazardous Materials Site. No Impact</u> The project site is not located on list of hazardous materials sites compiled per Government Code Section 65962.5. No mitigation measure is required.</p> <p><u>Explanation of Item VIII. g) Emergency Response. No Impact</u> There is no development proposed with the General Plan Amendment and Zone Change. Should there be a development proposed on the project site in the future, the project is required to meet the fire department and emergency personnel access and route for emergency response and therefore will not interfere with the emergency response and evacuation plan. Additionally, the building Code currently requires that new homes provide fire sprinklers to mitigate fire impact. No mitigation measure is required beyond compliance with the building code.</p> <p><u>Explanation of Item VIII. h) Wildland Fire. No Impact</u> The Project sites are located in low-lying areas within and adjacent to other developments and not adjacent to wildlands. Furthermore, the homes are required to comply with the Fire Code for which a sprinkler system is required for fire protection. No mitigation measure is required.</p>				
IX. HYDROLOGY AND WATER QUALITY. Would the Project:				

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing or planned land uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in such a way as to result in flooding either on-site or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water exceeding the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place, within a 100-year flood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
hazard area, structures that would impede or redirect flood flows?				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item IX. a) Water Quality & Waste Discharge. No Impact.

There is no new residential project proposed in conjunction with the General Plan Amendment and Zone Change. As there is no new construction, there is no new impact to water quality and waste discharge. In the future, construction activities associated with new housing development is subject to the National Pollutant Discharge Elimination System (NPDES) requirements. NPDES requires best management practices for site design, source control, and treatment of pollutants which include conservation of natural area, construct street, sidewalks, and parking lot aisles to the minimum width necessary, and minimize the use of impervious surfaces in landscape design. Source control best management practices include street sweeping, roof run-off controls, and water efficient irrigation systems for landscaping. Treatment control best management practices include biofilters for trash and debris, bacteria and viruses, and oils and grease.

The U.S. Environmental Protection Agency (EPA) regulates the Clean Water Act. Under Section 402 of the Clean Water Act, the EPA regulates and control storm water discharge into the waters of the U.S. through a program called National Pollution Discharge Elimination System (NPDES). In California, the State Water Resources Control Board (SWRCB) administers the NPDES permitting program. The SWRCB works in coordination with the local Water Quality control Board to preserve, protect, enhance, and restore water quality. The City of Banning is within the jurisdiction of the Colorado River Water Quality Control Board and is required to comply with the Clean Water Act.

Explanation of Item IX. b). Ground Water Supply and Ground Water Recharge. No Impact

There is no new housing construction proposed with the General Plan Amendment and the Zone Change. In the future, should there be new residential construction, the project will be required to connect to the City's water supply system for household use and irrigation. The City is a water purveyor and evaluates the water supply needs every five (5) years through its water master plan. The demand included in the water master plan is sufficient to accommodate the projected water demand for the proposed project as . The Banning Municipal Code requires that the project pay for its demand for water through water connection fees to reduce impact to water supply. Compliance with the Municipal Code ensures that the project impact is less than significant. The

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>project sites are located in areas proposed for development and are not being used as ground water recharge so it is not anticipated that the natural aquifer recharge process will be impacted. No mitigation measure is required.</p> <p><u>Explanation of Item IX. c), d), and e) Drainage Pattern and Water Run-Off. No Impact.</u> There is no new housing construction proposed with the General Plan Amendment and the Zone Change therefore the project will not alter the existing drainage pattern of the area. In addition, there is no stream or river on the project site and therefore, the project will not impact any streams or river.</p> <p>Any future housing development that are proposed on the project site require that it complies with the City of Banning Municipal Code to contain the storm water run-off on site so as not to exceed the pre-development condition so that the drainage pattern in the area is not altered. In addition, the City of Banning Municipal Code requires that the project submit a hydrology study that will determine pre- and post development flow of storm water. The recommendation of the hydrology study is required to be incorporated onto the grading plan to ensure that the project does not create flooding on- and off-site. No mitigation measure is required.</p> <p><u>Explanation of Item IX. f) Water Quality. No Impact.</u> There is no new housing construction proposed with the General Plan Amendment and the Zone Change; therefore, the project will not create new water pollutants that could be released from the project site. The project would not otherwise degrade water quality.</p> <p><u>Explanation of Item IX. g), h), i) and j) Flooding. Inundation. No Impact.</u> According to the National Flood Insurance Program, the Project sites are located on Map Index Community Panel No. 06065C, Map revised August 28, 2008. The site is within Zone X, which is outside of a 100-year flood hazard area, in and adjacent area to the levee or dam area. All structures must comply with the City's Grading Ordinance. Therefore, no structures will be placed within the flood hazard area. There is no water bodies in the area where in the event of an earthquake could create inundation by seiche, tsunami, or mudflow. No mitigation measure is required.</p>				
X. LAND USE AND PLANNING.				
Would the Project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
environmental effect?				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item X a) and c). Community and Habitat Conservation Plan. No Impact.

The proposed General Plan Amendment and Zone Change will change the land use designation and zoning from Industrial to Very Low Density Residential. Four (4) of the five parcels are currently developed mostly with single-family homes and associated accessory structures, the general plan land use and zone change will remove the land use and zoning non-conformity and would make the project site consistent with what was built and the general plan and zoning and also compatible with the land use and zoning for the neighborhood to the east of the project site and properties across the street.

The proposed General Plan Amendment and Zone Change will not conflict with any applicable habitat conservation plan or natural community conservation plan as there is no housing development that is proposed. Should there be any future housing construction, the developer of the housing development will be required to comply with the Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP). The City is a signatory to the MSHCP; therefore, any development project that are proposed within the City are required to pay in-lieu fees for development or provide mitigation consistent with the MSHCP.

Explanation of Item X b). No Impact.

The proposed General Plan Amendment and a Zone Change from Industrial to Very Low Density Residential would allow the existing structures/uses to conform to the land use and zoning. Therefore, there is no impact on the land use plan.

XI. MINERAL RESOURCES. Would the Project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XI. a) and b). Mineral Resources. No Impact

Based on the General Plan Map for Mineral Resources Zone, the Project sites are located outside

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
of the area zones for Mineral Resources Zone ⁵ . Therefore, the project will not result in loss of the availability of known mineral resources that are of value to the State, the Pass Area, and to the City. No mitigation measure is required.				
XII. NOISE. Would the Project:				
a) Expose persons to a generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Expose persons to a generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Create a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a Project within the vicinity of a private airstrip, would the Project expose people residing or working in the Project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation of Item XII. a), b), and d). Noise Exposure, Groundborne Vibration, Ambient Noise. No Impact.</u></p> <p>The proposed General Plan Amendment and Zone Change will change the land use designation and zoning from Industrial to Very Low Density Residential. There is no housing development</p>				

⁵ Exhibit IV-8 of the City of Banning General Plan, page IV-84.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
proposed with the General Plan Amendment and Zone Change; therefore, there is no new noise impacts resulted from the proposal.				
<p><u>Explanation of Item XII. c), and e). Permanent Increase in Noise and Exposure of People to Airport Noise. Less Than Significant Impact</u></p> <p>The proposed General Plan Land Use Amendment and Zone Change will not create an increase in noise levels since there is no homes construction are proposed. Future home construction requires compliance with the Municipal Code regarding noise that would be generated by construction and noise after the project is occupied. The General Plan policy⁶ and its EIR⁷ require that interior noise levels for residential development shall not exceed 45 dBA in accordance with the California Noise Insulation standards. During plan check process, the building and safety division will ensure that the interior noise levels of the residence meet the standard.</p> <p><u>Explanation of Item XII. f). Private Airstrip. No Impact</u></p> <p>The project will not impact a private air strip as there is no private airport within the City.</p>				
<p>XIII. POPULATION AND HOUSING.</p> <p>Would the Project:</p>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace a substantial number of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p><u>Explanation of Item XIII. a). Population Growth. Less Than Significant Impact.</u></p> <p>The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Should a housing development is proposed, the entire project site could accommodate up to 18 dwelling units. Based on the current persons per household of 2.7, the</p>				

⁶ Paragraph 1, the Community Noise and Land Use Compatibility Model, page V-49 of the General Plan Noise Element

⁷ Pages III-186 through III-188 of the General Plan Noise Element.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
project site is expected to generate 49 residents which is less than significant impact.				
<p><u>Explanation of Item XIII. b) and c). Displacement of Housing and People. No Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction; therefore, it would not displace existing housing and people.</p>				
XIV. PUBLIC FACILITIES. Would the Project:				
Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant Environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services.				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><u>Explanation of Item XIV. a) through e). Public Facilities. Less Than Significant Impact.</u> The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. The entire project site is anticipated to generate 18 dwelling units on a 9.28-acre site). The cumulative net increase of 14 housing units as compared to existing regulations, which would generate approximately additional 38 residents based on an average of 2.7 persons per dwelling unit. The increase in population will generate demand for fire protection, police protection, schools, parks, and additional public facilities.</p> <p><u>Fire Protection</u> - The City's General Plan policy requires that the Fire Department maintain a 5-minute response time⁸. Currently, fire protection services are provided by the County through Cal-Fire. The City has a three-party agreement with the City of Beaumont and Cal-Fire with regard to providing fire protection services for the City using Station 20 that is located at 1550 E. 6th Street in Beaumont in addition to services provided by the current station at 170 N. Murray Street. The California Building Code currently requires that new homes provide fire sprinkler</p>				

⁸ Policy 9 page VI-38, Public Services and Facilities Element of the General Plan

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>system which would help reduce the impact to fire services. Additionally, new housing projects are required to pay fire impact fees which would provide for future facilities as the cities develop.</p> <p>Police Protection - The General Plan policy requires that the Police Department maintain a level of service goal of 2.0 sworn officers per 1000 residents. The Project is required to pay police impact fees to mitigate impacts to police services. Payment of the impact fees reduces the Project impact to less than significant. No mitigation measure is required.</p> <p>Schools - The Banning Unified School District provides educational facilities and services to students that would be generated by the Project. As the individual housing project site develop, the Project is required to pay school impact fees consistent with State law. Payment of school impact fees is deemed to have mitigated the impacts to schools which reduces the Project impact to less than significant. No mitigation measure is necessary.</p> <p>Parks - The City's General Plan requires that parks are maintained at a standard of 5 acres per 1,000 population.⁹ The proposed project is required to provide amenities for its population to enjoy in addition to payment of park impact fee for future development of park and facilities as the City grows. Payment of park impact fees mitigates the project impacts to less than significant. No mitigation measure is necessary.</p> <p>Other Public Facilities - The Banning Public Library provides library services to the residents of Banning. The Library is funded by a library taxing district. The Project is required to pay its fair share costs to the County library district which in turn pays for providing the library system, including staffing and equipment.</p>				
XV. RECREATION:				
a) Would the Project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

⁹ Program 1.B page III-98, Community Development Element of the General Plan

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Explanation of Item XV. a) and b) Recreation. Less Than Significant Impact. The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future home construction will be required to pay parks impact fees. Payment of park impact fees will mitigation the project impacts to recreation to less than significant.</p>				
XVI. TRANSPORTATION/TRAFFIC. Would the Project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XVI. a). Circulation System Effectiveness. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Therefore, there is no impact to the existing circulation system effectiveness. Any future home construction be required to pay the adopted traffic impact and Traffic Uniform Mitigation Fees (TUMF) to minimize project impact on existing roadway network.

Explanation of Item XVI. b). Congestion Management Program. No Impact.

Riverside County Transportation Commission is the Congestion Management Agency for Riverside County. The project will not conflict with the Congestion Management program as the future home construction project will be required to pay the TUMF fee. The TUMF fee is used for improvements to freeway and major highways to minimize project traffic impacts.

Explanation of Item XVI. c). Change to Air Traffic. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development will be required to comply with the Riverside County Airport Land Use Commission's regulations to ensure that the project will not impact the airport or area surrounding the airport.

Explanation of Item XVI. d). Road Design. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development will be reviewed for compliance with the City standards as established in the City's Municipal Code and Zoning Code including road design.

Explanation of Item XVI. e). Emergency Access. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development are required to provide adequate access to

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
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and from the project site to public right-of-way including road and road grade, driveway and driveway grade, drive aisle. Two points of access into and out of the project are required to be in compliance with the City's Municipal Code and Zoning Code. Future housing construction would require compliance with the City Codes prior to issuance of grading and buildings permits. No mitigation is required.

Explanation of Item XVI. f). Parking Capacity. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing development is required to provide adequate parking in compliance with the Zoning Code.

Explanation of Item XVI. g). Transit, Non-motorized transportation. No Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. The General Plan encourages people to rely on other modes of transportation including public transit, walking and bicycling. Subsequent housing projects will be reviewed to ensure that the project provides adequate pedestrian access to sidewalk and streets for people to walk and ride bicycles. No mitigation measure is required as the project will not impact transit, bicycling, and pedestrian facilities.

XVII. UTILITIES AND SERVICE SYSTEMS. Would the Project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or new or expanded entitlements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
needed?				
e) Result in a determination by the wastewater treatment provider, which serves or may serve the Project, that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Explanation of Item XVII. a) Waste Water Treatment. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future waste water to be generated by the project is domestic sewage. Future housing developments will be required to connect to the City's sewer system and pay their sewer connection fees. Any surface run-off from the project is addressed in Responses to Questions IX a), c), e), and f) of this Initial Study. Therefore, the waste water treatment requirements of the Regional Water Quality Control Board are not expected to be exceeded. In addition, the payment of fees for sewer connection will reduce the project impact to less than significant. No mitigation measure is required.

Explanation of Item XVII. b) New Waste Water or Expansion of Facility. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Future home construction will be required to connect to the City's water and wastewater system. This includes on-site pipelines and unit connections to the City's existing water and wastewater system. The construction of the on-site water and wastewater have been addressed as part of the Initial Study and impacts were found to be less than significant. The project will not require or result in construction or expansion of new water or waste water treatment facilities off-site. Therefore, there is no significant environmental effects associated with respect to water and wastewater.

Explanation of Item XVII. c) New Storm Water or Expansion of Facility. Less Than Significant Impact.

The proposed General Plan Land Use amendment and Zone Change are not associated with any home construction. Subsequent housing projects are required to provide on-site storm water

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>systems to prevent on-site flooding and impact to the adjacent development. The project also will be required to tie into the City's storm drain system. The construction of the storm drain facilities has been considered in other parts of this Initial Study and is considered not to be significant. At the time of a specific project application, the City shall review the storm drain system plan in detail to ensure that it meets the requirement of the Municipal Code. Compliance with the Municipal Code will reduce the project impact to less than significant. No mitigation measure is required.</p> <p><u>Explanation of Item XVII. d) Water Supply. Less Than Significant Impact.</u> The City's 2010 Urban Water Management System which was adopted on June 28, 2011 anticipates that the City is capable of meeting the water demand of its customers in normal, single dry, and multiple dry years between 2015 and 2035. The City's water supply comes from ground water and imported State water project through San Geronio Pass Water Agency. Eighty Seven (87) percent of the water supply comes from ground water in the Banning, Banning Bench, Banning Canyon, Cabazon, and Beaumont basins and less reliance on State imported water. The 2010 Urban Water Management Plan also includes a variety of best management practices¹⁰ to comply with the State mandate for water availability and conservation. In addition, the City is currently installing recycled water infrastructure to help off-site the demand for ground water. Furthermore by 2015, the extension of pipelines for EBX1 (State Water Project) to bring water to the City of Banning. Collectively, these measures will help ensure that the City has adequate water to support the demand of its customers including the project. The project will be required to provide adequate infrastructure to serve any future development on the project site and pay the water connection fee which will reduce the project impact to less than significant.</p>				

¹⁰ Pages 98 through 114 of the adopted 2010 Urban Water Management Plan.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable future Projects?)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Explanation of Item XVIII Mandatory Findings of Significance.

- a. Does the Project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?

Based on the analysis contained in this Initial Study/Negative Declaration, the Project has no impact on Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water, Land Use and Planning, Mineral Resources, Noise, and Transportation/Traffic. No mitigation measure is required.

Impacts to Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Population and Housing, Public Facilities, Recreation, and Transportation/Traffic, Utilities and Service Systems are less than significant impact.

- b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable future Projects?)**

The proposed General Plan Land Use amendment and Zone Change does not include a specific development proposal at this time, and future residential developments shall be required to comply with applicable policies, standards, regulations and mitigation measures identified herein, which would reduce potential impacts to a level that is less than significant..

- c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?**

As discussed in the above Sections, future residential developments shall be required to comply with applicable policies, standards, regulations and mitigation measures identified herein, which would reduce potential impacts, either directly or indirectly, on human beings to a level that is less than significant.

INCORPORATION BY REFERENCE

This Initial Study is based in part on the information and analysis contained in other environmental and planning documents as authorized by Section 15150 of the State CEQA Guidelines. The following references were utilized during preparation of this Initial Study. These documents are available for review at the City of Banning City Hall located at 99 E. Ramsey Street, Banning, CA 92220.

City of Banning General Plan. The City of Banning General Plan ("General Plan") was adopted on January 31, 2006. It is a statement of community values and priorities and contains the plan for the future development and operation of the City. The 2006 General Plan Update, which brought the General Plan into conformance with changes in State law and other legal requirements; reflects changes in local population and economy since 1986; incorporates recent projections and assumptions regarding future growth; and responds to the issues, challenges and opportunities created by recent trends and developments.

The City of Banning General Plan incorporates the State-mandated and Non-mandated elements. The seven (7) mandated elements are: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise. The rest of the elements are non-mandated elements. The General Plan is structured into five (5) major policy areas listed below:

1. **Community Development:** The Community Development Element includes five (5) elements: Land Use, Economic Development, Circulation, Parks and Recreation and Housing elements.
2. **Environmental Resources:** The Environmental Resources include six (6) elements: Water Resources, Open Space and Conservation, Biological Resources, Archeological and Historic Resources, Air Quality, and Energy and Mineral Resources elements.
3. **Environmental Hazards:** The Environmental Hazards include Geotechnical, Flooding and Hydrology, Noise, Wildland Fire, and Hazardous and Toxic Materials elements.
4. **Public Services and Facilities:** Public Services and Facilities include Water, Wastewater, and Utilities, Public Buildings and Facilities, School and Libraries, Police, and Fire Protection, and Emergency Preparedness elements.

Background and policy information from the General Plan is utilized in several sections of this Initial Study to provide setting and context and establish the regulatory framework, which governs development of the candidate sites.

City of Banning General Plan Final Environmental Impact Report (Certified January 31, 2006). This document, which was certified through City Council Resolution 2006-13, is comprised of the Draft and Final EIR. The analysis evaluated the impacts resulting from implementation of the City of Banning General Plan 2006. The General Plan EIR concluded that implementation of the General Plan would result in housing stock between 26,595 and 31,503 dwelling units at build-out in 2030. Additionally, the General Plan EIR concluded the build-out

population would be between 67,697 and 80,226 persons. The General Plan EIR was utilized throughout this Initial Study as a source of baseline and build-out conditions.

City of Banning General Plan Circulation Element Amendment Final Environmental Impact Report (Certified March 26, 2013). This document was certified through the City Council Resolution 2013-34, and comprised of the Draft and Final EIR. The analysis evaluated the impacts resulting from changing the citywide policy for roadway level of service (LOS) from LOS C to D and removing of Highland Home Road interchange from the City's General Plan Circulation Element. This Circulation Element Final EIR is utilized throughout this Initial Study as a source of baseline and build-out conditions.

Banning Municipal Code (BMC). The City's ordinances are codified in the "Banning Municipal Code" (BMC). The BMC consists of all of the City's regulatory and penal ordinances and some of its administrative ordinances, codified pursuant to the California Government Code. Information within the BMC was utilized in various sections of this Initial Study, in order to establish the existing regulatory framework.

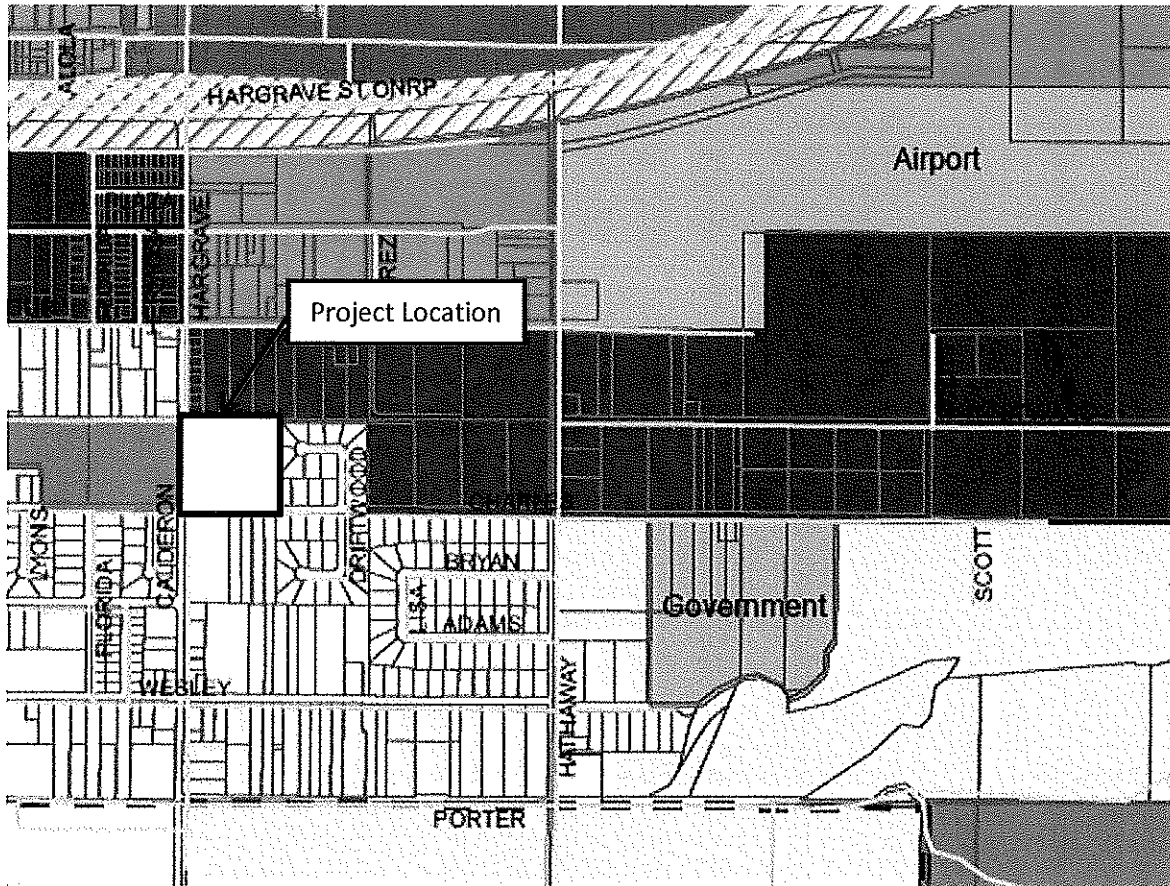
Banning Zoning Ordinance (BZO). In contrast with the General Plan, which is comprehensive, long-range, general policy statement for the entire community, the Banning Zoning Ordinance (BZO) is a specific statement of permissible uses of land by zoning district designed to control the use, type, bulk, height, space, and location of buildings and land. The Zoning Ordinance is the primary tool by which the City implements the General Plan policies. The Zoning Ordinance is intended to be applied to the City based on land use designations established in the General Plan. Information within the BZO was utilized in various sections of this Initial Study, in order to establish the existing regulatory framework.

LIST OF PERSONS CONSULTED IN PREPARATION OF THIS INITIAL STUDY/NEGATIVE DECLARATION

Duane Burk, Public Works Director

Attachment 3
Initial Study/Negative Declaration

Proposed General Plan and Zoning



General Plan & Zoning = Very Low Density Residential (VLDR)

Attachment 5
Chapter 17.40 of the Banning Zoning Code regarding
Animal Keeping Standards

Chapter 17.40

ANIMAL KEEPING STANDARDS

Sections:

17.40.010 Purpose.

17.40.020 Applicability.

17.40.030 General standards.

17.40.010 Purpose.

The purpose of these standards is to clearly define the numbers of animals allowed in each of the Zoning districts. The Animal Keeping Standards are intended to:

A. Allow the keeping of animals as pets in all residential zones.

B. Allow the keeping and raising of animals on lots of sufficient size to accommodate a larger number of animals.

C. Preserve the enjoyment of their land by all

property owners. (Zoning Ord. dated 1/31/06, § 9110.01.)

17.40.020 Applicability.

The provisions of this chapter shall apply to all zoning districts included in Division II of this Zoning Ordinance, including both existing and new or redeveloped projects, and single family homes, regardless of when they were constructed. (Zoning Ord. dated 1/31/06, § 9110.02.)

17.40.030 General standards.

A. Animals may be kept in the residential districts only. The keeping of animals on lands designated for commercial, industrial or public facilities uses is prohibited, except for pet stores and veterinary facilities as permitted in the commercial districts.

B. The keeping of animals shall conform to the following table:

Table 17.40.030
Animal Keeping Standards¹

Animal Type	R/A & R/A/H	RR & RR/H	VLDR	LDR	MDR	HDR & MHP
Dogs & Cats ²	Max. 8/lot ⁸	Max. 8/lot ⁸	Max. 3/less than 20,000 s.f. ⁵ Max. 6/20,000 s.f. and greater ⁶	Max. 3/lot ⁷	3/unit	3/unit
Pot-Bellied Pigs	2/acre. Max. 8	2/acre. Max. 8	2 in lieu of 2 dogs	1 in lieu of 1 dog	Prohibited	Prohibited
Fowl	16/acre	16/acre	10	Prohibited	Prohibited	Prohibited
Fowl, Male	1/20,000 s.f.	1/20,000 s.f.	1/20,000 s.f.	Prohibited	Prohibited	Prohibited
Rabbits	20	20	10	5	2	2
Large Animals ³	5/acre	5/acre	3/20,000 s.f. ⁴	Prohibited	Prohibited	Prohibited

¹ Any animal not specifically listed shall be classified by the director.

² Unweaned offspring shall not be counted in determining the number of dogs or cats.

³ Large animals shall include goats, sheep, horses, cattle, llamas, swine, emus and ostriches. The total number allowed is cumulative.

⁴ On substandard lots created prior to the adoption of this zoning ordinance in the VLDR district (lots of less than twenty thousand s.f.), one large animal shall be permitted on lots of twelve thousand s.f. to sixteen thousand s.f., and two shall be permitted on lots of sixteen thousand one s.f. to nineteen thousand nine hundred ninety-nine s.f.

⁵ For any lot less than twenty thousand s.f. a maximum of three dogs and cats, or any combination thereof, not to exceed three, shall be permitted.

⁶ For lot(s) twenty thousand s.f. and larger a maximum of six dogs and cats, or any combination thereof, not to exceed six, shall be permitted.

⁷ A maximum of three dogs or cats, or any combination thereof, not to exceed three, shall be permitted in the LDR zone district.

⁸ A maximum combined total of eight dogs and/or cats per lot shall be permitted in the R/A, R/A/H, RR and RR/H zone district.

C. All animal keeping shall comply with all laws regarding the proper care and number of animals.

D. All animal keeping structures shall comply with the development standards of the zone in which they are located, including setbacks.

E. All animals shall be kept in fenced enclosures at all times. Dogs and cats may be kept in fenced yards without additional enclosures, if proper shelter is provided. Pot-bellied pigs, fowl, rabbits and large animals shall be kept in appropriate enclosures within a fenced yard (pig runs, chicken coops, rabbit warrens, corrals and/or stables).

F. Each pot-bellied pig shall be provided a minimum of seventy-five square feet in an enclosure.

G. Each large animal shall be provided a minimum of four hundred square feet of fenced area.

H. All facilities shall be kept in a clean and sanitary manner at all times.

I. The offspring of large animals shall not be counted in determining the number of animals on a lot, if the offspring is within the following age range:

1. Horses: six months;
2. Cattle: six months;
3. Swine: ninety days;
4. Sheep: ninety days;
5. Goats: ninety days;
6. Llamas: twelve months;
7. Emus and ostriches: four months.

J. No person shall allow to remain on a property, an animal which habitually disturbs the peace and quiet of the inhabitants of a neighborhood by howling, barking, crying, braying, or making other similar noises.

K. Exotic animals not listed above are prohibited. (Zoning Ord. dated 1/31/06, § 9110.03; Ord. No. 1393, § 2.)

Attachment 6
Public Hearing Notice



**PUBLIC HEARING AND INTENT TO ADOPT THE INITIAL
STUDY/NEGATIVE DECLARATION RELATED TO GENERAL PLAN
AMENDMENT NO. GPA 13-2505 AND ZONE CHANGE NO. ZC 13-3503**

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, December 10, 2013, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the environmental document (Initial Study/Negative Declaration) and City initiated General Plan Amendment and Zone Change. General Plan Amendment No. 13-2505 and Zone Change No. 13-3503 is a proposal to change the land use and zoning designations for five (5) properties located at the northeast corner of Charles and Hargrave Streets from Industrial to Very Low Density Residential. There is no new development proposed at this time. Assessor's Parcel Numbers involved include the following: 543-090-003 (963 Charles Street); 543-090-004 (981 Charles Street); 543-090-014 (941 Charles Street); 543-090-016 (911 Charles Street); and 543-090-017 (No Street Address – Vacant Lot). To locate these parcels, please go to the Riverside County website and type in <http://www3.tlma.co.riverside.ca.us/pa/rclis/viewer.htm> in the search engine and follow the instructions on the page.

Information regarding the Initial Study/Negative Declaration, General Plan Amendment, and the Zone Change can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning.

All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

**BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF
BANNING, CALIFORNIA**

Zai Abu Bakar
Community Development Director

Dated: November 25, 2013
Publish: November 29, 2013

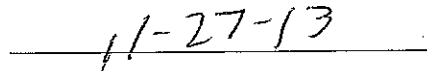
Attachment 7
Mailing Labels

Affidavit

I, Holly Stuart, certify that the Notice of Public Hearing before the City of Banning City Council, to be held on Tuesday, December 10, 2013 at 5:00 p.m., to consider the environmental document (Initial Study / Negative Declaration) and to General Plan Amendment (GPA) No. 13-2505 and Zone Change (ZC) No. 13-3503 was mailed United States Postal on Wednesday, November 27, 2013 as shown in the attached.



Holly Stuart
Development Project Coordinator



Date

543231011
HOLLY GARY MILES & SANDRA
1073 DRIFTWOOD CIR
BANNING CA 92220

543240002
HARBER LAUREN A
1040 CALDERON WAY
BANNING CA 92220

541320012
CARBAJAL MAXIMO PEREZ
P O BOX 630
CABAZON CA 92230

541320013
SMITH JOSEPH A & JUDITH A
1060 E BARBOUR AVE
BANNING CA 92220

541320014
CALDER SHIRLEY M
1725 N SAN GORGONIO
BANNING CA 92220

541310022
COX PAUL A & KRISTA
637 S HARGRAVE ST
BANNING CA 92220

541320006
LERMA JESUS F
720 S HARGRAVE ST
BANNING CA 92220

541310019
DELIGHT ARTHUR C & CHARLENE J
209 18TH ST
MANHATTAN BEACH CA 90266

541320010
MORRIS CARL RICHARD
1166 N 4TH ST
BANNING CA 92220

541320011
MORRIS RONALD
12226 CHINABERRY ST
YUCAIPA CA 92399

541320008
JAMES LARRY E
3254 SWEETWATER DR
ONTARIO CA 91761

541310023
DAGNINO FAMILY LIVING TRUST
785 S HARGRAVE ST
BANNING CA 92220

543090017
DEMISSIE BELETE & AMSALE BERHA
467 N SAN GORGONIO AVE
BANNING CA 92220

543090004
KIRSCHNER KHANIM FAWZIA
981 E CHARLES ST
BANNING CA 92220

~~543080008~~
~~CITY OF BANNING~~
~~CA~~

543230008
SANCHEZ JOSE LUIS & ESPERANZA
941 DRIFTWOOD CIR
BANNING CA 92220

543230007
FELIX THOMAS A & GEORGI A
949 DRIFTWOOD CIR
BANNING CA 92220

543090026
CASHE MICHAEL KHANIM
981 E CHARLES ST
BANNING CA 92220

541320009
MUNOZ ANA
780 S HARGRAVE ST
BANNING CA 92220

541320007
GAMBOA ANGELICA D
3466 BADLEY DR
MIRA LOMA CA 91752

543090016
BEAM GUADALUPE
13856 MEADOW VIEW LN
YUCAIPA CA 92399

543230012
BLACKFORD AMBER R
948 DRIFTWOOD CIR
BANNING CA 92220

543230016
BENTLEY TOM
1075 CHARLES ST
BANNING CA 92220

543090014
FLORES YESENIA
1330 S HARGRAVE ST
BANNING CA 92220

543230018
ESPINOZA MIGUEL
665 W WESTWARD AVE
BANNING CA 92220

543090003
VELARDE ILSO N MISAE L
544 S 98TH WAY
MESA AZ 85208

543240001
HUERTA GLORIA M & RAMON G
1002 CALDERON WAY
BANNING CA 92220

543231017
CHAVIRA HUMBERTO BUSTAMANTE
1074 CHARLES ST
BANNING CA 92220

543090021
FEDERAL HOME LOAN MORTGAGE COR
3476 STATEVIEW BLVD
FORT MILL SC 29715

543090023
HAPPY PAWS LTD
P O BOX 0594
ST GEORGE UT 84771

277



543090022

BANUELOS GUADALUPE R
932 E CHARLES ST
BANNING CA 92220

543090024

HAWVER EUGENE NILE & JANET E K
992 E CHARLES ST
BANNING CA 92220

543230015

MARTINEZ MERCY B
1113 CHARLES ST
BANNING CA 92220

543231016

POYLE JAMES M & TESSIE P
1112 CHARLES ST
BANNING CA 92220

543090013

BURGIN BESSIE ANN
837 E BARBOUR
BANNING CA 92220

543231018

CLARKE MATTHEW
1036 CHARLES ST
BANNING CA 92220

543230009

HERNANDEZ HORACIO & DANNY
933 DRIFTWOOD CIR
BANNING CA 92220

543230010

PEREZ MANUEL R & MARIA ELOISA
932 DRIFTWOOD CIR
BANNING CA 92220

543230011

MUTH TRAVIS ELDON & KELLY JO
940 DRIFTWOOD CIR
BANNING CA 92220

Torres Martinez Dessert
Cahuilla Indians
Attn: Mathew Krystal
P.O. Box 969
Thermal, CA 92274

Native Heritage Commission
Attn: Dave Singleton
1550 Harbor Blvd, Suite 100
West Sacramento, CA 95691

Pechanga Band of Luiseno Indians
Attn: Paul Macarro
P.O. Box 1477
Temecula, CA 92593

Augustine Band of Cahuilla Indians
Attn: David Saldivar
P.O. Box 846
Coachella, CA 92236

Twenty-Nine Palms Band of
Mission Indians
Attn: Athony Madrigal
46-200 Harrison Place
Coachella Ca, 92240

Banning Unified School District
161 West Williams Street
Banning, CA 92220

Morongo Band of Mission Indians
Attn: William Madrigal
49750 Seminole Dr.
Cabazon, CA 92230

Cahuilla Band of Indians
Attn: Yvonne Markel
P.O. Box 391760
Anza, CA 92539

The Ramona Band of Cahuilla Indians
Attn: John Gomez
56310 State Highway 371 B
Anza, CA 92539

Joseph Ontiveros
Soboba Band of Luiseno Indians
P.O. Box 487
San Jacinto, CA 92581

Patricia Garcia-Tuck
Tribal Historic Preservation Office
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive
Palm Springs, CA 92264

County Clerk
County of Riverside
P.O. Box 751
Riverside, CA 92501

Santa Rosa Band of Cahuilla Indians
Attn: Steven Estrada
P.O. Box 391820
Anza, CA 92539

Fort Mohave Indian Tribe
Attn: Linda Otero
500 Merriman Avenue
Needles, CA 92363

Cabazon Band of Mission Indians
Attn: Judy Stapp
84-245 Indio Springs Drive
Indio, CA 92201

San Manuel Band of Mission Indians
26569 Community Center Drive
Highland, CA 92346

City of Beaumont
550 East Sixth Street
Beaumont, CA 92223

Riverside County
Airport Land Use Commission
4080 Lemon Street, 14th Floor
Riverside, CA 92501



CITY COUNCIL

DATE: December 10, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Approval of Professional Services Agreement with the Planning Center | DC & E of Santa Ana – Request to Take Off the Table

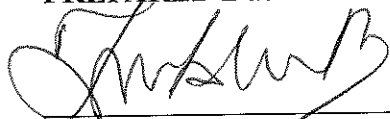
RECOMMENDATION:

That the City Council take off the table the approval of a Professional Services Agreement with The Planning Center | DC & E of Santa Ana, California, in an amount "Not to Exceed" \$186,013.00 to prepare the Environmental Impact Report for the Rancho San Geronio Specific Plan. A copy of the previous staff report and agreement is attached.

BACKGROUND:

On October 8, 2012, the City Council tabled this item. Staff is requesting the City Council take this item off the table and agendaize for its future meeting.

PREPARED BY:



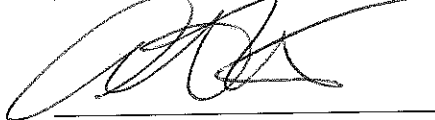
Zai Abu Bakar
Community Development Director

REVIEWED BY:



June Overholt,
Deputy City Manager /
Administrative Services Director

APPROVED BY:



Andrew J. Takata
City Manager

Attachments:

1. October 8, 2013 City Council Staff Report, Draft Resolution No. 2013-89, and Exhibit "A" Draft Professional Services Agreement dated October 9, 2013

ATTACHMENT 1

OCTOBER 8, 2013 CITY COUNCIL STAFF REPORT, DRAFT RESOLUTION NO. 2013-89, AND EXHIBIT "A" DRAFT PROFESSIONAL SERVICES AGREEMENT DATED OCTOBER 9, 2013

CITY COUNCIL

DATE: October 8, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Resolution No. 2013-89, "Approving the Award of a Professional Services Agreement to The Planning Center | DC & E to prepare the Environmental Impact Report for the Rancho San Gorgonio Specific Plan"

RECOMMENDATION: Adopt Resolution No. 2013-89 awarding a Professional Services Agreement to The Planning Center | DC & E of Santa Ana, California, in an amount "Not to Exceed" \$186,013.00 to prepare the Environmental Impact Report for the Rancho San Gorgonio Specific Plan.

JUSTIFICATION: Per the California Environmental Quality Act (CEQA), the City is required to prepare an environmental impact report (EIR) for the Rancho San Gorgonio Specific Plan. City staff does not have the specialized CEQA skills that are necessary to prepare the EIR; therefore, it is necessary to hire a consultant. The cost for the EIR consultant services will be paid by the developer.

BACKGROUND: The City of Banning recently received an application from Rancho San Gorgonio, LLC. to develop a master planned community called "Rancho San Gorgonio." The property is approximately 849 acres and is located on the south side of Westward Avenue between Sunset Avenue and San Gorgonio Avenue/Highway 243. One hundred sixty one acres (161) are located within the City's Sphere of Influence area in the County of Riverside and it will be required to annex to the City of Banning's corporate boundaries.

The RSG Specific Plan includes a proposal to develop 3,573 dwelling units, 188.5 acres of parks and trails and a 10-acre neighborhood commercial center. The 3,573 dwelling units are broken down into: 2,067 units for low density residential (1,264 units non-age restricted and 803 units for age restricted) and 1,506 units for high density. The entitlement approval associated with the project includes the draft and final EIR, General Plan and Zone Ordinance amendments to change land use designations from the various zoning designations to Rancho San Gorgonio Specific Plan, land annexation from the County of Riverside, approval of Water Supply Assessment, Development Agreement, Design Review, and Tentative Tract Map No. 36586.

An EIR is required by CEQA. The EIR will assess the possible impacts that the project may have on the environment and ensure all environmental aspects are considered for full disclosure to the public and decision makers. In order to obtain an independent professional examination of the Rancho San Gorgonio project impacts on the environment and to comply with CEQA, the procurement of a consulting firm separate from the developer and the City is necessary.

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On June 13, 2013, staff released the Request for Proposal (RFP) for a consulting firm to prepare an environmental impact report for the Rancho San Gorgonio Specific Plan with responses due on July 18, 2013. The City received five proposals from the following consultants:

- Environmental Science Associates (ESA);
- First Carbon Solutions;
- LSA Associates, Inc.;
- The Planning Center | DC & E; and
- Terra Nova Planning and Research, Inc.

Interviews with the consultants were held on August 28, 2013. Based on selection criteria including experience, qualifications, references, approach and understanding, schedule and costs, The Planning Center | DC & E was determined to be the most qualified responsive proposer.

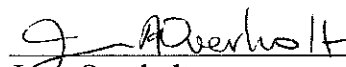
The scope of work in the attached Professional Services Agreement outlines the consulting firm's responsibility to prepare an environmental impact report for the Rancho San Gorgonio Specific Plan in compliance with CEQA. The Consultant will be responsible for literature review of the City's General Plan and Zoning Ordinance, General Plan Land Use and Zoning Map and other relevant documents and studies, as well as, the scoping meeting(s). The Consultant will complete an Initial Study, Notice of Preparation and Availability of the Draft and Final EIR and incorporate public comments regarding the potential impacts, as required by the CEQA, and ensure that all technical studies provided by the project developer are accurate, reflecting independent judgment. The scope of work is further described in the Professional Services Agreement (Exhibit "A") attached hereto.

FISCAL DATA: The professional services provided by The Planning Center | DC & E Inc. will be funded by Rancho San Gorgonio, LLC in the amount of \$186,013.00, Account No. 002-0000-222.30-35 (Rancho San Gorgonio – Planning).


PREPARED BY:


Zai Abu Bakar
Community Development Director

REVIEWED BY:


June Overholt,
Deputy City Manager /
Administrative Services Director

APPROVED BY:


Andrew J. Takata
City Manager

Attachments:

1. Draft Resolution No. 2013-89
2. Exhibit "A" Draft Professional Services Agreement dated October 9, 2013

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ATTACHMENT 1

CITY COUNCIL RESOLUTION NO. 2013-89

205284

RESOLUTION NO. 2013-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO THE PLANNING CENTER | DC & E TO PREPARE THE ENVIRONMENTAL IMPACT REPORT FOR THE RANCHO SAN GORGONIO SPECIFIC PLAN

WHEREAS, the City of Banning received a land development application from Rancho San Gorgonio, LLC. for the development of a master planned community called "Rancho San Gorgonio (RSG)"; and

WHEREAS, the RSG development is proposed on an 849-acre property which is located on the south side of Westward Avenue between Sunset Avenue and San Gorgonio Avenue/Highway 243; and

WHEREAS, as part of this project an environmental impact report (EIR) is required to be prepared in conjunction with the Specific Plan pursuant to the California Environmental Quality Act (CEQA) in order to assess the possible impacts that the project may have on the environment and ensure all environmental aspects are considered and disclose to the public and the decision makers; and

WHEREAS, in order to obtain an independent professional examination that is highly specialized and skilled in the preparation of an EIR, the City management staff determined that the procurement of a consulting firm separate from the developer and the City is necessary in order to comply with CEQA ; and

WHEREAS, on June 13, 2013, staff released the Request for Proposal (RFP) for a consulting firm to prepare an environmental impact report for the Rancho San Gorgonio Specific Plan with responses due on July 18, 2013; and

WHEREAS, the City received five (5) proposals from the following consultants: Environmental Science Associates (ESA), First Carbon Solutions, LSA Associates, Inc., The Planning Center | DC & E; and Terra Nova Planning and Research, Inc.; and

WHEREAS, interviews with the consultants were held on August 28, 2013, and based on selection criteria including experience, qualifications, references, approach and understanding, schedule and costs, The Planning Center | DC & E was determined to be the most qualified responsive proposer; and

WHEREAS, the scope of work outlines the consulting firm's responsibility to prepare an environmental impact report for the Rancho San Gorgonio Specific Plan in compliance with CEQA and is further described in the Professional Services Agreement (Exhibit "A"); and

WHEREAS, the professional services provided by The Planning Center | DC & E Inc. will be funded by Rancho San Gorgonio, LLC in the amount of \$186,013.00.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. The Council approves the award of the Professional Services Agreement to The Planning Center | DC & E of Santa Ana, California to prepare the environmental impact report for the Rancho San Gorgonio Specific Plan.

SECTION 2. The Administrative Services Director is authorized to make necessary appropriations and account transfers to fund this agreement and appropriate funds deposited by Rancho San Gorgonio, LLC. for the purpose of funding the said Professional Services Agreement.

SECTION 3. The City Manager is authorized to execute the contract agreement with The Planning Center | DC & E of Santa Ana, California. This authorization will be rescinded if the contract agreement is not executed by the parties within ninety (90) days of the date of this resolution.

PASSED, APPROVED AND ADOPTED this 8th day of October, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-89 was duly introduced and adopted at a regular meeting of the City Council of the City of Banning, held on the 8th day of October, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

ATTACHMENT 2

EXHIBIT “A”

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND THE PLANNING CENTER| DC & E

**CONTRACT SERVICES AGREEMENT FOR CALIFORNIA
ENVIRONMENTAL QUALITY ACT CONSULTING SERVICES
TO PREPARE AN ENVIRONMENTAL IMPACT REPORT FOR
THE SAN GORGONIO SPECIFIC PLAN**

By and Between

**THE CITY OF BANNING,
A MUNICIPAL CORPORATION**

and

THE PLANNING CENTER | DC & E

**AGREEMENT FOR CONTRACT SERVICES FOR CALIFORNIA CONSULTING
SERVICES TO PREPARE AN ENVIRONMENTAL IMPACT REPORT FOR THE SAN
GORGONIO SPECIFIC PLAN
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND
THE PLANNING CENTER | DC & E**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 9th day of October, 2013 by and between the City of Banning, a municipal corporation ("City") and The Planning Center | DC & E, ("Consultant" or "Contractor"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties." (The term Consultant includes professionals performing in a consulting capacity.)

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough,

competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Service shall include the Consultant's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

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1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Warranty.

Consultant warrants all Work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Consultant agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Consultant shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Consultant shall act sooner as requested by the City in response to an emergency. In addition, Consultant shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other Consultants) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Consultant's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Consultant shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Consultant. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Consultant for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Consultant agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Consultant fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Consultant's sole expense. Consultant shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

1.8 Prevailing Wages.

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the

Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Agreement Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Agreement Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed One Hundred Eighty Six Thousand and Thirteen Dollars (186,013.00)(the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Articles 1 and 5, pertaining to indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (Principals) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

JoAnn Hadfield
(Name)

Project Manager
(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager of City. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified

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herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent Consultant of City and shall remain at all times as to City a wholly independent Consultant with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Agent Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3. .

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnors"), or arising from Consultant's reckless or willful misconduct, or arising from Consultant's indemnors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

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(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Consultant shall deliver to City performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Consultant promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. If this Agreement continues for more than 3 years

duration, or in the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Consultant shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractor and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of

uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, revise or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

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7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of _____ (\$ _____) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the Agency shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this

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Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

Andrew J. Takata, City Manager

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

David Aleshire, City Attorney

CONSULTANT:

THE PLANNING CENTER | DC & E

By: _____

Name:

Title:

By: _____

Name:

Title:

Address: _____

Two signatures are required if a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

On _____, _____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

On _____, _____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

☐

INDIVIDUAL

☐

CORPORATE OFFICER

TITLE(S)

☐

PARTNER(S)

☐

LIMITED

☐

GENERAL

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services:

Task 1. Project Initiation and Kick-off Meeting

To begin the environmental review process, the Preliminary Environmental Impact Report (PEIR) project team will first review available materials provided by the City, such as the City's General Plan and Zoning Ordinance, General Plan Land Use and Zoning maps, the draft Specific Plan, and any other relevant documents and studies. The consultant will coordinate with the City to arrange a visit to the project site and a kick-off meeting with City staff.

During the site visit, the Consultant will take photos of the site and surrounding areas and familiarize their firm with the site terrain, accessibility, and natural setting characteristics.

At the kick-off meeting the Consultant will discuss and agree upon the project goals and approaches with City staff. This discussion will include sharing known constraints and opportunities of the project and the project history to ensure both the Consultant and City staff members understand the project completely. The Consultant will solicit direction from City staff regarding protocol for communication with the applicant and the applicant's consultant team, schedule objectives, and provisions to provide updated status reports. The Consultant will obtain the input necessary to update the tentative schedule with additional detail for provision of information from the City and applicant team, tentative scoping meeting and hearing dates, and estimated document review schedules for staff.

Task 2. Initial Study Review and Notice of Preparation

Initial Study

The initial study review will include a comprehensive project description and analyze each topical area of the California Environmental Quality Act (CEQA) Appendix G checklist as follows:

- + Aesthetics
- + Agriculture/Forestry Resources
- + Air Quality
- + Biological Resources

- + Cultural Resources
- + Geology/Soils
- + Greenhouse Gases
- + Hazards/Hazardous Materials
- + Hydrology/Water Quality
- + Land Use & Planning
- + Mineral Resources
- + Noise
- + Population & Housing
- + Public Services
- + Recreation
- + Transportation/Traffic
- + Utilities and Service Systems

Findings for each area will be clearly substantiated to conclude that impacts are less than significant or further analyzed in the PEIR. The Consultant will revise the Initial Study per City staff review comments.

Notice of Preparation

The Consultant will prepare the draft Notice of Preparation (NOP) and submit it to the City for review and approval. After approval, the Consultant will copy and distribute the NOP and Initial Study to state and local agencies, surrounding property owners, and other special interest groups or individuals identified by the City. The NOP will clearly identify the time period, contact person, and address established for submitting responses.

Deliverable(s):

- Screencheck Initial Study/NOP (10 review copies and 1 digital CD copy)
- Final Initial Study/NOP (5 hardcopies, 25 digital CD copies)

Task 3. Public Scoping Meeting

The Consultant will assist the City in organizing and conducting one public scoping meeting to present the preliminary environmental impacts of the proposed project and to solicit comments regarding the scope and content of the environmental issues to be addressed in the Environmental Impact Report (EIR). At the meeting, the Consultant will be prepared to discuss the environmental review process and to answer specific questions, as desired by the City. The scoping meeting is to be held as soon as possible after the release of the NOP, so public concerns about environmental issues can be identified.

Deliverable(s):

- Mailing of a maximum of 250 Public Scoping Meeting notices to public agencies, interested parties, and surrounding residents
- Draft and Final Public Notice of Scoping Meeting
- Draft newspaper notice (if desired, to be published by the City)
- Attendance and participation in one Public Scoping Meeting
- Scoping meeting materials, including agenda

Task 4. Screencheck Draft PEIR

The Consultant will prepare a Screencheck Draft PEIR to include the following sections in accordance with the CEQA Guidelines:

- + Executive Summary
- + Introduction
- + Project Description
- + Environmental Setting
- + Discussion of Existing Conditions, Environmental Impacts, and Mitigation Measures
- + Cumulative Impacts
- + Effects Not Found to Be Significant
- + Organizations and Persons Consulted

+ Other CEQA-Mandated Sections

Each topical section of the document will: (a) describe existing environmental conditions and pertinent regulatory policies and programs that apply to this project, (b) define the criteria by which impacts will be determined to be significant, (c) determine the environmental changes that would result from the project, (d) evaluate the significance of those changes with respect to the impact significance criteria (thresholds), (e) define mitigation measures to reduce or avoid all potentially significant adverse impacts, and (f) provide a conclusion as to whether significant impacts would remain, even after successful implementation of recommended mitigation measures.

At this time all CEQA topical sections will be included in the PEIR with the exception of Mineral Resources. This topic will be closed out in the Initial Study. Analysis on the rest of the environmental topics will be included in the Screencheck Draft PEIR:

Analysis and findings of technical studies prepared by both the Consultant and the applicant's consultants will be incorporated into the Draft PEIR. Technical studies prepared by the applicant and supplemental modeling information for the Consultant studies will be included in the EIR appendices.

Consideration of Significant Effects

As required by CEQA, the EIR will identify and focus on the significant effects of the project, and include the following discussions as required by CEQA Guidelines Section 15126.2:

- + Effects Not Found to be Significant
- + Significant Unavoidable Impacts
- + Significant Irreversible Changes
- + Growth-Inducing Impacts

Alternatives to the Proposed Project

Alternatives to the proposed project will be defined and analyzed by the Consultant in compliance with Section 15126(d) of the CEQA Guidelines and with consultation with City staff. Alternatives will be selected on the basis of the ability to: (1) avoid or reduce one or more of the project's significant impacts; and (2) feasibly attain most of the basic objectives of the project.

Analyses of a reasonable number of feasible alternatives, including the “No Project,” will be conducted. Impacts associated with each alternative will be compared to the impacts of the proposed project for each of the environmental impact categories described in the preceding sections of the EIR. The environmentally superior alternative will be identified; if it is either No-Project Alternative, then one of the development alternatives will be identified as environmentally superior to the others. The Consultant will evaluate up to five project alternatives, which may include alternative land uses, densities, and phasing scenarios, and potentially, previous land plans prepared by the applicant and/or others. The alternatives section will also include a subsection summarizing alternatives considered but rejected from further analysis.

Deliverable(s):

- 1st Screencheck Draft EIR (10 review copies, 2 digital CD copies)
- 2nd Screencheck Draft EIR (10 review copies, 1 digital CD copy)

Task 5. Draft Program Environmental Impact Report

The Consultant will incorporate City comments on the two rounds of review of the Screencheck Draft PEIR. The Consultant will coordinate with City staff to discuss and resolve any major areas of concern or to clarify areas of misunderstanding. Upon approval of the second set of revisions, the Consultant will forward the preprint Draft PEIR for final review before publication. After City approval, the Consultant will prepare the Notice of Completion (NOC) for City approval and signature. The Consultant will prepare the Notice of Availability (NOA) for City approval for distribution by the City and publish and distribute the PEIR per the mailing list to be developed in consultation with the City. The Consultant will prepare a draft NOA for newspaper publication. The City would publish this notice.

Deliverable(s):

- Draft PEIR
- 30 hard copies of the Draft PEIR
- 15 copies of the Executive Summary and digital CD copies to the State Clearinghouse
- 100 digital CD copies
- Preparation of Notice of Availability

Task 6. Final PEIR – Response to Comments / Errata

The Final PEIR will be prepared in accordance with CEQA Guidelines Section 15089 and will contain the response to comments received on the Draft PEIR. Following receipt of all comments on the Draft PEIR, written responses will be prepared by the Consultant for each comment. A Response to Comments section will be created by the Consultant for the Final PEIR and will contain an introduction describing the public review process for the Draft PEIR, copies of all comment letters and minutes from public meetings where oral comments were taken, and written responses to all comments. The Consultant's responses will focus on comments that address the adequacy of the Draft PEIR. Comments that do not address PEIR adequacy will be noted as such, and no further response will be provided unless deemed necessary by the City. Our scope of work and cost estimate assumes that the applicant's technical consultants will be available to assist to address comments on their respective studies.

The estimated budget assumes that no additional research will be required to respond to comments, that the comments will be directed at the substance and technical adequacy of the PEIR, and that the comments will be compiled by the City and transmitted in writing to the consultant. Modification to the scope of work, budget, and time frame may be necessary if comments received from agencies or the general public require substantially increasing the scope of impacts and issues addressed in the PEIR.

The Final PEIR will also include any revisions and updates needed to respond to comments or address minor errors in the Draft PEIR.

The Consultant will revise the Responses to Comments based on revisions provided by the City. Responses to Comments from responsible agencies will be distributed a minimum of 10 days prior to consideration of the Final PEIR by the City Council.

Deliverable(s):

- Final PEIR (30 hardcopies)

Task 7. Mitigation Monitoring and Reporting Program

An MMRP will be prepared by the Consultant pursuant to Section 21081.6 of the Public Resources Code. It will be presented in standard City format and will identify the significant impacts that would result from the project, proposed mitigation measures for each impact, the times at which the measures will need to be conducted, the entity responsible for implementing the mitigation measure, and the City department or other agency responsible for monitoring the mitigation effort and ensuring its success.

Deliverable(s):

- Mitigation Monitoring Program (10 hardcopies and 1 digital CD copy)

Task 8. Findings of Fact and Statement of Overriding Considerations and NOD

Findings of Fact and Statement of Overriding Considerations

The Consultant will prepare the Findings of Fact consistent with the requirements of CEQA. The draft Findings of Fact will be distributed to the City for review and comment. If required, The Consultant will prepare a Statement of Overriding Considerations for the project, consistent with the requirements of CEQA.

Notice of Determination

A draft NOD will be prepared by the Consultant for review by the City. After the City takes action certifying the Final PEIR and approving the project, the NOD will be filed with the Office of Planning and Research (OPR) and the Riverside County Clerk. This filing will include the CDFW filing fee.

Deliverable(s):

- Findings of Fact (2 digital CD copies)
- Preparation of Notice of Determination

Task 9. Meetings and Public Hearings

The scope of work assumes attendance by the Consultant's project manager and another team member (assistant project manager or technical expert) at the meetings and public hearings listed below. Additional meeting attendance by the Consultant or attendance by other members of the consultant team will be billed on a time-and-materials basis in accordance with the hourly rates for the personnel involved.

Deliverable(s):

- Kick-off Meeting (included in Task 1 above)
- Public Scoping Meeting (budget included in Task 3)
- Up to 3 City Staff Coordination Meetings
- Up to 5 Conference Calls
- Up to 4 Public Hearings (interchangeable Planning Commission, City Council)

Task 10. Project Management

The Consultant will coordinate closely with the City to ensure that the EIR and associated documents are legally defensible, accurate, and useful to decision makers when considering the approval of the project. Project management responsibilities include: task scheduling and assignment; management of resources; monitoring of costs and schedule adherence; management and coordination of the subconsultant, including contract administration and accounting; consultation and coordination with local and state entities relative to the environmental review process; and coordination and communications with the City's project team to ensure compliance with policies, procedures, and any applicable codes.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

- A. Screencheck Initial Study/NOP (Ten (10) review copies and one (1) digital CD copy).
- B. Final Initial Study/NOP (Five (5) hardcopies, twenty-five (25) digital CD copies)
- C. Mailing of a maximum of Two Hundred Fifty (250) Public Scoping meeting notices to public agencies, interested parties, and surrounding residents.
- D. Draft and Final Public Notice of Scoping meeting.
- E. Draft newspaper notice regarding the Scoping meeting.
- F. Attendance and participation in one (1) Public Scoping meeting.
- G. Scoping meeting materials including agenda.
- H. First Screencheck Draft EIR (Ten (10) review copies, two (2) digital copies.
- I. Second Screencheck Draft EIR (Ten (10) review copies, 1 digital CD copy).
- J. Thirty (30) hard copies of the Draft PEIR.
- K. Fifteen (15) copies of the Executive Summary and digital CD copies to the State Clearinghouse.
- L. One Hundred (100) digital CD copies of the Draft PEIR.

- M. Draft PEIR preparation and Notice of Availability.
- N. Final PEIR (Thirty (30) hardcopies).
- O. Mitigation Monitoring Program (Ten (10) hardcopies and one (1) digital CD copy).
- P. Findings of Fact (Two (2) digital CD copies).
- Q. Preparation of Notice of Determination.
- R. Three (3) City staff coordinated meetings.
- S. Five (5) conference calls.
- T. Four (4) public hearings (interchangeable Planning Commission, City Council)

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:

Bi-weekly updates will be provided by the Consultant.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

- A. JoAnn C. Hadfeild- Principal, Environmental Services
- B. Cathleen Fitzgerald-Senior Engineer
- C. Nicole Vermilion-Associate Principal
- D. Fernando Sotelo- Senior Associate, Noise & Air Quality
- F. Michael Milroy – Associate Planner

G. George Estrada – Associate Planner

H. Frances Ho - Planner

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

"Intentionally Left Blank"

EXHIBIT "C"
COMPENSATION

I. Consultant shall perform the following tasks:

Services and compensation detailed in following pages.

- II. Payments will be made based upon the satisfactory completion of the task.**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.**
- VI. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.**
 - B. Line items for all materials and equipment properly charged to the Services.**
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.**
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.**
- V. The total compensation for the Services shall not exceed \$186,013.00, as provided in Section 2.1 of this Agreement.**
- VI. The Consultant's billing rates for all personnel are attached as Exhibit C-1.**

EXHIBIT "C-1"
CONTRACTOR BILLING RATES

The Planning Center|DC&E
2013 Standard Fee Schedule

STAFF LEVEL	HOURLY BILL RATE
Principal	\$180-\$250
Associate Principal	\$155-\$190
Senior Associate/Senior Scientist	\$130-\$185
Associate/Scientist	\$90-\$150
Project Planner/Project Scientist	\$80-\$120
Planner/Assistant Scientist	\$60-\$100
Graphics Specialist	\$65-\$90
Clerical/Word Processing	\$40-\$90
Intern	\$60-\$85

Other direct costs and subconsultants are billed at cost plus 10%.

Mileage reimbursement rate is the standard IRS-approved rate.

VCS Environmental
2013 Standard Fee Schedule

STAFF LEVEL	HOURLY BILL RATE
President	\$200
Vice President	\$195
Senior Biologist	\$185
Biologist	\$175
Field Biologist	\$145
Senior Project Manager	\$185
Project Manager	\$175
Assistant Project Manager	\$165
Project Manager	\$145
Field Assistant	\$75
Office Assistant/Word Processing	\$65

REIMBURSABLE EXPENSES. Expenses incurred directly for the Client's project will be billed at the actual cost and are not included in the original contract amount. Expenses include, but are not limited to, reprographics, Federal Express, necessary transportation costs including mileage by automobile at the IRS reimbursement rate, toll road fees, meals and lodging, computer services and photocopying.

PAYMENT DUE. Invoices are due upon presentation and shall be considered past due if not paid within 15 (fifteen) calendar days of the due date. Finance charges, computed by a "Periodic Rate" of 1-1/2% per month, will be charged on all past due amounts.

CHANGE ORDERS. Change Orders may be subject to future fee schedule increases.

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

- I. Consultant shall perform all services timely in accordance with the following schedule:**

Schedule of performance detailed in the following pages.

II. Consultant shall deliver the following tangible work products to the City by the following dates.

- A. Screencheck Initial Study/NOP (Ten (10) review copies and one (1) digital CD copy), December 2013.
- B. Final Initial Study/NOP (Five (5) hardcopies, twenty-five (25) digital CD copies), December 2013.
- C. Mailing of a maximum of Two Hundred Fifty (250) Public Scoping meeting notices to public agencies, interested parties, and surrounding residents, February 2014.
- D. Draft and Final Public Notice of Scoping meeting, February 2014.
- E. Draft newspaper notice regarding the Scoping meeting, February 2014.
- F. Attendance and participation in one (1) Public Scoping meeting, February 2014.
- G. Scoping meeting materials including agenda, February 2014.
- H. First Screencheck Draft EIR (Ten (10) review copies, two (2) digital copies, March 2014.
- I. Second Screencheck Draft EIR (Ten (10) review copies, 1 digital CD copy), March 2014.
- J. Thirty (30) hard copies of the Draft PEIR, May 2014.
- K. Fifteen (15) copies of the Executive Summary and digital CD copies to the State Clearinghouse, May 2014.
- L. One Hundred (100) digital CD copies of the Draft PEIR, May 2014.
- M. Draft PEIR preparation and Notice of Availability, May 2014.
- N. Final PEIR (Thirty (30) hardcopies), July 2014.
- O. Mitigation Monitoring Program (Ten (10) hardcopies and one (1) digital CD copy), July 2014.
- P. Findings of Fact (Two (2) digital CD copies), July 2014.
- Q. Preparation of Notice of Determination, July 2014.
- R. Three (3) City staff coordinated meetings, October 2014.

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- S. Five (5) conference calls, October 2014.
- T. Four (4) public hearings (interchangeable Planning Commission, City Council), October 2014.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

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CITY COUNCIL

DATE: December 10, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Approval of a Professional Services Agreement with Romo Planning Group, Inc. for Rancho San Gorgonio Project Manager Services- Request to Take Off the Table

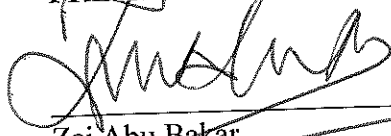
RECOMMENDATION:

That the City Council take off the table the approval of a Professional Services Agreement with Romo Planning Group, Inc. of Covina, California, in an amount "Not to Exceed" \$60,480.00 for Rancho San Gorgonio Project Manager Services.


BACKGROUND:

On October 8, 2012, the City Council tabled this item. Staff is requesting the City Council approve to take this item off the table and agendize it for its future meeting.


PREPARED BY:


Zai Abu Bakar
Community Development Director

REVIEWED BY:


June Overholt,
Deputy City Manager /
Administrative Services Director

APPROVED BY:


Andrew J. Takata
City Manager

Attachments:

1. October 8, 2013 City Council Staff Report, Draft Resolution No. 2013-88, and Exhibit "A" Draft Professional Services Agreement dated October 9, 2013

ATTACHMENT 1

OCTOBER 8, 2013 CITY COUNCIL STAFF REPORT, DRAFT RESOLUTION NO. 2013-89, AND EXHIBIT "A" DRAFT PROFESSIONAL SERVICES AGREEMENT DATED OCTOBER 9, 2013

CITY COUNCIL

DATE: October 8, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Resolution No. 2013-88, "Approving the Award of a Professional Services Agreement to The Romo Planning Group, Inc. for Rancho San Gorgonio Project Manager Services"

RECOMMENDATION: Adopt Resolution No 2013-88 awarding a Professional Services Agreement to The Romo Planning Group, Inc. of Covina, California, in an amount "Not to Exceed" \$60,480.00 for Rancho San Gorgonio Project Manager Services.

BACKGROUND: The City of Banning recently received an application from Rancho San Gorgonio, LLC. to develop a master plan community called "Rancho San Gorgonio (RSG)". The property is approximately 849 acres and is located on the south side of Westward Avenue between Sunset Avenue and San Gorgonio Avenue/Highway 243. One hundred sixty one acres (161) are located within the City's Sphere of Influence area but are within the County of Riverside and will require annexation to the City of Banning's corporate boundaries.

The RSG Specific Plan includes a proposal to develop 3,573 dwelling units, 188.5 acres of parks and trails and a 10-acre neighborhood commercial center. The 3,573 dwelling units are broken down into: 2,067 units for low density residential (1,264 units non-age restricted and 803 units for age restricted) and 1,506 units for high density. The entitlement approval associated with the project includes the draft and final environmental impact report, General Plan and Zoning Ordinance amendments to change the land use designations from the various zoning designations to Rancho San Gorgonio Specific Plan, land annexation incorporation, approval of Water Supply Assessment, Development Agreement, Design Review, and Tentative Map No. 36586. Therefore, due to lack of staffing, the City management staff determined that it is best to retain a contract planner to manage the entitlement processing for Rancho San Gorgonio Specific Plan and the preparation of an environmental impact report for the project.

On June 6, 2013, staff released the Request for Proposal (RFP) for a Project Manager to manage this project with responses due on July 18, 2013. The City received four responses from the following consultants:

- Duane Morita Planning and Environmental;
- P3 Services;
- PZL, Inc.; and,
- The Romo Planning Group.

Interviews with the consultants were held on August 27, 2013. Based on selection criteria

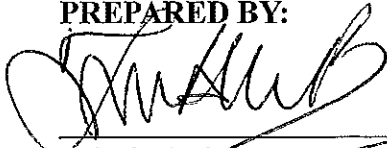
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Interviews with the consultants were held on August 27, 2013. Based on selection criteria including experience, qualifications, references, approach and understanding, schedule and costs, The Romo Planning Group was determined to be the most qualified responsive proposer.

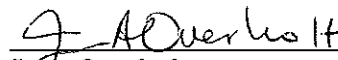
The scope of work in the attached Professional Services Agreement outlines the Project Manager's responsibility for overseeing the preparation of the Rancho San Gorgonio Specific Plan, as well as, the consultants who will prepare the environmental impact report for the project. The Project Manager is also responsible for making sure that the EIR complies with the various timelines and review process in accordance with CEQA Guidelines including the filing of the various notices with the State and the County. In addition, the Project Manager will process all of the project entitlement applications through the public review process including the public hearing before the Planning Commission and City Council.

FISCAL DATA: Professional services provided by The Romo Planning Group, Inc. in regard to the abovementioned services will be funded by Rancho San Gorgonio, LLC in the amount of \$60,480.00, Account No. 002-0000-222.30-35 (Rancho San Gorgonio – Planning).

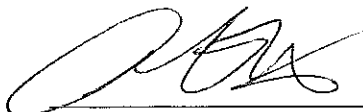
PREPARED BY:


Zai Abu Bakar
Community Development Director

REVIEWED BY:


Julie Overholt,
Deputy City Manager /
Administrative Services Director

APPROVED BY:


Andrew J. Takata
City Manager

Attachments:

1. Draft Resolution No. 2013-88
2. Draft Professional Services Agreement dated October 9, 2013



ATTACHMENT 1

CITY COUNCIL RESOLUTION NO. 2013-88

File 337

RESOLUTION NO. 2013-88

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE AWARD OF A PROFESSIONAL SERVICES AGREEMENT TO THE ROMO PLANNING GROUP, INC. FOR RANCHO SAN GORGONIO PROJECT MANAGER SERVICES

WHEREAS, the City of Banning received a development application from Rancho San Gorgonio, LLC. for the development of a master plan community called, "Rancho San Gorgonio (RSG)"; and

WHEREAS, the RSG development is proposed on an 849 acre property which is located on the south side of Westward Avenue between Sunset Avenue and San Gorgonio Avenue/Highway 243; and

WHEREAS, due to lack of staffing to manage and oversee a large development project including the preparation of the environmental impact report and to process the entitlement of the above-mentioned project, the City Management staff determined that it is best to hire a contract planner to be a Project Manager to manage the project; and

WHEREAS, on June 6, 2013, staff released the Request for Proposal (RFP) for a Project Manager with responses due on July 18, 2013; and

WHEREAS, the City received four responses from the following consultants: Duane Morita Planning and Environmental; P3 Services; PZL, Inc. and The Romo Planning Group, Inc.; and

WHEREAS, interviews with the consultants were held on August 27, 2013 and based on selection criteria including experience, qualifications, references, approach and understanding, schedule and costs, The Romo Planning Group, Inc. was determined to be the most qualified responsive proposer; and

WHEREAS, the scope of work outlines the Project Manager's responsibility for managing the entitlements of the project and carrying it through the public hearing process and overseeing the preparation of the Specific Plan and consultants who will prepare the environmental impact report (EIR) and making sure that the EIR complies with the various timelines and review process in accordance with CEQA Guidelines including filing of the various notices with the State and the County; and

WHEREAS, professional services provided by The Romo Planning Group, Inc. in regard to the abovementioned services will be funded by Rancho San Gorgonio, LLC in the amount of \$60,480.00.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. The Council approves the award of the Professional Services Agreement to The Romo Planning Group, Inc. of Covina, California for Rancho San Gorgonio Project Manager Services.

SECTION 2. The Administrative Services Director is authorized to make necessary appropriations and account transfers to fund this agreement and appropriate funds deposited by Rancho San Gorgonio, LLC. for the purpose of funding the said Professional Services Agreement.

SECTION 3. The City Manager is authorized to execute the contract agreement with The Romo Planning Group, Inc. of Covina, California. This authorization will be rescinded if the contract agreement is not executed by the parties within ninety (90) days of the date of this resolution.

PASSED, APPROVED AND ADOPTED this 8th day of October, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

**APPROVED AS TO FORM
AND LEGAL CONTENT:**

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-88 was duly introduced and adopted at a regular meeting of the City Council of the City of Banning, held on the 8th day of October, 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

ATTACHMENT 2

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF BANNING AND THE ROMO PLANNING GROUP, INC.

**CONTRACT SERVICES AGREEMENT FOR RANCHO SAN
GORGONIO PROJECT MANAGER**

By and Between

**THE CITY OF BANNING,
A MUNICIPAL CORPORATION**

and

THE ROMO PLANNING GROUP, INC.

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**AGREEMENT FOR CONTRACT SERVICES
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND
THE ROMO PLANNING GROUP, INC.
FOR RANCHO SAN GORGONIO PROJECT MANAGER**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 9th day of October, 2013 by and between the City of Banning, a municipal corporation ("City") and The Romo Planning Group, Inc., a California corporation ("Consultant" or "Contractor"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties.". (The term Consultant includes professionals performing in a consulting capacity.)

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough,

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competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Service shall include the Consultant's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Warranty.

Consultant warrants all Work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Consultant agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Consultant shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Consultant shall act sooner as requested by the City in response to an emergency. In addition, Consultant shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other Consultants) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Consultant's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Consultant shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Consultant. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Consultant for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Consultant agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Consultant fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Consultant's sole expense. Consultant shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

1.8 Prevailing Wages.

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the

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performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Agreement Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Agreement Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Sixty Thousand Four Hundred Eighty Dollars (\$60,480.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Articles 1 and 5, pertaining to indemnification and insurance, respectively.

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3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (Principals) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Ernest Perea</u>	<u>Project Manager</u>
(Name)	(Title)

<u>Tracyi Nelson</u>	<u>Principal Planner</u>
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

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4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager of City. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent Consultant of City and shall remain at all times as to City a wholly independent Consultant with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may

not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Agent Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is

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required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnors"), or arising from Consultant's reckless or willful misconduct, or arising from Consultant's indemnors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Consultant shall deliver to City performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Consultant promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Consultant shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer

shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractor and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, revise or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

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6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the

default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel

specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of _____ (\$_____) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such

action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

Andrew J. Takata, City Manager

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

David Aleshire, City Attorney

CONSULTANT:

THE ROMO PLANNING GROUP, INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

Address: _____

Two signatures are required if a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

On _____, _____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

TITLE OR TYPE OF DOCUMENT

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

NUMBER OF PAGES

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

On _____, ____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

☐
☐

INDIVIDUAL
CORPORATE OFFICER

TITLE(S)

TITLE OR TYPE OF DOCUMENT

☐

PARTNER(S) ☐ LIMITED
☐ GENERAL

NUMBER OF PAGES

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

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EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services:

- A. **Overall Planning Project Management:** provide planning project management for the Rancho San Gorgonio Project which proposes the development of a master planned community providing a mix of residential, commercial, open space and recreational areas (the "Project"). The Project Manager, listed below in Section V., will be the primary contact for the City and an extension of City staff and will report to the City of Banning Community Development Director.
- B. **Project Initiation / Background Research:**
 - 1. Project Kick-Off Meeting (1 meeting)
 - 2. Background Research
 - 3. Issue Identification
- C. **Specific Plan:**
 - 1. Review Draft Specific Plan
 - 2. Provide Specific Plan comments to applicant
 - 3. Review Final Specific Plan
- D. **Environmental Impact Report:**
 - 1. Review and comment on technical studies prepared by applicant and/or EIR Consultant.
 - 2. Oversee and manage the consultants who will prepare the Draft and Final Environmental Impact Report for the project and making sure that the EIR complies with the various timelines and review process in accordance with CEQA Guidelines including filing of the various notices with the State and County.
- E. **General Plan Amendment / Zone Change / Tentative Tract Map:** Process and report preparation of any general plan amendment or zone change. Review and process subdivision maps.
- F. **Design Review/ Site Plan/ Conditional Use Permit Review:** design plan, site plan, and conditional use permit review.
- G. **Development Agreement:** Coordinate the preparation of the Development Agreement with City Attorney's Office.

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H. **Water Supply Assessment:** water supply assessment pursuant to SB 610 and an SB 221 verification of sufficient water supply will be prepared. The EIR will include the assessment and any additional supply information in determining the adequacy of the water supply to support the Project.

I. **Meetings:**

1. One (1) meeting with Riverside County Airport Land Use Commission (ALUC).
2. Two (2) Planning Commission meetings.
3. Two (2) City Council meetings.
4. The Contractor will provide information and/or attend meetings(s) requested by the Community Development Director as the process moves forward. The Contractor is also responsible for answering questions from the public with regard to the project.

J. **Annexation:** Coordinate application for annexation with Riverside County Local Agency Formation Commission (LAFCO) on behalf of the City.

K. **Regulatory Approvals:** coordinate regulatory approval from US Army Corps of Engineers (404 Permit), California Department of Fish and Wildlife (1602 Permit), Regional Water Quality Control Board (401 Certification).

II. **As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:**

As part of the entitlement approval process described above, the Contractor is responsible for preparing staff reports and all attachments to the staff report, comments, memos, letters, and public hearing notices. The Project Manager is also responsible for filing of the Notice of Determination with the State and County Clerk.

III. **In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:**

Bi-weekly status reports.

IV. **All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.**

V. **Consultant will utilize the following personnel to accomplish the Services:**

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A. Earnest Perea, Project Manager

B. Trayci Nelson, Principal Planner

EXHIBIT "B"

**SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)**

- Section 1.7 entitled "Warranty" is hereby deleted in its entirety.
- Section 1.8 entitled "Prevailing Wages" is hereby deleted in its entirety
- Section 5.4 entitled "Performance Bond" is hereby deleted in its entirety.
- Section 7.7 entitled "Liquidated Damages" is hereby deleted in its entirety.

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EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks and the following rates:

TASK DESCRIPTION	PROJECT MANAGER ERNEST PEREA	PRINCIPAL PLANNER TRAYCI NELSON	SUB- CONSULTANTS	TOTAL
	\$140/HOUR	\$110/HOUR	FLAT RATE	
Overall Project Management	\$8,400.00	\$3,520.00	N/A	\$11,920.00
Project Initiation	\$2,800.00	\$1,760.00	N/A	\$4,560.00
Specific Plan Processing	\$2,240.00	\$660.00	N/A	\$2,900.00
Environmental Impact Report Processing	\$16,800.00	\$2,200.00	**\$3,000.00	\$22,000.00
GPA / ZC / TTM / DA Processing	\$5,600.00	\$6,600.00	N/A	\$12,200.00
Public Hearings	\$1,680.00	\$1,320.00	N/A	\$3,000.00
Annexation Processing	\$2,800.00	\$1,100.00	N/A	\$3,900.00
Total Cost (Not To Exceed)	\$40,880.00	\$18,700.00	\$3,000.00	\$60,480.00

**If necessary

- II. Payments will be made based upon the satisfactory completion of the task.**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.**
- VI. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B. Line items for all materials and equipment properly charged to the Services.

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- C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- V. **The total compensation for the Services shall not exceed \$60,480.00, as provided in Section 2.1 of this Agreement.**
- VI. **The Consultant's billing rates for all personnel are attached as Exhibit C-1.**

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EXHIBIT "C-1"

CONTRACTOR BILLING RATES

Classification / Personnel	Hourly Rate
Project Manager – Ernest Perea	\$140.00
Principal Planner – Trayci Nelson	\$110.00
Sub-Consultants	
Kevin Carr, KPC Environmental	\$100.00
George Writes, Biologist	\$100.00
Jean A. Keller, Ph.D., Archaeologist	\$125.00

Notes:

- 1.) Reimbursable direct costs, such as reproduction, supplies, messenger service, long-distance telephone calls, travel, and traffic counts will be billed at cost plus ten percent (10%).
- 2.) Hourly rates apply to work time, travel time, and time spent at public hearings and meetings. For overtime work, the above rates may be increased 50 percent.

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EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Consultant shall perform all services timely in accordance with the following schedule:

TASK DESCRIPTION	PERFORMANCE SCHEDULE
A. Planning Project Manager: The Project Manager will be an extension of City staff and will report to the City of Banning Community Development Director. The Project Manager will be an extension of City staff and will report to the City of Banning Community Development Director.	On-going
B. Project Initiation / Background Research: 1.) Project Kick-Off Meeting (1 meeting) 2.) Background research 3.) Issue identification	B.1) To be determined by City. B.2 and B.3) Within 2 weeks after authorization to start work by City.
C. Specific Plan: 1.) Review Draft Specific Plan 2.) Provide Specific Plan comments to applicant 3.) Review Final Specific Plan	C.1 and C.2) Within 2 weeks after submittal of Specific Plan. C.3) Within 2 weeks after re-submittal of Specific Plan by applicant.
D. Environmental Impact Report: 1.) Review & comment on technical studies prepared by applicant and/or EIR Consultant. 2.) Oversee and manage the consultants who will prepare the Draft and Final Environmental Impact Report for the project and making sure that the EIR complies with the various timelines and review process in accordance with CEQA Guidelines including filing of the various notices with the State and the County.	D.1) Within 2 weeks after submittal of technical reports. D.2). On-going per agreement between City and EIR Consultant.

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E. General Plan Amendment / Zone Change / Tentative Tract Map: Process & report preparation.	Per City directed timelines to be determined.
F. Development Agreement: Coordinate the preparation of the Development Agreement with the City Attorney's Office.	Per City directed timelines to be determined.
G. Meetings: 1.) Riverside County ALUC (one meeting). 2.) Planning Commission (2 meetings). 3.) City Council (2 meetings). 4.) The Contractor will provide information and/or attend meeting(s) requested by the Community Development Director as the process moves forward. The Contractor is also responsible for answering questions from the public with regard to the project.	G.1) Prior to completion of Draft EIR. G.2) Per City directed timelines. G.3.) Per City directed timelines. G.4) On-going.
H. Annexation: Coordinate application with Riverside County LAFCO on behalf of the City.	H.1) 4 to 6 months after a complete set of application materials have been submitted to the LAFCO office.

II. Consultant shall deliver the following tangible work products to the City by the following dates.

- A. Staff reports and all attachments, delivery date to be determined.
- B. Written comments, memos and letters, delivery date to be determined.
- C. Public hearing notices, delivery date to be determined.
- D. Notice of Determination including filing with the State and County Clerk, delivery date to be determined based on the City's direction and California Environmental Quality Act (CEQA) requirements.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

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**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

DATE: December 10, 2013

TO: Honorable Mayor and City Council

FROM: Andy Takata, City Manager

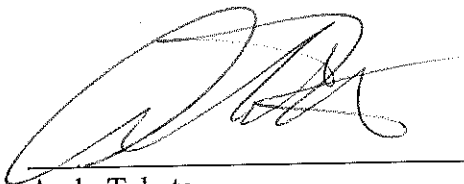
SUBJECT: Discussion of Tagline "Proud History, Prosperous Tomorrow"

RECOMMENDATION: It is recommended that the City Council approve adding "Stagecoach Town, USA" back as part of the City's branding in addition to the use of "Proud History, Prosperous Tomorrow". If there is no consensus to proceed with this recommendation, it is suggested that the Council go back out to the citizens to seek their input with regard to the City's branding.

BACKGROUND: At a special meeting held on April 29, 2009, the City Council came to a consensus to ask our citizens to give their input for a tag line. The deadline for entries was May 15, 2009, with a workshop to be held for further discussion and public participation. A special meeting workshop of the City Council was held on May 20, 2009, to bring forth the top three to five tag lines at which time the Council adopted "Proud History, Prosperous Tomorrow" with the use of the stagecoach symbol. There was consensus to remove the use of "Stagecoach Town, USA".


FISCAL DATA: There are no direct fiscal impacts, however, in the course of transitioning to a new tagline, official city materials, including, but not limited to street signs, city letterhead, business cards, will include this branding.

RECOMMENDED BY:



Andy Takata
City Manager

REVIEWED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

Attachments:

- Attachment A** – Excerpt of the Minutes (April 29, 2009 Council Special Meeting)
- Attachment B** – Agenda and Excerpt of the Minutes (May 20, 2009 Special Meeting Workshop)
- Attachment C** – Excerpt of the Minutes and Staff Report (May 26, 2009 Council Meeting)

ATTACHMENT A
EXCERPT OF MINUTES
FROM THE
APRIL 29, 2009 COUNCIL SPECIAL MEETING

Excerpt of Minutes – April 29, 2009

City Strengths and Tag Line

Mayor Botts referred the Council to the existing list of suggested tag lines for Banning and said that the Council could also propose new tag lines.

City Attorney asked if this replaces "Stagecoach Town USA" when you are done. Mayor Botts said yes.

Mayor Pro Tem Hanna said there is an organization called the Pass Business Connection and they meet every Tuesday morning at 8 a.m. at the Beaumont Civic Center and it is sort of a self help group of local businesses. Yesterday they talked about the thirty second elevator speech that we all should have about whatever it is we do so that you can communicate that that very quickly and also talked about tag lines. One of the things that impressed her about what happened there was that they were helping each other out and next Tuesday they are going to break out in small groups and help every single business to develop a tag line. It was so creative that people came up with ideas that the person in the business might have not thought of. She said that in regards to the tag line idea it may be that the people around this table are not going to be "thee" people that do it; create it. She doesn't think that we just have to rely on our brain powers to come up with this tag line. There are people out there that are very good at playing at doing this. She would encourage the Council to be a little bit more open and possibly bring in some people to do some brainstorming on a tag line. It is basically your signature saying.

There was Council and staff discussion on what are our strengths and what sets us apart from other cities in regards to coming up with a tag line. Those strengths are: small town, friendly, scenic, beautiful views, location, self-contained, mountains, center, weather, cool breezes, own water and utilities, arts, culture, historical, safe, diverse, and unlimited opportunities. There were suggested tag lines such as: Small town feel, big city energy; Small town charm, full service city; small town feel, big city opportunity; small town feel, large opportunity; gateway to special living; small town feel, abundant amenities; small town with unlimited opportunities; historic values and modern opportunities; and center of progress.

Mayor Pro Tem Hanna said it would be helpful at some point that we have a list of what the tag lines are for cities in the Inland Empire or Riverside County because we don't want to be real close to what other cities might have. She also said that there are some creative people that love Banning and we can share what we consider as strengths and ask them to see what they can come up with.

Mayor Botts said or we can have a contest and ask our citizens to give us a tag line.

Councilmember Franklin said she likes the idea that we put it out in the newspaper and put it out to the community that this is what we are looking at and give us your ideas and we could also give them some of the ideas that were discussed today.

Councilmember Robinson said that they could ask the Chamber of Commerce and Cultural Alliance.

Mayor Pro Tem Hanna said that she would do an article for the newspaper and there was consensus for Mayor Botts to give three or four examples of tag lines that were discussed today for the article.

There was Council consensus that the deadline to receive tag lines would be May 15, 2009 and that they be 10 words or less and the City Clerk would receive the tag line suggestions for the Council. There was also consensus that the City Council would have a workshop on May 20, 2009 from 9 to 10 a.m. in the Large Conference Room to go over the tag lines submitted and that the final tag line acceptance would be at the May 26, 2009 City Council meeting.

Mayor Botts said that the Vision Statement and the Mission Statement would be on the City Council's next agenda which is May 12th for adoption.

ATTACHMENT B
AGENDA AND
EXCERPT OF MINUTES
FROM THE
MAY 20, 2009 COUNCIL SPECIAL MEETING

**AGENDA
SPECIAL MEETING WORKSHOP
BANNING CITY COUNCIL
BANNING, CALIFORNIA**

May 20, 2009
9:00 to 10:00 a.m.

Banning Civic Center
Large Conference Room
99 E. Ramsey St.

I. CALL TO ORDER

Roll Call – Councilmembers Botts, Hanna, Machisic, Franklin, Chairman Robinson

II. PUBLIC COMMENTS – *On Items Not on the Agenda*

A three-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. (Usually, any items received under this heading are referred to staff for future study, research, and appropriate Council Action.) See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

III. WORKSHOP DISCUSSION

1) Tag Lines for the City of Banning (Oral)

IV. ADJOURNMENT

The City of Banning promotes and supports a high quality of life that ensures a safe and friendly environment, fosters new opportunities and provides responsive, fair treatment to all and is the pride of its citizens.

TAG LINES FOR THE CITY OF BANNING

- Received from April 30 through May 15, 2009

BANNING –

1. Small town feel, big city opportunity
2. Gateway to special living
3. Small town feel, large opportunity
4. Away from it all – Close to everything
5. Small Town Feel, Big City Energy
6. City Energy, Country Living
7. Proud of our Past, Prouder of our future
8. The Pulse of the Pass
9. Head of the Pass
10. Location, Location, Location
11. City of Beginnings and Universal Community
12. Great Beginnings --- Better Tomorrows
13. Yesterday, Today, Tomorrow
Always a Community – Always Beginning
14. Mountain Beauty, Mountainous Opportunity
15. A Better Place to Live
16. A Better Place to Play
17. A Better Place to Do Business
18. A Better Place to Vacation
19. From Stagecoach to Sludge. Now That's Progress!
20. The Pride of the Pass
21. Historic Values, Modern Opportunities
22. People, Pride, Prosperity
23. Positive and Proud
24. Where Old West Pride is Still Alive
25. Home of the Historic Stagecoach Stop
26. A Proud History and a Prosperous Tomorrow
27. Historic Banning: The Proud Intersection of Yesterday, Today, and Tomorrow
28. A Scenic View of Yesterday and Tomorrow
29. Scenic Views of Yesterday and Tomorrow
30. A Community of Excellence
31. Walking on the Sunny Side of the Street
32. We Welcome You!
33. Valley of the San Gorgonio Pass
34. An Expanding Hub of Opportunity
35. Community Empowerment, Land of Opportunity
36. ... is Booming!
37. Boomtown, USA
38. Build here, live here!
39. Small town living, big city energy!

40. Old Values, new energy.
41. Building, Buzzing, booming.
42. Charm of the past, energy of the future
43. Come Grow With Us.
44. Rich history – prosperous future
45. Small Town, Eco-Friendly Environmentally! Free! and Safe!
46. Gateway to Environmentally, Eco-Friendly Town.
47. Small Town But with a “Big Heart” on Environmental Issues.
48. The Small Town of Banning – Historic and Eco-Friendly.

BANNING —

1. Cesspool of California
2. Poop-Pot of California

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

5/20/09
SPECIAL MEETING

A special meeting workshop of the Banning City Council was called to order by Mayor Botts on May 20, 2009 at 9:10 a.m. at the Banning Civic Center Large Meeting Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Councilmember Robinson
Mayor Botts

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Dr. John McQuown, City Treasurer
Marie A. Calderon, City Clerk

PUBLIC COMMENTS

There were none.

WORKSHOP DISCUSSION

1) Tag Lines for the City of Banning

Mayor Botts said that we are here for a tag line finalization.

Dorothy Mc Lean asked why it had to be done today.

Mayor Botts said that the Council has been working on this for a couple of years and were supposed to finalize it some time back and it was suggested that it be opened to the public for a couple of weeks to get more input. It will go before the Council for final approval but the recommendation will come from the workshop today.

Mayor Botts said that there were 80 plus proposals and suggestions and to make this manageable his thought was to go around and have each of the Councilmembers and City Treasurer put forth their top three to five tag lines and then they will narrow it down from there.

There was Council consensus to this process.

During the first round the City Councilmembers selected their top three to five choices from the lists of suggestions.

Dorothy Mc Lean said she would still vote for Stagecoach Town U.S.A. To her that would bring people to Banning because families would come. You are talking about history and there are all kinds of things. It is a calling card for people to come.

Mayor Botts said he wouldn't disagree and Stagecoach Town is on the list of narrowed choices.

During the second round they narrowed it down from their choices in the first round. The top six were 5A – Small town Feel, Big City Energy; 20A – Historic Values, Modern Opportunities; 25A – a Proud History and a Prosperous Tomorrow; 33A – An Expanding Hub of Opportunity; 50A – Stagecoach Town U.S.A; and 76A – We're not just living it...we're lovin it. Come up to Banning.

Mayor Botts opened the item for public comments.

Dorothy Mc Lean said she looks at these and she wrote in her email that she doesn't want to reinvent Banning. She thinks that Banning is known as Stagecoach Town U.S.A. and thinks that there are a ton of things we could do to capitalize on that instead of starting from scratch and calling it something else. With some of those tag line suggestions she would have no reason to come to Banning. We want to get trade here and we do want people to come and live here but she would not to Banning is it said Small Town Feel, Big City Energy. She wouldn't visit Banning for anything. She asked how many Stagecoach towns do you know; she doesn't know of any. She was thinking about Calico Ghost Town and people still go there and there are a lot of people that visit there during the holidays. But it would be a reason for people to come to Banning. It would be a family thing. To her it is a calling card that we could capitalize on. The museum has spent money in fixed up the area.

Councilmember Franklin said that she would advocate for Stagecoach Town U.S.A. mainly because she asked people. She probably asked about 20 people what their thoughts were and those were young people as well as those that have lived here for awhile. She was really surprised because only one person said they didn't care. Everybody else said leave it as Stagecoach Town U.S.A. and the main reason was because it was unique and something different. One person gave her a whole paragraph about building a whole tourism around Stagecoach Town. It is a good way to bring additional revenue to the City that would not require as much as an investment as some of the things we are trying to do. But that Stagecoach Town was a good solid reason for people to move here. One person moved here from a larger city because it was something that was a little bit different. She thinks it is worthwhile listening to the public because she did hear from so many people.

Mayor Pro Tem Hanna said that she literally talked to 20 people or even communication with over 20 people and not one person brought up Stagecoach Town U.S.A. She asked a young person today and he said no. She could see Stagecoach Town U.S.A. if we really invested in it and made it something. For instance Norco is Horse Town U.S.A. Norco invested in it and they have all the trails right in town and it is a whole priority in everything that they do in terms of promoting themselves. Right now, other than the museum which doesn't promote it self and people who live here don't even know it is there. There is nothing in Banning that promotes Stagecoach Town U.S.A. Our discussion today has been that our primary interest in this is promoting Banning as a place for new business. She said that some of the slogans for tag lines that other cities have don't

promote economic development. She likes Expanding Hub of Opportunity. She thinks being a hub is a good thing in terms of business and there is a lot of opportunity in Banning for growth and development and that we are expanding.

Councilmember Robinson said that we came up with a mission statement and a vision statement and a fair test to this is how does this fit that vision statement and mission statement. He doesn't see Stagecoach Town U.S.A. fitting either one of those. We are trying to get beyond the fact that we are a one-word town. We are trying to get business to come in and grow and he doesn't know how Stagecoach Town U.S.A. helps us grow. That is living in the past and he thought the mission was to get over that.

Mayor Botts said he likes A20 and A33. He said as you know there can be messages in every word or every phrase and the historic values to him connotes something that people hang on to and what that means and like Councilmember Robinson said we talked about moving forward in a direction. So "Modern Opportunities" in his mind fits that. We talked about getting away from the "Pass" and this is the Pass Area and we are just going to pass through. We have had discussion about how to we sort of reposition that and hub does that.

Councilmember Franklin asked why couldn't they combine the two. If we find two of them, we can combine them.

Councilmember Machisic said that when he looks at a tag line he looks at who are you targeting. There is no question that there is a part of our community that identifies with Stagecoach Town but at the same we are trying to find a niche for us. We are stuck between Desert Hills shopping mall and the Beaumont shopping so we have to find our niche. We have been developing the downtown and one of things that these developers say, the handful that he has talked to, is that you need to capitalize on the small town feel you have because retail is going to be hard to come by because of where we are located between these two huge complexes. And the complex in Beaumont is only going to get bigger because of the land available. His feeling is that this identify is important like Councilmember Franklin said if you combine a couple of them because people today are looking for something. He said one of the reasons he moved here was because it was a small town and he moved to Sun Lakes for that reason. But at the same time we want to promote that we are going to grow and there is a lot of opportunity here. His feeling is that we have to appeal to several audiences and we have to appeal to them very quickly with a minimum number of words.

Mayor Pro Tem Hanna said that Beaumont is using "small town feel" so we cannot use that. She said that Art Pearlman was one of the people that wanted to encourage us to consider something that implied growth.

Sue Palmer said how about doing a combination like you have all said because she is an old timer and so she definitely has the tradition plus she wants to see the vision of the future. What if we combine some of these things?

There was further discussion in combining some of these tag lines and coming up with something that is unique and it is something different. Something where people will want to come and look at us. There was also some discussion of not promoting Stagecoach Town enough in the past.

After this discussion they came up with two tag lines: 1) Historic Values, Expanding Hub of Opportunity; 2) Proud History, Prosperous Tomorrow.

Councilmember Franklin said that she liked the two suggesting but would suggest using the Stagecoach as our emblem. Like in Riverside you see the Mission Inn on the street sign and you see it on different things; that is their stamp. They are not saying they are the mission city but that is the symbol for Riverside. And if we use the stagecoach as the symbol for the City, we could still have a different tag line but the symbol of the City would still be the stagecoach. If we use the stagecoach and continue to use it as our symbol that brings in the historical value.

Councilmember Robinson said that in what we talked about in the vision statement about pride and opportunities this tag line if it has the word pride in it, will really fit in with our vision statement.

There was further discussion on the tag line.


There was Council consensus to move this forward for adoption "Banning – Proud History Prosperous Tomorrow" with the use of the stagecoach symbol.

Mayor Botts said that if the Council would agree to appointing two people to work with staff to say how does this get printed, how does this get formatted, how do we now market this.

Councilmember Franklin said that she would like to work on this and Mayor Botts said that he would work on this also.

ADJOURNMENT

By common consent the meeting adjourned at 10:05 a.m.


Marie A. Calderon, City Clerk

THE MINUTES OF THIS MEETING ARE A SUMMARY OF ACTIONS TAKEN BY THE CITY COUNCIL. AUDIOTAPES OF THE ACTUAL MEETING ARE AVAILABLE FOR LISTENING IN THE OFFICE OF THE CITY CLERK.

ATTACHMENT C
EXCERPT OF MINUTES
AND
STAFF REPORT
FROM THE
MAY 26, 2009 COUNCIL MEETING

EXCERPT OF MINUTES – MAY-26-09

REPORTS OF OFFICERS

1. A. Adoption of Tagline “Proud History, Prosperous Tomorrow” and Establish an Ad Hoc Committee Consisting of Mayor Botts and Council Member Franklin to Facilitate a Community Effort to Market the Tagline. for the City of Banning
(Staff Report - Brian Nakamura, City Manager)

City Manager gave the staff report as contained in the agenda packet.

Councilmember Robinson asked that when we do the symbol which is the Stagecoach with Banning over the top of it, do we also use Stagecoach Town USA Established 1913 or does that part get dropped and just the new tagline goes into that area.

City Manager said that is was staff's understanding that the new tagline would replace Stagecoach Town USA.

Mayor Botts opened the item for public comments.

Dorothy Mc Lean, 916 Linda Vista Dr. addressed the Council stating that she had something else in mind for the tagline but she likes it and thinks it will work. She thinks that it will bring us into the future and thanked the Council for keeping the Stagecoach emblem.

Mayor Botts thanked the Council for coming together on the tagline and the mission statement and the other things that they have finally pulled together. He thanked those in the audience and those listening for their suggestions of over 82 different taglines and he is pleased to say this was a community effort.

Motion Robinson/Hanna that the Council adopt the tagline “Proud History, Prosperous Tomorrow” as presented with the stagecoach symbol. Motion carried, all in favor.

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

Date: May 26, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Adoption of Tagline "Proud History, Prosperous Tomorrow" and Establish and Ad Hoc Committee Consisting of Mayor Botts and Council Member Franklin to Facilitate a Community Effort to Market the Tagline

RECOMMENDATION:

That the City Council adopt the new tagline "Proud History, Prosperous Tomorrow" to replace "Stagecoach Town USA" and authorize Mayor Botts and Council Member Franklin to serve on an Ad Hoc committee to develop a plan to market the new tagline as well as using a Stagecoach symbol as part of this effort.

BACKGROUND & ANALYSIS:

At the May 12, 2009 City Council meeting the City Council adopted its mission and vision statements and objectives for FY 2009/10. In an effort to capture the City's direction the Council at a May 20, 2009 workshop determined that "Proud History, Prosperous Tomorrow" best defined its current and future direction. In addition, the City Council created an ad hoc committee consisting of Mayor Botts and Council Member Franklin to work with the city staff in developing an appropriate program for marketing of the new tagline.

The process for developing a new tagline began several months ago during a previous City Council workshop. Mayor Pro Tem Hanna led the most recent effort to secure a new tagline for the City by actively seeking public input and tagline suggestions through verbal and written advertising. Mayor Pro Tem Hanna also researched actual taglines from various cities in the Inland Empire and also the top 50 cities in the United States. Attached is a list of more than 80 submitted taglines the City Council considered.

FISCAL IMPACT:

There is little direct fiscal impact, however, in the course of transitioning to our new tagline, official city materials, including, but not limited to street signs, city letterhead, business cards, will include this branding.

RECOMMENDED BY:



Brian Nakamura, City Manager

TAG LINES FOR THE CITY OF BANNING

- Received from April 30 through May 19, 2009

BANNING --

1. Small town feel, big city opportunity
2. Gateway to special living
3. Small town feel, large opportunity
4. Away from it all -- Close to everything
5. Small Town Feel, Big City Energy
6. City Energy, Country Living
7. Proud of our Past, Prouder of our future
8. The Pulse of the Pass
9. Head of the Pass
10. Location, Location, Location
11. City of Beginnings and Universal Community
12. Great Beginnings --- Better Tomorrows
13. Yesterday, Today, Tomorrow
- Always a Community -- Always Beginning
14. Mountain Beauty, Mountainous Opportunity
15. A Better Place to Live
16. A Better Place to Play
17. A Better Place to Do Business
18. A Better Place to Vacation
19. The Pride of the Pass
20. Historic Values, Modern Opportunities
21. People, Pride, Prosperity
22. Positive and Proud
23. Where Old West Pride is Still Alive
24. Home of the Historic Stagecoach Stop
25. A Proud History and a Prosperous Tomorrow
26. Historic Banning: The Proud Intersection of Yesterday, Today, and Tomorrow
27. A Scenic View of Yesterday and Tomorrow
28. Scenic Views of Yesterday and Tomorrow
29. A Community of Excellence
30. Walking on the Sunny Side of the Street
31. We Welcome You!
32. Valley of the San Geronio Pass
33. An Expanding Hub of Opportunity
34. Community Empowerment, Land of Opportunity
35. ... is Booming!
36. Boomtown, USA
37. Build here, live here!
38. Small town living, big city energy!
39. Old Values, new energy.

40. Building, Buzzing, booming.
41. Charm of the past, energy of the future
42. Come Grow With Us.
43. Rich history – prosperous future
44. Small Town, Eco-Friendly Environmentally! Free! and Safe!
45. Gateway to Environmentally, Eco-Friendly Town.
46. Small Town But with a “Big Heart” on Environmental Issues.
47. The Small Town of Banning – Historic and Eco-Friendly.
48. Between snow-capped mountains, historic Banning
better the lives of its residents, the appeal of its businesses
and the enjoyment of its visitors.
49. the affordable green city.
50. Stagecoach Town U.S.A. (7 requests to leave it as is)
51. From Stagecoach Stop to Contemporary City
52. From Stagecoach Stop to Modern Municipality
53. Just the right size
54. Hometown feel and that’s the way we like it
55. Cozy, comfy and contemporary
56. Mountains, murals, blue skies, clear water....Banning has it all
57. Yesterday a stagecoach town, today a contemporary city, tomorrow...endless
possibilities
58. Our size fits all
59. Stagecoach atmosphere.....Spaceship attitude.....Banning, reaching for the stars
60. Banning is Growth
61. Watch us continue to Grow
62. Banning Represents your Future
63. Small City-Big Growth Plans
64. Local, City and County Growth – It’s Your Future
65. Old Town History – New Business Growth
66. Value with a View
67. The Gateway City
68. Diversity, Accessibility, Value
69. Fresh Air, Sweet Water and Big Blue Sky
70. A generous community that’s not too big to care.
71. The gateway to great people, opportunities and play.
72. A business friendly city with history, art and culture.
73. A thing of the Pass “Come up to Banning”
74. Pass the Progress please
75. The closer you get, the better we look.
76. We’re not just livin it ... we’re lovin it. Come up to Banning.
77. The seeds are planted ... Watch us grow –Come up to Banning.
78. Where your future lives.
79. Cool Breezes, Great People, Viable Opportunities
80. Where the San Geronio Pass Meets the Desert Valley
81. Stagecoach to starships Banning’s got it all

BANNING—

1. Cesspool of California
2. Poop-Pot of California
3. From Stagecoach to Sludge. Now That's Progress!
4. Old and Far Away

Mayor Pro Tem Hanna researched to see what the actual tag lines are for various cities in the I.E. by looking at their web sites.

Moreno Valley: "Where dreams soar!"
Riverside: "City of Arts & Culture"
City of Corona: "The Circle City"
Palm Springs: "The People are the City"
Norco: "Horsetown USA"
City of Perris: "Making the City a greener place to live and work"
Beaumont: "A Progressive City with a Small Town Feel"
Palm Desert "Plan to be Spontaneous"
Cathedral City: "The Spirit of the Desert"
LaQuinta "Gem of the Desert"

Redlands, Yucaipa, Calimesa, Hemet, San Jacinto and Idyllwild did not have apparent tag lines on their web pages.

Your city's tagline: Finding a name you can live with
Our nation's capital city is searching for a new tagline—and it's not alone.

Cities, towns and hamlets across America regularly decide that the tagline they've been using needs to change. The smart ones realize that a tagline is just one piece—and not even the first piece—of the overall development of a brand.

Still, taglines and nicknames are fun. The best also are memorable and actually sell the destination.

Settling on one can be amusing. Years ago, there was a contest in Nashville to complete the phrase, "I love Nashville because . . ." No one remembers the winner today, but those on the inside of the contest recall their clear favorite that wasn't chosen: "I love Nashville because it's so far from Detroit."

The Washington, D.C., Convention & Tourism Corp. welcomes input during its branding exercise. A newspaper story about the slogan hunt cited suggestions that, while fun, certainly won't win. Among them: "Mistakes Were Made," "Where Attorneys Roam" and "Dude! Where's My Car?"

Eric Swartz, president of TaglineGuru, a California firm that has developed taglines for destinations, companies and products, cites four important points for a destination's tagline.

1. Attributes: Does it express a city's brand character, affinity, style and personality?
2. Message: Does it tell a story in a clever, fun and memorable way?
3. Differentiation: Is it original?
4. Ambassadorship: Does it inspire you to visit there, live there or learn more?

The Top 50 U.S. City Slogans

1. What Happens Here, Stays Here.
2. So Very Virginia.

Las Vegas, NV

Charlottesville, VA

- | | |
|--|-------------------|
| 3. Always Turned On. | Atlantic City, NJ |
| 4. Cleveland Rocks! | Cleveland, OH |
| 5. The Sweetest Place on Earth. | Hershey, PA |
| 6. Rare. Well Done. | Omaha, NE |
| 7. The City Different. | Santa Fe, NM |
| 8. Where Yee-Ha Meets Olé. | Eagle Pass, TX |
| 9. City with Sol. | San Diego, CA |
| 10. Where the Odds Are With You. | Peculiar, MO |
| 11. Where Your Ship Comes In. | Gulfport, MS |
| 12. Soul of the Southwest. | Taos, NM |
| 13. Experience Our Sense of Yuma. | Yuma, AZ |
| 14. The City Was So Nice They Named It Twice. | Walla Walla, WA |
| 15. There's More Than Meets the Arch. | St. Louis, MO |
| 16. Keep Austin Weird. | Austin, TX |
| 17. Where Chiefs Meet. | Meeteetse, WY |
| 18. City with a Mission. | San Gabriel, CA |
| 19. Where the Trails Start and the Buck Stops. | Independence, MO |
| 20. The City That Never Sleeps. | New York City, NY |
| 21. The Aliens Aren't the Only Reason to Visit. | Roswell, NM |
| 22. Lose Your Heart to the Hills. | Kerrville, TX |
| 23. Take Me to the River. | Vicksburg, MS |
| 24. We've Got All the Civilization You Need. | Riverton, WY |
| 25. The Town Without a Frown. | Happy, TX |
| 26. The Town Too Tough to Die. | Tombstone, AZ |
| 27. Where the Stars Come Out to Play. | Fort Davis, TX |
| 28. Rollin' on the River. | Manchester, OH |
| 29. Named for the Turn of a Card. | Show Low, AZ |
| 30. More Than Just a Song. | Shenandoah, TX |
| 31. Where Horses Have the Right of Way. | McKinleyville, CA |
| 32. Only in San Francisco. | San Francisco, CA |
| 33. It's Not the End of the Earth, But You Can See It From Here. | Bushnell, SD |

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| 34. Where Nature Smiles for Seven Miles. | Spring Lake, MI |
| 35. Live Large. Think Big. | Dallas, TX |
| 36. Real. America. Up Close. | Rapid City, ND |
| 37. The Richest Place on Earth. | Virginia City, NV |
| 38. With Time for You. | Richmond, MI |
| 39. Newark, on a Roll. | Newark, NJ |
| 40. Where the Trout Leap in Main Street. | Saratoga, WY |
| 41. Life, Celebrated Daily. | Norfolk, VA |
| 42. The Natural Place to Visit. | Sitka, AK |
| 43. People Say We're Old-Fashioned. We Hope So. | Virginia City, MT |
| 44. Where the People Are Warm Even When the Weather Isn't. | Andover, KS |
| 45. Where the Bald Eagle Soars and the Carp Drops! | Prairie du Chien, WI |
| 46. Where History Never Gets Old. | Fredericksburg, VA |
| 47. The Town That Made Tulsa Famous. | Glenpool, OK |
| 48. Get 'Er Done. | Havre, MT |
| 49. Town Without a Toothache. | Hereford, TX |
| 50. Livable, Lovable Lodi. | Lodi, CA |
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Honorable Mention

- | | |
|---------------------------------|-----------------|
| You Can Do Better in Cando. | Cando, ND |
| Twenty Lakes in Twenty Minutes. | Harrison, MI |
| More Than Just a Pretty Beach. | Encinitas, CA |
| Something to Remember. | San Antonio, TX |
| Twice as Nice. | Texarkana, AR |

List of Tag Lines
Discussed at the April 29, 2009
City Council Meeting Workshop

Tag lines for *Banning...*

1. The Portal to Progress
2. Born for Business
3. Banning is a welcoming community for all ages in a modern managed growth city in a scenic setting
4. Next stage to the future
5. The old and young are welcomed in a historic but modern growing city
6. Community of Action
7. Energized for the Future
8. The affordable green city
9. City of the future
10. Banning – a scenic, friendly city, managing its growth while welcoming people and business
11. The Place to be [because.....]
12. The "Go to" City
13. Pass to the future
14. Banning, a scenic city of managed growth, good for people, good for business
15. A community on the creative edge
16. Some like the tag line we have on some literature – *historic values, modern opportunities*
17. Banning: A way of Life in the Pass
18. Banning: Arts. Work. Life.
19. Banning: Where Arts work in the Pass
20. Banning: Honoring the past, working for the future
21. Banning: The Stagecoach line to the future
22. Gateway to San Geronimo
23. Gateway to Greatness
24. Gateway to Progress
25. Gateway to a User Friendly Community
26. Gateway to A Special Way of Life
27. Gateway to Great People, Great Work and Great Play
28. Banning – Gateway to San Geronimo
29. Banning – The Gateway to Special Living
30. Banning – A Place Where Everyone Knows Your Name
31. Banning – Small town feel, big city energy
32. Banning – Business, Arts, Culture, Community
33. Banning – Rich History, Arts, Community
34. Banning – A Cutting Edge Town Supporting Business, Arts, Culture, and History
35. Banning – Community, Business, Arts, and History
36. Building a Better Banning For Residents and Businesses

The Banning Community Advisory Committee

Mission – to actively facilitate communication with in the Banning Community

- to mutually develop and promote a sense of community vision and pride
- to provide a training forum to develop city leaders

Goals – 1) Promote two way communications

Neighborhood awareness programs

Share city concerns/issues

Promote community pride

Recommend ideas to city

2) Training

Provide training on city positions (I.E. commissions, council)

Educate on critical city issues

Establish a leadership academy

This advisory committee is community based; independent of city council, city staff, and any other committee or group.

Roles and Expectations

Application

- Submit a completed application form. Designate type of representation
- Be willing to submit to a background check
- Applicants must be registered voters
- Be willing to serve a minimum of two years
- Attend 75% of the scheduled meetings
- Applicants must have access to email
- Be willing to attend and participate in the Leadership Academy
- It is desired that applicants have at least one community involvement (not mandatory)

Expectations and Roles for Advisory Committee Members

- * All advisory and committee meetings are to be conducted in public sessions.
- * Individual committee members and the collective group will be fair, impartial, and respectful of the public, staff, and each other.
- * Committee members will respect the limitations of their individual and collective authority. Please keep in mind that committee appointment does not empower you to make final decisions.
- * Members will strive to appreciate differences in approach and point of view, whether from each other, the community, city council, or staff.
- * Each member is expected to participate in the group's discussions and work assignments; no one member shall dominate the discussion or activity of the committee.
- * Consensus is desired on all issues that are to be brought forward to legislative bodies and/or staff. Majority and minority opinions will be stated.
- * The committee facilitator will ensure that all members have a fair, balanced and respectful opportunity to share their knowledge and perspectives.
- * All communications are to be in compliance with the Brown Act

Meetings

Meetings shall be held monthly unless otherwise agreed upon by the committee as a whole.

A non-voting, impartial facilitator shall lead the meetings. The committee shall determine the date and time for regular and special meetings.

Meetings will be held at Banning City Hall or other designated location.

Meetings shall be recorded.

Action minutes will be provided.

The committee will determine what constitutes a quorum and consensus.

The role of the Facilitator

- The facilitator will be an impartial, non voting catalyst for the committee.
- The facilitator does not work for or at the direction of the committee.
- The facilitator can be a member of the Banning Community.
- The facilitator is responsible for keeping the meetings on time and on topic.

First Meeting

The Banning Community Advisory Committee is being formed to provide a forum for community discussion on the many issues and interests found in the Banning community. It is expected that the formation of this committee will foster enhanced communications between residents, the business community, and the local government. It is intended to help coordinate efforts of the community to work on improving our Banning community as well as work together in a proactive approach toward addressing the interests and concerns of our Banning Community. It is also formed to educate and train community members interested in learning more about local leadership.

The ad – hoc committee will select the first 7 committee members.
These committee members will then select the rest of the committee
Applications will be available at city hall and on-line on the city website

Announcement

Formation of Banning Community Advisory Committee

“The Banning Community Advisory Committee is being formed to provide a forum for community discussion on the many issues and interests found in the Banning community. It is expected that the formation of this committee will foster enhanced communications between residents, the business community, and the local government. It is intended to help coordinate efforts of the community to work on improving the Banning community as well as work together in a proactive approach toward addressing the interests and concerns of the Banning Community. It is also formed to educate and train community members interested in learning more about local leadership” Debbie Franklin, Mayor

Who: Banning Community Members

What: Introductory Meeting for the Banning Community Advisory Committee

When: Tuesday, January 7, 2014 at 6 to 7:30pm

Where: Banning City Hall, 99 E Ramsey St. Banning, Council chambers

Why: To obtain community involvement in our city

Community Advisory Committee Application

Name _____

Address _____

Telephone Numbers – Home _____ Cell or office _____

Length of Residence in Banning _____

Are you a registered voter in Banning? Yes _____ No _____

The following requested information will assist the committee in the selection process. More information can be added on another sheet.

Biographical sketch, including education, work experience, civic involvement, and other background relevant to the position of Community Advisory Member.
(Can attach a resume if preferred)

How many city council meetings have you attended in the last year? _____

Please provide in the space below your reasons for wanting to serve on this Community Advisory Committee and what are your expectations.

Please identify three to five public issues facing the city and explain how you think they may be resolved.

Please return your completed application to the City Clerk's office by 5pm on January 3, 2014, at 99 E Ramsey St or P O Box 998, Banning, CA 92220.

Date: _____ Signed: _____

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Leadership Academy

- a. Limit class size to 25
- b. Required by initial 7 representatives
- c. 1 session monthly for a year February – November
- d. Sessions as follows:
 - i. Public Works
 - ii. Water
 - iii. Electric
 - iv. Finance
 - v. Admin. – City Mgr., City Clerk, Council & Commissions
 - vi. Planning
 - vii. Economic Development
 - viii. Community Service
 - ix. Police
 - x. Fire
 - xi. Orientation
- e. Academy will conclude with a graduation ceremony at a public meeting