

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

February 11, 2014
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 City Council Sitting in Its Capacity of a Successor Agency.

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 Jason Hong, Grace Lutheran Church
- Pledge of Allegiance
- Roll Call – Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

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.

*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*

PRESENTATIONS

1. Proclamation – Designating Banning as a “Purple Heart City” 1
2. Introduction of New Employees – Interim City Manager (ORAL)

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 8

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 – 1/14/14 (Workshop) 5
2. Approval of Minutes – Special Meeting – 1/28/14 (Closed Session) 19
3. Approval of Minutes – Regular Meeting – 1/28/14 20
4. Approval of Accounts Payable and Payroll Warrants for Month of December 2013. 43
5. Report of Investments for December 2013. 46
6. Notice of Completion for Project 2013-02 EL Sunset Grade Separation Phase 1 – Pole Realignment 53
7. Resolution No. 2014-09, Authoring Staff to Enter Into An Agreement With Riverside County Airport Land Use Commission to Provide the Required Services for the Amendment of the Banning Municipal Airport Lane Use Compatibility Plan 57
8. Morongo Casino Pass Transit Bus Stop – Approval of Bus Access Agreement 70

- 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 CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY.

V. CONSENT ITEMS

1. Resolution No. 2014-05 SA, Receiving and Adopting Its Recognized Obligation Payment Schedule (“ROPS”) for the Period of July through December 2014 and approving Certain Related Actions 78

Adjourn Joint Meeting and reconvene the regular City Council Meeting.

VI. 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.)

1. Ordinance No. 1468, Adoption of the Latest Edition of California Fire Code (*Public Hearing continued from December 10, 2013*)
Staff Report 90

Recommendations: That the City Council continue 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.

VII. REPORTS OF OFFICERS

1. Report of Project History and Information for the Village at Paseo San Gorgonio Project.
Staff Report 114

Recommendation: That the City Council review and file the report on the Village at Paseo San Gorgonio Project.

2. Proposal to Amend Municipal Code to Vest the Power of Appointment /Removal of City Personnel in the City Council.
Staff Report 250

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

- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager

IX. ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items

1. Schedule Meetings with Our State and County Elected Officials
2. Discussion on how to handle loans or distributions to charities.
3. Discussion on how the City Council handles donations to the City.
4. Review of regular City Council meeting time.
5. Council review/discussion of the current sign ordinance.

X. ADJOURNMENT

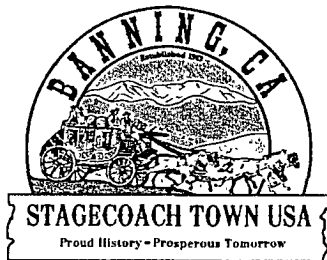
Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Thursday, 7 a.m. to 5 p.m.

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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]



PROCLAMATION

WHEREAS, the citizens of the city of Banning have great admiration and the utmost gratitude for all the men and women who have selflessly served their country and this community in the Armed Forces and have borne the brunt of battle; and

WHEREAS, veterans have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and

WHEREAS, the contributions and sacrifices of the men and women from the city of Banning who served in the Armed Forces have been vital in defending the hard won freedoms and liberties of our constitution that are treasured by our citizens; and

*WHEREAS, many citizens of our community have been awarded the **Purple Heart** Medal in recognition of being wounded while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and*

WHEREAS, February 22nd has officially been designated as the day in the city of Banning to remember and recognize veterans who are recipients of the Purple Heart Medal.

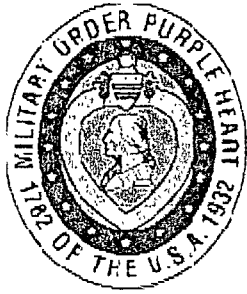
*NOW, THEREFORE BE IT RESOLVED, that I, Deborah Franklin, Mayor of the City of Banning along with the City Council do hereby proclaim **BANNING** as a "**PURPLE HEART CITY**", one of very few cities in the State of California so designated, honoring the service and sacrifice of our nation's men and women in uniform wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.*

IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 25th day of February, 2014.

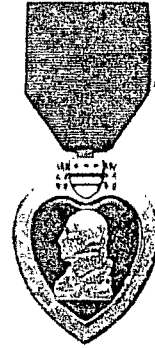
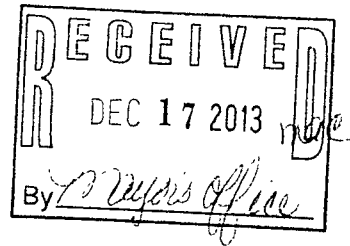
ATTEST:

Marie A. Calderon, City Clerk

Deborah Franklin, Mayor



Robert E. Bush chapter # 2929



Date: 16 December 2013

To: City Council, City of Banning

Subject: Petition to Designate City of Banning as a Purple Heart City

From: Len Tavernetti, Service Officer, Military Order of Purple Heart

The Military Order of the Purple Heart is enlisting communities to adopt resolutions proclaiming their support for wounded veterans. Attached is an information paper on the Military Order of the Purple Heart and the proclamations being adopted. Also attached is a draft of a proposed proclamation. The draft is to be amended by the City Council and a date selected for honoring Purple Heart recipients in the City of Banning.

I plan to attend the signing ceremony and receive the proclamation.

Respectfully,

Len Tavernetti

909 744-2388

ltavernetti@hotmail.com

Designation as a Purple Heart Community

- The original Purple Heart award was instituted by George Washington in 1782 to reward troops for "unusual gallantry" and "extraordinary fidelity and essential service." The Purple Heart as we know it today was reestablished in 1932 to coincide with the 200th anniversary of the birth of George Washington. The criteria for the award have been amended over the years. In addition to awards to those killed or wounded "in any action against an enemy of the United States", the criteria for the award of the medal was last amended to include those killed or wounded as a result of "an international terrorist attack," and "as part of a peacekeeping force."
- Records indicate approximately 964,000 battle casualties (non-fatal and fatal) in WWII were awarded. For the Korean War there were approximately 33,600 fatal and 103,200 non-fatal casualties were entitled to the award. Approximately 200,700 Purple Hearts were awarded for wounds received during the Vietnam era. Records of all Purple Heart recipients do not exist as local commanders were authorized to present them to combat wounded service members. Many recipients are shy about their Purple Hearts as they feel they are the lucky ones who were only wounded during battles where others were killed. A rough estimate is that in all American communities for every 1,000 citizens there is one surviving Purple Heart recipient from WWII, Korea, Vietnam and the Afghanistan-Iraqi wars. They deserve recognition for their sacrifice and the gratitude of their communities.
- Chartered by Congress in 1958, The Military Order of the Purple Heart is composed of military men and women who received the Purple Heart Medal for wounds suffered in combat. Although membership is restricted to the combat wounded, The Order supports all veterans and their families with a myriad of nation-wide programs by Chapters and National Service Officers. A local chapter (#2929) named for Robert E. Bush, meets monthly in Redlands to serve veterans of the Inland Empire. Robert E. Bush was an 18-year-old Navy medical corpsman during the Battle of Okinawa who was the youngest sailor to receive the Medal of Honor during World War II.
- In recognition of the sacrifice of those awarded this decoration, on April 22, 1991, the California State Assembly Concurrent Resolution 49 resolved, with the Senate concurring, that the second Saturday of August each year be proclaimed California Purple Heart Veterans Day". The Robert E. Bush chapter recently enlisted the Counties of San Bernardino and Riverside as Purple Heart Communities and is now focusing on doing the same with local cities. Communities select a date that would be proclaimed as a date to remember and give thanks for these wounded veterans. There is no obligation on the communities other than recognizing the service and sacrifice of Purple Heart recipients and their families.
- Additional information about the Military Order Purple Heart is at <http://www.purpleheart.org/>

Purple Heart Medal

The Purple Heart Medal is America's oldest military decoration. It was originally established on August 7, 1782 by General George Washington who designed the original award called the "Badge of Military Merit." The Badge of Military Merit was awarded for singularly meritorious action to a deserving hero of the Revolutionary War. There were only three recipients of the award, all of whom were non-commissioned officers of the Continental Army. The Badge of Military Merit was intended by Washington to be a permanent decoration, but was never used again after the three initial presentations until it was reestablished as the Purple Heart Medal on February 22, 1932 (the 200th anniversary of Washington's birth) by the Army War Department.



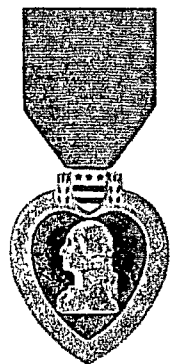
During the First World War, War Department General Order No. 134 of October 12, 1917 authorized a red ribbon with a narrow white center stripe to be worn on the right breast for wounds received in action. However, the order was rescinded 32 days later and the ribbon never became a reality. Instead, the Army authorized wound chevrons which were worn on the lower right sleeve of the tunic.

On July 21, 1932, General Douglas MacArthur, who was a key figure in its revival, received the first Purple Heart Medal after it was reestablished. President Franklin D. Roosevelt signed an executive order on December 3, 1942 that expanded the award to members of the Navy, Marine Corps and Coast Guard as well. Although the Purple Heart Medal was awarded for meritorious service between 1932 and 1943, the primary purpose of the award has always been to recognize those who received wounds while in the service of the United States military.

Later, Presidential Executive Orders extended eligibility for the Purple Heart Medal to military and civilian personnel who received wounds from a terrorist attack or while performing peace keeping duties. Currently, it is awarded for wounds received while serving in any capacity with one of the U.S. Armed Forces after April 5, 1917; it may be awarded to civilians as well as military personnel. The wounds may have been received while in combat against an enemy, while a member of a peacekeeping force, while a Prisoner of War, as a result of a terrorist attack or as a result of a friendly fire incident in hostile territory. The 1996 Defense Authorization Act extended eligibility for the Purple Heart to prisoners of war before April 25, 1962; previous legislation had only authorized the medal to POWs after April 25, 1962. Wounds that qualify must have required treatment by a medical officer and must be a matter of official record.

Purple Heart - Precedence

The Purple Heart Medal was originally last in precedence of all other personal decorations, but was elevated in 1985 by an act of Congress to a position just behind the Bronze Star. The military medal is a heart-shaped, gold-rimmed medallion with a profile of George Washington on a purple enameled base. Above Washington's profile is the shield from his family's coat of arms. "FOR MILITARY MERIT" is inscribed on the reverse. The ribbon is a dark purple with narrow white edges. The original Badge of Military Merit was a satin purple heart edged in white. The format may have been used since the strongest wood available for gun carriages and weapons during the Revolution was called "Purpleheart", a very strong smooth grain wood from Latin America that was stronger than the famous English oak. Here was an American wood that was stronger, more resistant to rot and termites than any other known wood. Perhaps General Washington chose the American Purpleheart wood as a symbol of strength and resistance over the British hearts of English Oak (a popular English military song of the time).



Additional awards of the Purple Heart Medal are denoted by bronze and silver oak leaf clusters or gold and silver stars, depending on the recipient's Service Branch.

Membership in the Military Order of the Purple Heart is limited to service members who have been combat wounded and awarded a purple heart.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

1/14/14
SPECIAL MEETING

A special meeting workshop of the Banning City Council was called to order by Mayor Franklin on January 14, 2014 at 3:02 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Administrative Services Dir./Deputy City Manager
David J. Aleshire, City Attorney
Fred Mason, Electric Utility Director
Duane Burk, Public Works Director
Bill Manis, Economic Development Director
Zai Abu Bakar, Community Development Director
Marie A. Calderon, City Clerk

WORKSHOP ITEM

1. City of Banning Utility Department Report
(Staff Report – Fred Mason, Electric Utility Director)

Director Mason said what he will be presenting is basically an overview of the Electric Utility looking at the past decade or so. At this time he started his power-point presentation (Exhibit "A").

Organizational Chart

Director Mason stated that there are a total of 22 employees in the Electric Utility with an additional 12 employees that are under the Finance Department that provides customer service and billing for all City services so they are actually billed to all of the utilities and City services and not just to the electric utility. You have the Operations Manager and under him are the Service Planner and the Electrical Engineer and those two positions do a tremendous amount of work in regards to developers, do the plan checks, inspections, service plans and a lot of work with regards to development, as well as, to the distribution system of the utility. There are three crews and each one of those Crew Supervisors are working supervisors and work with the crews in getting the jobs done. The Sub Station Technician takes care of the six substations. In regards to the Utility Financial Analyst and that position takes care of all regulation compliance, energy accounting, manages the Public Benefit Programs, meter shop and work order management.

Regulatory Impact

In the last decade the State has imposed a huge number of regulations with regards to the electric utility industry and the ones highlighted are the ones that have had a specific financial impact on the utility. In addition to these listed there are numerous other ones that may require reporting by the utility or just compliance that doesn't actually impose a financial burden but the ones listed do specifically have a financial burden as noted. He went over each of those items listed giving further detailed information. Items noted as "per year" are ones that are on-going so it is not just a one-time thing. Those are on-going costs that have been incurred and will continue to incur. He also noted that "CAISO" is the California Independent System Operator. That is the entity that manages the high-voltage transmission grid, as well as, the wholesale energy market in the state of California.

There were various questions asked from the Council in regards to capacity reserves, price gouging and settlements, and renewable energy costs.

Operating Cost Categories

Basically these are the three main categories that are looked at. Net Energy Expense is the cost of all our energy and capacity resources netted against the wholesale revenues. Our Transmission Expense we have our high voltage and existing transmission contracts and low voltage (WDAT) Wholesale Distribution Access Tariff. We have to use Edison's distribution system so we have to pay them a charge to utilize their distribution lines to bring our energy to our system. The General Operating Expenses are personnel costs and he noted that there have been no cost of living adjustments since 2006. Any increases in rates that you see here, personnel costs did not affect that at all. It was all of the other regulatory issues and whatnot that you have seen. In regards to the bonds that were issued in 2005 there were approximately 10,000 homes that were slated to be built over the next 5 to 10 years in Banning and that was the height of the housing boom and when we looked at our system we said that we cannot support that type of a load and would need to do certain improvements and expansion on the distribution system in order to support that. Costs were looked at and we did not have enough money to do all of that so the decision was made to issue bonds to cover the expense for the expansion of the system to accommodate the growth from the homes, as well as businesses. The paper work for the bonds was done in 2006 and in 2008 the housing market crashed and those 10,000 homes evaporated. At that point the bonds were issued so the load growth that they were anticipating to pay for the debt service payments never materialized and that \$3 million dollars that we pay in debt service each year had to be recovered somehow.

There were various Council questions in regards to the improvements getting done with the proceeds from the bonds, are we ready for 10,000 new homes, are these part of the bonds actually sold back, is there a recovery policy now when homes are built,

Director Mason said that in regards to the improvements those are getting done right now and they will be ready for those 10,000 new homes in two years. On the North West portion of the city we are ready but anything on the east or south that is what they are going to be accommodating with the improvements that they will be doing over the next two years. In regards to the bonds they did buy back a portion about \$6 million dollars of the bonds and that

actually reduced our debt service payment by \$500,000 a year. In regards to a recovery policy the developer actually pays for the infrastructure in their development and then pay a per-home fee for the cost of the infrastructure for each home.

Councilmember Miller asked in regards to this proposed change in rate structure that is not being proposed yet. Director Mason said the PUC (Public Utility Commission) for the investor-owned utilities are actually looking at it right now. They have been authorized to implement a maximum \$10.00 a month charge but that is just before the study is done. Once they actually perform the study on their rates and determine what portion of their revenue requirement comes from fixed charges versus energy charges, then they will look at the fixed charge. What he has heard experts say for residential customer that fixed charge will probably be somewhere in the neighborhood of \$30.00. We would obviously have to look at our own system and our own fixed cost and make that determination for ourselves. The goal is that the average bill stays the same so there is no increase in cost. It is just that you have a fixed component and an energy component. That will be for everybody.

Operating Cost Impacts

He went over the Net Energy Expense as stated in the exhibit. He said that when the plant is not producing we still have to make the mortgage payment. So we pay for that plant regardless but if the plant is not producing, and then you have to get replacement energy for what is not being produced that you need to provide for your retail customers. The replacement energy during outages that price varies. In regards to General Operating Expense in 2009 we cut our workforce by 15% in attempt to reduce the operating expense because we had a rate increase in 2009 and didn't feel it was proper to have a rate increase if we didn't trim down as much as we could in the utility.

History of Operating Cost

This chart shows the history of operating costs and the thick line on top is the total operating costs and it goes from fiscal year 2004 through 2013. You can see that we were about \$18 million and we end up at about \$26 to \$28 million. You can see the one with the most volatility is the Net Energy Expense and as he explained each year that is San Juan went out that increased the cost because you have to pay for that preventive maintenance expense. Any capital improvements that were done increased the cost for that year and additionally, any replaced energy is included in that category as well. If you look at the operating expense, it was stable, increased with the debt service and stable again. The transmission has been stable with a slight increase in 2010-2011 because of the new transmission lines being built.

Retail Revenue Impacts

At the same time that we were having increases in our operating expense we had drops in our retail sales; dramatic drops due to the recession and he went over the figures in the exhibit.

Mayor Franklin asked if he know how much of that was also from use of solar. Director Mason said the use of solar equates to currently 1.8 million kilowatt hours; so not that much but still significant.

History of Rates

There were no increases from 1996 to 2007 then due to the regulatory impacts and the renewable energy that we were purchasing in 2007 we had a 19% increase. In 2009 to handle the debt bond service expense and the loss in retail load we had a 24% increase and in 2012 we had a 12% increase. In 1996 to 2014 the total increase was 55%. Projected increases through 2020 are none at this point unless the State throws us a curve ball that we are not expecting he doesn't foresee any more rate increases through 2020.

Mayor Franklin said that we hear often people say my rates in Banning are higher than the rates in Beaumont or in other cities so when we look at this and see that ours has risen 55% but theirs is 76%. Can you explain a little bit more how we constantly hear rates are lower somewhere else.

Director Mason said the charts coming up will explain that issue.

Banning vs. Edison – Residential

This chart goes back to 2000 through 2017. You can see that in 2000 Edison was higher than Banning and then they were significant higher and then because of our operating expense increases in 2009 we were above them and we have been slightly above them through current. The dotted line is that 13% projection. You can see that in 2016 they will be equal to us but at this point they are slightly lower for residential and that is total average. We took the total dollar sales for each customer class and divided that by the total kilowatt hour for that class to come up with the average kilowatt hour for each class and system as well. You can see that for much of the last 15 years we have been less than Edison and at some point significantly less. He said that he is going to make an assumption that we actually did what we were supposed to do with regard to renewable energy and things earlier. The investor-owned utilities kept pushing this off and kept pushing it off saying it wasn't going to happen and it wasn't until 2011 when that SBX1-2 Bill was passed that there was penalties imposed that the investor-owned utilities said they really mean business and so they have gone out and started procuring. In the next slides you are going to see significant increases in their costs because they are about two to three years after the fact from us.

There were various Council questions in regards to how San Onofre plays into this, our rates are higher than Edison and then equal in 2016, and baseline and tier rates for Banning and Edison.

Director Mason said that we have no impact with San Onofre at all other than statewide and with Edison he is not sure what actually is included in their numbers. In regards to the rates we are higher for residential customers right now. Also if you look at the average customer that uses 700-800 kilowatts a month, we are actually less the way the tiers are set up. It is a situation where globally overall we are more because their first tier is lower but then they raise the tiers more quickly as far as percentage. Director Mason also went over the baseline and tier rates for Banning and Edison.

Councilmember Miller said to him the most important one is the system average which is the last graphic that you show. So if we look at the system average because it is really energy cost and we can divide it up any way we want among the different tiers but according to your graph right

now overall we are 10% higher than Edison and your projection is that in 2017 we will be equal overall. Director Mason said that was correct.

Mayor Franklin said going back a little bit where you said you don't anticipate any additional increases until 2020 because we are having to divest ourselves of San Juan and we have to get a replacement do you have a good feel now or are you able say pretty confidently in getting that replacement it is not going to cost us more money.

Director Mason said yes and he will actually be coming to Council in the next 4 to 6 months with those contracts for the replacement in 2017.

Councilmember Westholder said when he talks to citizens in the community and he deals a lot with single moms and they have a large increase in their utility from one month to the next and they claim they haven't used any more electricity than normal; do we have equipment problems or is it misperception.

Director Mason said that it is misperception and what challenges some customers is that you will actually do a history printout and show them that every summer they go from 500 kWh to 1000 kWh every summer and they say but I don't and we show them a four-year history and you see a pattern that every summer they use that amount. For some people they don't understand that air-conditioning uses a lot of electricity. Many of these homes or apartments are older and they have very inefficient air-conditioning units. Even if you only using it for a few hours a day, it still doubles your bill.

Banning vs. Edison - Commercial

You can see that we were significantly below and in 2009-2010 we went above and Edison will be higher than us in 2016.

Banning vs. Edison – Large Commercial

This is a customer class that we may want to look at sooner because for whatever reason the way the demand charge is set up with the energy charge they are actually paying a larger portion. The customer class is the demand customers where they have a demand charge based on their maximum demand for the month and then they have an energy charge. And when we do the study we basically look at historical demand and based on that what do we need for revenue from this customer class for them to pay their share of our revenue requirements and it looks like we may have been a little off on our projections on what the demand charge and energy charge would be because of all four customer classes they are the highest over Edison and it shouldn't be that way.

Mayor Franklin said when you say commercial versus large commercial what is the difference between those two and can you give some examples of businesses.

Director Mason said basically your small commercial is your strip mall - the little insurance shop, real estate office and that type of thing. Your larger commercial is any type of Jack-in-the-Box, anything over 20 kilowatts. The average home uses about 6 to 8 kilowatts. Anything over

20 kilowatts is considered a large demand commercial customer. 20 kilowatts through 500 kilowatts falls into this customer class.

Councilmember Miller asked for a comment as to whether or not the fact that we are higher than Edison has affected our ability to get large commercial industry.

Bill Manis, Economic Development Director said it has not so far. Most people coming into a brand new community/city look at different factors and one is the rent, one is the sale price of a property, safety and so rates play a factor certainly but it hasn't necessarily stopped us as far as attracting a tenant.

Councilmember Peterson said rumor has it that Deutsch moved because of the utility rates. Director Mason said what happened was the way that the bills were calculated and it had been calculated differently and there were charges that were calculated that were not consistent with Edison and it actually made the rates higher. He said that he pointed this out to then Director Paul Toor in 2003/04 and he didn't want to change it at that point so that actually caused the problem. Deutsch actually left partially because of the rates. Obviously at this point in Hemet they are paying the same rate that they would pay here in Banning.

Councilmember Peterson said rumor has it in the community that the hospital receives a 25% reduction in their utility bill. Director Mason said actually it is a 20% reduction on their new wing; the expansion. We have an Economic Development Rate and any new business coming in or any existing business that expands their load, their actual energy consumption by a minimum requirement will get a 20% reduction for two years on that portion only. So it is just on the portion they increase.

Mayor Franklin said the question that would go along with that is have we attracted any businesses because we offer that incentive. Director Mason said yes and Brands on Sale came in at the Deutsch location and one of the things that attracted them was the 20% discount.

Banning vs. Edison – Time of Use – he displayed this graph.

Banning vs. Edison – System Average

Right now we are a little bit higher than Edison but as of 2017 it will be the same.

Benefits of a Municipal Utility

He hears periodically from customers or Councilmembers as to the benefit of having a municipal utility and probably the biggest benefit is the local control. You, the City Council, are our governing board; you set the policy. If we were to be under Edison, the California Public Utilities Commission (PUC) in Sacramento would set policy for us. He said that the PUC has hundreds of companies that they try to regulate and in his opinion, they don't do a very good job of it. So having said that, the fact that the Council right here in Banning looks at the community's needs and looks at what we need for our energy needs and can make decisions that are in the best interest of Banning, is a huge benefit. Secondly, our customers are our owners. He thinks it is probably very important to keep in mind that Edison is beholding to their stockholders. Their sole purpose in life is to maximize profits for their stockholders. Our sole

purpose in life is to do what is best for our community. The citizens have an active role in the utility. Every major decision that is made with the utility comes before the Council. There is a public hearing where the public can come and give input and you do not have that as an Edison customer. Contributions to the General Fund obviously we contribute a certain amount of money to police, fire, parks and recreation, streets and that is something that benefits the community significantly. Also our rates are close or equal to Edison so if you factor in the fact that we have 10% plus of our rates going back to the General Fund for those City services that is a huge benefit.

Councilmember Westholder said that all of the money that is raised from utilities has to go right back into maintaining of the utilities and is that an assumption that he heard was wrong. Director Mason said that is incorrect. Councilmember Westholder said so actually money that we do make under utilities contributes to the General Fund. Director Mason said only through the General Fund transfer. We are two separate funds and the Council has authorized a General Fund transfer and then an addition of 10% of our retail sales. Councilmember Westholder asked then what that percentage besides the 10% is and from your budget what percentage is that. Director Mason said that we pay for our share of City services and his total is 17%. Councilmember Westholder said that means that there is 83% that goes back into utilities and does that include your payroll. Director Mason said that is total operations.

Mayor Franklin asked can you say for other independent operators like our City, what is the percent that they give into their General Funds on the average. Director Mason said Riverside is 12%, and Glendale was over 20% and the City Council due to community pressure is reducing that. The average is always about 10%.

Councilmember Miller asked when Edison services a city does it donate anything to the General Fund. Director Mason said it isn't a donation. They have a franchise fee that they pay and he believes from what he has heard from cities that have Edison it is 5% or 6%. The General Fund transfer is a better benefit to the City.

Councilmember Miller said that means that 7% is payment to the City for City services. Would you say that really is a payment to the City or simply the fact that you don't have to have additional personnel in your department? Director Mason said that is correct, he doesn't have to have additional personnel in his department.

Councilmember Welch said he sees two benefits here 1) we are not tied into a "percent" of transfer; and 2) we have the flexibility of doing this whereas City services by Edison do not.

Councilmember Westholder asked is our utility company turning a profit; are we in the black. Director Mason said yes. Our goal is to break even. We are a non-profit entity so when we set rates it is basically to break even. Depending on whether we might have a year where we might have made 2% or 3% above our operating costs and there might be another year where we make 1% or 2% below operating costs but our goal is to break even always.

Councilmember Westholder asked when we are over is it there for the lean years or does it go back into the General Fund. Director Mason said it goes back into the reserve. The only thing

that goes to the General Fund is the General Fund transfer and our portion of the pro-rata share of these City services they provide to us.

Director Mason pointed out that we have a faster response time and in the picture you can see that we have a down power pole on Wilson Street. At 5:15 a.m. a car sheared off the power pole and within 30 minutes our crews had responded and power was restored by 7:45 a.m. that morning and that was the Friday after Thanksgiving. On Saturday, December 28th the exact same thing happened in Edison territory in Moreno Valley and it happened at 5 a.m. and as of the time the article was written Edison was projecting that it would be up by Dec. 29th so our response time is much better than Edison.

Councilmember Miller said the reason we can project that we will be at the same value, the same cost of Edison and the reason we are higher now is that we have been preparing for the requirement for new construction or new types of power that does not produce emissions whereas Edison has not done that and now they are into that.

Personnel Needs - Planning for Retirement

Personnel Requirements

Director Mason said of the 22 employees he mentioned earlier 50%, 11 of them are eligible for retirement in the next five years. For one classification specifically that is a concern and that is our Powerline Technician. He said that position is a very difficult position to hire from the outside. In the nearly 13 years that he has been with the City only one Powerline Technician has been hired from the outside and he lasted less than a month and he went over the reasons why he left. Other than that they have "home grown" every single Powerline Technician that we have since he has been here. The bottom line is that you don't have a lot of Powerline Technicians, journeymen linemen that are out there looking for a job here. The recommendation that they have with the three years and the 7,000 hours it takes about five years before the apprentice is actually ready to actually perform on a crew as a productive, able to do any type of tasks position. Staff will be recommending in the budget this coming year to add five apprentice positions over the next two years. If we were to wait, they would not be able to function because you would not have a trained Powerline Technician to fill that spot. Director Mason went over the hiring challenges that the City faces.

Capital Improvement Projects

Director Mason went over the listed the projects as shown on the exhibit and said that these are all projects that are going to be completed over the next two years and at that point they will be situated to provide expansion to any portion of the city.

Looking to the Future

Director Mason went over the list of items listed.

Mayor Franklin thanked Director Mason for his presentation.

ADJOURNMENT

By common consent the meeting adjourned at 4:10 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 Electric Utility

Banning City Council Workshop

Presented by
Fred Mason, Electric Utility Director

Overview

- Department Organizational Chart
- Impacts of Regulations & Policies
- Review Operating Costs and Revenues
- History of Rates – Compared to Edison
- Benefits of having a Municipal Electric Utility
- Personnel Needs – Preparing for Retirements
- Capital Improvement Projects
- Looking to the Future

2

City of Banning – Electric Utility Department

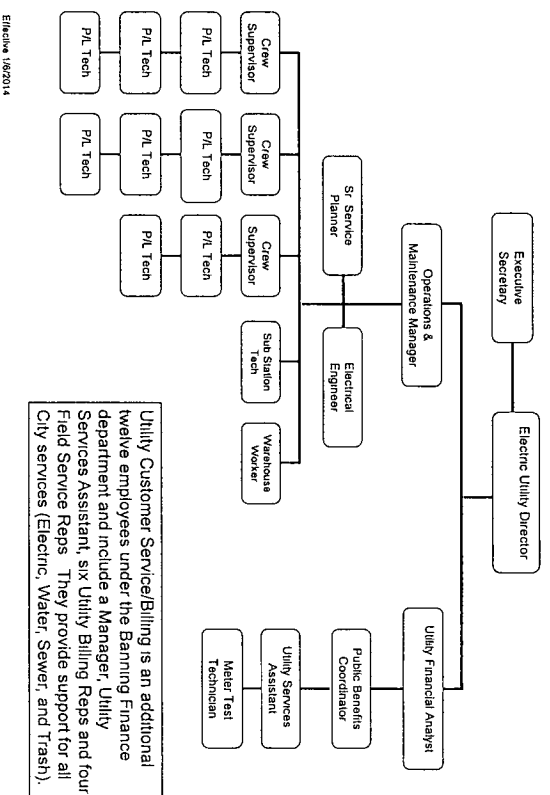


Exhibit "A"
10

spec.mtg workshop-01/14/014

Regulatory Impacts

- 2002 – SB1078 RPS 20% by 2017 (\$1M – 2M/year)
- 2005 – San Juan emissions lawsuit (\$3.6M over 3 years)
- 2006 – AB2021 Reduce consumption by 10% thru EE (\$200 – 500k/year)
- 2006 – CAISO Increased Reserve percentage; Local RA (\$800k – \$1.3M/year)
- 2006 – SB1 Required PV Solar System rebates; NEM (\$2.5M rebates; \$300k/year in lost revenue)
- 2006 – AB32 Global Warming Solutions Act; Cap&Trade (\$500k – \$2.5M/year dependent on Auction price)

4

Regulatory Impacts (cont.)

- 2006 – SB1368 Set emissions standards; restricted Capital Investment in “dirty” resources
- 2010 – AB2514 Energy Storage Systems
- 2011 – SBX1-2 RPS 33% by 2020 (\$1.5M/year energy; \$500k - \$1M/year transmission)
- 2011 – EPA “Clean Air Act” (\$\$\$ undetermined)
- 2013 – AB327 NEM, Rate Structures, RPS

5

Operating Cost Categories

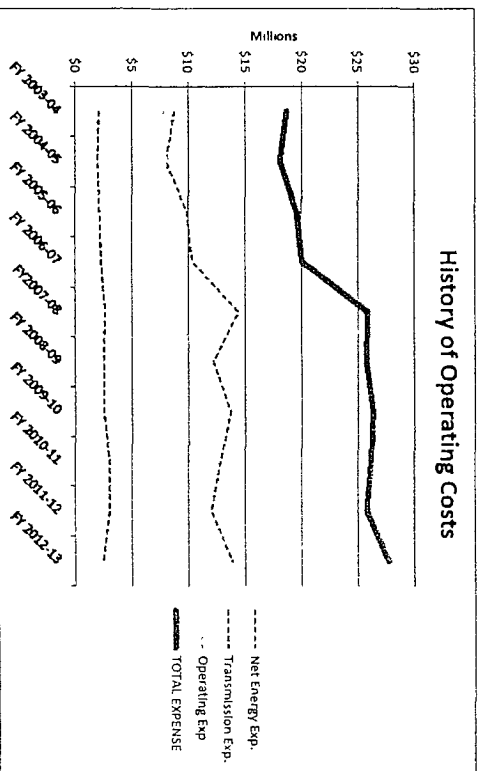
- Net Energy Expense:
 - Cost of all Energy and Capacity resources
 - Wholesale revenues
- Transmission Expense
 - CAISO – High Voltage (TAC)
 - SCE – ETCs and Low Voltage (WDAT)
- General Operating Expense
 - Personnel (no COLA since 2006)
 - Distribution System O&M
 - Electric Bond Debt Service (CIPs)

6

Operating Cost Impacts

- Net Energy Expense:
 - Increases at San Juan due to emissions restrictions and aging facilities (\$1 – 3M/year)
 - Replacement energy during outages (\$ varies)
 - Renewable energy mandates (\$3.5M by 2018)
- Transmission Expense
 - New lines to import renewables (\$1M by 2020)
- General Operating Expense
 - Electric Bond Debt Service (\$3M/year)
 - Cut workforce by 15% in 2009

7



8

Retail Revenue Impacts

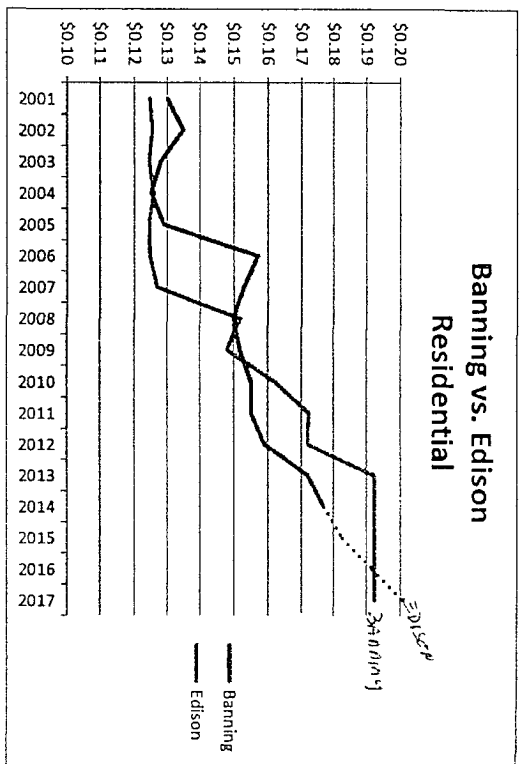
- 2008 Total Retail Sales (kWh) :
152,981,066
- 2011 Total Retail Sales (kWh):
130,214,132
- Total Annual Loss:
 - kWh: 22,766,934
 - Percentage: 15%
 - Dollars: \$3,870,400

9

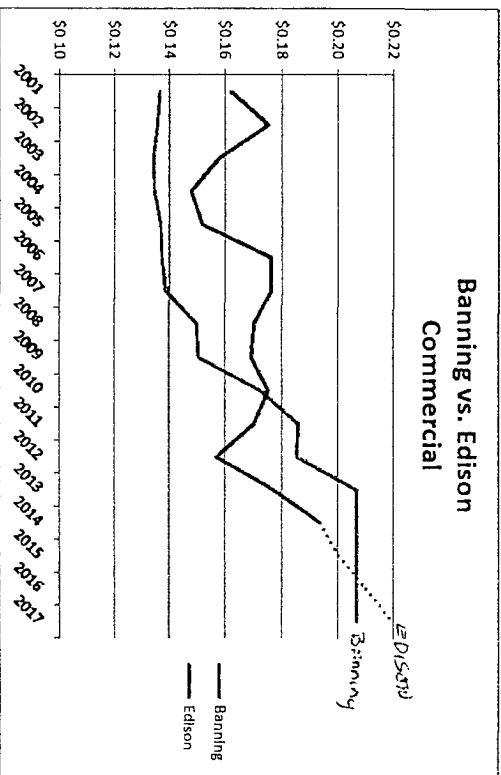
History of Rates

- Banning:
 - No increases from 1996 - 2007
 - 2007 – 19% Increase
 - 2009 – 24% Increase
 - 2013 – 12% Increase
 - 1996 – 2014: Total Increase of 55%
 - Projected Increases thru 2020: None
- Edison
 - 1998 – 2014: Total Increase of 76%
 - Projected Increases thru 2017: 13%

10

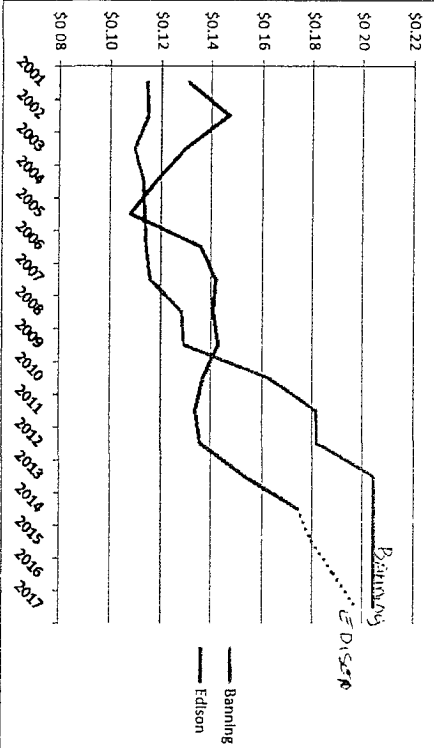


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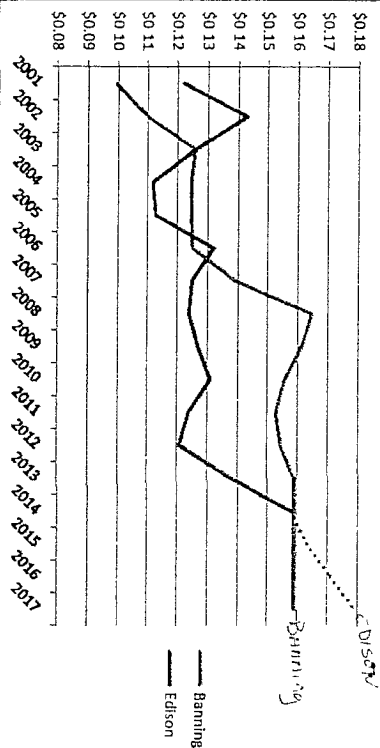
12

Banning vs. Edison Large Commercial



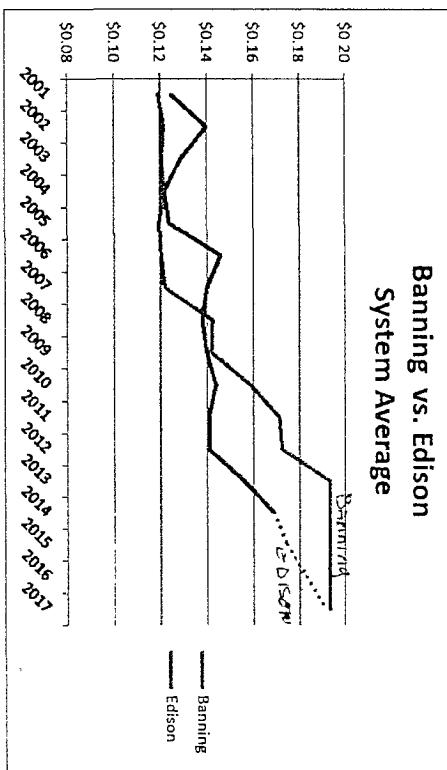
13

Banning vs. Edison Time of Use



14

Banning vs. Edison System Average



15

Benefits of a Municipal Utility

- Local Control
- Customers are owners
- Citizens have active role in Utility
- Contributions to General Fund
- Generally lower rates than IOUs
- Better Customer Service
- Faster Response Time

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Looking to the Future

- Divest of San Juan by 2018
- Replace San Juan energy with renewables
- Meet/exceed 33% RPS requirement
- Stabilize rates through 2020
- Review rate structure to address NEM*
- Utilize Apprentice Program to prepare for retirements

**Net Energy Metering*

Questions?

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

1/28/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on January 28, 2014 at 4:05 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: David J. Aleshire, City Attorney
Colin Tanner, Attorney – Aleshire & Wynder, LLC
June Overholt, Administrative Services Director
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney said the items on the closed session agenda are one case of potential litigation pursuant to the provisions of Government Code Section 54956.9; liability claim for vehicle damage-Farmers Insurance Exchange pursuant to Government Code Section 54956.9; City Manager Separation pursuant to Government Code Section 54957; and personnel matters regarding recruitment of the Chief of Police and City Manager pursuant to Government Code Section 54957.

Mayor Franklin opened the closed session items for public comments; there were none.

Meeting went into closed session at 4:06 p.m. and reconvened at 5:12 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:12 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

1/28/2014
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the City Council and the Banning Housing Authority was called to order by Mayor Franklin on January 28, 2014, at 5:20 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: June Overholt, Interim City Manager/Administrative Services Dir.
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
Heidi Meraz, Community Services Director
Phil Holder, Police Lieutenant
Tim Chavez, Battalion Chief
John McQuown, City Treasurer
Marie A. Calderon, City Clerk

The invocation was given by Pastor Harv Hernandez, New Creation Church. Mayor Pro Tem 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 the item of potential litigation in one matter was not discussed. There was discussion regarding a liability claim settlement for vehicle damage involving Farmers Insurance and there was a motion by Councilmember Westholder, seconded by Councilmember Peterson to settle the claim for \$28,697.00 and unanimously approved by the Council. In regards to the City Manager Separation agreement matter the Council had previously appointed a sub-committee to work with former City Manager Andy Takata on a severance agreement and that agreement is in the final stages. There was a motion by Councilmember Westholder, seconded by Councilmember Welch authorizing the sub-committee to continue to finalize a severance agreement in a form approved by the City Attorney and that motion was unanimously approved by the Council and when the document is finalized it will be available for the public. With that there has been some question from the public concerning the academic qualifications of Mr. Takata and we have a statement concerning that

which were matters considered by the City Council in connection with approving the severance agreement. At this time, the City Attorney read the public statement: "It has been brought to the attention of City staff that the educational attainment of former City Manager Andrew J. Takata is in question. A complete background check of all City of Banning employees is standard hiring practice. Employee candidates are not authorized to start working for the City until they have successfully passed their respective background check. The City uses a third party background investigation firm to confirm an individual's employment history, educational attainment relating to the requirements of the position, credit history and other data. In addition, every perspective employee submits to a fingerprint background check. Prior to Mr. Takata starting his position with the City in February 2010, the City of Banning conducted its standard background check which confirmed that Mr. Takata had received his Bachelor of Arts Degree from Cal State University Fullerton majoring in Business Administration and minoring in Accounting. Due to the matters which were raised recently on January 23, 2014, the City Human Resources Division contracted the National Student Clearinghouse and received a Degree Certificate confirming Mr. Takata's educational attainment as originally verified prior to his hire date so this was consistent with the information obtained when Mr. Takata started his position. The Public Information Office is available for any other questions." City Attorney said the other item on the closed session agenda related to personnel matters regarding the recruitment of the Chief of Police and City Manager pursuant to Government Code Section 54957. The Council will have continued discussions of that matter but tonight in closed session the Acting City Manager, June Overholt, advised the Council that she has determined to appoint Diaz as the Acting Chief. There was a motion by Councilmember Westholder, seconded by Councilmember Peterson and the Council unanimously confirmed and approved Ms. Overholt's decision to make Diaz the Acting Chief of Police.

Mayor Franklin said in addition to what the City Attorney reported a part of their discussion had to do with our police department and on behalf of the City Council we want you to know that we are very proud of our department and with all the financial constraints that we have we want to thank them for the service that they do to make our city as safe as it can be given our condition financially and we have no intent, have never had any intent to contract with the Sheriff's Department.

PUBLIC COMMENTS/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Michael Davita, resident and small business owner addressed the Council regarding the sign ordinance. He has met with each of the Council Members individually at his office, except Mayor Franklin, and they have seen his sign which is a mesh type sticker in his window or a type of sunscreen decorated for his office. But according to the City ordinance it is not in compliance because it is more than 25% of the window space that is being used by that sunscreen. There was no construction needed, no environmental impact statements, or anything else needed for this sign; it is a sticker on the window but now his business license is being withheld because he has a sticker in his window that is too big. He said that he has spoken to Ms. Abu Bakar, Mr. Manis and the Council and everyone seems to be in agreement that the ordinance should be changed in some way. He also felt the fee should be reduced because the \$537.00 dollar sign

permit fee is really excessive. It is enough to make or break a deal as far as new business coming into town and he gave some examples. In regards to the Takata business, he is a great guy and nice man but in regards to this severance package it is very scary because with the amount of money he could potentially receive we could put two more police officers on the street. The City Attorney should re-read his contract and see if it would be an adhesion contract, because an adhesion contract is pretty much one sided and doesn't give the other side an option and then maybe there may be parts of that contract that may not hold up.

Henry De Roule, resident of Banning said that unfortunately over the last several years they have reported several incidents of a property that is in disrepair and has numerous code violations and they have not been attended to. Code violations for inoperative vehicles on the property, dog excrement in the backyard, a dog there not being fed or watered presently, and the building is dilapidated. He submitted pictures of this along with the address of the property and the property owner's identification information. He would appreciate anything that the Council could do to help insure that these problems get taken care of.

Susan Hertz addressed the Council stating that she lives across the street from Mr. De Roule and is also witness to what he just said. The dog is absolutely not taken care of at all and if it were not for her, Mr. De Roule and another neighbor, that dog would be dead by now. These people are gone for weeks at a time, nobody is there and nothing is being done. She has spoken to animal control, code enforcement and she has gotten nowhere. Nothing is being done for this dog. The stench from the property is unbelievable. The property owners are not being held accountable. She wishes that somebody would do something about it.

Susan Savolainen, resident of Banning addressed the Council about a situation that many in the community are incensed about mainly the large expenditure of our tax-dollars to pay for a settlement with the existing Chief of Police and severance package for the City Manager. This money would be better spent making improvements our city needs for our citizens and to encourage businesses to set up shop here. When it comes to hiring their replacements she sincerely hopes the Council will intervene before there is a problem and give the employees tools and direction to perform satisfactorily and that you meet regularly with them and make sure that they are meeting the expectations of their job. Take time to commend them for jobs they have done well and examine with them strategies for pursuing excellence in tasks yet to be done. In spite of these events, she believes in Banning. A better, brighter future for Banning is possible if we combine our strengths and resolve to focus our energies on efforts to discover implementable actions that improve our community. We will succeed only if there are people who are willing to get involved. One such opportunity is the Community Advisory Committee. She was chosen to be on the Ad Hoc Committee that formed this committee. She said that the mission of the Community Advisory Committee is to actively facilitate communication with the Banning community to mutually develop and promote a sense of community vision and pride to provide a training forum to develop leaders. This committee is community-based, independent of City Council, City staff and any other committee group. The meetings will be held monthly unless agreed upon by the committee as a whole and the meetings will be conducted in public session so there is no closed doors, no hocus-pocus funny things going on. It is truly a community-based committee that wants to involve the community, get their input, solve issues that Banning is

faced with, and make Banning a better place and hopefully more people will believe in Banning and get involved.

Marion Johnson, resident of Banning addressed the Council stating that the speaker just before her said some of things that she agreed with. She wanted to compliment the Mayor, the Council, and City staff for the wonderful job they did last week when the Congressional Medal of Honor was presented to Mr. Stokes. It was an excellent program and she is sure that the people in attendance enjoyed it also. She felt it was a shot in the arm for Banning. She said that about 40 or 50 years ago the community was involved in working with the City of Banning and they did a lot of things and if there was an issue, it was discussed and a workable solution was found and that is what we need now in the city of Banning for people to come forward and work to better this community. She was very proud of the City last week for the wonderful job they did and keep up the good work.

Hank Lefler addressed the Council stating that he has residential and commercial properties here in Banning but he lives in Las Vegas. He said that he rewrote the bulk of his presentation because of the involvement and concern of Mayor Franklin, Ms. Overholt and Inge Schuler and wanted to publically acknowledge and thank them. He said that he has been neighbors with Inge Schuler for almost a quarter of century. He said he is not here for a neighborly favor nor ask for special considerations but here to ask you for what he is entitled to and that is a timely, monthly, accurate bill from the City of Banning's Public Utility Department. When we first sign up at the City of Banning's Public Utility Division we are entitled to water, electricity, etc. and we are also entitled to a timely, monthly, accurate bill; bottom line. He believes he has heard most of the reasons for the City's failure to produce a timely, monthly, accurate bill. In November he received an email from the City's Senior Billing employee and she stated something like "when you came in to pay on your Cottonwood address"; he doesn't have any property on Cottonwood. Unfortunately your Senior Billing agent is looking at a Cottonwood property and billing him from that Cottonwood property or possibly the City maybe employing an IPID very similar to caller-ID. The reason he is speculating this is because he had to impose upon a friend to use his computer to send the City his electric meter reading and coincidental or compelling his friend lives on Cottonwood, Frank Connelly, 1260 W. Cottonwood. He realizes that if the City is employing some type of IPID, then we need to know when the tracking begins and when it ends. He is respectfully requesting for the City Council's further involvement in launching an investigation into the City of Banning's billing policies and billing practices. He has given Mayor Franklin information on his two accounts and his email address and the other appropriate parties have his contact information so let's work together to get this resolved.

Inge Schuler said that she remembers having similar problems two years ago and they were nicely resolved and she hopes that Hank's problems also get resolved. She said that she was very pleasantly surprised because she had to drive from Alessandro to Hargrave on Nicolet and there are quite a few vacant properties and she notice that they were tidy, no trash, no weeds and it looked absolutely perfect and she hopes that this is the situation with the rest of the vacant properties in town. It was quite impressive. Also, she wanted to follow-up on Susan Savolainen's comment about your treatment of employees. There are some of your employees who are doing an excellent job and if you really want their names, she will tell the Council in private but she thinks that it is the Council's job to recognize them publically. She downloaded

yesterday the staff report for a development that is going in the county and it doesn't concern us directly. It is the Gateway Center located north of Cherry Valley Boulevard and your Planning Department was notified with a copy of the staff report on December 10, 2013. She asked why there hasn't been an official announcement that this is going in. It is going to be bigger than the Sketchers Building off Highway 60. It will be located north of Cherry Valley Boulevard and they will have to move six million square yards of dirt to level that property never mind the drainage problems. This is a county project and so it doesn't concern Beaumont or Cherry Valley and Banning city directly but it does concern us. Each building has a footprint of 43 football fields, it is 47 feet high, has 428 bays that are going to be accessed by trucks constantly 24/7, 365 days a year off Cherry Valley Boulevard. Imagine that traffic and the diesel fumes that will be blowing into these areas to the east of that project. The scoping session was yesterday and they had another scoping session earlier in the year last year and they had 40 comments of which a majority of them were against the project but apparently they are going through on a fast-track. She doesn't know what we can do but she thinks that we should probably be vocal that we are not really in favor of this and have other ways that we can improve our environment.

Don Smith addressed the Council adding a thank you to the City for allowing this building to be used for a community event like giving the Congressional Gold Medal to Mr. Stokes. He thanked Mayor Franklin for her involvement in setting that up. It was a wonderful community event honoring a long-time Banning resident and a wonderful tribute to a 60-year resident of the city of Banning. Having lived in Banning for a while this is the first time he has seen a Congressional Gold Medal given to someone from Banning so it was a memorable event. Also, in regards to the sign ordinance, if you are actually going to review the sign ordinance let's assume that you already have one of those boxes where the piece of plastic slides in and out that just has the name of the business so I am going to take out, for instance, Franklin Services and print Smith Services and put it back in. The sign ordinance for the City to review that is approximately \$600 dollars; that should just be allowed. There are times when they are doing construction and certainly you are going to have some building review, etc. but for just changing the words on a sign that already exists, you need to look at that also.

Jim Price, President of Banning Pass Little League addressed the Council thanking the many people that have transformed the ballpark into a real safe environment where children can come and have a great time. Last year they had 591 of those children having a great time. Anytime he has ever called on any member of the City to help them out in any way, they have been like "Johnny-on-the-Spot". Sometimes you hear negative things but you will not hear negative things from him or anyone on his board about the cooperation that they get from the City in providing a great place for these kids to play ball. He thanked the Council and he knows that those 591 kids also thank you.

Charlene Sakurai, resident of Banning addressed the Council in regards to their Annual Go Red Heart Healthy Luncheon for women to be held on Saturday, February 8th at 11:30 a.m. at the Banning Women's Club. The heart healthy lunch is comprised of wonderful homemade soups, along with breads and desserts and the cost is \$15.00. Their speaker for the event is the Health Educator from Beaver. Last year they were sold out and it has been sold out every year and it is a wonderful day and they ask that everyone were red to the luncheon. The day before is "National Go Red Day" and the American Heart Association does a wonderful job at promoting

women's heart health and exposing the risk for heart problems and stroke and she really thinks that this is one way in Banning we can support that. If you would like to attend, you can go on-line to Banning Cultural Alliance.org and make a reservation or call 951-922-4911.

Fred Sakurai, resident of Banning stated that Andy Takata was forced to resign, depart or whatever the situation was. We have three new Council Members that voted to accept his resignation or ask for his resignation and after how many years he was a City Manager of the City of Banning, Mr. Aleshire decides to go through his entire credits and confirm that he said what he said he was four/five years ago. We don't even know that information about the City Council Members who are sitting there stoically hiding behind the Brown Act. You have a lot of people here that had things that had to be taken care of. Do you assign a City Council Member to go with that person or help that person to see their way through the morass of ordinances and regulations of the City; no you just sit there and don't do a darn thing. The person complains and he gets no help at all and comes to the City Council as a last resort and you still sit there and do nothing. We have all these people who come in here and ask for assistance for things and yet all you can do is sit there and do nothing. We have beautiful managers of the various City departments, you go rid of a Police Chief that was one of the best we had, you got rid of a City Manager that was one of the better ones that we have had and now you are going to nitpick all of the city department managers that are doing the best they can to do what you would like them to do and yet they come up here and you nitpick at them. And yet when people come here with complaints about what the City is doing or not doing, you don't do a darn thing. You just sit there stoically hiding behind the Brown Act. Now this Advisory Committee comes forward and says we are going to have people from the community put forth ideas and comments. Is that going to be the same thing; you are going to sit there stoically and not give any answers? A gentleman came up here and asked about an armored vehicle that the City got and he was asking some basic questions and these are questions that could have been answered at that time and no answers were forthcoming nor were they forthcoming at the meeting thereafter and yet we have to get it through the newspapers. Maybe we should have a better investigative newspaper reporter that would dig in to why the Brown Act is protecting the City Council from doing anything. Is this the way the City of Bell started its decline?

CORRESPONDENCE: There were none.

PRESENTATIONS

1. Proclamation – Proclaiming Friday, February 7, 2014 as National Wear Red Day

Mayor Franklin asked Monique Stensrud to come forward at this time.

Monique Stensrud addressed the Council stating that she was honored to accept this proclamation on behalf of the American Heart Association. She said that cardiovascular disease is the number one killer in our nation and it is estimated that nearly 90% of women have at least one risk factor for developing cardiovascular disease and stroke. The incredible thing about this disease is that 80% of cardiovascular disease is preventable; it is a matter of health education. She invited everyone to visit their website at www.heart.org and find one resource that can be helpful to you to improve your cardiovascular health. She thanked the Mayor and the City

Council for acknowledging “Wear Red Day”. This is held the first Friday in February every year and it encourages women and men to wear red in recognition of cardiovascular disease and raising awareness.

2. Presentation - Sunset Grade Project Information Update

Bill Manis, Economic Development Director addressed the Council stating that we are about to break ground in approximately three weeks on the Sunset Grade Separation Project and the actually project itself is being run by the County of Riverside and the County has hired the consulting services of Dennis Green and his team who will be taking questions about the actually project, answering concerns and going out to different community groups throughout Banning to talk about the project and address concerns.

Dennis Landau, Kimberly Horn and Associates addressed the Council stated that they were hired by the County of Riverside to produce the final design for the Sunset Grade Separation. He stated that he will give an overview of the design and construction of the project and then turn it over to Dennis Green to go over some of the outreach that is planned for the project. At this time he started his power-point going over the agencies involved in the project, project location, project background, the project purpose which is to separate Sunset with the Union Pacific Railroad itself. This is really a safety project where they eliminate the train/automobile conflicts, as well as, providing safer pedestrian access at that crossing, as well as, through the interchange itself with I-10. This project has been going on since the 90’s and should be completed sometime towards the end of 2015. He went over some graphics of the area and how it will be modified. There will be a temporary shoofly constructed for railroad operation during the construction of the bridge itself. He also showed some visuals of the urban design features, staging, traffic patterns and he also went over the costs and funding of the project.

Dennis Green, Outreach Planner addressed the Council stating that they have already begun the coordination in the community and he is really pleased to be a part of this project. They started the community outreach already and have met with City staff and talked with some of the emergency responders already, the school district and those folks who are going to need to coordinate when these detours are taking place and scheduled to speak at homeowners associations. They will be out talking to people and all of the businesses. They have a follow-up stakeholders meeting tomorrow with more of the emergency services and local transit. There will also be meetings in regards to mail delivery, public transportation, waste management, and provide access for meter reading. They will also provide construction information through the media and provide a hotline and a web page. At this time they started a video of this project in 3-D showing the improvements. They will have a project website and helpline that is toll free to receive public concerns and he will respond to those concerns. The website is www.rcprojects.org/sunsetave and also the video can be accessed at this website.

Mayor Franklin opened the item for public comments.

The following people had some questions or concerns or general comments in regards to this item (*any written comments handed to the City Clerk will be attached as an exhibit to the minutes*):

Henry De Roule who lives about two blocks north of Ramsey Street and asked about pile driving.

Dennis Green said that one of the things you should expect when they go to construction in the building of the structures is that there will be pile driving during the day; there is no intent to drive them at night and will keep the public informed about pile driving.

Fred Sakurai asked if the utility lines will impact the grade separation at all and is there any work that is going on as far as working on this Sun Lakes Blvd. extension to the grade separation.

Public Works Director Burk said at the last meeting they did readjust some money for Westward Street which would be Highland Home Road west to Sunset as a connector road during the construction and as Mr. Sakurai pointed out they did run into some utility difficulties. He wanted the public to know that they haven't given up hope on that project and it is just timing as it relates to moving the utilities and spending the money we currently have but it is on the Strategic Plan to do a connector road from Sunset to Sun Lakes Blvd.

Richard Sanchez said he noticed that stop lights will be a part of the project and we don't have any on 22nd Street so will there be any type of a temporary lighting there for the added traffic.

Mr. Landau said there will be no traffic signals at 22nd Street but temporarily there will be a stop sign at the 22nd Street ramps during the construction.

Fred Sakurai said that everybody in Banning is either consciously or sub-consciously aware of the train whistle going long, long, short, long and does that signal have any significance to anything.

Dennis Green said for their project they will eliminate the whistle at the overcrossing because there will not be a conflict between the train and automobiles but further east the train will continue its normal operations.

Director Burk introduced Scott Staley with Riverside County and he took this project on, the Sunset Grade Separation, from the beginning personally along with five other people from the County and he deserves a round of applause from the City of Banning as it relates to just his effort in putting this project together because if it were not for Scott Staley, we would not have this project.

Dennis Green said that he has been talking with staff about an Open House for the community here at city hall for the community to flow through and talk to the engineers before the project really gets underway so that is something they will be scheduling. Also he has provided pamphlets about the project for the public.

3. Introduction of New Employee

Interim City Manager Overholt introduced Sonja De La Fuente at this time stating that she was raised in La Quinta, California and moved to the Pass area in 2001 with her family. After

working for the City of Palm Desert for five years, she took time off to raise her young children then returned to work at the City of Banning in 2008. After reductions in staff in 2010, she took time off to continue raising her children, attend California Baptist University, and served in ministry at her church. She has been married for 20 years to her husband, Juan De La Fuente who is an Associate Pastor at New Creation Church here in Banning. They have five children and two grandchildren. Sonja is very happy to be back to work here at the City of Banning and looks forward to continuing to serve the community both personally and professionally. She will be the first voice that you hear when you call city hall's front desk and we appreciate having her onboard.

CONSENT ITEMS

Mayor Franklin pulled Consent Item No. 6 for discussion.

1. Approval of Minutes – Special Meeting – 1/14/14 (*Closed Session*)

Recommendation: That the minutes of the Special Meeting of January 14, 2014 be approved.

2. Approval of Minutes – Regular Meeting – 1/14/14

Recommendation: That the minutes of the Regular Meeting of January 14, 2014 be approved.

3. Ordinance No. 1476 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending the Zoning Ordinance Pertaining to Various Land Uses Related to Their Permitting Process in the Commercial and Industrial Zones, and Garages in the Residential Zones.

Recommendation: That Ordinance No. 1476 pass its second reading and be adopted.

4. Approval of Accounts Payable and Payroll Warrants for Month of November 2013.

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

5. Review and Approve the 2012-13 Annual Report of Development Impact Fees.

Recommendation: That the City Council review and approve the 2012-2013 Annual Report of Development Impact Fees as required by the Mitigation Fee Act.

Mayor Franklin opened the item for public comments; there were none.

Motion Welch/Miller that Consent Item 1 through 5 be approved. Motion carried, all in favor.

6. Resolution No. 2014-06, Initiating Proceedings for the Vacation of a Portion of Livingston Street, Alessandro Road and Adjacent Alleys and Setting the Date,

Time and Place for the Public Hearing as February 25, 2014, at 6:00 p.m. in the City Council Chambers, 99 E. Ramsey St.

Recommendation: That the City Council adopt Resolution No. 2014-06.

Interim City Manager stated that this action item is to set a public hearing for the future but the Public Works Director is available to give the Council a highlight of what this is about and also she believes the Council has some questions about the overall project. She stated that a presentation will be set for February 11, 2014 for the project across the street and the developer, Art Pearlman, is here tonight and will also be present on Feb. 11th to go in detail answering questions that the Council may have tonight that we do not have time tonight to go into but will use those questions in preparation for the Feb. 11th meeting.

Director Burk said that what staff is looking for this evening is to initiate the proceedings for the street vacations of Livingston and Alessandro, adopting Resolution No. 2014-06.

Councilmember Peterson said in reading through the staff report you use the words "proposing", "if the vacation of the streets and alleys as approved", "if approved", "are subject to approval" and continue with "if", "are proposing", etc. In reading the staff report then he is under the pretense that this has not been approved in the original deal and you are coming before Council now asking for approval to vacate Livingston and Alessandro.

Director Burk said that staff is making a recommendation per the development agreement. The dissipation of the overall Redevelopment Project under the 33433 Report one of the agreements was that the City under its site plan would vacate but staff cannot do it, the Council would have to do so this is the proceedings that we move forward with and that is why the "if". Director Burk displayed a map of the area.

Councilmember Peterson said but this property was never purchased so what we are doing is vacating it. Director Burk said he didn't know if the property has even been purchased or not and would defer that to the City Attorney.

City Attorney said that when we have street and roadway easements they permit public use for access purposes. When you vacate an easement then our right to use the property disappears which leaves the property owner with the underlying property. We have a centerline but the original properties have the fee interest to the centerline of the street and then they are covered by the easement for access. So what happens when we release an easement is that the underlying property owner basically gets back the ability to use their property.

Councilmember Peterson said then there is value to that property. City Attorney said if our easement is released then the underlying property can develop without that restriction and as long as there is adequate access that property becomes more valuable to use in accordance with the development. As you can see by the map there is no need for these easement areas under the existing development plan because they are basically in parking lot areas.

Councilmember Peterson said he has a great concern and he understands that the developer has negotiated with the County to build an almost 16,000 square foot building with that being the first building to go into the Village at Paseo San Geronimo and that building is going to become the main office for the Riverside County Probation Department. He wonders when we talk about building this project and it becoming the jewel of the city according to the rendering that we have inside city hall where we were at one time proposed to have ice cream, yogurt, bistro, or whatever it is and office space upstairs to all of sudden come at us now with an almost 16,000 square foot building that is going to hold probation whereby felons, sex registrants or whatever else is going to check into that facility and then we are going to try to build a premier facility in the downtown area that is supposed to attract people to come downtown he is a bit concerned. First of all he is a bit shocked that that had come forward and he wasn't aware of it and then he understands that at 9:00 a.m. today the developers met with the Supervisors and signed the lease for the building. He doesn't think that the Council has been properly briefed and the people of the city have not been properly briefed either as far as what is coming in. He understands that its office space and under downtown zoning office space is rightly available and it fits within zoning. He understands that everything is on the legal but there is a moral thing here as well and he thinks that we have many vacant buildings in other areas to house a probation department. He doesn't think that Starbucks is going to want to put their store or a shoe store is going to want to build their little store next to the probation department. He doesn't see any value to the building other than the fact that we get a one-time shot at some building permits, some annual revenue off of some property tax but he doesn't see any reoccurring sales tax coming in. He thought we were going to build this premier center with shops that we were going to receive interest or sales tax off of that was going to help pay back the bond that we have on this property. He needs somebody to explain to him where this project is going and why do we have probation downtown in the jewel of Banning and are we going to go to a legal hub of the county and start bringing in all county office spaces into downtown or are we going to build a retail place for moms to take their kids for yogurt.

City Attorney said the item on the agenda tonight is setting for hearing the vacation of the street and the staff is aware that there are a number of questions and you have made a good statement as to what those questions are. What our intention is at the next meeting on Feb. 11th there will be a staff report given where we are basically to have a status report on what is going on with the project, talk about the different buildings, the design, and the developer will be able at that time will be able to talk about what the leasing situation is. If the staff had a chance to do a written report staff report that went into all those issues in detail and you had a chance to review that before there was a public, then maybe some of the questions are answered and maybe there are other questions to be asked but tonight obviously you don't have a staff report dealing with any of that because really all we are doing here setting this for hearing.

Councilmember Peterson said then everything we are doing tonight has nothing to do with us voting to vacate those roads.

City Attorney said that you cannot vacate without a public hearing and you have to set a public hearing so that there is enough notice so that people can come to the public hearing. So all we are doing is setting this for public hearing on February 25th.

Director Burk said he appreciates Council's comments but wanted to make sure that they understand that part of the initiation is that we have to personally tag the streets declaring what we are doing and then we have to outreach to the property owners within 300 feet but we are going to go out 500 feet. Obviously tonight we are initiating the date and would publically notice it in the newspaper and they have taken it before the Planning Commission so this is just part of the process.

Councilmember Miller asked the City Attorney to give a specific legal definition of the word "vacate" in respect to this.

City Attorney said that when you have a street you have an easement. An easement gives the public the right to use somebody's property. When you vacate the easement the Streets and Highways Code has a series of different procedures with most of them public hearing processes where you can vacate that easement. What happens is the easement to use the property if it is vacated and it is vacated in the course of certain conditions when the vacation becomes effective and normally the resolution will specific what the conditions are and where it will become effective an when it becomes effective then there is no longer a public street out there; it doesn't exist. One of the conditions is that the vacation has to get recorded in the County Records. So the vacation is recorded, there is a resolution and the resolution with the vacation gets recorded after the public hearing if it is adopted. Right now if you went out there the title company would show the existence of this easement. When the easement is vacated the title company would just show the property with no easement that exists with no burden of the public rights of access.

Director Burk said that on page 49 of the agenda packet we talk about the Streets and Highways Code as it relates to vacate and also talk about the ingress and egress of the property. He said that they are not actually closing Livingston and Alessandro. There still remains ingress and egress and he explained. There is no negative interruption as it relates to traffic. He also pointed out that Livingston is not part of the General Plan in its Circulation Element so it is something that you are vacating that is really not part of circulation. He also showed this on the map. There are also no negative impacts to utilities.

Mayor Franklin opened the item for public comments; there were none.

Motion Welch/Franklin to approve Consent Item No. 6, adopting Resolution No. 2014-06, Initiating a Public Hearing on February 26, 2014. Motion carried, all in favor.

Joint Meeting

Mayor Franklin recessed the regular City Council Meeting and called to order a joint meeting of the Banning City Council and the Banning Housing Authority.

REPORTS OF OFFICERS

1. Resolution No. 2014-02 and Resolution No. 2014-01 HA, Allowing the City to Participate in the Riverside County Mortgage Credit Certificate.
Staff Report – Zai Abu Bakar, Community Development Director)

Director Abu Bakar gave the staff report on this item as contained in the agenda packet. She went over the program stating that it offers tax credit to first-time homebuyers that qualify under the program and the properties that are purchased can be either in the city of Banning or in the county. The City's participation costs are very low and consist of advertising twice a year in the local newspaper of approximately \$300.00. There are income guidelines for qualified applicants and as of today she received additional information from the County that the income level will be going down. If you would like to apply or get more information you can call the Riverside County Economic Development Agency at 951-343-5469 or go to the City's website and if you need help in navigating the website you can call her at 951-922-3131.

Mayor Franklin opened the item for public comments; there were none.

Motion Peterson/Westholder that the City Council: 1) adopt Resolution No. 2014-02, Allowing the City to Participate in the Riverside County Mortgage Credit Certificate Program and Mortgage Loans Available to First Time Home Buyers in Banning; and 2) That the Banning Housing Authority adopt Resolution No. 2014-01 HA, Allowing the City to Participate in the Riverside County Mortgage Credit Certificate (MCC) Program for Mortgage Loans Available to First Time Home Buyers in Banning. Motion carried, all in favor.

Mayor Franklin recessed the joint meeting and reconvened the regular City Council Meeting.

PUBLIC HEARINGS

1. General Plan Amendment to GPA 13-2506 Related to the Adoption of the 2013-2021 Housing Element.
(Staff Report – Zai Abu Bakar, Community Development Director)

Director Abu Bakar recapped the activities that had occurred since the Council's last workshop on January 14, 2014. She stated that on January 23, 2014 she and Mayor Franklin met with the Assistant Deputy Director of the State Housing and Community Development, Glen Campora. He basically oversees the review of the Banning Housing Element and it was a very positive meeting from her perspective because there is a desire from the State to assist Banning in receiving its certification on the Housing Element and she would encourage the City Council to adopt the Housing Element and the technical details still need to be worked out in terms of clarification and that can be worked out later. If there are major policy questions, staff will definitely bring it back to the Council and also keep the Council apprised on the on-going activities of the certification. Based on the courtesy review that they have done on the Draft Housing Element that was submitted, there are technical comments that she believes staff can address with the State. She requested that the Council adopt the addendum to the Environmental Document that was done for the prior Housing Element to comply with the California Environmental Quality Act and adopt the Housing Element and that staff be given authority to make technical changes or clarification with review and approval by the Acting City Manager and the City Attorney.

Mayor Franklin opened the item for public comments; there were none.

Motion Peterson/Miller that the City Council adopt Resolution No. 2014-05: 1) Finding that the Addendum to the Initial Study/Mitigated Negative Declaration prepared for the proposed project satisfies the requirement of CEQA (California Environmental Quality Act); and 2) Approving General Plan amendment No. 13-2506 for the 2013-2021 Housing Element.

Councilmember Welch said that this has been a very long road and thanked Director Zai Abu Bakar for her efforts carrying the Council through this and he knows that she has had meeting after meeting, after meeting and it looked like we were going to be the only City that didn't qualify. Thank you for your efforts because it did happen. City Attorney echoed what Councilmember Welch said and said that Director Abu Bakar has done an incredible job on this along with the consultant. Mayor Franklin echoed what Councilmember Welch said.

Motion carried, all in favor.

ADDENDUM

REPORTS OF OFFICERS

1. Proposal to Amend Municipal Code to Vest the Power of Appointment/Removal of City Personnel in the City Council
(Staff Report - David J. Aleshire, City Attorney)

City Attorney said that back on December 10, 2013, Councilmember Miller brought up, and the Council supported, the idea of looking at what the power of the City Manager was in terms of appointments and the ability of the City Council to be involved in that process. The direction was not real specific so staff chose to write a staff report that is fairly broad and raises some issues and questions that staff would need guidance on if the Council were to make a change. The City Attorney continued with his report as contained in the agenda packet going over the background and Banning's past practice, and State law.

City Attorney said that he did put in the memo a couple of considerations that are really probably policy considerations and not necessarily legal and just based upon his experience. 1) By in large although there is a lot of variety as he said he would say that the current code provisions which you have that say the city manager makes the appointments and that council members don't interfere with the day to day running of things that in his experience is the norm in California. 2) Just recently he has been going through a recruitment in another city and often when recruitments are undertaken there is a recruiter that carries it out and there are a number of firms in the state that work on recruiting positions in public service and city manager positions. In a recent conversation he had a recruiter where they were dealing with a city that was a city administrator title and the recruiter was telling him that in his opinion the "city manager position" has more prestige and you sometimes can get better candidates who are more interested in a position that is a "city manager" type of position than a "city administrator" sort of position. There are obviously a lot of factors that go into that and other aspects of a city of how it operates, what the relations are with council members, council member relations with staff, salary,

location, etc. There are obviously a lot of things that goes into the desirability of a city manager position but this recruiter felt that certainly a city manager position has more prestige within the field and you can find some candidates that are not interested in something where that power is restricted and you are well aware Mr. Takata was not happy about the idea of making that change and his attitude is probably more typical than not in that regard.

City Attorney said if the Council is interested in going this direction there are some things that he would need to know and he is not advocating in favor or against but just as a part of Council discussion of this if you were to decide to go forward there are some things identified on page 3 of the memo (page 245 of the agenda packet) for example: 1) in the Council involvement in this appointment process are we only talking about the chief of police position or other department head positions; 2) is it only the appointment or does it include the appointment and removal; 3) It is only a veto power or is it the power to appoint; 4) Do you actually want to change the title of the office if you were to make changes; and 5) however the department heads or the chief or whoever it is that is getting named by the Council what is the reporting relationship. Does that continue to be a relationship with the city manager or is it a relationship now to the council itself. He also provided some language from various codes for the Council to review.

Councilmember Miller said in the present situation could we have a City Manager who appoints people and does the City Council have to approve the contracts or is that part of the appointment power of the Manager.

City Attorney said he has normally taken the position that it is the Council that spends money and that all contracts over \$25,000 dollars have to go to the City Council for approval. His interpretation of the Code is since the contracts provide for the payment of more than \$25,000 dollars, he thinks the better interpretation is that the contract themselves should come to the Council because the Council can approve the financial terms of the contract. The City Manager's position was that if you approve something by resolution which outlined what the financial terms of those contracts were going to be, then you had in essence created the financial parameters for the contract and then he could just go ahead and sign the contract as long as it was in those parameters. But he thinks ultimately the Council should be clear on how they want that to work.

Councilmember Welch said this Council has had an awful lot of discussion on personnel matters in the City and he thinks that one of the things that we all agreed upon is that when we make a selection we should lean on expertise in that area of management. Personally, he would like to see the process that we have in place continued. If he is hearing the Attorney right, this Council does have input to that and can set the parameters whereby we ask for someone in the position of City Manager to be living up to those parameters and set the parameters of the contract itself. Of course everything is still subject to negotiation and approval by the Council since it is a big ticket financial item. In looking over all of the examples that were given here from the different cities, even including the charter cities, it seems to him that a Board would want a city manager to be looked upon by staff as "the boss" and we can define that as being the person who directs their activities instead of activities for a department being directed by a committee for a council. It seems that it would be a bit cumbersome since all of the Council here are equal as far as voting power is concerned. It seems to him that it would be incumbent on the Council to really use their

expertise and through the City Attorney's help or a consultant or the Interim City Manager's help identify candidates that would allow the Council to hear, talk to, interview, research and comment on before a hiring decision is made. For the Council to change this whole prospectus of our City's approach and say only certain areas in the City, especially at the director level, are going to be directly responsible to a body that has a tendency to change every two to four years he thinks it would drive a person up the wall as far as he is concerned not knowing who may boss was going to be two years from now. It also would not, he thinks, lend itself to what we talked about earlier and that is having continuity to the city's well-being.

Councilmember Westholder said that personally he likes accountability and he doesn't want to interfere with the City Manager's work. His biggest concern is having a system where there is accountability in the freedom to dialogue and deal with the issues. If the City Council had a more active role in the accountability way with the City Manager and some of the appointments, would that restrict the city manager form of government or would it enhance accountability.

City Attorney said that he thinks that is the essence of the question and the debate. He thinks that a city manager type would argue that the accountability to the extent that the Council is directing the accountability of the employees to the city manager is reduced. So the question is whether the Council wants to be directly accountable by having direct involvement or whether you want the accountability to be to the city manager and then the city manager accountable to the Council. Accountability absolutely is the goal the question is the different roles and who is accountable to whom.

Mayor Franklin opened the meeting for public comment.

The following people spoke in favor or against or had some questions or concerns or general comments in regards to this item:

Margaret Hanson, long-time resident, addressed her concerns to the Council in the loss of a well-respected Council person, a well-liked police chief and now a City Manager. She said that we need leaders with a vision and not a vendetta and asked the Council to defeat this item.

Gary Hironimus addressed the Council stating that he is was very encouraged that the new Council is finally asking questions and holding staff accountable. He applauds the Council for their action so far particularly, Councilmembers Miller and Peterson. He asked the Council to be very careful in what they are proposing in this change of the power structure. He urged the Council to tread lightly in making this decision. The Council is here to set policy and the general direction of the City and not to micro-manager every City department. He asked the Council to ask themselves this question, "Would you vote the same if the previous Council was still in place?" Your time on the Council is temporary; others will eventually be sitting in your place.

Brian Ritz, new resident addressed the Council stating that he was wondering what you as a team have done that reflects as positive for the City – in the past, currently, and what do you have planned for the future and more importantly, why should the people re-elect you. He is a proud relative to a past Mayor that brought a community together rather than chase it away. It is not in the best interest of the Council or the people of Banning for the Council to pass this proposal

giving you the right to manage or micro-manage the City employees. He asked, "What you as a Council can do better to make the community better in order so that living in Banning is better after your term has expired."

Don Smith addressed the Council stating that being involved with this City's government for 30 years he has seen numerous occasions where a Council has decided to become involved in either the hiring or suggested firing of management personnel. Seldom does that turn out well for the City. He advised the Council to tread carefully in being involved in any of those activities and gave reasons why. He would assume the City Manager will have discussions with the Council regarding what qualities they are looking for in these positions and you then you have to trust your trained professionals to follow your direction in that regard. He sees nothing wrong with the Council seeing those contracts before they are approved. We have to run this like a business; the employees have to know who is in charge. The City Manager has to know he is responsible to the Council. We need to run this so it has a chance of success and having five people giving five different directions to a person is asking them to quit or asking them to file a lawsuit for the Council interfering with their employment.

Fred Sakurai thanked the City Attorney for the great explanation. He hopes the City Council understands what he had said. The system is not broke; don't try to fix it.

Mayor Franklin closed the item for public comments.

Councilmember Westholder said his concern is not to run the City, his concern is not to micro-manage, his concern is not to tell the City Manager whom he can hire and whom he can't fire but it would be nice to have some input and be listened to in one's counsel and one's background. He is interested in the form where key positions such as the police chief that the Council would have more input and veto power. He is sure the City Manager is capable of doing his job and that is what we hire him for but he thinks that in key positions the Council should be able to have a say or not have a say. If we don't have a say and are told that it is the City Manager's decision, then he has a problem with that. Then why are we here? The Council sets policy and if policy is not being adhered to, if Council is not being adhered to, then what recourse does the Council have. His concern is for a bit more check and balance not that he is power hungry or desire to set up a dictatorship or to have executive order to sign off on everything. He agrees that power does corrupt, absolutely. But to have a greater check and balance so that the Council can make intelligent decisions and speak in to the effectiveness of the City and the way it runs. That is his concern and he is not even ready to make a decision tonight.

Mayor Franklin said we are not required to make a decision tonight. This is to start the discussion.

Councilmember Peterson said the public has the wrong perception about what the Council is trying to accomplish. Councilmember Westholder mentioned it and there is not one person on the Council out of the five that wants to be involved in day-to-day operations. There is not one person on the Council that wants to walk into somebody's office and dictate or ask them what have you done today or you need to do this; nobody wants to do that. He stated that he will read a couple of items so that the public will understand what the Council is trying to accomplish and

so the public will know some of the City Manager's power so that you know how powerful this position is. The City Manager is the senior law enforcement official in the City and it shall be the duty of the City Manager to enforce all laws and ordinances of the City and to see that all franchises, contracts, permits and privileges granted by the Council are faithfully observed. The City Manager also has the authority to appoint peace officers under Section 830 of the California Penal Code. The City Manager has the authority to issue concealed weapons permits in accordance with Section 12050 of the Penal Code. The City Manager has the authority to issue badges and identification cards and uniforms and other insignia of peace officer status. He is the head of all department heads. Councilmember Peterson said that nobody is trying to take that power away, nor is anybody trying to reel it in. This is not power granted to the City Manager via a City Council, this is power granted to the City Manager by the State of California in the Penal Code. The one thing that the City of Huntington Beach did and he thinks what his colleagues would like to do, along with himself, is to be more involved in the process of the hiring and firing of the department heads. Somebody is asking about their day time. We are responsible to the public about what it is that everybody does. If we are going to be responsible, then why shouldn't we have a say on who gets hired? At least you can hold your elected officials more responsible if they have a piece of the action. In the City of Huntington Beach their ordinance for appointments by the City Manager says, "appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the chief of police. The chief of police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority of the vote by the full City Council." There is nothing wrong with that ordinance. Our ordinance Section 2.12.090 of the Powers and Duties of the City Manager states, "Power of Appointment and Removal – It shall be the duty of the City Manager to and he shall appoint, remove, promote and demote any and all officers and employees of the City except the City Attorney, the City Clerk, and the City Treasurer subject to the applicable personnel ordinances, rules and regulations provided however, that any appointment of a department shall be subject to concurrence by a majority vote of the City Council." He said what he is looking at there is just not appointment but appointment/removal; it needs to be approved by the City Council. It is his personal opinion that the City Council has to have some kind of an authority as to who comes in and who goes out. Just like there are checks and balances the people are saying we don't want you dictating. You know what, the Council doesn't want to dictate but likewise he doesn't want a City Manager that dictates either. How can they dictate to the City Council when we are responsible to the people? It is a two-way street here and somewhere along this line it is not reciprocal and he thinks what the Council is trying to do is bring some kind of reciprocity to the equation and he doesn't think that by adding a simple word of "appointment/removal" has to be approved by the City Council. He doesn't think that is a bad thing.

Councilmember Miller thanked everyone who gave their opinion and said they were very well thought out and they made him think. He said that those of us on the Council are responsible to you and if you don't like what the Council is doing, you can replace us. The Council is trying to run this City in the best possible fashion. The first speaker pointed out something very, very outrageous. In regards to the Chief of Police the insurance company gave him \$160,000 and we gave him \$160,000 because he was entitled to it because of his contract. Who wrote that contract? Did the City Council write that contract? No, according to our City Attorney the City

Manager says he has the right to write the contract subject to our parameters. How many of you know what the word parameter means? He said he doesn't know what it means. What it means is we say that a City Council to the City Manager it would be nice if you wrote the contract in this way and the City Manager says I am going to write it the way I want. So the City Manager somehow gave a contract that said you are entitled to a year's salary when you leave. How many of us have a contract that says we have a year's salary when we leave. We just gave or we are still arguing with him but we are going to give the City Manager \$260,000 in severance pay; that is in his contract. Who wrote that contract? He did not write that contract nor did any of the other City Council Members. The City Manager wrote that contract. He is not talking about Mr. Takata he believes they were written before him. But the City Manager wrote that contract. Do you think the five Council Members would write a contract that said you are entitled to \$600,000 when two people leave? He doesn't believe this City Council would do that and he would not do that. It is because of that number that we are giving \$600,000, more than half a million dollars, to two people when they leave is what made him say something is wrong here, the City Council has to make those contracts, the City Council has to make those decisions and that is why he brought this up. Now the arguments were made that we micro-manage. Nothing anyone of the Council said has anything to do with managing the City, the only thing that they are suggesting is that we approve the hiring of people and the contracts that they have. Once they are hired, the Chief of Police or a department head, we have nothing more to say about it; the City Manager will be the boss. Again, we have nothing to say about that and there is no micro-managing whatsoever. In regards to treading lightly he agrees with that completely. He thinks that everything that the speakers said is reasonable. Absolutely we should tread lightly, this is a change that has to be considered carefully and as Councilmember Westholder said we should not agree on this today but talk about it some more. But, in his opinion, the Council is treading lightly, the only thing that they are suggesting is that the City Manager suggests or searches, finds the best person and comes to Council and says this is the person he feels is good and this is the contract and the Council has the right as the people's representatives to say I agree or disagree. For example, if somebody has some property and they are an absentee owner and they hire a manager and tell them to manage it and don't bother me and do everything you want as long as you bring in a profit; I don't want to know anything about it. Our Council is not an absentee Council, we are interested in running this City the best way we can for our city and to say to the City Manager, do whatever you want and hire whoever you want, that is not why you made us your City Council. Everyone on the Council is interested in having this City run the best way it can, the most economical way it can and he doesn't believe giving \$600,000 away when people retire is the way to run this City and that is why he thinks this simple "tread lightly" change is not that bad.

Mayor Franklin said she truly believes that if you put the responsibility of who gets to be hired or fired underneath the City Manager in the control of the City Council it becomes very political and that is not the way to run a City. If you look at it in the sense of a business the Board of Directors of a business does not tell the CEO who they can and cannot hire or fire. When she worked as a manager she had a boss and she had employees under her and her boss did not tell her who she could and could not hire. She would have been very upset because she was accountable for what that person did. Her boss was not, she was accountable. That is the same role she thinks the Council has. We are accountable to the public as our boss to make sure that if our employees which would be the City Attorney and the City Manager do their job and we have to hold those people accountable to do the job; that is where we have power. She does not think

that if you get down to saying we get to decide who gets to be the police chief, we get to decide who becomes the finance manager that it does not become a political thing and that is what she is truly against. In terms of talking about the contracts that is a whole other discussion. In terms of saying that the City Council should decide who the staff people are other than the City Manager and the City Attorney she thinks is totally wrong. She thinks the gentleman said it earlier very well; that may be what we want right now but what about other Councils and what will they do if they have a totally different bat. Any time you talk about changing a policy, you have to look at the long term effect and not what we just want right now but what is the long term effect of doing that and what damage is done in the meantime before it may get changed again.

There was further Council discussion in regards to this item of voting on it tonight or taking more time to review it.

Mayor Franklin said it is 4/1 to continue this item and that it come back in two weeks.

City Attorney said no one has asked for any additional information and he would assume there aren't any additional questions that you need for him to work on so they will put the same staff report back on the agenda.

Mayor Franklin said if the Council has any further questions, to please direct them to June Overholt and she will pass them on to the City Attorney. Also, questions and answers will be shared with the entire Council so that everybody has the same information.

REPORTS OF OFFICERS

1. Set Calendar for Community Meetings – Mayor

Mayor Franklin said we did set at our last meeting the appointments for different committees and what we are working on right now is the time frames as to when those committees will meet and it is not all finalized but they are working on it. In regards to the town hall meetings they have tentative time frames set for when we want to meet across the city, we have the city set up for north west, south west, south east and north east quadrants of the city as to when we will have those meetings and as soon as they are a little bit closer on being able to tell the public the approximately dates then they will come back with that information. The purpose of the town hall meetings is to have two-way dialogue between the community, as well as, the City government. This will be City government including the school board, hospital, community college and anybody that we can get from the community to come out and talk with them. The invitation will be put out to those different agencies to participate in the town hall meetings. Once they have more certain dates those will go out to the public with the date and time and the place.

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

City Council

Councilmember Welch –

- At the last meeting we as a Council approved a consent item that one of our directors and staff spent a lot of time working on and it is an on-going complaint throughout the city in regards to the stop lights and our staff heard the community He wanted to point out that through the efforts of Duane Burk and his staff they gathered a grant of almost \$400,000 for that situation to be addressed and changed. He thanked Duane Burk and his staff.

Councilmember Miller –

- In regards to the Brown Act the statement has been made repeatedly that we are hiding behind the Brown Act and as far as he is concerned the Brown Act had a very good idea that to him is very damaging to government. The Brown Act prevents the Council Members from talking to each other presumably so that Council's doesn't have behind the scenes deals; shady deals. What it does, is exactly that – it stops the Council from talking to each other, it stops them from answering the public's statements in the open session and it limits the Council's ability to communicate with each other. The Brown Act is undesirable to him, as well as, to you.

Mayor Franklin –

- She attended several meetings and last Wednesday she went to the Healthy Cities Meeting in Moreno Valley and in that meeting they talked a lot about what the objectives and benefits is for cities to be healthy cities. One of the things that we have already done was agree to a resolution to be a part of the Riverside Coalition, as well as, a HEAL (Healthy Eating Active Living) City. In this particular meeting they talked about the economic benefits to a city when you practice healthy living not only for the staff but also for the residents. In particular for the staff it actually has a positive impact on our insurance rates. Also, if our City includes, as part of an element or is an element in our General Plan, it can also bring more businesses to our city because businesses are starting to look at that. They also talked about the grants that are available to help cities become healthier.
- She and Zai Abu Bakar met with the gentleman and the staff from HCD (Housing and Community Development) they participated in a sub-committee on Regional Housing Needs Assessment (RHNA). There were several areas of discussion and some of them are going to require legislative reform and they talked about some things that may apply to us in particular and this has to do with the 6th Cycle that begins in 2018 but were told that we have to make all our input now because the decision will be made within the next two years. There were ten areas of discussion and we are looking at default density as an example, they talked about tribal land being included in city population requirements so hopefully that is something that is a legislative issue and they will be moving that forward. The next meeting will be held in March and she will give the Council an update as they go through the process.
- She attended the League of California Cities meeting last Friday and they had a State budget review and received a lot of information but there are three main topics that the League of Cities will be addressing this year: 1) provide new options for the infrastructure investment and economic development of our local jurisdictions; 2) expand reform and pension and other POST employment benefits to better contain long-term costs; and 3) build effective partnerships with State and local leaders to promote local authorization and funding avenues. Also currently there are two water bonds that are working their way through the legislative process and will hear more about the one taking the lead. She stated that she sits on the Community Services Committee and in listening to about 40 cities around the table there were some things that they talked about that were very common to all of our cities and we are looking for avenues for

remedies to be able to help our populations. One in particular was the homelessness of our veterans and 80% of the homeless males are veterans so they talked about what they can do to provide them with more services. They talked about more group home regulations for the teen population and care facilities. The hot topic was the massage parlors that are growing throughout the state so they are looking at a legislative bill as to how to address this issue and included in that topic has to do with human and sex trafficking. Everybody talked about public safety and once again she has to thank our police department because she feels that our police department is doing an excellent job.

- Yesterday she sat in a couple of meetings with Duane Burk regarding the flume and she felt they were very productive. They spent the morning talking about what in state and federal regulation apply to the flume and in the afternoon they talked about the actual application and they went line by line of what they need to do to submit an application that can be approved by the Forestry Department. One of the key things that they did get agreement on was that as long as we are going through the process that the Forestry Department agrees that they will continue to approve the permit for the flume to stay in operation and that was key for us.
- She thanked staff for last Saturday's event regarding the awarding of the Congressional Medal and said that it did not happen because of one person. Our City staff including Marie, Duane, Patrick, and Lona was just a part of what made Saturday so successful. This was a real positive thing for our city. She thanked all of the staff who participated. She also thanked all the vendors who donated all of the refreshments which included Albertsons, Starbucks and especially Rio Ranch.

City Committee Reports - None

Report by City Attorney – None at this time.

Report by City Manager – None at this time.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Miller said that he had three items. 1) In regards to Mr. Davita's issue with the sign ordinance and the difficulties he is having and other complaints he thinks it would be nice to have the Chamber of Commerce give a presentation of their opinion of the sign ordinance and whether any changes should be made. 2) In regards to public comments it seems to him that it is unnecessary for people to stand and wait and we certainly don't want speaker cards but if there were cards with numbers 1, 2, 3, 4, 5, etc. they could sit there and when their number came up then they could come to the podium. Mayor Franklin said that idea was brought up before and shot down. Councilmember Miller said to cancel that item then. 3) Regarding the Council meeting time there are many people who work who have a difficult time in getting here at 5 p.m. so if we move to 6 p.m. then the working people could attend the meetings. Secondly, we would really like many more people to apply for the position of City Council and many people working cannot be on the City Council because they are working so again, if we move the time to 6 p.m. as a starting time that might encourage more people to run for City Council. He is proposing that the starting time of the Council Meetings be moved to 6 p.m. Also, so often we have the closed session and the discussion there is quite important and we never get out quite in time and people are waiting which is impolite so he would propose also that the closed session be after the regular Council Meeting so that the Council meetings can start exactly on time.

Mayor Franklin said so you are proposing that we start the meeting at 6 p.m. and then not have closed session until after the regular meeting and are you also talking about then changing the time we end because we do have a set time to end. Councilmember Miller said that was correct.

There was a majority of the Council that wanted to have this back for discussion as an agenda item.

Mayor Franklin addressed Councilmember Miller stating then you asked about the sign ordinance and we have to have a consensus as to whether that comes back as an agenda item. Councilmember Miller said what he asked for was for a presentation by the Chamber of Commerce.

Mayor Franklin said she would also like to see the Council add that as an agenda item because one of the things that we still have issue with is time constraints.

There was a consensus of the Council to have the sign ordinance come back as an agenda item including a Chamber of Commerce presentation.

Pending Items

1. Schedule Meetings with Our State and County Elected Officials
2. Discussion on how to handle loans or distributions to charities.
3. Discussion on how the City Council handles donations to the City.

Councilmember Peterson said that staff was supposed to prepare a report on that some time ago about the distribution of monies or loans to charities and a staff report has never come back.

Mayor Franklin asked if he still wanted this item under Pending Items. Councilmember Peterson said yes.

ADJOURNMENT

By common consent the meeting adjourned at 8:10 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.

CITY COUNCIL AGENDA

Date: February 11, 2014

TO: City Council

FROM: June Overholt, Interim City Manager

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of December 2013

RECOMMENDATION: The City Council review and ratify the following reports per the California Government Code.

FISCAL DATA: The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of December 2013.

The reports are:

Expenditure approval lists

December 5, 2013	28,566.88
December 12, 2013	647,395.77
December 19, 2013	1,022,077.50
December 24, 2013	323,328.37
February 3, 2014	2,712,098.48 (December Month End)

Payroll check registers

December 13, 2013	5,290.99
December 27, 2013	4,206.25

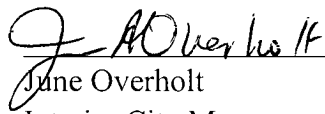
Payroll direct deposits*

December 13, 2013	305,280.49
December 27, 2013	267,207.40

As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

Report Prepared by Jenna Harrell, Accounts Payable

APPROVED BY:



June Overholt
Interim City Manager

CITY of BANNING

Fund/Department Legend

Fund/Department Legend

0001 General Fund Departments

0001 – General
1000 – City Council
1200 – City Manager
1300 – Human Resources
1400 – City Clerk
1500 – Elections
1800 – City Attorney
1900 – Fiscal Services
1910 – Purchasing & A/P
2060 – TV Government Access
2200 – Police
2210 – Dispatch
2279 – TASIN – SB621 (Police)
2300 – Animal Control
2400 – Fire
2479 – TASIN – SB621 (Fire)
2700 – Building Safety
2740 – Code Enforcement
2800 – Planning
3000 – Engineering
3200 – Building Maintenance
3600 – Parks
4000 – Recreation
4010 – Aquatics
4050 – Senior Center
4060 – Sr. Center Advisory Board
4500 – Central Services
4800 – Debt Service
5400 – Community Enhancement

All Other Funds

002 – Developer Deposit Fund
003 – Riverside County MOU
100 – Gas Tax Street Fund
101 – Measure A Street Fund
103 – SB 300 Street Fund
104 – Article 3 Sidewalk Fund
110 – CDBG Fund
111 – Landscape Maintenance
132 – Air Quality Improvement Fund
140 – Asset Forfeiture/Police Fund
148 – Supplemental Law Enforcement
149 – Public Safety Sales Tax Fund
150 – State Park Bond Fund
190 – Housing Authority Fund
200 – Special Donation Fund
201 – Sr. Center Activities Fund
202 – Animal Control Reserve Fund
203 – Police Volunteer Fund

204 – D.A.R.E. Donation Fund
300 – City Administration COP Debt Service
360 – Sun Lakes CFD #86-1
365 – Wilson Street #91-1 Assessment Debt
370 – Area Police Computer Fund
375 – Fair Oaks #2004-01 Assessment Debt
376 – Cameo Homes
400 – Police Facilities Development
410 – Fire Facilities Development
420 – Traffic Control Facility Fund
421 – Ramsey/Highland Home Road Signal
430 – General Facilities Fund
441 – Sunset Grade Separation Fund
444 – Wilson Median Fund
451 – Park Development Fund
470 – Capital Improvement Fund
475 – Fair Oaks #2004-01 Assessment District
600 – Airport Fund
610 – Transit Fund
660 – Water Fund
661 – Water Capital Facilities
662 – Irrigation Water Fund
663 – BUA Water Capital Project Fund
669 – BUA Water Debt Service Fund
670 – Electric Fund
672 – Rate Stability Fund
673 – Electric Improvement Fund
674 – '07 Electric Revenue Bond Project Fund
675 – Public Benefit Fund
678 – '07 Electric Revenue Bond Debt Service Fund
680 – Wastewater Fund
681 – Wastewater Capital Facility Fund
682 – Wastewater Tertiary
683 – BUA Wastewater Capital Project Fund
685 – State Revolving Loan Fund
689 – BUA Wastewater Debt Service Fund
690 – Refuse Fund
700 – Risk Management Fund
702 – Fleet Maintenance
703 – Information Systems Services
761 – Utility Billing Administration
805 – Redevelopment Obligation Retirement Fund
810 – Successor Housing Agency
830 – Debt Service Fund
850 – Successor Agency
855 – 2007 TABS Bond Proceeds
856 – 2003 TABS Bond Proceeds
857 – 2003 TABS Bond Proceeds Low/Mod
860 – Project Fund

CITY COUNCIL AGENDA

Date: February 11, 2014

TO: City Council

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

SUBJECT: Report of Investments for December 2013

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

JUSTIFICATION: State law requires that a monthly report of investments be submitted to the Governing Legislative Body.

BACKGROUND/ANALYSIS: This report includes investments on hand at the end of December 2013. As of December 31, 2013, the City's operating funds totaled \$66,170,708. Included in Successor Agency operating funds is \$716,192 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Summary Schedule.

As of December 31, 2013 approximately 42% of the City's unrestricted cash balances were invested in investments other than LAIF.

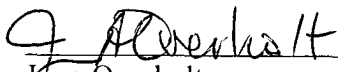
The December Investment Report includes the following documents:

- Summary Schedule of Cash and Investments
- Operational Portfolio Individual Investments
- Individual Investments with Fiscal Agent
- Investment Report Supplemental Information

Responses to our request for proposal (RFP) have been received and are pending review to determine whether investment earnings could be improved enough to cover the administrative costs of an investment management firm. An investment management firm would provide input on updating the investment policy, provide quarterly reports to the city, and provide daily management of investments. Results of the RFP process will be presented to council as a separate matter.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) increased to 0.264% in December. The average rate for all investments in December was 0.350%.

APPROVED BY:


June Overholt
Interim City Manager

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Summary Schedule of Cash and Investments**Operating Funds****Petty Cash**Amount

3,605

Bank Accounts

Interest

Rate Amount

Wells Fargo Bank

0.000% 1,134,697

Bank of America-Airport

0.300% 3,005

Bank of America-Parking Citations

0.300% 3,080

Bank of America-CNG Station

0.300% 3,192

Money Market and Bank Account Sub-Total

1,143,974

Government Pools

Account #1 Operating Amount 37,296,484

Account #1 CRA Bond Cash Bal 716,192

Local Agency Investment Fund: Account #1

0.264% 38,012,676

Account #2 Successor Agency Cash Bal 0

Local Agency Investment Fund: Account #2

0.264% 0

*Government Pool Sub-Total*38,012,676**Operating Cash Balance****39,160,255****Restricted Operating Funds**

Riverside Public Utilities- Highmark U.S. Government Money Market Fund

0.010%

1,280,956

California ISO Corp- Union Bank

100,095

Worker's Compensation Program- (PERMA)

1,978,054

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.491%

25,729,497

*Operating Funds Total*68,248,857**Fiscal Agent**Amount

US Bank

35,306,631*Fiscal Agent Total*35,306,631

City of Banning Investment Report
Operational Portfolio Individual Investments

December 31, 2013

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Date	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
1,134,697	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	1,134,697	n/a	1,134,697
-	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	-	n/a	-
3,005	Bank of America-Airport	n/a	0.30%	daily	varies	3,005	n/a	3,005
3,080	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,080	n/a	3,080
3,192	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,192	n/a	3,192
Sub-total								
								1,143,974
<u>Government Pools</u>								
38,012,676	L.A.I.F. account #1	n/a	0.264%	daily	varies	38,012,676	n/a	38,012,676
0	L.A.I.F. account #2	n/a	0.264%	daily	varies	0	n/a	0
38,012,676								
<u>Investments-US Bank/Piper Jaffray</u>								
3,000,000	Federal Home Loan Bks	n/a	0.500%	4/11/2016	4/11/2013	3,000,000		2,995,350
1,000,000	FHLMC Mtn	n/a	0.570%	6/20/2016	6/6/2013	1,000,000		998,260
1,000,000	FNMA	n/a	0.750%	12/19/2016	6/19/2013	1,000,000		997,370
1,000,000	FNMA Deb	n/a	0.550%	6/6/2016	6/20/2013	1,000,000		997,290
3,000,000	FNMA	n/a	1.125%	1/30/2017	7/30/2013	3,000,000		3,012,210
3,000,000	Federal Farm Credits Bks	n/a	0.940%	7/15/2016	7/15/2013	3,000,000		3,008,190
2,000,000	FHLMC Mtn	n/a	0.250%	6/24/2016	12/24/2013	2,000,000		1,996,540
2,000,000	FHLMC Mtn	n/a	0.500%	6/27/2016	12/27/2013	2,000,000		1,995,760
2,000,000	FHLMC Mtn	n/a	0.750%	12/27/2016	12/27/2013	2,000,000		1,992,340
7,736,187	Money Market	n/a	0.010%	daily	varies	7,736,187	0	7,736,187
US Bank/Piper Jaffray Average Rate= 0.491%								
25,729,497								

Average Rate All= 0.350%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on September 24, 2013. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 267 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

December 31, 2013

Individual Investments with Fiscal Agent

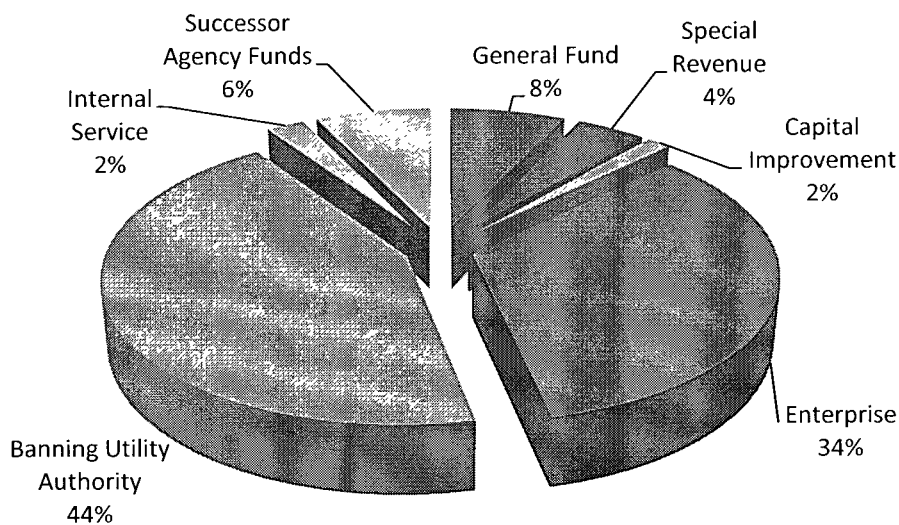
Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Dec-13	12/31/2013 Market Value
COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct	0.030%	daily	188,943	4.64	188,046
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003							
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	4.61%	7/28/2011	971,763		990,158
		US Bank Mmkt 5-Ct	0.030%	daily		0.53	21,753
		US Bank Mmkt 5-Ct	0.040%	daily			23
		US Bank Mmkt 5-Ct	0.000%	daily			8
Surplus Fund							
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 5-Ct	0.030%	daily		205.41	8,330,581
Reserve Fund		US Bank Mmkt 5-Ct	0.030%	daily	1,880,751	46.24	1,875,430
Special Fund		US Bank Mmkt 5-Ct	0.020%	daily			41
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.000%	daily			2
Principal Account		US Bank Mmkt 5-Ct	0.000%	daily			4
		US Bank Mmkt 5-Ct	0.030%	daily		81.24	3,295,021
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.000%	daily			10
Principal Account		US Bank Mmkt 5-Ct	0.050%	daily			20
Reserve Fund		US Bank Mmkt 5-Ct	0.030%	daily	2,310,710	56.98	2,310,912
Project Fund		US Bank Mmkt 5-Ct	0.030%	daily		39.50	1,601,803
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
		US Bank Mmkt 5-Ct	0.000%	daily		12.48	12
		US Bank Mmkt 5-Ct	0.030%	daily	2,672,050	65.90	2,672,184
Acquisition & Construction		US Bank Mmkt 5-Ct	0.030%	daily		345.70	14,020,614
* Paid Semi-Annually-Deposited into Money Mkt Account						Total	35,306,631

City of Banning

Investment Report Supplemental Information

Pooled Cash Distribution

Investment reports for cities typically do not include the cash balance of the individual funds that make up the total pooled cash. This is primarily due to timing differences between when investment reports are prepared and when month end accounting entries are posted. Investment reports are usually prepared first. However, the pie chart below provides an understanding of the percentage distribution of the investments by fund type. The percentages were calculated using the average cash balances from the twelve month period of October 2012 to September 2013. *(The percentages will be updated quarterly.)*



The Table below describes the funds that are included within the Fund Types used for the pie chart.

Fund Type	Description of funds
Governmental	General Fund
Special Revenue	Restricted Funds (i.e. CFDs, grants)
Capital Improvement	Development Impact Fee funds
Enterprise	Airport, Transit, Refuse, Electric
Banning Utility Authority	Water, Wastewater, Reclaimed water
Internal Service	Risk Management, Fleet, IT, Utility Services
Successor Agency Funds	Previously called Redevelopment Agency

Summary Schedule – Line item descriptions

Petty Cash–

The City maintains petty cash in various departments for incidental purchases. This line item includes the cash drawers for cashiering in utility billing.

Bank Accounts –

- Wells Fargo Bank – This is the City checking account. All cash receipts, payroll and accounts payables checks are processed through this account. Balances fluctuate based on activity and cash flow needs. As excess funds accumulate, they are transferred to LAIF to increase earnings.
- Bank of America – Airport – The City maintains a Trust account for credit card purchases made at the airport. When the account balance exceeds \$3000, excess funds are transferred to the Wells Fargo Bank account.
- Bank of America – Parking Citations – The City maintains a Trust account for the processing of parking citations through Turbo Data. When the account balance exceeds \$3000, excess funds are transferred to the Wells Fargo Bank account.
- Bank of America – CNG – The City maintains a Trust account for credit card purchases of CNG fuel made at the City yards. When the account balance exceeds \$3000, excess funds are transferred to the Wells Fargo Bank account.

Government Pools –

- Local Agency investment Fund – Account #1
 - This account includes both City pooled funds and a restricted cash balance related to the CRA bonds. Investments in LAIF are limited to \$50M.
- Local Agency investment Fund – Account #2
 - There is currently no balance in this account.
 - Note: When the State established the cutoff date of January 31, 2012 for the elimination of the Redevelopment Agency, LAIF staff recommended a transfer of the available balance from the CRA account to the City account to protect the funds from a rumored State raid or freezing of the funds.

Restricted Operating Funds at Riverside Public Utilities –

The City Electric operation has an agreement with Riverside Public Utilities (RPU) to purchase power for the City. Part of the agreement requires that the City maintain a balance in the trust account used by RPU. The City does not control the investments or earnings of the trust account.

Restricted Operating Funds at California ISO-

The California ISO facilitates the purchase and sale of the City's electricity. The City participates in periodic Congestion Revenue Rights (CRR) auctions to acquire financial hedges for transmission congestion. In order to participate in the CRR auctions the City was required to have a secured form of financial security in the amount of \$100,000. A cash deposit was placed with Union Bank in March, 2012 to meet the requirements. The account is an interest bearing collateral account.

Summary Schedule – Line item descriptions – Cont.

Restricted Operating Funds at PERMA-

The City participates in a JPA with the Public Entity Risk Management Authority (PERMA), who provides administration for the City's worker's compensation insurance program. PERMA requires the City to deposit funds into an account used by PERMA for the payment of worker's compensation claims. The City does not control the investments or earnings of this account.

Other Investments –

Currently the City works with a Piper Jaffray broker to make various investments per the City policy and in accordance with State guidelines. The Broker is not on retainer, nor do they receive a City paid fee with each investment. Funds in the Money Market fluctuate as securities mature or get called. Staff is in the process of investing the Money Market funds over several months. We will be adding an additional broker to provide more investment options.

Fiscal Agent / US Bank –

Unspent bond proceeds and required bond reserves are invested by the Fiscal Agent in accordance with the bond documents.

CITY COUNCIL AGENDA

Date: February 11, 2014
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Notice of Completion for "Project 2013-02EL Sunset Grade Separation Phase 1 – Pole Realignment"

RECOMMENDATION: The City Council accept the Project 2013-02EL "Sunset Grade Separation Phase 1 – Pole Realignment" as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION: The contractor has completed the work as per the plans and specifications.

BACKGROUND: The City Council awarded the construction contract for said project to Henkels & McCoy, Inc. of Pomona, at its regular meeting held on May 14, 2013.

The scope of work for the project included the removal and relocation of existing distribution poles and conductors/cables on Sunset Avenue between Lincoln St and the I-10 Freeway.

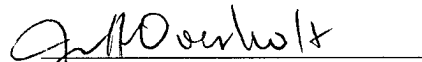
FISCAL DATA: The final contract price for the entire project was \$247,018.42.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:


June Overholt
Acting City Manager

1 WHEN RECORDED MAIL TO:

2
3 City Clerk's Office
4 City of Banning
5 City Hall, 99 E. Ramsey Street
6 Banning, California 92220
7

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

12
13
14 NOTICE OF COMPLETION

15 PROJECT NO. 2013-02EL SUNSET GRADE SEPARATION PHASE 1 – POLE
16 REALIGNMENT
17

18
19 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
20 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
21 the State of California, and is hereby accepted by the City of Banning pursuant to
22 authority conferred by the City Council this February 11, 2014, and the grantees consent
23 to recordation thereof by its duly authorized agent.
24

25 (1) That the OWNER, the City of Banning, and Metro RF Services, Inc.,
26 entered into a written Agreement dated May 14, 2013, for the Sunset Grade Separation
27 Phase 1 – Power pole Realignment. The scope of work for the project included the
28 removal and relocation of existing distribution poles and conductors/cables on Sunset
29 Avenue between Lincoln St and the I-10 Freeway. .
30

31 (2) That the Work of Improvement was substantially completed on September
32 3, 2013, and the Nature of Interest is in fee simple owner.
33

34 (3) That the City of Banning, a municipal corporation, whose address is
35 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
36 Work of Improvement.

37
38 (4) That the said Work of Improvement was performed on Sunset Avenue
39 between Lincoln Street and the I-10 Freeway, in the City of Banning.

40
41 (5) That the original contractor for said improvement was Henkels & McCoy,
42 Inc., State Contractor's License No. 183393.

43
44 (6) That the corporate surety on the performance and payment bonds is
45 Liberty Mutual Insurance Company.

46
47 Dated: February 11, 2014

48
49 CITY OF BANNING
50 A Municipal Corporation
51

52
53
54 By _____
55 Fred Mason
56 Director of Electric Utility
57

58 APPROVED AS TO FORM:
59

60
61 _____
62 David Aleshire, Aleshire & Wynder, LLP
63 City Attorney

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF RIVERSIDE)

4
5
6 MARIE A. CALDERON, being duly sworn, deposes and says:

7
8 That I am the City Clerk of the City of Banning, which City caused the work to be
9 performed on the real property hereinabove described, and that I am authorized to verify
10 this Notice of Completion on behalf of said City; that I have read the foregoing Notice
11 and knows the contents thereof, and that the facts stated therein are true based upon
12 information available to the City of Banning, and that I make this verification on behalf
13 of said City of Banning I declare under penalty of perjury that the foregoing is true and
14 correct.

15
16
17
18 _____
19 Marie A. Calderon
20 City Clerk of the City of Banning
21

22
23 Executed on _____, 2014 at Banning, California.
24
25
26
27
28
29
30

**CITY COUNCIL AGENDA
CONSENT**

DATE: February 11, 2014

TO: City Council

FROM: Duane Burk, Public Works Director

SUBJECT: Resolution No. 2014-09, "Authorizing Staff to Enter an Agreement With the Riverside County Airport Land Use Commission to Provide the Required Services for the Amendment of the Banning Municipal Airport Land Use Compatibility Plan"

RECOMMENDATION: Adopt Resolution No. 2014-09, "Authorizing Staff to Enter an Agreement With the Riverside County Airport Land Use Commission to Provide the Required Services for the Amendment of the Banning Municipal Airport Land Use Compatibility Plan"

JUSTIFICATION: In order to establish consistency both with the Airport Land Use Compatibility Plan (ALUCP) and the City's own General Plan, it is essential for the City Council to authorize staff to enter into this agreement with the Riverside County Airport Land Use Commission (ALUC). This step is required to begin the process for rezoning the areas around the City's Municipal Airport and amending the 2004 ALUCP.

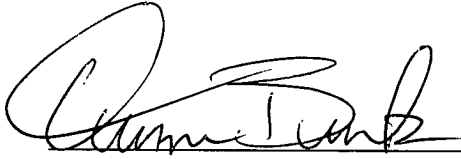
BACKGROUND: The Federal Aviation Administration (FAA) divides the land surrounding airports into six zones. Each zone has a certain density requirement as decided by the FAA and ALUC and is represented in the ALUCP. Currently, the established zoning in the City's General Plan is not consistent with the zoning established by the FAA and ALUC. A rezoning study is necessary in order to bring the ALUC zone requirements to be consistent with City's General Plan requirements for current and future development. The City's General Plan was adopted in 2006 and did not consider studying the zones in the airport area and accepted the ALUC plan. Staff is requesting to have the study completed to align the current ALUCP with the zoning requirements of the City's General Plan.

ALUC will act as the lead agency in carrying out the services necessary to develop and implement the amendment to the ALUCP. ALUC will analyze the environmental impacts of the proposed amendment, will propose to increase maximum average and single-acre intensities within Compatibility Zone D, attached hereto as Exhibit "A." exclusively, prepare the Initial Study/Negative Declaration analyzing the impacts of the proposed revision, and shall conduct a public hearing for the proposed amendment. The agreement for services is attached hereto as Exhibit "B."

STRATEGIC PLAN: Goal #3 Infrastructure and City Facilities, Strategic Priority Action Step P-3, Airport. Goal #6: Implement pro-active policies and programs which enhance resident-friendly service, responsiveness, two-way communication, and transparency to achieve citizen trust and respect of involvement in the City, Strategic Priority Action Steps: A-6 Community Forums and Meetings. Goal #7: Regional Cooperation and Partnerships.

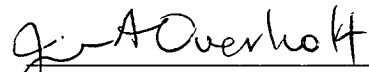
FISCAL DATA: An appropriation from the General Fund to the Airport Fund Professional Services Account No. 600-5100-435-3311 in the amount of \$25,000.00 is needed to complete the rezoning study by ALUC. If unused funds remain upon completion, ALUC will issue a refund check to the City within Ninety (90) Days following the adoption of the proposed amendment.

RECOMMENDED BY:



Duane Burk,
Director of Public Works

APPROVED BY:



June Overholt,
Interim City Manager

RESOLUTION NO. 2014-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING STAFF TO ENTER INTO AN AGREEMENT WITH THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION TO PROVIDE THE REQUIRED SERVICES FOR THE AMENDMENT OF THE BANNING MUNICIPAL AIRPORT LAND USE COMPATIBILITY PLAN

WHEREAS, the Federal Aviation Administration (FAA) divides the land surrounding airports into six zones, each having a certain density requirement as decided by the FAA and ALUC and is represented in the ALUCP; and

WHEREAS, currently the established zoning in the City's General Plan is not consistent with the zoning established by the FAA and ALUC; and

WHEREAS, a rezoning study is necessary in order to bring the ALUC zone requirements to be consistent with City's General Plan requirements for current and future development; and

WHEREAS, the City's General Plan was adopted in 2006 and did not consider studying the zones in the airport area and accepted the ALUC plan; and

WHEREAS, staff is requesting to have the study completed to align the current ALUCP with the zoning requirements of the City's General Plan; and

WHEREAS, ALUC will act as the lead agency in carrying out the services necessary to develop and implement the amendment to the ALUCP.

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

SECTION 1. City Council adopts Resolution No. 2014-09 Authorizing Staff to enter into an Agreement with the Riverside County Airport Land Use Commission to provide the required services for the Amendment of the Banning Municipal Airport Land Use Compatibility Plan.

SECTION 2. The Administrative Services Director is hereby authorized to appropriate \$25,000.0 from the General Fund to Account No. 600-5100-435-3311 (Airport Fund Professional Services Account) to make the necessary budget adjustments, appropriations and transfers related to the Funding Agreement.

SECTION 3. The City Manager is authorized to execute any documents required by the Riverside County Airport Land Use Commission for this agreement and rezoning study for an amount "Not to Exceed" \$25,000.00. This authorization will be rescinded if the contract agreement is not executed by both parties within sixty (60) days of the date of this Resolution.

PASSED, APPROVED AND ADOPTED this 11th day of February, 2014.

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 & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2014-09 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 11th day of February, 2014, by the following vote, to wit:

AYES:

NOES:

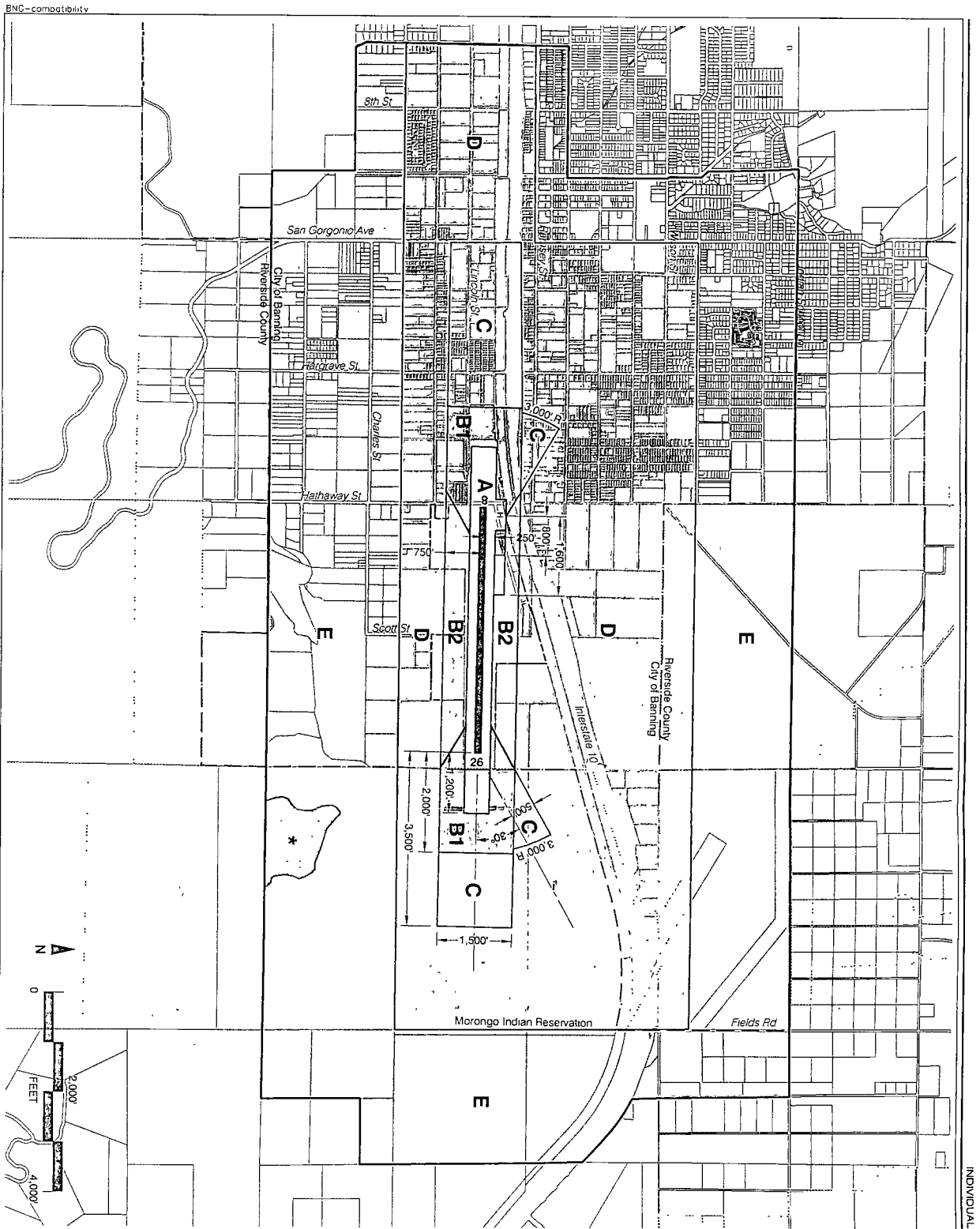
ABSENT:

ABSTAIN:

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

Exhibit “A”

Compatibility Zone D Map



Legend

Compatibility Zones

- Airport Influence Area Boundary
- Zone A
- Zone B1
- Zone B2
- Zone C
- Zone D
- Zone E
- Height Review Overlay Zone

Boundary Lines

- Airport Property Line
- City Limits
- Morongo Indian Reservation

Note

Dimensions measured from runway ends and centerlines

See Chapter 2, Table 2A for compatibility criteria associated with this map

Riverside County
Airport Land Use Commission

**Riverside County
Airport Land Use Compatibility Plan
Policy Document**
(Adopted October 2004)

Map BN-1

Compatibility Map
Banning Municipal Airport

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Exhibit “B”

ALUC Agreement

**FUNDING AGREEMENT BY AND BETWEEN RIVERSIDE COUNTY AIRPORT
LAND USE COMMISSION AND CITY OF BANNING
FOR
PREPARATION OF AN INITIAL STUDY AND NEGATIVE DECLARATION IN
COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA) FOR AMENDMENT OF BANNING MUNICIPAL AIRPORT LAND USE
COMPATIBILITY PLAN, ADOPTED 2004**

This Agreement is entered into on this ____th day of _____, 2014, by and between the Riverside County Airport Land Use Commission ("RCALUC") and the City of Banning ("CITY") for the provision of certain services required to be performed in connection with an amendment of the Banning Municipal Airport Land Use Compatibility Plan, adopted in 2004 ("THE 2004 PLAN") located within the jurisdictional boundaries of the CITY. The RCALUC and City are sometimes hereinafter referred to individually as "Party" and collectively as the "PARTIES."

RECITALS

- A. The Banning Municipal Airport is located within the jurisdictional boundaries of the CITY and provides general aviation services to the CITY and benefits to the residents in the surrounding area.
- B. The CITY seeks to amend the 2004 PLAN to address permissible intensities of nonresidential uses (only) in Airport Compatibility Zone D.
- C. The CITY has requested RCALUC to perform all services necessary in order to amend the 2004 PLAN as proposed. These services generally consist of the preparation of an Initial Study and Negative Declaration to analyze the impacts associated with the proposed amendment to the 2004 PLAN, followed by adoption of the amendment by the RCALUC, hereinafter referred to as "PROJECT." The Scope of Services for the project is more specifically listed in Exhibit "A" attached hereto and made a part of this agreement as fully set forth herein. The location of the PROJECT is shown in Exhibit "B" attached hereto and made a part of this Agreement as if fully set forth herein.

D. The CITY agrees to fund the PROJECT and acknowledges that RCALUC will take the lead role in the development and implementation of the PROJECT and coordination of the services necessary to complete the PROJECT.

E. The PARTIES desire to define herein the terms and conditions under which said PROJECT is to be administered, prepared, coordinated, managed and financed.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, the PARTIES hereto agree as follows:

1. The total estimated cost of the PROJECT is \$25,000. The amount excludes any legal challenges to the PROJECT or any aspects thereof.
2. The City agrees to fund the PROJECT in an amount not to exceed \$25,000.
3. The City agrees to deposit with RCALUC, prior to the start of any work on the PROJECT, \$25,000 (100%) of the estimated cost of the PROJECT.
4. RCALUC shall provide all services as described in Exhibit "A" attached hereto and made a part of this Agreement as if fully set forth herein.
5. If unused funds remain upon completion of the PROJECT, RCALUC agrees to issue the City a refund of any unused amounts within ninety (90) days following the adoption of the proposed amendment to the 2004 PLAN and posting of the Notice of Determination at the Office of the County Assessor-Clerk-Recorder.
6. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by all parties and no oral understanding or agreement not incorporated herein shall be binding on each PARTY hereto.
7. The PARTIES shall retain or cause to be retained for audit for a period of three (3) years from the date of final payment, all records and accounts relating to PROJECT.
8. This Agreement and the exhibits herein contain the entire Agreement between the PARTIES, and are intended by the PARTIES to completely state the Agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any PARTY in relation thereto, not expressly set forth in this Agreement, is null and void.

9. This Agreement may be executed in one or more counterparts and when a counterpart shall have been signed by each party hereto, each shall be deemed an original, but all of which constitute one and the same instrument.

10. This Agreement shall be terminated three (3) months after the filing of a Notice of Determination for the PROJECT or upon mutual agreement of the parties.

11. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other address as the PARTIES may designate:

To RCALUC: Riverside County Airport Land Use Commission
Riverside County Administrative Center
Attention: Ed Cooper, Director
4080 Lemon Street, 14th Floor
Riverside, CA 92501
Phone: (951) 955-5132
Fax: (951) 955-5177

To City of Banning: City of Banning
Attention: Andrew J. Takata, City Manager
99 E. Ramsey Street
Banning, CA 92220
Phone: (951) 922-3101
Fax: (951) 922-3112

[SIGNATURES ON NEXT PAGE]

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APPROVALS

RCALUC Approvals:

RECOMMENDED FOR APPROVAL:

ED COOPER
RCALUC, Director

Dated: _____

APPROVED AS TO FORM:

ANNA W. WANG
Deputy County Counsel

Dated: _____

APPROVAL BY THE BOARD OF SUPERVISORS

JOHN J. BENOIT
Chairman, Riverside County Board of Supervisors

Dated: _____

ATTEST:

KECIA HARPER-IHEM

Dated: _____

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY OF BANNING Approvals:

APPROVED BY:

ANDREW J. TAKATA
City Manager
City of Banning

Dated: _____

APPROVED AS TO FORM:

DAVID J. ALESHIRE
Aleshire & Wynder, LLP
City Attorney
City of Banning

Dated: _____

ATTEST:

MARIE CALDERON
City Clerk, City of Banning

Dated: _____

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EXHIBIT A • SCOPE OF SERVICES

A. PROJECT SCOPE

The Scope of Services covered under this agreement will propose to make limited revisions to the Banning Municipal Airport Land Use Compatibility Plan (ALUCP) by the Riverside County Airport Land Use Commission (RCALUC). More specifically, services covered by this agreement include:

1. RCALUC will act as the Lead Agency for the purposes of the California Environmental Quality Act (hereinafter "CEQA") in carrying out the services necessary to develop and implement the PROJECT.
2. RCALUC will analyze the environmental impacts of the proposed adoption of an amendment to the 2004 PLAN addressing permissible intensities of nonresidential uses in Airport Compatibility Zone D within the PROJECT area.
3. RCALUC staff will propose to amend the 2004 Banning Municipal Airport ALUCP to increase maximum average and single-acre intensities within Compatibility Zone D exclusively; including all text and figure updates as necessary to the ALUCP;
4. RCALUC staff will prepare Initial Study/Negative Declaration programmatically analyzing the impacts of the proposed revision to the Banning Municipal ALUCP;
5. RCALUC staff will prepare a staff report, presentation, and any other materials to present the proposed amendment to the Banning Municipal Airport ALUCP and associated Initial Study/Negative Declaration for adoption by the RCALUC;
6. RCALUC shall conduct a public hearing for the proposed amendment to the 2004 PLAN; and
7. City of Banning staff will provide GIS based data including General Plan, Zoning, current land use, and any other pertinent information upon request by ALUC staff as necessary to support analysis and document preparation.

The Scope of Services under this agreement does **NOT** include any of the following:

1. Modify residential densities within ANY ALUCP Compatibility Zone.

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: February 11, 2014

TO: Honorable Mayor and City Council

FROM: Heidi Meraz, Community Services Director

SUBJECT: Morongo Casino Pass Transit Bus Stop

BACKGROUND:

Banning Pass Transit currently operates a fixed route providing service to Cabazon. Included on this route is bus stop that is located on Seminole Drive, just west of the Morongo Casino in front of the recently constructed In and Out restaurant. This route operates seven days a week. Staff was contacted by management staff from the Morongo Transit Department requesting that we relocate the bus stop to avoid anticipated traffic congestion due to the recent commercial development in the area of the current stop.

Staff has met with tribal staff and has successfully negotiated an agreement to move the bus stop onto their casino property closer to the entrance of the casino. The new stop is currently used by other transit agencies and includes a covered shelter for passengers, less walking distance to the casino and a slightly shorter wait time for buses.

Attached is a proposed route map to enter and exit the casino property and the proposed agreement. The agreement has been reviewed by city staff, the city attorney's office and tribal staff and legal counsel. Once the agreement has been formally approved by both parties, the current bus stop will be removed and Banning Pass Transit will begin using the new casino stop.

Fiscal Impact:

None

PREPARED BY:


Heidi Meraz
Community Services Director

APPROVED BY:


June Overholt
Interim City Manager

BUS ACCESS AGREEMENT

THIS BUS ACCESS AGREEMENT ("Agreement") entered into as of the day of 11th day of February, 2014 ("Effective Date") is made and by and between **THE MORONGO BAND OF MISSION INDIANS** (the "Tribe"), a federally recognized Indian Tribe, and the **CITY OF BANNING** ("City"), (collectively, "the Parties").

RECITALS

WHEREAS, the parties are executing this Agreement for the purpose of allowing a public bus stop at Morongo Casino Resort & Spa ("Casino") to be served by a bus operated by the City between Cabazon, Banning and Beaumont, all located within Riverside County ("Bus Stop").

WHEREAS, the Tribe and City have jointly determined that it is in the interest of the members of the public traveling through the Western Riverside County areas in the state of California, to have a Bus Stop on the Tribe's reservation over which the Tribe exercises sovereign authority (the "Reservation"); and

WHEREAS, the Tribe and City each desires to provide to members of the public access to connecting bus service to and from the Reservation; and

WHEREAS, the Parties have agreed to memorialize the terms and conditions of this Agreement, to provide bus service to the Bus Stop located on the Reservation;

NOW THEREFORE, the respective Parties certify, acknowledge, and agree as follows:

1. **Definitions.** As used herein, the following terms shall have the meaning set forth below:
 - i. **"Bus Stop"** shall mean a place along a curb or side of the road where a bus comes to a halt briefly to allow passengers to board or alight, but shall not include areas where buses may stop for transit layover/staging, characterized by lengthy stops made for purposes other than allowing passengers to board or alight.
 - ii. **"Bus Stop Zone"** shall mean the length of a roadway marked or signed as available for use by a bus to load or unload passengers.
 - iii. **"Bus Stop Waiting Pad"** shall mean a paved area, often an extension along a sidewalk, which is provided at a Bus Stop and which may contain a bench, shelter, and/or other bus patron amenities.
 - iv. **"Bus Turnaround"** shall mean a roadway system, which allows buses to return to the street they are serving, generally in the opposite direction of travel.
2. **Term.** This Agreement shall commence on the Effective Date, and terminate on the fifth anniversary of the Effective Date, subject to earlier termination as provided for herein; however, notwithstanding anything to the contrary contained herein, in no event shall this Agreement extend past the termination date of the Agreement.
3. **Bus Operation and Compliance.** City shall take all reasonable steps to ensure that all persons who operate its buses, are duly licensed and permitted by all applicable federal and state agencies to legally transport persons by bus within the State of California, and

shall remain so licensed and permitted, so long as those persons provide such service pursuant to this Agreement. City shall take all reasonable steps to ensure that the operation of buses to provide service pursuant to this Agreement complies with all applicable federal, state, and local laws and regulations.

4. **Bus Access.** The Tribe hereby grants the non-exclusive use of the Bus Stop provided by the Tribe and located on the Reservation at Morongo Casino as shown in Exhibit "A" under the terms and conditions stated herein and subject to all uses permitted under the CalTrans Agreement and all rights of the Tribe. The Tribe shall take all reasonable steps to provide safe and adequate access for City providing services hereunder by providing safe passage to and from Bus Zones and/or Bus Stops for buses on the Reservation. Trees and other plantings placed on any structures in or near Bus Turnarounds shall be low so as to permit clear sight for bus drivers approaching or departing from Bus Zones. No parking shall be allowed on the approach and departure lanes.
5. **Bus Stop.**
 - a. **General Description and Requirements.** Bus Stops shall be marked to signal to the driver where to stop the bus and to the passengers, where to wait. Bus Stops shall have adequate lighting, be in a location where passengers can safely access the waiting area, and cause minimal disruption of pedestrian and vehicular traffic. Nothing contained herein shall constitute an adoption or approval by the Tribe or City of a plan or design of the Bus Stop.
 - b. **Signage.** Signage shall be provided by the City and posted by the Tribe in an area at the Bus Stop on the Reservation providing for maximum visibility to both bus drivers and potential passengers to indicate where boarding and alighting of the bus may take place. The Tribe shall designate the locations for the Bus Stop and placement of signage for the Bus Stop.
 - c. **Accessibility.** The Bus Stop in its construction and design shall comply with all applicable federal laws, regulations, and orders to ensure that the Bus Stop is accessible to passengers with disabilities. In furtherance of that objective, the Bus Stop on the Reservation shall provide a clear path to disembark and shall contain an unobstructed path to and from the Bus Stop for the accessibility of wheelchairs. It is the responsibility of the Tribe to provide a safe path once the passenger has safely disembarked at either a Bus Stop Waiting Pad or sidewalk.
 - d. **Maintenance of Bus Stops.** The Tribe represents and warrants that it shall exercise reasonable care under the circumstances to maintain the premises at the Bus Stop in a reasonably safe condition, which includes but is not limited to, taking security precautions against reasonably foreseeable criminal acts by third parties. Additionally, the Tribe will be responsible for all repair and maintenance of Bus Stops, Bus Waiting Pads, and Bus Zones on the Reservation, which shall include but not be limited to ensuring adequate lighting conditions, trash collection, snow removal, and mitigation of dangerous traffic conditions.

6. Indemnification.

- a. The Tribe shall defend, indemnify and hold harmless the City, its agents, and employees from and against any and all claims, losses, damages, liability, obligations and expenses (including reasonable attorneys' fees) for injuries to any person (including the bus passengers or patrons), entity or property that result directly or indirectly from the intentional or negligent acts or omissions of the Tribe, its officers, employees, agents subcontractors, or any other person acting for or with the permission of the Tribe under the Agreement, committed in connection with providing the maintenance, use or operation of the Bus Stop.
- b. City shall defend, indemnify and hold harmless the Tribe, its agents, and employees from and against any and all claims, losses, damages, liability, obligations and expenses (including reasonable attorneys' fees) for injuries to any person, entity or property that result directly from the intentional or negligent acts or omissions of its employees and agents committed in connection with providing bus service to or from the Reservation.

7. Insurance.

- a. City shall obtain and maintain throughout the term of this Agreement one or more policy(ies) for general liability, which policy(ies) shall name "THE MORONGO BAND OF MISSION INDIANS" as an additional insured, shall have a minimum aggregate coverage of not less than ten million dollars (\$10,000,000) covering claims arising under this Agreement, and shall state that the insurance shall be primary, not excess or contributory, as to insurance carried by THE MORONGO BAND OF MISSION INDIANS. To the extent that greater coverage is required by federal or state law or regulation, City shall maintain and provide proof of such insurance. Insurance shall be primary, not excess or contributory, as to insurance carried by THE MORONGO BAND OF MISSION INDIANS. City retains the right to self-insure for general liability insurance at its sole option and will provide a letter of self-insurance, if it elects to self-insure in lieu of a certificate of insurance.
- b. The Tribe shall maintain general liability insurance of not less than ten million dollars (\$10,000,000) covering claims arising under this Agreement, and provide a certificate of insurance demonstrating that has been named as an additional insured on its insurance policy; and the Tribe shall maintain and provide proof of such insurance. The Tribe's insurance shall be primary, not excess or contributory, as to any insurance carried by City.

- 8. Enforcement.** Damages awarded against the Tribe and not paid by its insurance shall be satisfied solely from the revenues, income, and assets of the Tribe directly derived from the operation of the Casino. Neither the Tribe's real property nor any other tribal assets, excluding the aforementioned revenues, income, and assets, may be seized or otherwise used to satisfy any aforementioned award against the Tribe. The Tribe represents that the cumulative revenues, income, and assets derived from the annual operation of the Casino, as

of the Effective Date of this Agreement, are in excess of twenty million dollars (\$20,000,000). Further, the Tribe warrants that in any year during the term of this Agreement where the value of said revenue, income, and assets falls below twenty million dollars (\$20,000,000), the Tribe shall immediately notify City. Upon such notice, City may review and modify the Tribe's insurance coverage by requiring the Tribe to increase insurance limits specified herein to an amount of twenty million dollars (\$20,000,000). In no event, shall either Party seek to recover special, punitive, exemplary, or consequential damages against the other Party, under this Agreement.

9. **Notices.** Any notice, request, or other communication to either Party by the other as provided for in this Agreement shall be given in writing, and sent by: (a) hand-delivery, (b) first class United States mail, return receipt requested, or (c) overnight delivery service, and shall be deemed given upon actual receipt by the addressee. Notice may also be given by facsimile or e-mail, provided the original is sent by any manner as described above in this Section. Notices shall be addressed as follows:

If to the City of Banning:

Attention: City Manager with copy to Community Services Director

Telephone: 951-922-3105

Facsimile: 951-922-3165

E-mail: joverholt@ci.banning.ca.us

hmeraz@ci.banning.ca.us

If to the Tribe:

Attention: James Foster, Transportation Manager

Telephone: 951-755 5269

Facsimile 951-922-8149

E-mail: jfoster@morongo-nsn.gov

Either Party may change the recipient or address for receiving notices upon written notice to the other party.

10. **Termination for Convenience.** Upon written 30-day notice, either Party may, at its option and in its sole discretion, terminate this Agreement for whatever reasons it chooses without such termination constituting breach or default. Such termination shall be effective 30 days after written notice is received by either Party or at the time specified in the termination notice, whichever is later. In connection with the termination or impending termination of this Agreement, the Tribe shall, regardless of the reason for termination, take all actions reasonably necessary to mitigate costs and take all actions reasonably requested by City to assist in the termination or transition of responsibilities under this Agreement.

11. **Severability.** If any provision of the Agreement is determined to be invalid, illegal, or unenforceable in any respect, such determination shall not affect any other provision hereof.

12. **Rights and Remedies.** Each Party's rights and remedies hereunder shall be cumulative, in addition to, and not a limitation of, any rights and/or remedies provided at law, in equity, or otherwise. One Party's failure to exercise any of its rights under the Agreement shall not constitute a waiver of any past, present, or future right or remedy. No action or failure to act by one Party shall constitute approval of, a waiver of, or acquiescence to, a breach by the other Party unless specifically agreed in writing. Waiver by one Party of any breach by the other Party shall not constitute a waiver of any other breach of the same or any other provision of the Agreement. Acceptance of any items or services, or payment therefore, shall not operate as a waiver of any breach.

13. **Independent Contractor.** Neither Party is an agent, representative, or employee of the other Party, but rather is an independent contractor. Neither Party has the authority to make representations, commitments, or obligations on behalf of the other Party. Each Party shall maintain all required insurance and shall pay all required workers' compensation payments, disability benefits, unemployment insurance, and employment and withholding taxes for its members and/or employees as mandated by federal, tribal, and local law. The Tribe and its members are not employees of City and shall not be entitled to participate in or receive any benefits or rights under any employee benefit or welfare plan as a result of the Tribe entering into this Agreement. City, its employees, and/or independent contractors shall not hold themselves out as nor claim to be an officer, partner, joint venture, employee, or agent of the Tribe by reason of this Agreement or the Parties' course of dealings or conduct. Nothing in this Agreement, or in any agreement between and its independent contractors, including third-party bus companies providing services described herein, shall be construed to create a partnership, joint venture, employer-employee, or principal-agent relationship, or any other relationship of similar nature between the Tribe and City.

14. **Governing Law, Jurisdiction and Venue.**

(a) The Agreement shall be governed by and construed in accordance with the laws of the State of California with regard to its conflict of laws principles.

(b) In the event of any dispute related to this Agreement or the breach thereof, the Parties shall meet and confer in good faith to resolve their differences. If the Parties cannot resolve their dispute within thirty (30) days of their initial meeting, then, upon written notice by either Party to the other, the Parties shall attempt to settle the dispute by mediation before a mediator to be agreed upon by the parties. The mediation shall take place in Riverside County (unless the parties agree otherwise) within a reasonable period of time not to exceed thirty (30) days following the notice. The Parties shall equally share all costs of mediation,

including fees and expenses. Any settlement agreement that the parties may enter into during or after the mediation process shall be binding and enforceable.

(c) In the event a dispute is not resolved pursuant to subsection (b), then a Party who participated (or attempted to participate) in mediation may file a legal action only in the Superior Court of the State of California for the County of Riverside. The entire dispute shall be submitted for resolution by a referee appointed pursuant to California Code of Civil Procedure section 638 (or analogous provision), and, if necessary, to any courts with appellate jurisdiction to review the referee's decision. Parties may not seek, and the referee shall have no authority to award, any special, punitive, exemplary or consequential damages against either Party. Damages awarded against the Tribe shall be satisfied solely from the revenues, income and assets of the Tribe derived from the operation of Casino and no other source

15. **Laws, Regulations, and Permits.** Each Party warrants that it shall comply with federal and tribal laws, including any and all statutes, ordinances, rules, regulations, orders, and/or decrees, as the same may be amended from time to time, enacted, or adopted, applicable to the performance of its obligations under the Agreement. Each Party shall, without additional cost to the other Party, obtain all necessary permits or licenses required for the performance of its obligations hereunder.
16. **Headings.** The headings contained herein are inserted for convenience of reference only and in no way define, limit, or extend the scope or intent of the Agreement or any provision hereof.
17. **Entire Agreement.** The Agreement, including all documents incorporated therein by reference, constitutes the entire agreement of the Parties. No oral statements or other writings may be used to supplement, modify, or otherwise affect the provisions of the Agreement. The Tribe acknowledges that it has not been induced to enter into the Agreement by any representations or promises not specifically stated in the Agreement. Unless otherwise specified herein, all previous or contemporaneous proposals, promises, representations, documents, agreements, or understandings, whether written or oral, relating to the subject matter of the Agreement are hereby declared to be null and void and are superseded by the terms of the Agreement. The terms and conditions of the Agreement supersede any and all terms and conditions submitted by the Tribe prior to, concurrently with, or pursuant to the Agreement. No other terms and conditions, or changes or modifications to the Agreement shall be binding upon the Tribe or City unless mutually agreed to in writing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

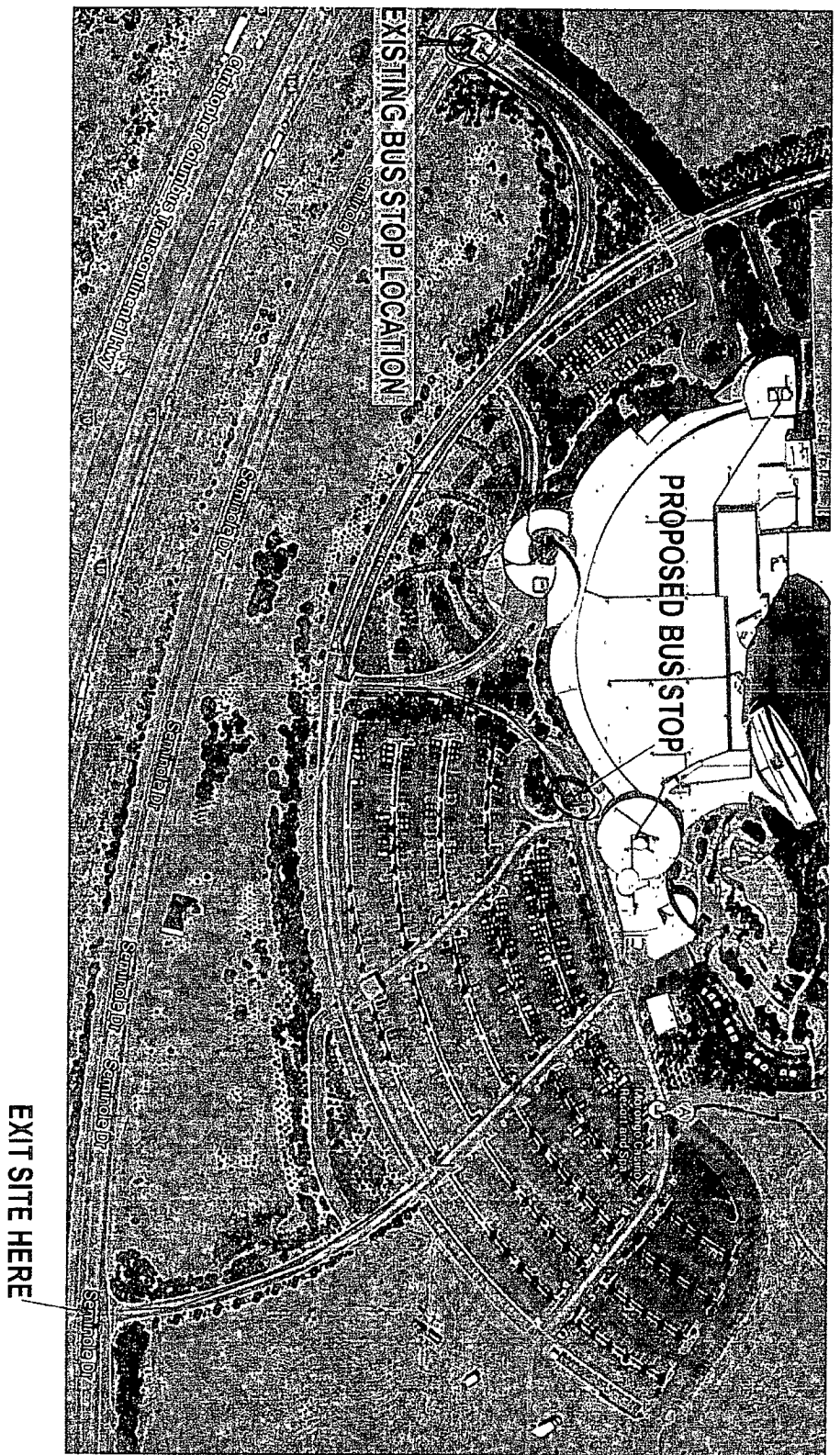
Morongo Band of Mission Indians

City of Banning

Robert Martin, Chairman

June Overholt, Interim City Manager

NEW LOCATION FOR LOCAL BUS LINE STOP AT CASINO



**SUCCESSOR AGENCY TO THE DISSOLVED
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING
CONSENT**

DATE: February 11, 2014

TO: Chair and Successor Agency Board Members

FROM: Bill R. Manis, Economic Development Director/Public Information Officer

SUBJECT: Approval of the Recognized Obligation Payment Schedule for the Period of July through December 2014 for the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning

RECOMMENDATION:

That the City Council, acting in its capacity as the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning adopt Resolution No. 2014-05 SA (*Attachment A*) approving the Recognized Obligation Payment Schedule (*Attachment B*) for the period of July through December 2014, and approving certain related actions.

BACKGROUND:

Pursuant to Health and Safety Code § 34172 (a)(1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012. Consistent with the provisions of the Health and Safety Code, the City Council previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning, (the "Successor Agency"). Per Health and Safety Code § 34177 (l)(1), the Successor Agency is required to prepare a Recognized Obligation Payment Schedule ("ROPS") before each six-month fiscal period, which corresponds to equal halves of a fiscal year (i.e., July through December and January through June). The ROPS is the basis for the Successor Agency's authority to make payments due for enforceable obligations. Subsequent to its approval by the Successor Agency, the ROPS must also be approved by the Oversight Board ("OS Board") to the Successor Agency and is reviewable by the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller's Office.

Staff, together with Urban Futures, Inc., has prepared the ROPS for the period July through December 2014, which consists of several spreadsheets that are appended to the attached Resolution as Exhibit "A". Pursuant to Health and Safety Code § 34177 (m), an Oversight Board-approved ROPS for the period of July through December 2014, must be submitted to the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller's Office not later than March 1, 2014. Approval of the attached Resolution will authorize the City Manager, or designee, to:

1. Post the ROPS for the period of July through December 2014, on the City's website;
2. Transmit the ROPS for the period of July through December 2014, to the Oversight Board for their review and consideration;

3. Transmit the ROPS for the period of July through December 2014, to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance within the timeframe prescribed by the Health and Safety Code; and
4. Make ministerial revisions to the ROPS which may include, but is not limited to restating the information included within the ROPS in any format that may be requested by the State Department of Finance, take such other actions and execute such other documents as are necessary to effectuate the intent of the Resolution, and to implement the ROPS for the period of July through December 2014, on behalf of the Successor Agency, including authorizing and causing such payments.

The attached Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines. The attached Resolution does not constitute a "project" for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.

FISCAL IMPACT:

Pursuant to Health and Safety Code § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations. Approval of the ROPS will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations. The recommended action does not, in itself, cause any new financial obligations.

RECOMMENDED/REVIEWED BY:

Bill R. Manis

Bill R. Manis
Economic Development Director/PIO

APPROVED BY:

J. A. Overholt

Jane A. Overholt
Acting City Manager

Attachments & Exhibit:

- A. Resolution No. 2014-05 SA
- B. ROPS 2014-15A (Exhibit A to Resolution)

ATTACHMENT A
RESOLUTION NO. 2014-05 SA

RESOLUTION NO. 2014-05 SA

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA RECEIVING AND ADOPTING ITS RECOGNIZED OBLIGATION PAYMENT SCHEDULE (“ROPS”) FOR THE PERIOD OF JULY THROUGH DECEMBER 2014 AND APPROVING CERTAIN RELATED ACTIONS

The City of Banning, Acting as Successor Agency to the Former Redevelopment Agency of the City of Banning DOES RESOLVE as follows:

WHEREAS, pursuant to Health and Safety Code § 34172 (a)(1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012; and

WHEREAS, consistent with the provisions of the Health and Safety Code, the City Council previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning (the “Successor Agency”); and

WHEREAS, per Health and Safety Code § 34177 (l)(1), the Successor Agency is required to prepare a Recognized Obligation Payment Schedule (“ROPS”) before each six-month fiscal period, which corresponds to equal halves of a fiscal year (i.e., July through December and January through June); and

WHEREAS, the ROPS is the basis for the Successor Agency’s authority to make payments due for enforceable obligations; and

WHEREAS, the ROPS must also be approved by the Oversight Board (“OS Board”) to the Successor Agency and is reviewable by the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office; and

WHEREAS, staff, together with Urban Futures, Inc., has prepared the ROPS for the period of July through December 2014, which consists of several spreadsheets that are appended to this Resolution as Exhibit “A”; and

WHEREAS, subsequent to the approval of this Resolution and approval by the OS Board, the ROPS will be forwarded to the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office for their review; and

WHEREAS, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 *et seq.*, hereafter the “Guidelines”), and the City’s environmental guidelines; and

WHEREAS, this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, the City Council of the City of Banning, in its capacity as Successor Agency, resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The Successor Agency’s ROPS for the period of July through December 2014, which is attached hereto as Exhibit “A”, is approved and adopted.

SECTION 3. The City Manager, or designee, is hereby authorized and directed to: i) post the ROPS for the period of July through December 2014 on the City’s website, ii) transmit the ROPS for the period of July through December 2014 to the OS Board for their review, iii) transmit the ROPS for the period of July through December 2014 to the County Auditor-Controller, the County Administrative Officer, the State Controller and the State Department of Finance for their review within the timeframe prescribed by the Health and Safety Code; and iv) make ministerial revisions to the ROPS which may include, but is not limited to restating the information included within the ROPS in any format that may be requested by the State Department of Finance, take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution, and to implement the ROPS for the period of July through December 2014 on behalf of the Successor Agency, including authorizing and causing such payments.

SECTION 4. This Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.

SECTION 5. This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED, AND ADOPTED at a joint meeting of the City Council of the City of Banning, acting at its capacity as the Successor Agency, this 11th day of February 2014.

Deborah Franklin, Mayor
City of Banning – Successor Agency

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

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

ATTEST:

Marie Calderon, City Clerk

CERTIFICATION:

I, MARIE CALDERON, City Clerk of the City of Banning, seating as the Successor Agency, California, do hereby certify that Resolution No. 2014-05 SA was adopted by the City of Banning, seating as the Successor Agency, of the City of Banning at a regular meeting held on the 11th day of February 2014, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning

ATTACHMENT B
(EXHIBIT A TO RESOLUTION NO. 2014-05 SA)
ROPS 2014-15A

Recognized Obligation Payment Schedule (ROPS 14-15A) - Summary

Filed for the July 1, 2014 through December 31, 2014 Period

Name of Successor Agency: Banning
 Name of County: Riverside

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding		
A	Sources (B+C+D):	\$ 43,846
B	Bond Proceeds Funding (ROPS Detail)	43,846
C	Reserve Balance Funding (ROPS Detail)	
D	Other Funding (ROPS Detail)	
E	Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 1,636,049
F	Non-Administrative Costs (ROPS Detail)	1,511,049
G	Administrative Costs (ROPS Detail)	125,000
H	Current Period Enforceable Obligations (A+E):	\$ 1,679,895

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
I	Enforceable Obligations funded with RPTTF (E)
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)
K	Adjusted Current Period RPTTF Requested Funding (I-J)
	\$ 1,624,620

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
L	Enforceable Obligations funded with RPTTF (E)
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)
N	Adjusted Current Period RPTTF Requested Funding (L-M)
	1,636,049

Certification of Oversight Board Chairman
 Pursuant to Section 34177(m) of the Health and Safety code, I hereby
 certify that the above is a true and accurate Recognized Obligation
 Payment Schedule for the above named agency

/s/ _____
 Name Signature
 Title Date

Recognized Obligation Payment Schedule (ROPS) 14-15A - ROPS Detail
July 1, 2014 through December 31, 2014
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total
Funding Source															
										RPTTF					
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)					
										Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total
1	2003 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	12/16/2003	8/1/2037	US Bank	Funding for RDA projects	Merged	\$ 64,259,888	N	\$ -	\$ 43,846	\$ -	\$ 1,511,049	\$ 125,000	\$ 1,679,895
2	2007 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	9/19/2007	8/1/2037	US Bank	Funding for RDA projects	Merged	\$ 11,573,363	N	\$ -	\$ -	\$ -	\$ 244,398	\$ -	\$ 244,398
3	Annual Continuing Disclosure	Fees	12/16/2003	8/1/2037	Urban Futures, Inc	Bonding Continuing Disclosure Services	Merged	\$ 44,776,958	N	\$ -	\$ -	\$ -	\$ 574,909	\$ -	\$ 574,909
4	Bond Trustee Fees	Fees	12/16/2003	8/1/2037	US Bank	Bond Trustee Fees	Merged	\$ 79,200	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5	Bond Reserve Funds	Reserves	12/16/2003	8/1/2037	Bond Reserve Funds	Bond Reserve Funds	Merged	\$ 137,000	N	\$ -	\$ -	\$ -	\$ 6,700	\$ -	\$ 6,700
6	Bond Reserve Funds	Reserves	12/16/2003	8/1/2037	Bond Reserve Funds	Bond Reserve Funds	Merged	\$ 595,000	N	\$ -	\$ -	\$ -	\$ 595,000	\$ -	\$ 595,000
7	New Payable	Third-Party Loans	8/7/2008	1/31/2023	Glick	Property Purchase - Trust Deed	Merged	\$ 184,771	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
8	New Payable	Third-Party Loans	7/29/2009	7/31/2018	OkZorro	Property Purchase - Trust Deed	Merged	\$ 959,446	N	\$ 43,846	\$ -	\$ -	\$ -	\$ -	\$ 43,846
9	New Payable	Professional Services	10/12/2009	8/1/2037	Lance, Soll & Lurgard	Close out audit of FY13	Merged	\$ 30,000	N	\$ -	\$ -	\$ -	\$ 5,000	\$ -	\$ 5,000
10	RDA audit	Admin Costs	2/1/2012	8/1/2037	Civ of Banning	Successor Agency Administration	Merged	\$ 5,750,000	N	\$ -	\$ -	\$ -	\$ -	\$ 125,000	\$ 5,875,000
11	Successor Agency Admin	Professional Services	9/30/2009	8/1/2037	Urban Futures, Inc	RDA wind down	Merged	\$ 75,000	N	\$ -	\$ -	\$ -	\$ 12,500	\$ -	\$ 12,500
12	Fiscal Consulting Services	Fees	12/16/2003	8/1/2037	Wildan Associates	Audit/Analysis for TABs	Merged	\$ 55,000	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
13	Arbitrage Analysis for TABs	Miscellaneous	7/1/2009	8/1/2037	Rv. Co. Office of Ed	Past Under Paid TI Pass Thru Pmts	Merged	\$ -	Y	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
14	Past Under Paid TI Pass Thrus	Miscellaneous	7/1/2009	8/1/2037	Beaumont USD	Past Under Paid TI Pass Thru Pmts	Merged	\$ -	Y	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
15	Past Under Paid TI Pass Thrus	Miscellaneous	7/1/2009	8/1/2037	Beaumont USD	Correction of Interest Due Math Error	Merged	\$ 53,620	N	\$ -	\$ -	\$ -	\$ 53,620	\$ -	\$ 53,620
16	2003 TABs Interest ROPS 13-14A	Bonds Issued On or Before 12/31/10	12/16/2003	8/1/2028	US Bank	in ROPS 13-14A	Merged	\$ -	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
17	Fiscal Consulting Services	Professional Services	9/30/2009	8/1/2028	Urban Futures, Inc	Correction of budget estimate in ROPS 13-14A to account for prep of LRPMP	Merged	\$ 6,108	N	\$ -	\$ -	\$ -	\$ 6,108	\$ -	\$ 6,108
18	RBEG Repayment to USDA	Miscellaneous	9/24/1995	12/31/2014	U S Dept of Agriculture	Correction of budget estimate in ROPS 13-14A to account for actual amount required by USDA	Merged	\$ 12,814	N	\$ -	\$ -	\$ -	\$ 12,814	\$ -	\$ 12,814
19	Past Under Paid TI Pass Thrus	Miscellaneous	7/1/2009	8/1/2037	Beaumont USD	Correction of Interest Due Math Error	Merged	\$ 53,620	N	\$ -	\$ -	\$ -	\$ 53,620	\$ -	\$ 53,620
20	2003 TABs Interest ROPS 13-14A	Bonds Issued On or Before 12/31/10	12/16/2003	8/1/2028	US Bank	in ROPS 13-14A	Merged	\$ -	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21	Fiscal Consulting Services	Professional Services	9/30/2009	8/1/2028	Urban Futures, Inc	Correction of budget estimate in ROPS 13-14A to account for prep of LRPMP	Merged	\$ 6,108	N	\$ -	\$ -	\$ -	\$ 6,108	\$ -	\$ 6,108
22	RBEG Repayment to USDA	Miscellaneous	9/24/1995	12/31/2014	U S Dept of Agriculture	Correction of budget estimate in ROPS 13-14A to account for actual amount required by USDA	Merged	\$ 12,814	N	\$ -	\$ -	\$ -	\$ 12,814	\$ -	\$ 12,814

Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Cash Balances

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177(l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.									
A	B	C	D	E	F	G	H	I	
		Fund Sources							
		Bond Proceeds			Reserve Balance		Other	RPTTF	
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR balances retained	Prior ROPS RPTTF distributed as reserve for next bond payment	Rent, Grants, Interest, Etc.	Non-Admin and Admin		
Cash Balance Information by ROPS Period									
ROPS 13-14A Actuals (07/01/13 - 12/31/13)									
1	Beginning Available Cash Balance (Actual 07/01/13) Note that for the RPTTF, 1 + 2 should tie to columns J and O in the Report of Prior Period Adjustments (PPAs)	12,750,497			577,500		1,707,620		For bonds issued before 12-31-10 \$2,866,260 is in the DSRF held by Trustee per the indenture, \$9,884,193 is for projects (\$8,329,114 is held by the Trustee and \$1,555,079 is held by the SA and \$44 is other held by the Trustee). The bond reserve is equal to 50% of principal reduction payment and is from ROPS III and was used in ROPS 13-14A.
2	Revenue/Income (Actual 12/31/13) Note that the RPTTF amounts should tie to the ROPS 13-14A distribution from the County Auditor-Controller during June 2013								
3	Expenditures for ROPS 13-14A Enforceable Obligations (Actual 12/31/13) Note that for the RPTTF, 3 + 4 should tie to columns L and Q in the Report of PPAs	43,846			577,500		1,768,733		Enforceable Obligation Nos. 20, 21 & 22 on ROPS 14-15A account for the \$72,542 budget corrections needed for ROPS 13-14A and explain the negative number in column H, line 6.
4	Retention of Available Cash Balance (Actual 12/31/13) Note that the RPTTF amount should only include the retention of reserves for debt service approved in ROPS 13-14A								
5	ROPS 13-14A RPTTF Prior Period Adjustment Note that the RPTTF amount should tie to column S in the Report of PPAs								
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4); H = (1 + 2 - 3 - 4 - 5)	\$ 12,706,651					\$ 11,429		
ROPS 13-14B Estimate (01/01/14 - 06/30/14)									
7	Beginning Available Cash Balance (Actual 01/01/14) (C, D, E, G = 4 + 6; F = H4 + F4 + F6; and H = 5 + 6)	\$ 12,706,651							
8	Revenue/Income (Estimate 06/30/14) Note that the RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014						1,600,717		
9	Expenditures for 13-14B Enforceable Obligations (Estimate 06/30/14)	64,377					1,600,717		
10	Retention of Available Cash Balance (Estimate 06/30/14) Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14B								
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ 12,642,274					\$		

July 1, 2014 through December 31, 2014

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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

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.

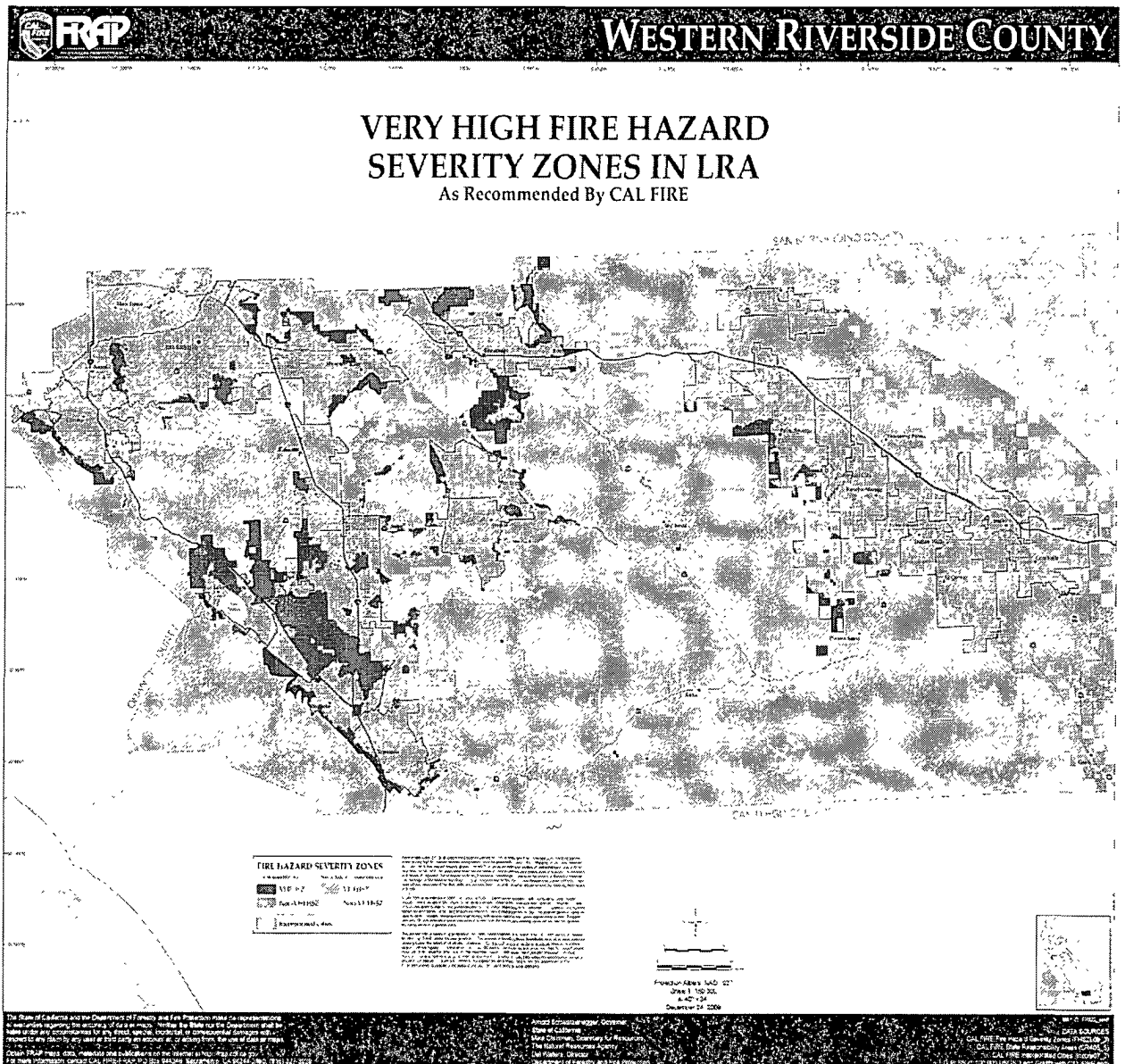
This map will supersede other maps previously adopted by the County of Riverside designating high fire hazard areas.

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.



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
Ord No 1468

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 11th day of February, 2014.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

**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 11th day of February, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

Date: February 11, 2014

TO: City Council

FROM: Duane Burk, Director of Public Works
Bill R. Manis, Director of Economic Development/Public Information Officer

SUBJECT: Report of Project History and Information for the Village at Paseo San Gorgonio Project

RECOMMENDATION: That the City Council receive and file the report on the Village at Paseo San Gorgonio Project.

BACKGROUND: Over the last sixty-five (65) months the Village at Paseo San Gorgonio (“VPSG”) Project has gone through a variety of steps, processes, and phases in getting ready to ultimately break ground. Although the terms and conditions for the VPSG Project was previously reviewed and approved by the City Council in January 2012, many actions and discussions preceded and have post ceded the project approval. This Staff Report walks you through a chronological history of the more significant milestones for the VPSG Project over the last sixty-five (65) months.

Because the 5.25 acre VPSG property was owned by the former City of Banning Community Redevelopment Agency (“former RDA”) the January 2012 approval process included making specific findings under Section 33433 of the California Health and Safety Code. It also included reviewing and approving the terms of a Purchase and Sale Agreement between the City of Banning and JMA Village, LLC (“Developer”) (Attachment A). The approval process for the VPSG Project was also consistent with the adopted Redevelopment Plan and the 2010-2014 Five-Year Implementation Plan. The Project will implement a primary goal of the former Redevelopment Plan in that it will eliminate physical and fiscal blight in the community. Further, the Project will complement existing businesses in the area by providing jobs, property tax, sales tax, all helping to rejuvenate the downtown area.

The following is an itemized timeline for the VPSG Project:

2008 VPSG Activity

- **September 2008:** initial meeting with Mayor Pro Tem and City Manager;
- **November 2008:** requested Exclusive Negotiation Agreement (“ENA”); and
- **December 2008:** Prepared initial master Plan for overall Downtown Redevelopment.

2009 VPSG Project Activity

- **March 2009:** City Council approval of ENA;
- **June 2009:** Beginning of 30-monthly meetings with City and Developer team; and
- **November 2009:** State of California selects Banning as the location for the new Banning Justice Center and closes escrow.

2010 VPSG Project Activity

- *February 2010:* Developer forms an LLC named “JMA Village LLC;” and
- *April 2010:* Airport Land Use Commission (“ALUC”) project approvals received.

2011 VPSG Project Activity

- *March 2011:* City enters into an agreement (Transfer Agreement) with the former RDA transferring certain Agency-owned parcels to the City of Banning outlining that the City would then undertake the redevelopment activities to implement the agencies projects;
- *May 2011:* the Planning Commission reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring Program (MMP) for the VPSG Project and recommended approval to the City Council and the former RDA of Design Review, and found it consistent with the General Plan;
- *May 2011:* City Press Release of VPSG Project and other community projects; and
- *May 2011:* the City Council and the former RDA adopted the IS/MND and MMP and approved the VPSG Project.

2012 VPSG Project Activity

- *January 2012:* Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions signed by City and JMA Village, LLC;
- *May 2012:* State Department of Finance approves the VPSG property transfer from the former RDA to the Developer;
- *June 2012:* Receipt of Planning Commission and City Council entitlements;
- *July 2012:* Transfer back of property from the former RDA to the City;
- *July 2012:* Project’s off-site work completed;
- *July 2012:* Close of Escrow and Purchase of VPSG land by JMA Village LLC;
- *September 2012:* City’s cost (33433) Report completed for City; and
- *September 2012:* City introduces JMA Village LLC, to Vanir Development Company to explore partnership opportunities.

2013 VPSG Project Activity

- *January 2013:* JMA Village, LLC & Vanir Development Company consummate partnership on the office component of the VPSG Project. New entity is named Banning Office Venture, LLC; and
- *December 2013:* Banning Office Venture, LLC submits Building Plans for their first office building.

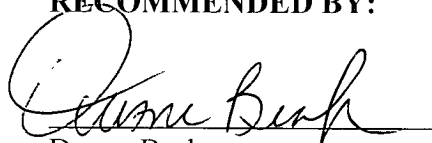
2014 VPSG Project Activity:

- *January 2014:* Riverside County Board of Supervisors approves a seven-year lease (with a five-year option) with County Probation and Banning Office Venture, LLC.

STRATEGIC PLAN: *Goal # 4:* Economic Development Strategic Priority Action Step E-4 , Economic Development Plan, Priority 1. *Goal #5:* Quality of Life Strategic Priority Action Step A-5, Continue to build attractive and walkable Downtown, Priority 1.

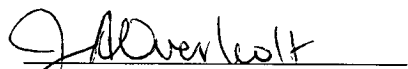
FISCAL DATA: The City will see an increase in property tax, sales tax, employment opportunities, and the removal of blight once the VSPG Project is completed. The project will also encourage vacancy rates to decrease in the downtown due to increased activity and interest.

RECOMMENDED BY:



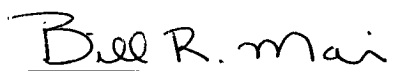
Duane Burk,
Director of Public Works

APPROVED BY:



June Overholt,
Interim City Manager

RECOMMENDED BY:



Bill R. Manis,
Director of Economic Development/
Public Information Officer

Attachment:

- A. January 10, 2012 Staff Report
(HSC 33433 Compliance / Purchase & Sale Agreement)

**CITY COUNCIL
PUBLIC HEARING**

DATE: January 10, 2012

TO: City Council

FROM: Bill R. Manis, Economic Development/Redevelopment Director

SUBJECT: A Report Prepared Pursuant to California Health and Safety Code Section 33433 Regarding the Conveyance of Real Property by the City of Banning to JMA Village, LLC, A California Limited Liability Company and the Development of said Property Pursuant to the Provisions of a Purchase and Sale Agreement

RECOMMENDATION:

Pursuant to the information contained in this report, and Attachments, staff affirms that the negotiations between the Developer and the City have led to a financially viable project for the Developer and the transfer of ownership of the 5.25 acres to the Developer is justified.

Thus, staff is recommending the following:

1. Adopt City Council Resolution No. 2012-3 making and approving certain findings and approvals under Section 33433 of the California Health and Safety Code, and approving a Purchase and Sale Agreement between the City of Banning and JMA Village, LLC; and
2. Authorize the City Manager, on behalf of the City, to execute the attached Purchase and Sale Agreement with the Developer.

OVERVIEW:

Before a Redevelopment Agency may convey its interest in property acquired in whole or in part, directly or indirectly, with tax increment monies, a public hearing must be held by the City Council/Redevelopment Agency. The law requires that an information report ("Information Summary") and a public hearing notice be prepared, and that report be made available to the general public for review and copying. The Information Summary is attached as Attachment 1 to this report and as Exhibit A to the City Council Resolution.

The Information Summary has been filed with the City Clerk of the City of Banning/Community Redevelopment Agency of the City of Banning and was made available to the general public on Friday, December 23, 2011. The Information Summary was noticed on Friday, December 23, 2011, and then again on Friday, December 30, 2011, as required by California Health and Safety Code Section 33433 of the California Redevelopment Law. The Information Summary discusses the background of the 5.25 acre site and the proposed conveyance of the properties to JMA Village, LLC, a California Limited Liability Company (the "Developer"), an entity formed by Arthur Pearlman Corporation and The Frost Company, to implement the development of this project. The Developer is proposing to develop this parcel with approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. office or hotel building, and approximately 12,000 sq. ft. of multi-tenant restaurant building with a mix of food types (the "Project").

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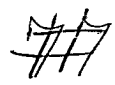
BACKGROUND:

In response to the Governor's proposal to eliminate redevelopment agencies in California, the Community Redevelopment Agency for the City of Banning (Agency") entered into an agreement ("Transfer Agreement") to transfer certain Agency-owned parcels to the City of Banning ("City") on March 8, 2011, where the City would undertake the redevelopment activities to implement the Agency's projects. Among other matters, pursuant to the Transfer Agreement the City is required to conform with the requirements of Section 33433 of the California Community Redevelopment Law ("CCRL") prior to the approval of the disposition of any land that was transferred to the City pursuant to the Transfer Agreement. The Purchase and Sale Agreement ("PSA") concerns the disposition and development of the Site (as hereinafter defined) for which some of the parcels that constitute the Site were transferred to the City by the Agency pursuant to the Transfer Agreement. The PSA is attached as Attachment 2 to this report and as Exhibit B to the City Council Resolution. The City Council Resolution is attached as Attachment 3 to this report.

This report, and its attachments, provides an analysis of the costs associated with the conveyance and development of the proposed 5.25 acre Project. The 5.25 acre Project is bounded by the southern boundary of East Ramsey Street on the north, the southern boundary of Livingston Street on the south, the western boundary of Martin Street on the east and several "not a part" parcels on the west. The Project specifically includes all of Assessor Parcel Numbers 541-181-009 thru 012, 541-181-024 thru 028, 541-183-001 thru 004 and vacated rights-of-way as depicted on Tentative Parcel Map No. 36285. The Project site is located within the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. The Project is more particularly described in City Council Resolution No. 2011-44, Community Redevelopment Agency Resolution No. 2011-20, Planning Commission Resolution No. 2011-02, Design Review No. 10-702, Tentative Parcel Map No. 36285 and the Conditions of Approval (collectively, the "Land Use Entitlements").

The intent of this project is to effectuate the redevelopment of the Site, with subsequent benefit of providing a high quality 68,955 sq. ft. mixed-use multi-tenant commercial/retail development. As outlined in the attached Information Summary, the Agreement is part of a greater program effort designed to eliminate blight in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. When the Agency acquired the parcels that make up the Project, the structures located on the site were considered economically obsolete and exhibited severe conditions of physical degradation and dilapidation.

The proposed Project is consistent with the adopted Redevelopment Plan and the 2010-2014 Five-Year Implementation Plan. One of the primary goals of the Redevelopment Plan is to eliminate physical and fiscal blight in the redevelopment project area. One of the primary goals in the Implementation Plan is to *"facilitate the development of Agency-owned, controlled or recently sold property within the Redevelopment Area inclusive of, but not limited to, the Village at Paseo San Gorgonio Project site ("VPSG"), the Justice Center site, industrial property near the airport, 2301 W. Ramsey Street and other sites that have been or may be acquired by the Agency."* The proposed Project will implement the goal of the redevelopment plan in that it will eliminate conditions that would lead to physical and fiscal blight in the community. The proposed Project would help complement existing businesses in the area by providing jobs, property tax, and sales tax.

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ANALYSIS:

Attachments 1 and 2 of this report provide the terms and conditions related to the City and Developer responsibilities regarding the following:

- The transfer of the properties
- The development of the properties
- Plan review and permitting
- City/Agency assistance
- Financing provisions
- Use covenants
- Remedies in case of default

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

An Initial Study/Mitigated Negative Declaration ("IS/MND") and Mitigation Monitoring Program ("MMP") were completed for the Project and were made available for public review between March 25 - April 25, 2011, or for a period of 30 days. The Land Use Entitlement Process also included Design Review (DR #10-702), Tentative Parcel Map #36285, Conditions of Approval, and consistency with the General Plan regarding property acquisition at 220 E. Ramsey Street. The IS/MND and MMP were submitted to the State Clearinghouse for their distribution to other public agencies. Comment letters were received from the Public Utilities Commission ("PUC"), Caltrans District 8, and Morongo Band of Mission Indians and comments received were addressed during project review.

On May 4, 2011, the Planning Commission reviewed the IS/MND and MMP for the VPSG Project and recommended approval to the City Council and the Community Redevelopment Agency of Design Review (DR) #10-702, Tentative Parcel Map (TPM) #36285, and finding of consistency with the General Plan related to property acquisition at 220 E. Ramsey Street subject to conditions of approval. On May 24, 2011, the City Council and the Community Redevelopment Agency adopted the IS/MND and MMP and approved the VPSG Project.

CRL SECTION 33433 FINDINGS:

The CCRL requires that the Agency provide certain findings when purchasing or conveying property with tax increment financing. Health and Safety Code Section 33433 findings are referenced in this report and have been provided in Attachments 1 and 2, and also attached as Exhibits A and B to the City Council Resolution.

PUBLIC HEARING NOTICE:

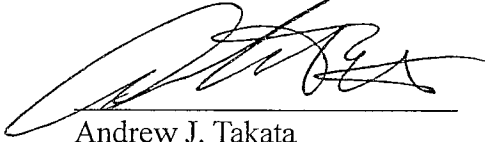
The Public Hearing Notice for this project was published in the Record Gazette on Friday, December 23, 2011 and Friday, December 30, 2011.

FISCAL IMPACT:

The summary of Agency costs and the net cost to Agency are disclosed in Attachment 1 as part of the 33433 report. The Agency incurred expenses in the amount of approximately \$3,976,623. This amount will be offset by approximately \$1,101,600 of land sale proceeds and purchase money loan interest resulting in a net cost to the Agency of approximately \$2,875,023.

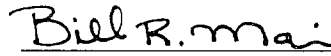
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RECOMMENDED BY:



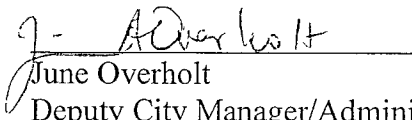
Andrew J. Takata
City Manager

PREPARED BY:



Bill R. Manis
Economic Development/Redevelopment Director

REVIEWED BY:



June Overholt
Deputy City Manager/Administrative Services Director

Staff Report Attachments:

1. Information Summary
2. Purchase and Sale Agreement
3. Resolution No. 2012-3

City Council Resolution Exhibits

- A. Information Summary
- B. Purchase and Sale Agreement

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ATTACHMENT 1

Information Summary

**INFORMATION SUMMARY
FOR PROPOSED
PURCHASE AND SALE AGREEMENT
WITH
JMA VILLAGE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
(For the disposition and development of certain real property)
"33433 REPORT"**

This summary was prepared for the City of Banning (the "City") pursuant to Section 33433 of the California Community Redevelopment Law (Part 1 of Division 24 of the Health and Safety Code, the "CCRL") with respect to that certain Purchase and Sale Agreement (the "PSA") between the City and JMA Village, LLC, a California Limited Liability Company (the "Developer"). On March 8, 2011, the City and the Community Redevelopment Agency of the City of Banning (the "Agency") entered into an agreement to transfer certain Agency-owned parcels to the City, subject to certain conditions (the "Transfer Agreement"). Among other matters, pursuant to the Transfer Agreement the City is required to conform with the requirements of Section 33433 of the CCRL prior to the approval of the disposition of any land that was transferred to the City pursuant to the Transfer Agreement. The PSA concerns the disposition and development of the Site (as hereinafter defined) for which some of the parcels that constitute the Site were transferred to the City by the Agency pursuant to the Transfer Agreement.

The PSA pertains to the development of an approximately 68,955 sq. ft. mixed-use multi-tenant commercial/retail project (the "Project") on an approximately 5.25-acre site bounded by the southern boundary of East Ramsey Street on the north, the southern boundary of Livingston Street on the south, the western boundary of Martin Street on the east and several "not a part" parcels on the west, which specifically includes all of APNs 541-181-009 thru 012, 541-181-024 through 028, 541-183-001 through 004 and vacated public rights-of-way as depicted on TPM # 36285 (the "Site"). The Site is located within the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. The Project is more particularly described in City Council Resolution No. 2011-44, CRA Resolution No. 2011-20, Planning Commission Resolution No. 2011-02, Design Review (DR) #10-702, TPM # 36285 and the Conditions of Approval (collectively, the "Land Use Entitlements").

1. **Cost of Project to Agency:** Over a period of several years the Agency has incurred expenses or is obligated to expend funds in the amount of approximately \$3,976,623 for property acquisition, tenant relocation, demolition and/or removal of structures and improvements, soil remediation and professional studies/analyses that are directly related to Site. This amount will be offset by approximately \$1,101,600 of land sale proceeds and purchase money loan interest resulting in a net cost to the Agency of approximately \$2,875,023. This conclusion is based upon the following data:

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- a. **Land Acquisition Cost:** The Agency's records reflect the following land acquisition costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
150 E. Ramsey	\$1,820,544	Closed
220 E. Ramsey	75,000	Pending
280 E. Ramsey	660,000	Closed
50 S. Alessandro	<u>601,018</u>	Closed
TOTAL:	\$3,156,562	

It is important to note that:

- 150 E. Ramsey consists of APNs 541-181-009 through 012 and 541-181-024 through 028;
- 220 E. Ramsey is APN 541-183-001;
- 280 E. Ramsey is APN 541-183-004; and
- 50 S. Alessandro consists of APNs 541-183-002 and 003.

Further, the ultimate cost of 220 E. Ramsey is subject to a superior court determination.

- b. **Clearance Costs:** The Agency's records reflect the following clearance costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
150 E. Ramsey	\$99,900	Completed
280 E. Ramsey	114,770	Completed
150, 220 & 280 E. Ramsey	<u>210,000</u>	Pending
TOTAL:	\$424,670	

The pending costs associated with 150, 220 and 280 E. Ramsey are related to the removal of underground storage tanks and other subterranean structures. The amount shown is an estimate prepared by the City's Department of Public Works.

- c. **Relocation Costs:** The Agency's records reflect the following relocation and loss of goodwill costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
280 E. Ramsey (L & R Auto Body)	\$150,000	Moved
280 E. Ramsey (Los Bros. Tires)	<u>53,115</u>	Moved
TOTAL:	\$203,115	

- d. **Improvement Costs:** The Agency has not incurred any improvement costs.

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- e. **Finance Costs:** None.
- f. **Other Costs:** In addition to the foregoing, the Agency has incurred the following indirect costs associated with the acquisition of the Site:
- \$12,500 for professional services related to acquisition and relocation services performed by Overland Pacific Cutler (i.e., for 220 & 280 E. Ramsey Street);
 - \$7,500 for appraisal services performed by Saddleback Realty Analysis, Inc., DBA Integra Realty Resources – Orange and Riverside Counties (i.e., for 220 & 280 E. Ramsey Street);
 - \$10,000 for appraisal services performed by Villegas Appraisal Company (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$26,766 for Phase I and Phase II environmental analyses prepared by Geo Tek, Inc. (i.e., for 220 and 280 E. Ramsey Street);
 - \$2,200 for Phase I environmental analyses prepared by Terra Nova Environmental Services, LLC (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$7,515 for Phase II environmental analyses prepared by Geo Tek, Inc. (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$39,600 for real estate brokerage fees paid to NAI Capital Commercial Real Estate Services (i.e., for 280 E. Ramsey Street);
 - \$58,350 for an Environmental Impact Report for the demolition of the former San Geronio Inn building prepared by Romo Planning Group, Inc. (i.e., for the structure previously located at 150 E. Ramsey Street);
 - \$14,105 for an Historical Resource Evaluation Report prepared by Romo Planning Group, Inc. (i.e., for the structure previously located at 150 E. Ramsey Street);
 - \$2,740 for an Historical Building Research Analysis prepared by CRM TECH, Inc. (i.e., for the structure previously located at 280 E. Ramsey Street); and
 - \$11,000 for miscellaneous closing costs attributable to the Site (rounded).

On a combined basis, the Agency has incurred approximately \$192,276-worth of indirect costs associated with the acquisition of the Site.

- g. **Offsetting Revenue:** The sum of the above costs (i.e., items "a" through "f") is \$3,976,623, which represents the Agency's current total investment in the Site. These costs are offset by the \$1,020,000 in land sales proceeds. It is also important to note that the PSA calls for the purchase price to be financed with a purchase money loan. The maximum term on the loan is 24 months from the date escrow closes. The parties have negotiated a fair market simple interest rate of 4.00%. By way of comparison and as of the date of this report, the interest rate proposed for the Agency Loan is .75% above the Prime Rate and is equal to the SBA 504 Program rate. Given these parameters, Urban Futures, Inc. concurs that the interest rate proposed for the purchase money loan is fair and reasonable.

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Pursuant to the note, any remaining principal and interest due shall be paid in a lump-sum on a date that is subsequent to the accomplishment of all the conditions precedent thereto, as defined in the PSA, or not later than 24 months from the date that escrow closes. The note allows the Developer to pre-pay any amount prior to completion of the term of the note and to receive offsetting credit (as described in Section 2, below), without penalty. Based on the proposed rate and assuming the full principal amount is outstanding, the purchase money loan will generate \$3,400 of interest earnings per month during the term of the loan. If the entire purchase money loan remains outstanding for its full 24-month term, the loan will generate a total of up to \$81,600 of interest earnings (assumes no partial repayment or offsetting credit).

Notwithstanding the foregoing, the PSA includes certain City-related performance responsibilities pertaining to the completion of the assembly of the Site that are prerequisite to the Developer obtaining a commercial policy of title insurance for the Site that is acceptable to its first lender. In the event that the City is unable to meet its obligations with respect to this matter within 24 months of the close of escrow on the Site, the Developer has the option of terminating the PSA, transferring the Site to the City and extinguishing the note without any obligation to pay either the principal or interest that would have otherwise been due. In addition, to the extent that the Developer has received any offsetting credit (as described in Section 2, below), the City will be required to reimburse the Developer for such expenses.

Assuming the Project proceeds in the matter contemplated in the PSA and is consistent with the assumptions noted above, the sum of the above noted sources is \$1,101,600 (i.e., $\$1,020,000 + \$81,600 = \$1,101,600$). Therefore, Urban Futures, Inc. projects on a net basis that the Agency's overall costs for the project will be approximately \$2,875,023 (i.e., $\$3,976,623 - \$1,101,600 = \$2,875,023$).

2. Estimated value of interest to be conveyed or leased, determined at highest and best use permitted by the Redevelopment Plan:

In order to determine the estimated value of the interest to be conveyed, staff engaged the services of Saddleback Realty Analysis, Inc., DBA Integra Realty Resources – Orange and Riverside Counties ("Integra"). Larry Webb, MAI and Diane Lawler, both Certified General Real Estate Appraisers, prepared the Appraisal for the Site. The Appraisal was prepared in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP"), the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and the appraisal regulations issued in connection with the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA").

It was requested that Integra determine the most probable price for which the Site should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. The appraisal for the site is dated May 12, 2011. The date of value is May 6, 2011. The appraisal is on file with the City. Based upon the value analysis included within the appraisal and subject to the definitions,

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assumptions and limiting conditions expressed therein, Integra concluded that the "Fair Market" value of the Site at its highest and best use as of May 6, 2011 is \$1,020,000.

It is important to state that in determining this value, the appraiser assumed that the improvements on the Site (including all structures, underground storage tanks ["UST"] and paving on APNs 541-183-001 through 004) were demolished or removed. As of the date of this report, all of the structures on the site have been removed and the paving on APNs 541-183-002 through 004 has been removed. However, due to the August 11, 2011 California Supreme Court stay on certain redevelopment agency operations, the Agency has not been able to remove the paving on APN 541-183-001 and USTs on the Site. The costs associated with the removal of these improvements are included in the amount indicated in Section 1 b., above, and are considered an Agency obligation. In order to account for these costs, the PSA includes provisions that transfers the Agency's obligation to cause the removal of these items to the Developer in exchange for the Developer receiving a dollar for dollar credit against the above described note.

The Appraiser also assumed that the Site is free from environmental contamination. With respect to this issue, Agency staff engaged the services of Geo Tek, Inc., an environmental engineer. In their Phase II Environmental Site Assessment, Geo Tek, Inc. indicated that their examination of the property did not revealed evidence of subsurface contamination resulting from the underground storage tanks, oil/water separator, or hydraulic lifts at the Site. Consequently, they did not recommend any additional investigation at this time. However, due to the numerous anomalies they detected below the surface of the Site, they recommended that their personnel be present during excavation of the USTs and Site grading activities in the event that an unforeseen environmental condition is discovered.

Therefore, pursuant to the PSA, the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

3. Estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants and development costs required by the sale or lease:

The Project will be developed in full accordance with the Land Use Entitlements, which do not affect or cause any unusual conditions, covenants and/or development costs. Therefore, pursuant to the PSA the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

4. The purchase price or sum of the lease payments which the lessor will be required to pay during the term of the lease:

Pursuant to the PSA, the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

5. Explanation of the reason (if applicable) why the sales price or lease rate paid to the Agency may be less than market value of the property as determined at its highest and best use:

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Not applicable. The sale price of the Agency parcels is at fair market value.

6. Explanation of why the sale or lease of the property will assist in the elimination of blight:

This PSA is part of a greater program effort designed in part to eliminate blight in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. For multiple decades the Site has been used for a variety of multi-tenant small-scale commercial purposes. As noted in Section 1 b. funding has been allocated for clearance costs. At the time that the Agency or City acquired the parcels that make up the Site, the structures located on the Site were considered economically obsolete and exhibited severe conditions of physical degradation and dilapidation. As noted above, all of the structures previously located on the Site have been removed, which has specifically eliminated blighting conditions. Pursuant to the PSA, the Developer is obligated to remove the USTs and certain obsolete paving which will also specifically eliminate existing blighting conditions.

Section 33031 (b) of the CCRL describes economic conditions that cause blight as follows:

- a. Depreciated or stagnant property values.
- b. Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).
- c. Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.
- d. A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.
- e. Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.
- f. An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.
- g. A high crime rate that constitutes a serious threat to the public safety and welfare.

Based on the above, the following describes the types of outcomes that could occur as a result of commercial vacancies:

- i. Property values may depreciate or stagnate;

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- ii. Additional vacancies, degradation of lease rates and increase in abandoned buildings may occur.
- iii. A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions may occur.
- iv. Crime rates may increase to the point of becoming a serious threat to the public safety and welfare.

Among other reasons, the Agency acquired the Site to: i) enhance the economic vitality of the commercial core of the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area; ii) remove existing conditions of blight present on the Site; and iii) prevent the further spread of economic blight. The proposed PSA will facilitate these objectives through the development of an approximately 68,955 sq. ft. mixed-use multi-tenant commercial/retail project. The Project will bring new commercial buildings and tenants into the City thereby increasing the community's economic vitality and activity in general and in the downtown core area in particular. The increased level of economic activity in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area will assist in the avoidance of future commercial vacancies that may have otherwise contributed to possible conditions that would have caused blight, as described above. Further, not only will the physical aspects of the Project contribute to revitalizing the downtown core area and thus aid in reversing possible conditions that would have caused blight in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area, the Project will also add a significant number of employment opportunities to the City. As noted in the June 24, 2011 study prepared by economist Evans, Carroll & Associates, Inc., the Project has a job creation capability of approximately 480 direct, indirect and induced jobs.

7. Economic benefits of the Project:

The Project will consist of approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. office or hotel building, and an approximately 12,000 sq. ft. multi-tenant restaurant building with a mix of food types. For the purposes of this analysis, 10 years is used as the performance measurement period because it approximates the period of time that the Redevelopment Agency may collect tax increment from the original Downtown Redevelopment Project area after the Project is completed.

ANALYSIS OF ESTIMATED SALES TAX GENERATING POTENTIAL

Miscellaneous Retail

The latest information available for estimating retail store taxable sales potential (published by the Hdl Companies [FY 2009-10]) indicates that the taxable sales potential for miscellaneous retail ranges between \$100 and \$900 per square foot per year. The average taxable sales potential for miscellaneous retail ranges between approximately \$160 and \$320 per square foot per year. Since the retail users are currently unknown as of the date of this report, the average taxable sales potential is used in this analysis.

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Based on this, it is possible that the taxable sales potential for the 13,500 square foot Multi-tenant mixed retail component of the Project could be between \$2,160,000 and \$4,320,000 per year, if fully occupied. If these sales levels are achieved, the potential sales tax revenue attributable to the City could be between \$21,600 and \$43,200 per year.

Restaurants

The Project will include 12,000 square feet of multi-tenant restaurant space in the fast casual and/or family dining category. The latest information available for estimating fast casual and/or family dining restaurant taxable sales potential (published by the Hdl Companies [FY 2009-10]) indicates that the taxable sales potential for fast casual and/or family dining restaurant ranges between \$250 and \$700 per square foot per year. The average taxable sales potential for fast casual and/or family dining restaurant ranges between approximately \$375 and \$600 per square foot per year. Since the fast casual and/or family dining restaurant users are currently unknown at this time, the average taxable sales potential is used in this analysis. Based on this, it is possible that the taxable sales potential for the fast casual and/or family dining restaurant component of the Project could be between \$4,500,000 and \$7,200,000 per year. If these sales levels are achieved, the potential sales tax revenue attributable to the City could be between \$45,000 and \$72,000 per year.

Combined Basis

Based on the above, on a combined basis it is estimated that the retail/restaurant component of the Project could generate potential sales tax revenue attributable to the City during its first full year of operation (i.e., FY 2012-13) in the range of \$66,600 and \$115,200. During the first 10 years of full operations (i.e., post FY 2012-13) and assuming a 2% growth rate beginning during FY 2014-15, the Project is estimated to generate between \$729,000 and \$1,261,000 in total sales tax revenue (rounded). Of this amount, at least 50% is estimated to be new revenue to the City.

ANALYSIS OF ESTIMATED BUSINESS LICENSE REVENUE POTENTIAL

Based on the City's current schedule of business license fees, it is estimated that beginning during FY 2012-13 the Project will generate between \$2,610 and \$3,350 per year of business license fee revenue. This is estimated based on the following number of businesses and their employment levels:

<u>Employment Range</u>	<u>No. of Businesses</u>	<u>Applicable Tax</u>
21 to 25	2	\$275.00
6 to 10	16 to 20	\$110.00
0 to 5	6 to 8	\$50.00

During the first 10 years of full operations (i.e., post FY 2012-13) and assuming a 2% growth rate in business license fees beginning during FY 2013-14, the Project is estimated to generate between \$29,000 and \$37,000 in total business license fees (rounded).

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ANALYSIS OF ESTIMATED TAX INCREMENT REVENUE POTENTIAL

The Project site consists of approximately 5.25 acres of land divided among 15 separate parcels. The City and Agency do not have complete records with respect to the combined base value of the 15 parcels that comprise the Site. Consequently, it was necessary to estimate the applicable base value. Therefore, based on the data available and on information provided by City staff, UFI has estimated that the combined base value of the 15 parcels that comprise the Site is approximately \$1 million. Based on UFI's experience, the assumed \$1 million-worth of assessed base value is, therefore, a reasonable starting point.

The Developer has estimated that the Project's all-in development value (theoretically, the new assessed value) will be \$20.5 million. The differential between the two values is \$19.5 million, which represents the growth in assessed value directly attributable to the Project. The Project is anticipated to be completed during spring of 2013. However, for property tax roll purposes, the incremental value will not fully appear on the tax rolls until FY 2013-14. Therefore, for the purposes of this analysis, \$9.5 million in incremental value is reflected during FY 2012-13 and \$9.5 million in additional incremental value is reflected during FY 2013-14.

The combination of the LMI Housing set-aside and the tax increment pass through payments are projected to be approximately 36% of the total. Based on the foregoing, during FY 2012-13, the Project is estimated to generate approximately \$62,400 in net new non-housing tax increment revenue. Beginning during FY 2013-14, the Project is estimated to generate approximately \$124,800 in net new non-housing tax increment revenue. During the remaining period during which the Agency may collect tax increment from the original Downtown Redevelopment Project area (i.e., 10 years) and assuming a 2% growth rate beginning during FY 2012-13, the Project is estimated to generate a total of approximately \$1.4 million of net new non-housing tax increment revenue (rounded).

SUMMARY OF ESTIMATED ECONOMIC BENEFITS:

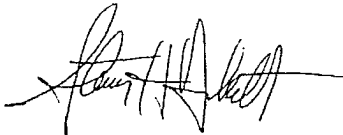
Jobs:	480 direct, indirect and induced jobs
Sales Tax:	\$66,600 to \$115,200 first year \$729,000 to \$1,261,000 over 10 years
Business License:	\$2,610 to \$3,350 first year \$29,000 to \$37,000 over 10 years
Tax Increment:	\$124,800 first year after completion \$1.4 million over 10 years
Building Permit:	\$1,633,000-worth of permit fees are projected for the Project by the Developer (does not include TUMF)

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These additional jobs, tax revenues and permit fees will assist the City and Agency in removing blight within Downtown Redevelopment Project component area of the Merged Redevelopment Project Area as well as promoting economic development, job creation and affordable housing projects and programs.

Certification: I certify that this report complies with the reporting requirements of Section 33433 of the CCRL. Further, I do not have a present or perspective interest in the Site, the PSA or the parties to the PSA. My engagement to prepare this report was not contingent upon developing or reporting predetermined results. The statements of fact contained herein and the substance of this report are based on public records, data provided by the City or Agency, reports provided by its consultants or as otherwise noted herein. This report reflects my personal, unbiased professional analyses, opinions and conclusions. If any of the underlying assumptions related to the PSA change after the date provided below, then the undersigned reserves the professional privilege to modify the contents and/or conclusions of this report.

Respectfully Submitted,
URBAN FUTURES, INC.

A handwritten signature in black ink, appearing to read 'Steven H. Dukett', written over a horizontal line.

STEVEN H. DUKETT
Managing Principal

Dated: December 23, 2011

ATTACHMENT 2

Purchase and Sale Agreement

AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

Escrow No. _____

Date of Opening of Escrow: _____, 2012

To: Escrow Holder
Chicago Title Company
560 E. Hospitality Lane
San Bernardino, CA 92408

Attn: Sandra L. Olson, Escrow Officer
Phone: (909)381-6722; Email: Sandra.olson@ctt.com

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (this “**Agreement**”) is made this ____ day of January, 2012, by and between THE CITY OF BANNING, a California general law municipality (“**Seller**” and occasionally herein “**City**”), and JMA Village, LLC, a California limited liability company (“**Buyer**”).

RECITALS

A. This Agreement pertains to the conveyance to Buyer of those certain parcels of vacant real property consisting of a total of 5.25 acres, or 228,690 square feet, in the City of Banning bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street, which property is more particularly described on **Exhibit “A”** attached hereto (the “**Site**”).

B. A portion of the Site is under ownership of a third-party, although such third-party parcel is currently the subject of eminent domain proceedings pursuant to which the Seller expects to obtain title to said parcel. Accordingly, the Site consists of two distinct sub-parcels representing different ownership interests:

1. *City-Owned:* All those portions of the Site owned in fee by Seller are legally described at **Exhibit “B”** hereto (the “**City Property**”).
2. *Third-Party Owned:* Seller owns in fee title all portions of the Site except for one parcel approximating 15,374 square feet, which is legally described in **Exhibit “C”** attached hereto (the “**Third-Party Parcel**”). The Third-Party Parcel is currently the subject of an eminent domain proceeding by which the Seller seeks to obtain title to such Parcel. Buyer’s acquisition of fee title to the Third-Party Parcel under this Agreement is conditioned upon the ability of Seller to first acquire title to such Parcel in the name of the City of Banning.

C. City's predecessor on interest on the Site was the Banning Redevelopment Agency ("Agency") which is a community redevelopment agency existing and formed pursuant to the Community Redevelopment Law (H&S §§ 33400 *et seq.* ("CRL"). On March 8, 2011, the Agency transferred much of its property to the City of Banning pursuant to a transfer agreement (the "Transfer Agreement"), which Transfer Agreement permitted the City to transfer parcel of property to third parties provided that the City complied with aspects of the CRL to the greatest extent possible. Accordingly, the City has prepared and approved a 33433 report to accompany this Agreement, the hearing on which report was held on January 10, 2012, .

D. Buyer proposes to purchase the Site for purposes of developing the Site as a mixed-use, downtown commercial hub consisting of approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. hotel building, and an approximately 12,000 sq. ft. multi-tenant restaurant building with a mix of food types (the "**Project**"). Buyer's site plans and preliminary designs for the Project are attached hereto as **Exhibit "D"**. The Project will be further reflected in a Final Map to be recorded on the Site pursuant to California Government Code Section 66466 (the "**Final Map**"). The design of the Project shall be consistent with the City's design guidelines. Buyer shall also obtain architectural review and approval for the Project from the City's Planning Commission. Buyer will be solely responsible for obtaining all approvals and entitlements for the Project, arranging the financing for the Project, and constructing all improvements upon the Site, subject to the terms and conditions of this Agreement.

E. It is anticipated that the Final Map will divide the Site into four (4) parcels reflecting four distinct Project phases, substantially as follows:

1. **The "Restaurant Parcel"**: That portion of the Site consisting of approximately .77 acres to be dedicated to the construction and operation of a single restaurant tenant. The restaurant tenant occupying the Restaurant Parcel shall be subject to the reasonable approval of Seller.
2. **The "Hotel Parcel"**: That portion of the Site consisting of approximately 1.85 acres to be dedicated to the construction and operation of a single hotel tenant. The hotel tenant occupying the Hotel Parcel shall be subject to the reasonable approval of Seller.
3. **The "General Retail Parcel"**: That portion of the Site consisting of approximately .78 acres to be dedicated to the construction and operation of a mixed retail and small restaurant complex.
4. **The "Retail/Office Parcel"**: That portion of the Site consisting of approximately 1.85 acres to be dedicated to the construction and operation of a mixed retail and small offices complex.

F. The above-listed parcels are occasionally herein referred to herein individually as a "**Parcel**" and collectively as "**Parcels**". A tentative tract map showing the proposed boundaries of the four Project Parcels is attached hereto as **Exhibit "E"**. Project improvements to each of the Parcels are referred to herein as a "**Phase**" and these Phases are more specifically

named respective to each Parcel to as the “**Restaurant Phase**”, “**Hotel Phase**”, “**General Retail Phase**”, or “**Retail/Office Phase**”. The boundaries for each Parcel are based on Buyer’s preliminary designs and may be amended prior to approval of the Final Map by the City of Banning, excepting that Buyer shall first comply with any additional planning review or other City procedures necessary should a change to Project designs or parcel configurations be substantial enough to require Buyer to acquire new Project approvals or permits.

G. As a material condition of Seller’s conveyance of the Site to Buyer, Buyer shall adhere to the following general Project construction schedule (subject to mutually-agreed written amendment by the parties):

1. Vertical construction on at least one Phase shall commence no later than February 1, 2014.
2. Vertical Construction on at least a second Phase shall commence no later than February 1, 2015.
3. Vertical Construction on at least a third Phase shall commence no later than February 1, 2016.
4. Vertical Construction on at least a fourth Phase shall commence no later than February 1, 2017.
5. Completion of all Project improvements by February 1, 2018.

H. The fair market value of the Site was appraised at \$1,020,000.00 (or \$4.46/sq. ft.) on May 6, 2011, which fair market value shall constitute Buyer’s “**Purchase Price**” for the entire Site. Buyer shall purchase all Seller’s right, title and interests to the Site pursuant to a “**Promissory Note**” in favor of the Buyer for the full Purchase Price, which note shall become immediately due and payable upon the earlier of either (i) Buyer’s commencement of construction of vertical Project improvements, or (ii) Two (2) years from the close of escrow hereunder. The Promissory Note shall be secured through a “**Deed of Trust**” recorded upon the Site, which Deed of Trust shall be released on a Parcel-by-Parcel basis as Buyer completes each Project Phase.

NOW, THEREFORE, based on the above recitals, which are deemed true and correct and which are incorporated into the terms of this Agreement, and in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PURCHASE AND SALE OF PROPERTY.

1.1 Generally. Buyer hereby agrees to purchase from Seller, and Seller agrees to sell to Buyer all Buyer’s rights, title and interests to the Site upon the terms and conditions hereinafter set forth.

1.2 As to Third-Party Parcel. From and after the date of this Agreement, Seller, or one of its affiliate agencies, shall attempt to acquire the Third-Party Parcel from the current owners of the Third-Party Parcel by negotiated purchase; provided, however, that nothing in this Agreement shall obligate Sellers or their related agencies to (i) pay more than the amount Seller has determined to be the fair market value of the Third-Party Parcel, nor (ii) to agree to any other non-standard terms or conditions except as may be acceptable to Seller in its sole and absolute discretion.

2. OPENING OF ESCROW; CLOSING DATE.

2.1 Opening of Escrow. Within three (3) business days after the execution of this Agreement by Buyer and Seller and approval by the Banning City Council, the Parties shall open an escrow ("**Escrow**") with the Escrow Holder identified above, (herein the "**Escrow Holder**") by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to Escrow Holder ("**Opening of Escrow**"). Escrow Holder shall fax written notice of the Opening of Escrow date to Buyer and Seller.

2.2 Closing Date. With the exception of the Third-Party Parcel, Escrow shall close *no later than* thirty (30) days following opening ("**Closing Date**"), unless extended by mutual written agreement of the parties. The terms the "**Close of Escrow**" and/or the "**Closing**" are used herein to mean the time the Grant Deed (as hereinafter defined) is recorded in the Office of the County Recorder of Riverside County, California. Close of Escrow on the Third-Party Parcel may close later than thirty (30) days following opening and shall not occur until all the Conditions of Closing stated in Section 5.2 have occurred.

3. CONSIDERATION; PROMISSORY NOTE AND DEED(S) OF TRUST.

3.1 Purchase Price. The Purchase Price for Buyer's acquisition of all interests Seller holds in the Site is ONE MILLION, TWENTY-THOUSAND EVEN DOLLARS, (\$1,020,000.00) or \$4.46 per square foot. The Purchase Price is the total compensation to be paid by Buyer to Seller and all-inclusive of (i) Seller's fee interest in the City Property and (ii) any rights, title or interests the Seller may obtain over the Third-Party Parcel.

3.2 Payment of Purchase Price. The Purchase Price shall be paid by a Promissory Note secured by Deed of Trust.

3.3 Promissory Note. The Promissory Note shall be substantially in the form of that attached hereto as **Exhibit "F"** and reasonably acceptable to Buyer and Seller. The Promissory Note shall contain the following provisions: the Note shall be payable to the order of Seller; the principal balance shall accrue simple interest at the rate of four percent (4%) per annum; and the principal balance plus accrued interest shall be paid in one lump sum due no later than two (2) years from the Close of Escrow upon the City Property. The Promissory Note shall be prepayable at any time without premium or penalty but with interest prorated to the date of prepayment; and the principal balance of the Promissory Note, plus accrued interest, shall be due and payable in full upon the sale, transfer or other conveyance by Buyer of the Site, or any portion thereof, securing the Promissory Note.

3.4 Deed(s) of Trust. The Deed of Trust, attached hereto as **Exhibit "G"**, is in a format typically used in the State of California and reasonably acceptable to Buyer and Seller. The Deed of Trust shall secure (i) the Seller's right of reverter in case of a Buyer default, and (ii) repayment of the Promissory Note in whole or part. The rights under the Deed of Trust will be released with respect to each Parcel, as each Parcel is developed. At the time a Subsequent Deed of Trust is recorded on a Parcel, if the Parcel is not thereafter completed with Project improvements pursuant to this Agreement, then the Seller may exercise its right of reverter. The Subsequent Deed of Trust may be subordinated for purposes of financing and Seller will not unreasonably withhold its consent to subordinating a Subsequent Deed of Trust for the purposes of financing the development of the Parcel(s) as described herein. The Escrow Officer shall record the Deed of Trust as follows:

(a) *Upon Close of Escrow & Prior to Final Map Recordation*. Concurrent with the Close of Escrow on the City Property, the Escrow Officer shall record upon the City Property the Deed of Trust, in the form attached hereto as Exhibit "G". If the Third-Party Parcel is acquired by Seller before the recordation of the Final Map, the Deed of Trust in the form attached hereto as Exhibit "G" may, upon transfer of the Third-Party Parcel to Buyer and upon Seller's discretion, also be recorded upon the Third-Party Parcel, such that the Promissory Note and Seller's rights of reverter will be secured by the entire Site.

(b) *After Final Map Recordation; Deed of Trust to be Recorded on Each Parcel*. Once Buyer has obtained City approval of its Final Map for the Project, Seller shall release the single Deed of Trust recorded upon the City Property pursuant to subpart (a), above, and re-secure the Seller's Promissory Note and rights of reverter by recording four new, separate deeds of trust (the "**Subsequent Deeds of Trust**") with one deed of trust recorded upon each Parcel. This shall be accomplished within forty-five (45) days of Final Map approval, subject to the requirement that Buyer hereby agrees to execute said Subsequent Deeds of Trust in a timely manner. So long as the Subsequent Deeds of Trust are presented in a form substantially similar to that of Exhibit "G" (subject to Parcel-specific particulars that will necessarily be added to the Subsequent Deeds of Trust), Seller's failure to promptly execute the Subsequent Deeds of Trust shall constitute a default of this Agreement. The Subsequent Deeds of Trust shall be recorded to reflect the Site's parcelization into the four Project Parcels and securing each Parcel's proportional value to the Purchase Price, substantially as follows:

(i) One Subsequent Deed of Trust shall be recorded upon the Restaurant Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Restaurant Parcel. For example, under current estimates, the Restaurant Parcel will account for approximately 33,541 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Restaurant Parcel would secure \$149,594.

(ii) One Subsequent Deed of Trust shall be recorded upon the Hotel Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Hotel Parcel. For example, under current estimates, the Hotel Parcel will account for approximately 80,586 square

feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Hotel Parcel would secure \$359,414.

(iii) One Subsequent Deed of Trust shall be recorded upon the General Retail Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the General Retail Parcel. For example, under current estimates, the General Retail Parcel will account for approximately 33,976 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the General Retail Parcel would secure \$151,537.

(iv) One Subsequent Deed of Trust shall be recorded upon the Retail/Office Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Retail/Office Parcel. For example, under current estimates, the Retail/Office Parcel will account for approximately 80,586 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Retail/Office Parcel would secure \$359,414.

(c) *Form of Subsequent Deeds of Trust.* Each Subsequent Deed of Trust shall be substantially in the same form as attached hereto at Exhibit "G" (subject to Parcel-specific particulars that will necessarily be added to the Subsequent Deeds of Trust). The boundaries for each Parcel are based on Buyer's preliminary designs and, therefore, both the legal descriptions and Subsequent Deed amounts secured by each Parcel may, at the time of recording the Final Map, be different from those identified in the foregoing subpart (b).

(d) *Release of Subsequent Deeds of Trust.* Each Subsequent Deed of Trust shall be released from its Parcel upon both (i) Buyer's payment of the full Purchase Price and (ii) Buyer's satisfaction of all conditions precedent to the release of Seller's rights of reverter for the Parcel, as described in Sections 12.8(b) hereof.

4. **ADDITIONAL FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.**

4.1 Buyer. Buyer agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, Buyer will deposit with Escrow Holder all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including, without limitation, the following:

(a) A Preliminary Change of Ownership Statement completed in the manner required in Riverside County, if any; and

(b) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

4.2 Seller. Seller agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, Seller will deposit with Escrow Holder such funds and other items and

instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including, without limitation, the following:

(a) A grant deed conveying the City Property to Buyer, or if Seller has secured title to the Third-Party Parcel before the Closing then conveying the whole Site to Buyer, in the form attached hereto as **Exhibit "H" ("Grant Deed")**.

(b) Two duplicate originals of California Form 590 Real Estate Withholding Exemption Certificates in the form required by the California Franchise Tax Board ("**California Residency Affidavit**"); and

(c) An executed copy of the "**CC&Rs**" to be recorded upon the Site, in accordance with Section 11.9 hereof, in substantially the form attached hereto as **Exhibit "I"**.

(d) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

4.3 Recordation, Completion and Distribution of Documents. Escrow Holder will cause the Grant Deed and Deed of Trust to be recorded when (but in no event after the date specified in Section 2.2 above) it can issue the Title Policy in the form described in Section 5.2 below, and holds for the account of Seller the items described above to be delivered to Seller through Escrow, less costs, expenses and disbursements chargeable to Seller pursuant to the terms hereof.

4.4 Escrow Holder Responsibilities. Escrow Holder will not have any responsibilities for the parties' performance of the terms of the Agreement which are to be performed after the 30-day Closing. The parties may execute supplemental escrow terms and instructions into Escrow Holder's general form and consistent with the terms hereof.

5. TITLE MATTERS.

5.1 Approval of Title. Buyer acknowledges that it has received copies of that preliminary title report for the entire Site (both City Property and Third-Party Parcel) dated December 19, 2011, as Order No. 930016309-U50 (the "**Preliminary Title Report**"). By executing this Agreement, Buyer approves all matters contained in the Preliminary Title Report and waives any objections Buyer may have to title exceptions or other matters contained in the Preliminary Title Report. Buyer hereby approves title in the form specified in Section 5.2.

5.2 Title Policy. When Escrow Holder holds for Buyer the Grant Deed in favor of Buyer executed and acknowledged by Seller covering the Site, Escrow Holder shall cause to be issued and delivered to Buyer and Seller as of the Close of Escrow a CLTA standard coverage owner's policy of title insurance ("**Title Policy**"), or, upon Buyer's request therefore, an ALTA extended coverage owner's policy of title insurance, issued by Title Company, with liability in the amount of the Purchase Price, covering the Site and showing title vested in Buyer free of encumbrances, *except*:

(a) All non-delinquent general and special real property taxes and assessments for the current fiscal year;

(b) Those easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matters of record shown on the Preliminary Title Report;

(c) The standard printed exceptions and exclusions contained in the CLTA or ALTA form policy;

(d) The following interests in the Third-Party Parcel, which Seller and/or one of its affiliate agency/bodies shall acquire through eminent domain: Frederick H. L. Huang and Audie P. H. Huang, husband and wife, as community property, as to an undivided one-half interest; and Jen H. Huang, a single man, as to an undivided one-half interest, as tenants in common as to the Third-Party Parcel.

(e) Any exceptions created or consented to by Buyer, including, without limitation, any exceptions arising by reason of Buyer's possession of or entry on the Site.

6. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

6.1 Conditions to Closing on City Property.

(a) *Conditions to Buyer's Obligations.* The obligations of Buyer under this Agreement shall be subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent:

(i) Title Company will issue the Title Policy as required by Section 5.2 of this Agreement.

(ii) Seller has deposited an executed Grant Deed into Escrow.

(iii) An executed Deed of Trust to be recorded upon the City Property has been deposited into escrow.

(iv) Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.

(v) All representations and warranties specified in Section 8.1 are true and correct.

(vi) Buyer's approval of any other conditions specified in this Agreement.

(vii) Seller shall not be in default of any term or condition of this Agreement.

Buyer's approval shall be based upon Buyer's sole and absolute discretion; provided, however, if Buyer has not delivered written notice of approval of the above conditions to Seller and Escrow Holder by the times provided above, or if no time is provided, on or before the Close of Escrow, each such condition shall automatically and conclusively be deemed to have been disapproved by Buyer.

(b) *Conditions to Seller's Obligations.* The obligations of Seller under this Agreement shall be subject to the satisfaction or written waiver, in whole or in part, by Seller of each of the following conditions precedent:

(i) Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.

(ii) An executed Deed of Trust to be recorded upon the City Property has been deposited into escrow.

(iii) An executed copy of the CC&Rs (Exhibit "T") to be recorded upon the City Property has been deposited into escrow.

(iv) Buyer shall not be in default of any term or condition of this Agreement.

If requested by Escrow Holder or Buyer, Seller shall deliver to Escrow Holder and Buyer written notice of satisfaction of the conditions set forth in this Section 6.1.

6.2 Conditions to Closing on Third-Party Parcel if Seller Does Not Hold Title to the Third-Party Parcel Before Closing on the City Property. Conveyance of title to the Third-Party Parcel to Buyer is strictly conditioned upon the Seller obtaining title to the Third-Party Parcel, as further detailed hereafter. If Seller obtains title to the Third-Party Parcel prior to the deadline for Closing on the City Property, then the Third-Party Parcel shall be conveyed to the Buyer in the same manner as the City Property, subject to Section 6.1, and pursuant to a single Deed of Trust (in the form of Exhibit "G"). If however, Seller cannot obtain title to the Third-Party Parcel until after the 30-day Closing deadline for the City Property, Seller shall convey the Third-Party Parcel to Buyer as provided in this Section 6.2.

Seller's failure to obtain title to the Third-Party Parcel, after exercising reasonable efforts to do so, shall not constitute a default of this Agreement or waiver of any of Buyer's obligations hereunder. Notwithstanding the foregoing, if Seller is unable to acquire all or any portion of the Third-Party Parcel, Buyer may elect either (i) to terminate this Agreement, or (ii) to amend the Project plans and to proceed with the development of the Site without the Third-Party Parcel, if and only if the City approves such amended Project plans. If such amended Project plans are not approved by the City, Buyer shall not proceed with the development of the Site and this Agreement shall terminate.

(a) *Possession/Title to Third-Party Parcel to be Assigned to Buyer.* Seller, or its affiliate agency, is currently in the process of seeking possession and title to the Third-Party Parcel pursuant to an eminent domain action pending in the Riverside County Superior Court as *The City of Banning Redevelopment Agency v. Frank H.L. Huang*,

Audie P.H. Huang, et al., Case No. RIC 1109186. Seller shall pursue such acquisition of the Third-Party Parcel with reasonable diligence and, upon acquisition of an order of pre-judgment possession and title to the Third-Party Parcel, commit to assign such rights of possession and title to the Buyer. To this end, Seller shall deposit a copy of the Order of Prejudgment Possession for the Third-Party Parcel into Escrow as soon as such Order is issued. Upon Seller acquiring a right of Prejudgment Possession to the Third-Party Parcel pursuant to the pending eminent domain action, Seller shall assign its rights of possession to Buyer. If Seller shall actually obtain title pursuant to some earlier settlement or a final judgment prior to the 30-day Closing, Seller shall also deposit into escrow a grant deed to the Third-Party Parcel to convey to Buyer all rights, title and interests in the Third-Party Parcel. If title is not obtained until after the 30-day Closing deadline stated in Section 2.2, then there shall be either (i) a simple Closing including the Third-Party Parcel so long as title insurance can be obtained, with the City handling the obligation to deliver title separately outside of escrow when obtained, or (ii) separate closings for the City Property and the Third-Party Parcel.

(b) *Close of Escrow for Third-Party Parcel.* Notwithstanding any other provision of this Agreement to the contrary, if at any time prior to Seller's acquisition to title of the Third-Party Parcel, (i) Seller deposits the Grant Deed and a copy of the Order of Prejudgment Possession for the Third-Party Parcel into Escrow, (ii) Seller tenders possession of the whole Site, including the Third-Party Parcel, to Buyer, and (iii) Seller is diligently proceeding with the eminent domain action seeking the rendering of a final judgment authorizing the taking, (iv) Seller provides such indemnification(s) as Title Company may require to the end of assuring that Seller will obtain a final judgment authorizing the taking of the Third-Party Parcel such that Title Company will issue title insurance on the Third-Party Parcel, and (v) the Title Company commits to issuing title insurance as provided herein; then, subject to the satisfaction or waiver of all the conditions specified in Section 6.1, Buyer shall accept such right of possession and proceed with development of the Site. The date of such transfer of possession from Seller to Buyer shall be treated as the "Close of Escrow" for all purposes of the Third-Party Parcel. In such event, Seller shall exercise reasonable diligence to conclude the eminent domain proceedings and obtain a final order of condemnation terminating all third-party interests in the Site; Seller's title to the Third-Party Parcel shall thereupon be conveyed to Buyer via grant deed.

6.3 Covenant of Seller and Buyer. Buyer and Seller agree to cooperate with one another, at no cost or expense to the cooperating party, in satisfying the conditions precedent to Close of Escrow. Buyer shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to Buyer's performance set forth in Section 6.1(a) and Seller shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to Seller's performance set forth in Section 5.1(b). Additionally, both parties will have cooperated to execute and file a Stipulation for Entry of Judgment in the eminent domain action of *The City of Banning Redevelopment Agency v. Frank H.L. Huang, Audie P.H. Huang, et al.*, Case No. RIC 1109186.

6.4 Termination for Failure of Condition. In the event Buyer fails to approve or disapprove any condition precedent specified in Section 5.1(a) or elsewhere in this

Agreement on or before the date for approval set forth therein, Seller shall notify Buyer of such failure and Buyer shall have a period of five (5) days from receipt of such notice to elect to approve such matter or to disapprove such matter and terminate this Agreement. The failure of Buyer to approve such matter within said five (5) days shall be deemed to constitute disapproval thereof and Buyer's election to terminate. In the event Seller fails to approve or disapprove any condition precedent specified in Section 5.1(b) or elsewhere in this Agreement on or before the date for approval set forth therein, Buyer shall notify Seller of such failure and Seller shall have a period of five (5) days from receipt of such notice to elect to approve such matter or to disapprove such matter and terminate this Agreement. The failure of Seller to approve such matter within said five (5) days shall be deemed to constitute disapproval thereof and Seller's election to terminate.

7. **CONDITION OF SITE; RELEASES/INDEMNITY SITE CONDITION.**

7.1 Environmental Laws. For purposes of this Agreement, "Environmental Laws" shall mean all federal, state or local statutes, regulations, ordinances, codes or rules as such have been or may hereafter be enacted, adopted, amended or supplemented and all common law causes of action relating to the protection of human health or the environment, including without limitations the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 7401, et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601, et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. Section 136, et seq.) and the Clean Air Act, as amended (42 U.S.C. 7401, et seq.), and private rights of action for nuisance, trespass, or damages to property or persons.

7.2 Hazardous Materials. For the purposes of this Agreement, Hazardous Materials shall be deemed to mean asbestos, polychlorinated biphenyls, petroleum or by-products thereof, radioactive materials, or any chemical, material or substance included in the definitions of "hazardous substances", "hazardous materials", "hazardous waste", "toxic substances" and/or words of similar import under any federal, state and local laws, ordinances, rules and regulations whether present or future, relating to and/or dealing with the protection of the environment and/or human health and safety and/or applicable to the generation, handling, manufacture, installation, treatment, storage, use, transportation, discharge, disposal, presence and/or release into the air, soil, water at, above or below ground level (whether accidental or intentional) of such substances or materials.

7.3 As-Is Purchase; Disclaimer of Warranties. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer shall and does agree to take the Site in its current condition AS-IS, WITH ALL FAULTS, all defects and conditions whatsoever then existing on the Site, including any Hazardous Materials (as defined herein above), vaults, debris, pipelines, wells, or other structures that are or may be located in, on, under, or around the Site, whether known or unknown. Buyer assumes all responsibility for any and all such defects, faults, and conditions and shall be responsible for any and all defects in the Site, whether patent or

latent, including, without limitation, the physical, environmental and geotechnical condition of the Site, and the existence of any contamination, Hazardous Materials, within the Site.

Seller makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Site. Buyer acknowledges that, once Buyer obtains title to the Site, any liability of Seller for the environmental condition of the Site shall be extinguished, that Seller shall have no liability for remediating any environmental condition of the Site and that Buyer shall indemnify Seller against any claim or liability relating to the condition of the Site.

7.4 Buyer's Release of Seller. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer shall and does hereby release Seller, its officers, directors, shareholders, affiliates, subsidiaries, heirs, and successors from any and all claims, liabilities, expenses, costs, or damages that Buyer may incur arising from the presence of any Hazardous Materials (as defined herein above) which are or may be located in, on, under, or around the Site, whether or not caused by Seller or any predecessor-in-interest of Seller, and whether or not known to Seller or Buyer at or before the Close of Escrow. Buyer expressly preserves its rights against other parties and does not release, or waive its rights to contribution against, any other party.

7.5 Buyer's Indemnification of Seller. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer hereby agrees to indemnify, defend (by Seller's choice of counsel), and hold harmless Seller, its directors, officers, employees, agents, representatives, heirs, and successors from and against any and all costs, expenses, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from any violation of the Environmental Laws (as defined herein above) including, without limitation, any release, treatment, use, generation, storage, or disposal of Hazardous Materials in, on, under, around, or from the Site at any time before or after close of escrow including, without limitation, the cost of any required or necessary remediation or removal of any such Hazardous Materials, any costs of repair or improvements on the Site or surrounding properties necessitated by such remediation or removal and costs of any testing, sampling, or other investigation or preparation of remediation or other required plans undertaken prior to such remediation or removal. Buyer expressly preserves its rights against other parties and does not release, or waive its rights to contribution against, any other party.

7.6 Indemnification and Release from Liabilities Relating to New Legislation. Buyer acknowledges that it is aware of, and has received advice from legal counsel on, the matter of new legislation effective June 1, 2011, purporting to limit or disenfranchise the authority of local governments to transfer or control assets that are, or once were, owned by a local redevelopment agency. Specifically, the 2011 Assembly Bills ABx1 26 and ABx1 27 became effective on June 29, 2011. ABx1 26 purports to eliminate redevelopment agencies while ABx1 27 allows agencies to continue to exist if they agree to pay to the State a proportional share of \$1.7 billion this year and \$400 million annually in perpetuity. The bills are both the subject of litigation before the California Supreme Court, in which the constitutionality of the bills is being challenged. At this time, it is unknown whether the bills will be upheld in whole or in part or how otherwise the Supreme Court may rule on the

bills. Buyer hereby acknowledges the possibility that ABx1 26 and/or ABx1 27 might be upheld, interpreted or applied in such a manner as to undermine or invalidate (i) Buyer's rights to the Site, and/or (ii) Seller's authority to convey the Site to Buyer. Notwithstanding such risk, Buyer hereby agrees to indemnify, defend (by Seller's choice of counsel), and hold harmless Seller, its directors, officers, employees, agents, representatives, heirs, and successors from and against any and all costs, expenses, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from any application or impact of ABx1 26 and/or ABx1 27 upon (i) Seller's existing rights to the Site, (ii) this Agreement, (iii) Seller's authority to convey the Site to Buyer, (iv) Buyer's authority to acquire the Site, (v) delivery of the Project, or (vi) any other costs or expenses whatsoever that may result to Buyer as a result of ABx1 26 and/or ABx1 27.

7.7 Buyer Assumes All Liabilities Arising After Closing. Buyer assumes ALL liabilities that arise from post-closing events.

7.8 Survival. Notwithstanding any other provision of this Agreement, the provisions of this Article 8 shall survive the Close of Escrow and the delivery of the Grant Deed(s).

8. REPRESENTATIONS AND WARRANTIES BY SELLER.

8.1 Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer, each of which (i) is material and relied upon by Buyer in making its determination to enter into this Agreement; (ii) to the best of Seller's knowledge, is true in all respects as of the date hereof and shall be true in all respects on the date of Close of Escrow on the Site; and (iii) shall survive the Close of Escrow of the purchase and sale of the Site as well as any future transfer of the Site to Buyer or any transferee, successor or assignee of Buyer:

(a) With the exception of the condemnation action on the Third-Party Parcel or the matters stated in 7.6, as disclosed hereinabove, to the best of Seller's knowledge there are no contracts, leases, claims or rights affecting the Site and no agreements entered into by or under Seller shall survive the Close of Escrow that would adversely affect Buyer's rights with respect to the Property, except as heretofore disclosed through the Preliminary Title Report.

(b) Seller has delivered or, within the period required in Section 6.1(a) and Article 4, will have delivered true, correct and complete copies of all the documents and other information specified in Section 6.1(a) and Article 4 in Seller's possession or control (or has reasonable access thereto). To the best of Seller's knowledge, the information contained in the said documents is true and accurate.

(c) With the exception of the condemnation action on the Third-Party Parcel, as disclosed hereinabove, and any items disclosed in the Preliminary Title Report, there are no executory contracts, options or agreements existing (other than this Agreement) relating to the purchase of all or any portion of the Site or any interest therein.

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(d) All federal, state, municipal, county and local taxes, which are actually a direct monetary obligation of the owner of the Site, the nonpayment of which might become a lien on or affect all or part of the Site, which are due and payable prior to the Closing have been paid, or on the Closing Date will have been paid in full.

(e) With the exception of the condemnation action on the Third-Party Parcel, as disclosed hereinabove, since the time of issuance of the Preliminary Title Report, Seller has taken no action to create, nor otherwise caused, any additional encumbrances to title other than those shown on the Preliminary Title Report.

(f) Seller is not a foreign person as defined in Internal Revenue Code Section 1445(f)(3).

8.2 Changed Circumstances. If Seller becomes aware of any fact or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by Seller under this Agreement, whether as of the date given or any time thereafter through the Close of Escrow and whether or not such representation or warranty was based upon Seller's knowledge and/or belief as of a certain date, Seller will give immediate written notice of such changed fact or circumstance to Buyer, but such notice shall not release Seller of its liabilities or obligations with respect thereto. Seller shall issue a certificate as of the Close of Escrow stating that all the representations and warranties contained in Section 8.1 are true and correct as of said date, or setting forth in detail which of such matters are not true and correct. Buyer shall have five (5) days from the receipt of any notice by Seller of the material change of any representation or warranty made by Seller hereunder to terminate this Agreement by providing written notice to Seller and Escrow Holder, and receive return of its Deposit and any other sums deposited in the Escrow.

8.3 No Other Representations or Warranties by Seller. Other than those express representations and warranties contained in this Agreement, Seller makes no other representations or warranties, either express or implied.

9. REPRESENTATIONS AND WARRANTIES BY BUYER.

9.1 "AS-IS" Condition of Site. Buyer represents, acknowledges, and agrees that Buyer is electing to purchase the Site in its "AS-IS, WHERE IS" physical condition pursuant to Article 7.0.

9.2 Buyer Assumes All Liability. Buyer represents and acknowledges that Seller has not agreed to perform any environmental remediation work nor to any offset to the Purchase Price as a result of any physical or environmental condition Buyer discovers on the Site, whether before or after the Close of Escrow.

9.3 Sole Reliance. Buyer represents and acknowledges that it is relying solely upon Buyer's own inspections in purchasing the Site.

9.4 Legislation. Buyer represents that as for the matters disclosed in Section 7.6, Buyer has received advice through its own legal counsel and is not relying on any legal analysis of Seller or Seller's legal counsel.

10. ESCROW PROVISIONS.

10.1 Escrow Instructions. This Agreement, when signed by Buyer and Seller, shall also constitute escrow instructions to Escrow Holder.

10.2 General Escrow Provisions. Escrow Holder shall deliver the Title Policy to the Buyer and instruct the Riverside County Recorder to mail the Grant Deed to Buyer at the address set forth in Section 12.16 after recordation. All funds, if any, received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Riverside County, California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be made by Escrow Holder's check.

10.3 Prorations of Real Property Taxes. Buyer acknowledges that Seller is a governmental agency, not subject to payment of taxes. Accordingly, Buyer shall be solely responsible for payment of taxes accruing after Close of Escrow and/or seeking a refund of any overpayment of taxes from the appropriate taxing agencies. Utilities and other expenses of the Site which are payable by or to the owner of the Site shall be prorated to the Close of Escrow on the basis of a thirty (30) day month and a three hundred sixty (360) day year. Any party who is obligated to pay net amounts based on said final proration shall reimburse the other party said amount within five (5) business days after completion of the final proration. Seller shall receive a credit for any refundable utility or governmental deposits made by Seller with respect to the Site, if any, and shall assign Buyer all rights to refund of same.

10.4 Payment of Costs. Buyer shall pay one hundred percent (100%) of the documentary transfer taxes, escrow fees, recording fees, Title Policy premiums, and the charges for recording the Grant Deed, and the additional portion of the Title Policy premium which is attributable to the additional cost of obtaining any additional coverage requested by Buyer, including the difference between CLTA and ALTA coverage. Seller and Buyer shall each be responsible for their respective attorneys' fees and costs. All other costs of escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder.

10.5 Termination and Cancellation of Escrow. If Escrow fails to close as provided above, Escrow shall terminate automatically without further action by Escrow Holder or any party, and Escrow Holder is instructed to return all funds and documents then in Escrow to the respective depositor of the same with Escrow Holder; provided that any document which has been signed by a party who is not to receive the return of such document, shall be marked "void and of no force or effect" by Escrow Holder before it is delivered. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

10.6 Information Report. The "Reporting Person" within the meaning of Treasury Regulation Section 1.6045-4(e)(5) with respect to the transactions contemplated by this Agreement shall be Escrow Holder. The name and address of Escrow Holder is set

forth on the first page of this Agreement. It is agreed that Escrow Holder is an eligible person under Section 1.6045-4(e)(5)(ii) of said Regulations. Escrow Holder hereby agrees to be responsible for complying with the reporting and other requirements of Internal Revenue Code Section 6045(e) and the income tax regulations promulgated thereunder. Pursuant to said regulations, the address for the transferor and transferee are as set forth for Seller and Buyer respectively in Section 12.16 below, and the identifying information regarding the real estate transferred is the legal description for the Site or portion thereof being transferred. Escrow Holder agrees to file the form required by said regulations between the end of the calendar year in which the Close of Escrow occurs and February 28 of the following calendar year. Buyer and Seller agree (i) to cooperate with Escrow Holder and with each other in completing any report and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including, without limitation, Internal Revenue Service Form 1099-S as such may be hereafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereafter promulgated by the Treasury Department with respect thereto; (ii) that Buyer and Seller, their respective employees and attorneys, and Escrow Holder and its employees may disclose to the Internal Revenue Service, this Agreement or the transaction contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e); (iii) that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information; and (iv) to retain this Agreement for at least four (4) years following the close of the calendar year in which the Close of Escrow occurs.

10.7 Possession. Possession of the Property shall be delivered to Buyer as of Close of Escrow. In the event any personal property remains on the Property following the Close of Escrow, it shall automatically become the property of Buyer.

11. COVENANTS RELATING TO THE PROJECT.

11.1 Restrictions On Transfer. The qualifications and identity of Buyer are of particular concern to the Seller, and it is because of such qualifications and identity that Seller has entered into this Agreement with Buyer. Seller has undertaken an extensive marketing program to identify appropriate users for the Site. The Seller has considered the experience, financial capability, and product being marketed by Buyer and its affiliates, the Site location and characteristics, the public costs of acquiring and developing the Site and return on investment, and the product mix necessary to produce a successful Project. Based upon these considerations, the Seller has imposed the restrictions on transfer set forth in this Agreement.

(a) *Transfer Defined*. As used in this section, the term “**Transfer**” shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Agreement, the Site, or the improvements thereon. A Transfer shall also include the Transfer to any person or group of persons acting in concert of more than fifty percent (50%) of the present ownership and/or control of Buyer in the aggregate taking all Transfers into account on a cumulative basis. In the event Buyer or its successor is a

corporation or trust, such Transfer shall refer to the Transfer of the issued and outstanding capital stock of Buyer, or of beneficial interests of such trust; in the event that Buyer is a limited or general partnership, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the limited or general partnership interest; in the event that Buyer is a joint venture, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the ownership and/or control of any such joint venture partner, taking all Transfers into account on a cumulative basis.

(b) *Transfers Require Approval.* Buyer shall not Transfer this Agreement or any of Buyer's rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of Seller, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant written approval to any assignment by Buyer of its interests in the Site, which assignment requires Seller approval, Seller shall consider factors such as (i) whether the completion of the Project is jeopardized; (ii) the financial strength and capability of the proposed assignee to perform Buyer's obligations hereunder; (iii) the proposed assignee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (iv) how the proposed assignee will complement the other users and uses in the City of Banning downtown area, whether commercial users or otherwise.

In the absence of a specific written agreement with the Seller, prior to the issuance of a Certificate of Completion for the entire Project or any portion thereof, no assignment or transfer by of all or any portion of its interest in the Site or this Agreement (including without limitation an assignment or transfer not requiring Seller approval hereunder) shall be deemed to relieve Buyer or any successor party from any obligations under this Agreement with respect to the completion of the development of the Project with respect to that portion of the Site which is so transferred. In addition, no attempted assignment of any of Buyer's obligations hereunder shall be effective unless and until the successor party executes and delivers to Seller an assumption agreement in a form reasonably approved by the Seller assuming such obligations.

(c) *Exceptions.* The foregoing prohibition shall not apply to any of the following:

(i) Any mortgage, deed of trust, or other form of conveyance for financing, as provided in Section 11.3, but Buyer shall notify Seller in advance of any such mortgage, deed of trust, or other form of conveyance (but only for purposes of financing the Project).

(ii) Any mortgage, deed of trust, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above, provided that the amount of indebtedness incurred in the restructuring or refinancing does not exceed the outstanding balance on the debt incurred to finance the Project, including any additional costs of construction, whether direct or indirect.

(iii) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of any easements or permits needed to facilitate the Site's development.

(iv) A sale or Transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(v) A conveyance of the Site to any entity Buyer Affiliate. **"Buyer Affiliate"** shall mean any entity which owns or controls Buyer, to any entity owned or controlled by Buyer, to any entity owned or controlled by or affiliated with any entity which owns or controls Buyer, or to any entity resulting from a consolidation, or to the surviving entity in case of a merger, to which consolidation or merger Buyer shall be a party, or to an entity to which all or substantially all of the assets of Buyer have been sold.

(vi) Transfers of ownership or control interest between members of Buyer's immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the Buyer's immediate family, or among the entities constituting Buyer.

(d) *Release Of Buyer.* Seller's consent to a Transfer shall not be deemed to release Buyer of liability for performance under this Agreement unless such release is specific and in writing executed by Seller, which release shall not be unreasonably withheld. Upon the written consent of Seller to the complete assignment of this Agreement and the express written assumption of the assigned obligations of Buyer under this Agreement by the assignee, Buyer shall be relieved of its legal duty from the assigned obligations under this Agreement, except to the extent Buyer is in default under the terms of this Agreement prior to said Transfer.

(e) *Buyer To Pay Transfer Costs.* Buyer will pay Seller its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any Transfer.

(f) *Termination; Lease Provisions.* The Transfer restriction in this Section 11.1 terminates upon the recordation of the Notice of Completion for the entire Project.

11.2 Scope Of Development & Schedule Of Performance. The Site shall be developed by Buyer as provided in the Buyer's Scope of Development and Conceptual Plans (Exhibit "D") and the plans and permits approved by the City pursuant to Section 11.4. Notwithstanding any other provision set forth in this Agreement to the contrary, in the event of any conflict between the narrative description of the Project in this Agreement (including

Exhibit "D") and the approved plans and permits, the approved plans and permits shall govern.

(a) *Critical Construction Deadlines.* Once construction is commenced, it shall be diligently pursued to completion, and shall not be abandoned for more than thirty (30) consecutive days, except when due to an Enforced Delay (Section 13.9 hereof). Buyer shall keep the Seller informed of the progress of construction and submit to the Seller written reports of the progress of the construction when and in the form requested by the Seller. Critical Project construction deadlines are as follows:

(i) Vertical construction on at least one Phase shall commence no later than February 1, 2014.

(ii) Vertical Construction on at least a second Phase shall commence no later than February 1, 2015.

(iii) Vertical Construction on at least a third Phase shall commence no later than February 1, 2016.

(iv) Vertical Construction on at least a fourth Phase shall commence no later than February 1, 2017.

(v) Completion of all Project improvements by February 1, 2018.

(b) *Extensions of Time.* In addition to delays in the Project deadlines as may be permitted due to Enforced Delays, it is understood that the foregoing critical deadlines are subject to all other terms and conditions set forth in this Agreement, and as will be more thoroughly set forth in the future. The critical construction deadlines may be altered or amended by written agreement signed by both Buyer and Seller. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The City Manager of Seller shall have the authority to approve extensions of time without City Council action if such extension does not exceed a cumulative total of 180 days.

(c) *Delays Due to City Vacations of Rights-of-Way.* Notwithstanding the foregoing, and in addition to the events of Enforced Delay (Section 13.9), the parties acknowledge that certain rights-of-way must be vacated by the City of Banning prior to Buyer commencing construction of certain Project improvements. If Buyer is unable to commence construction or progress with Project construction in accordance with this Section because of delays in City vacations of rights-of-way (at no fault of Buyer), such resultant delay to Project construction shall not constitute a breach or default of this Agreement by Buyer. Buyer's deadlines for Project construction shall be extended by the time period that Project continuation is delayed as a result of the City's failure to vacate a particular right-of-way so long as (i) such right-of-way vacation is actually necessary to Project continuation, and (ii) provided notice by the Buyer claiming such extension is sent to the Seller within ten (10) days of the commencement of the cause.

11.3 Project Financing.

(a) *Buyer Responsible for Project Costs.* Buyer is responsible for paying all costs for the Project unless otherwise provided herein. Project costs include the total Project construction costs, all Site preparation costs, all infrastructure costs, building permits and development fees, all design and consultant costs, all financing costs, all fixtures and equipment for the facility, and all other costs related to the Project of any nature whatsoever.

Although the parties hereto believe that the Site is being conveyed to the Buyer at fair market value and that no financial assistance or public monies are being provided to Buyer with respect to the Project, Buyer fully accepts the risk that construction or development of the Site may qualify as a "public work" "paid for in whole or in part out of public funds," as described in California Labor Code Section 1720 *et seq.*, ("Prevailing Wage Law"), such that it would cause Buyer to be required to pay prevailing wages for any aspect of the development. Buyer hereby represents and warrants that the Project is not subject to Prevailing Wage Law because no funding sources for the Project will trigger the application of Prevailing Wage Laws. Notwithstanding the foregoing, the Buyer fully bears any and all risk that Prevailing Wage Laws may be found to apply to the Project. To this end, Buyer acknowledges and agrees that should any third party, including but not limited to the Director of the Department of Industrial Relations ("DIR"), require Buyer or any of its contractors or subcontractors to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the DIR under Prevailing Wage Law for all or any of the assistance provided hereunder, then Buyer shall indemnify, defend, and hold Seller harmless from any such determinations, or actions (whether legal, equitable, or administrative in nature) or other proceedings, and shall assume all obligations and liabilities for the payment of such wages and for compliance with the provisions of the Prevailing Wage Law. The Seller makes no representation that any construction completed by Buyer is or is not subject to Prevailing Wage Law.

(b) *Buyer's Financial Statements.* Buyer agrees to provide the Seller with documentation and financial statements to the end of demonstrating that Buyer can fund the total projected/estimated Project costs through, cumulatively, the following sources: (i) Buyer equity, (ii) private financing from financial institutions, and/or (iii) financing provided through foreign investment via the USCIS-administered Immigrant Investor Program, also known as the "EB-5" program. To this end, no later than the Close of Escrow on the City Parcel, Buyer agrees to deliver to Seller, for Seller's approval, financial statements which, in the opinion of Seller, demonstrate that Buyer has the financial capability to undertake the development provided herein. Such financial statements shall include statements from financial institutions with whom Buyer conducts business evidencing their willingness to provide the financing required hereunder. If Buyer elects to self-fund the construction of the Project, Buyer may satisfy this obligation by providing Seller with a letter evidencing approval of the Project by the relevant parties on behalf of Buyer along with an explanation of facts demonstrating Buyer's ability to self-fund the Project.

(c) *Obtaining Construction & Permanent Loans.* Should Buyer choose to utilize any financing towards Project completion (“**Buyer Financing**”), Buyer agrees to deliver to Seller and obtain the approval of Seller of irrevocable written commitments from financial institutions licensed to do business in California and acceptable to the Seller (“**Lender**”) agreeing to make a construction loan and a permanent loan to Buyer and secured by a First Deed of Trust (said commitment and loan are sometimes referred to collectively as the “**Loan**”). The amount of the commitment shall include all consultant and loan fees, “points,” commissions, charges, furnishings, fixtures, taxes, interest start-up and other costs and expenses in an amount not less than the total Project construction contract and costs, less the amount of financing provided through foreign investment via the USCIS-administered Immigrant Investor “EB-5” Program.

Buyer covenants and agrees to take all action, furnish all information, give all consents and pay all sums required to keep said commitment and Loan in full force and effect and shall comply with all conditions thereof, and shall promptly execute, acknowledge and deliver all loan applications, credit applications and data, financial statements, and loan documents in connection therewith, and shall actually draw upon and utilize the full amount of said Loan only for financing the cost of the Project.

(d) *Seller Approval Of Lender.* Buyer shall not enter into any conveyance for financing without the prior written approval of Seller. Seller’s written approval or disapproval shall not be unreasonably withheld or delayed. Seller’s review of the Lender shall be limited to the question of whether or not said Lender is a qualified and responsible financial or lending institution or other acceptable entity or person capable of performing its obligations under the Loan.

(e) *EB-5 Financing.* The parties anticipate that Buyer will finance the project, in part, via foreign investments administered pursuant to the USCIS-administered Immigrant Investor “EB-5” Program. Buyer covenants and agrees to abide by all EB-5 regulations and requirements, 8 U.S.C.S. §§ 1153 (b)(5), 1186b; 8 C.F.R. §§ 204.6, 216.6.

11.4 Project Plans, Final Building Plans.

(a) *Proposed Project’s Consistency With Plans and Codes.* Seller warrants and represents that the City of Banning General Plan, Zoning Ordinance, and Redevelopment Plan permit Seller’s proposed development, and construction, operation, and use of the Site as provided in this Agreement, including without limitation the Project as described in Exhibit "D", subject only to (i) approval of this Agreement and the proposed Project pursuant to Health and Safety Code Section 33433, and (ii) those development approvals yet to be obtained, including site plan review, and (iii) City of Banning review and approval of the Final Map for the Project. It is expressly understood by the parties hereto that Seller makes no representations or warranties with respect to approvals required by any other governmental entity or with respect to approvals hereinafter required from City. The City and any other governmental body with jurisdiction over the Project reserve full police power authority over the Project. However, Seller shall reasonably cooperate with Buyer in procuring the foregoing approvals. Nothing in this Agreement shall be deemed

to be a prejudgment or commitment with respect to such items or a guarantee that such approvals or permits will be issued within any particular time or with or without any particular conditions.

(b) *Evolution Of Development Plan.* Prior to the Effective Date of this Agreement, the Seller approved the Buyer's Conceptual Plans (Exhibit "D"). On or before commencement of any Project construction, Buyer must submit to the Seller preliminary, and thereafter final, drawings and specifications for development of the Project in accordance with the City's requirements. The term preliminary and final drawings shall be deemed to include site plans, building plans and elevations, grading plans, if applicable, landscaping plans, parking plans, material pallets, a description of structural, mechanical, and electrical systems, the Final Map and all other plans, drawings and specifications. Final drawings will be in sufficient detail to obtain a building permit. Said plans, drawings and specifications shall be consistent with the Concept Plans (Exhibit "D") and the various development approvals referenced hereinabove, except as such items may be amended by Seller and Buyer in writing. Plan submissions shall be progressively more detailed and will be approved if a logical evolution of plans, drawings or specifications previously approved.

(c) *Buyer Efforts To Obtain Approvals.* Buyer shall exercise its commercially reasonable efforts to timely submit all documents and information necessary to obtain all development and building approvals from the City in a timely manner. Not by way of limitation of the foregoing, in developing and constructing the Project, Buyer shall comply with all applicable development standards in the City of Banning Municipal Code and shall comply with all building codes, landscaping, signage, and parking requirements, except as may be permitted through approved variances and modifications.

(d) *Disapproval.* The Seller shall reasonably approve or disapprove any submittal made by Buyer pursuant to this Section within sixty (60) business days after such submittal. All submittals made by Buyer shall note the 60-business day time limit, and specifically reference this Agreement and this Section. Any disapproval shall state in writing in reasonable detail the reason for the disapproval and the changes which the Seller requests be made. Buyer shall make the required changes and revisions and resubmit for approval as soon as is reasonably practicable but no more than thirty (30) business days of the date of disapproval. Thereafter, Seller shall have an additional ten (10) business days for review of the re-submittal, but if the Seller disapproves the re-submittal, then the cycle shall repeat, until the Seller's approval has been obtained. If Buyer desires to make any substantial change to approved working drawings, Buyer shall submit the proposed change to Seller for approval. If the drawings as modified by the proposed change conform to this Agreement and the Concept Plans (Exhibit "D"), City of Banning design criteria for the downtown region, and all other applicable City of Banning regulations, Seller shall approve the change and Seller shall notify Buyer of its approval or disapproval in writing within thirty (30) business days after submission of such proposed change.

Seller's Community Development Director or designee shall have authority to determine on behalf of Seller if a proposed revision or change to any plans, drawings, or other

documents previously approved by Seller is a substantial change requiring further City approval. If the Community Development Director or his/her designee determines that the proposed revision or change is not substantial, no approval by City of such revision or change will be necessary. Seller shall reasonably approve or disapprove the plans, drawings and related documents referred to in this Section 11.4 within the times stated in foregoing paragraph of this subpart (d). However, to the extent that Buyer proposes substantial revisions or changes to any plan, drawing, or other document previously approved by Seller, Buyer acknowledges that such substantial revision will require review by the City Council or such other legislative body(ies) as may be applicable and, in such circumstance, Buyer agrees to waive the time frames set forth herein if necessary. City's review is intended to insure that the plans, drawings and related documents are consistent with the Project Concept (Exhibit "D"). Any disapproval shall state in writing the reasons for disapproval and the changes which Seller requests to be made. Such reasons and such changes must be consistent with the Project Concept (Exhibit "D") and any items previously approved or deemed approved hereunder. Buyer, upon receipt of a disapproval based upon powers reserved to Seller hereunder, shall revise the plans, drawings and related documents, and shall resubmit to Seller as soon as possible after receipt of the notice of disapproval; provided that in no case shall Seller be entitled to require changes which are inconsistent with the Project Concept (Exhibit "D"), the most recently-applicable, previously-approved or deemed-approved items.

During the preparation of all drawings and plans, the parties shall hold regular progress meetings to coordinate the preparation of, submission to, and review of construction plans and related documents by Seller. If any substantial revisions or corrections of plans approved by Seller shall be required by any government official, agency, department or bureau having jurisdiction, or any lending institution involved in financing, the parties shall cooperate in efforts to develop a mutually acceptable alternative.

11.5 Applicable Laws. Buyer shall carry out the construction of the Project improvements in conformity with all applicable laws, including all applicable federal and state labor laws.

11.6 Anti-Discrimination During Construction. Buyer, for himself and his successors and assigns, agrees that in the construction of the improvements to be constructed by Buyer, it shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, ancestry or national origin.

11.7 Rights Of Holders Of Approved Security Interests In Site.

(a) *Definitions.* As used in this Section, the term "mortgage" shall mean a leasehold mortgage and include any mortgage, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term "holder" shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

(b) *No Encumbrances Except Mortgages To Finance The Project.* Notwithstanding the restrictions on transfer in Section 11.1, mortgages required for any reasonable method of financing of the construction of the Project improvements are permitted before issuance of a Certificate of Completion but only for the construction of Project improvements thereon, and for any other expenditures necessary and appropriate to develop the Site under this Agreement, or for restructuring or refinancing any of same, so long as the refinancing does not exceed the then-outstanding balance of the existing financing. The Buyer (or any entity permitted to acquire title under this Section) shall notify the Seller in advance of any mortgage, if the Buyer or such entity proposes to enter into the same before issuance of the Certificate of Completion. The Buyer or such entity shall not enter into any such conveyance for financing without the prior written approval of the Seller as provided in Section 11.1. Any lender approved by the Seller pursuant to Section 11.1 shall not be bound by any amendment, implementation, or modification to this Agreement subsequent to its approval without such lender giving its prior written consent thereto. In any event, the Buyer shall promptly notify the Seller of any mortgage, encumbrance, or lien that has been created or attached thereto prior to issuance of a Certificate of Completion, whether by voluntary act of the Buyer or otherwise.

(c) *Buyer's Breach Shall Not Defeat Mortgage Lien.* Buyer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith and for value as to the Site, or any part thereof or interest therein, but unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage of the Site whose interest is acquired by foreclosure, trustee's sale or otherwise.

(d) *Holder Not Obligated To Construct Or Complete Improvements.* The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the Project improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Site or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

(e) *Notice Of Default To Mortgagee, Deed Of Trust Or Other Security Interest Holders.* Whenever Seller shall deliver any notice or demand to Buyer with respect to any breach or default by Buyer hereunder, Seller shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to Seller therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

(f) *Right To Cure.* Each holder (insofar as the rights of Seller are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, to:

- (i) Obtain possession, if necessary, and to commence and diligently pursue said cure until the same is completed, and

(ii) Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that in the case of a default which cannot with diligence be remedied or cured within such ninety (90) day period, such holder shall have additional time as reasonably necessary to remedy or cure such default.

In the event there is more than one such holder, the right to cure or remedy a breach or default of Buyer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of Buyer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed Buyer's obligations to Seller by written agreement satisfactory to Seller with respect to the Site or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the Seller that it has the qualifications and financial responsibility necessary to perform such obligations. Any holder properly completing such improvements shall be entitled, upon written request made to Seller, to a Certificate of Completion from Seller.

(g) *Seller's Rights Upon Failure Of Holder To Complete Improvements.* In any case where one hundred eighty (180) days after default by Buyer in completion of construction of Project improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Site or improvements thereon has not exercised the option to construct afforded in this Section or if it has exercised such option and has not proceeded diligently with construction, Seller may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

(i) The unpaid mortgage debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

(ii) All expenses, incurred by the holder with respect to foreclosure, if any;

(iii) The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the Site, such as insurance premiums or real estate taxes, if any;

(iv) The costs of any improvements made by such holder, if any; and

(v) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the Seller.

In the event that the holder does not exercise its option to construct afforded in this Section, and Seller elects not to purchase the mortgage of holder, upon written request by the holder to Seller, Seller agrees to use reasonable efforts to assist the holder selling the holder's interest to a qualified and responsible party or parties (as determined by Seller), who shall assume the obligations of making or completing the improvements required to be constructed by Buyer, or such other improvements in their stead as shall be satisfactory to Seller. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs (i) through (v) listed hereinabove, and any balance remaining thereafter shall be applied as follows:

(i) First, to reimburse Seller for all costs and expenses actually and reasonably incurred by Seller, including but not limited to payroll expenses, management expenses, legal expenses, and others.

(ii) Second, to reimburse Seller for all payments made by Seller to discharge any other encumbrances or liens on the Site or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due, to obligations, defaults, or acts of Buyer, its successors or transferees.

(iii) Third, any balance remaining thereafter shall be paid to Buyer.

(h) *Right Of Seller To Cure Mortgage, Deed Of Trust Or Other Security Interest Default.* In the event of a default or breach by Buyer (or entity permitted to acquire title under this Section) of a mortgage prior to the issuance by Seller of a Certificate of Completion for the Site or portions thereof covered by said mortgage, and the holder of any such mortgage has not exercised its option to complete the development, Seller may cure the default prior to completion of any foreclosure. In such event, Seller shall be entitled to reimbursement from Buyer or other entity of all costs and expenses incurred by Buyer in curing the default, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to:

(i) Any mortgage for financing permitted by this Agreement; and

(ii) Any rights or interests provided in this Agreement for the protection of the holders of such mortgages for financing;

provided that nothing herein shall be deemed to impose upon Seller any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Site in the event of its enforcement of its lien.

(i) *Right Of The Seller To Satisfy Other Liens On The Site After Conveyance Of Title.* After the conveyance of title and prior to the recordation of a Certificate of

Completion for construction and development of the Project, and after the Buyer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Site or any portion thereof, the Seller shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Buyer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Buyer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site or any portion thereof to forfeiture or sale.

(j) *Minor Amendments.* Seller's City Manager shall be authorized to approve and execute minor non-substantive amendments to this Agreement as may be requested by Buyer's lender in relation to the protection of such lender's security interest in the Site, without formal approval of Seller's legislative body.

11.8 Certificate(s) Of Occupancy & Certificate Of Completion.

(a) *Certificate(s) Of Occupancy.* It is anticipated that each Parcel may be suitable for occupation and the carrying-on of business prior to actual completion of all Project improvements. When a Project Phase has been constructed to such a point that the commercial improvements on a particular Parcel can be safely opened for business (in compliance with all applicable codes, permit requirements and local agency regulation) without any interference by further Project activities, the Buyer shall request from the City a Certificate of Occupancy for all the improvements on that Parcel. The issuance of such Certificate of Occupancy shall be in the sole discretion of the City and based on its review of the existing Project improvements versus those improvements that will be required for Project completion, determination of whether further Project activities will unreasonably or harmfully interfere with the ongoing business activities upon a particular Parcel opened for business, and whether the issuance of a Certificate of Occupancy will comply with all codes, permit conditions and local agency regulations. Seller shall not unreasonably withhold a Certificate of Occupancy.

Upon issuance of a Certificate of Occupancy, Buyer shall promptly open the Business for business to the public. The Buyer shall exert all reasonable efforts to keep the Business open for business to the public during regular and customary business hours despite any ongoing Project activities. Buyer shall reasonably coordinate any ongoing Project activities with business hours in order to minimize any interference between the Project and the business. Such efforts to be undertaken by Buyer shall include, without limitation, the undertaking of Project activity during hours other than regular and customary business hours and the phasing of the Project such that Project activities continuing after the issuance of the Certificate of Occupancy will be in locations other than areas open to the public.

(b) *Certificate(s) Of Project Completion.* Upon the completion of all Project construction required to be completed by Buyer on the Site or any Parcel thereof pursuant to the terms of this Agreement, Seller shall furnish Buyer with the Certificate of Completion for the Site or Parcel thereof, to be in a form acceptable to Seller, upon written request therefore by Buyer. The Certificate(s) of Completion shall be executed

and notarized so as to permit it to be recorded in the Office of the Recorder of Riverside County.

(i) A Certificate of Completion shall be, and shall state that it constitutes, conclusive determination of satisfactory completion of the construction and development of the improvements required by this Agreement upon the Site or Parcel thereof and of full compliance with the terms of this Agreement with respect thereto. A partial Certificate may be issued for any Parcel as defined in Section 3.4 and shall constitute a Certificate as defined herein for any such Parcel, but not for any other Parcel not included in the Certificate.

(ii) After the issuance of a Certificate of Completion, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site or Parcel for which the Certificate is issued shall not (because of such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by the covenants, encumbrances, and easements contained in the Deed and the CC&Rs. In the event of issuances of a Certificate for a Parcel only, Buyer shall continue to be bound by the provisions of this Agreement with respect to the other Parcels for which a Certificate has not been issued.

(iii) Seller shall not unreasonably withhold a Certificate of Completion. If Seller refuses or fails to furnish a Certificate of Completion within thirty (30) days after written request from Buyer or any entity entitled thereto, Seller shall provide a written statement of the reasons Seller refused or failed to furnish a Certificate of Completion. The statement shall also contain Seller's opinion of any further action Buyer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, or other minor so-called "punch list" items, Seller will issue its Certificate of Completion upon the posting of a bond or other security reasonably acceptable to Seller by Buyer with Seller in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed.

(iv) A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Buyer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Certificate of Completion is not notice of completion as referred to in the California Civil Code § 3093. Nothing herein shall prevent or affect Buyer's right to obtain a Certificate of Occupancy from the Seller before the Certificate of Completion is issued.

11.9 Use of the Site & Project; CC&Rs.

(a) *Use For Mixed Retail/Office/Hotel/Restaurant Businesses.* The Buyer covenants and agrees for itself, its successors, its assigns and every successor in interest that during construction and thereafter, that the Buyer and such successors and such

assigns shall devote the Site to the uses specified therefore in the Project Concept Plan (Exhibit "D"). Buyer further agrees to use, devote, and maintain the Site and each part thereof only for the following business uses:

- The approximate .77 acre Restaurant Parcel to be dedicated to the construction and operation of a single restaurant tenant.
- The approximate 1.85 acre Hotel Parcel to be dedicated to the construction and operation of a single hotel tenant.
- The approximate .78 acre General Retail Parcel to be dedicated to the construction and operation of a mixed retail and small restaurant complex.
- The approximate 1.85 acre Retail/Office Parcel to be dedicated to the construction and operation of a mixed retail and small offices complex.

In order to maintain these Site uses, Covenants, Conditions & Restrictions ("CC&Rs") substantially in the form attached hereto as **Exhibit "I"**, shall be recorded upon the Property by Seller on or before the Close of Escrow. Buyer acknowledges that the Site shall become subject to the CC&Rs upon Seller's execution and recordation of the CC&Rs and Buyer will comply with all of the terms and conditions contained in the CC&Rs.

(b) *Seller's Rights of Tenant Approval as to Restaurant Parcel & Hotel Parcel.* Of particular concern to Seller's conveyance of the Site to Buyer pursuant to the Agreement is the identity and quality of the commercial tenants to occupy the Hotel Parcel and Restaurant Parcel. The Site is situated in the City of Banning's central, downtown commercial area, and the major Hotel/Restaurant tenants on the Site shall represent high quality goods and services commensurate with one of the most centralized commercial locations in Banning. To this end, the initial and subsequent tenants for the Hotel Parcel and the Restaurant Parcel shall be subject to Seller's prior written approval (to be obtained from Seller prior to any occupancy by a Hotel or Restaurant tenant). For purposes of such tenant approval the following tenants are hereby approved as "**Pre-Qualified Tenants**" and are exemplars of the tenants sought for the Restaurant and Hotel Parcels:

- *For the Restaurant Parcel:* Applebee's, Red Lobster, Guys Italian Dinner House, Olive Garden, Hickory BBQ, B.J. Chicago Pizza, Buca de Beppo, Brinker International (Chillis, Macaroni Grill, etc.), California Pizza Kitchen, Chevys Mexican Restaurant, Elephant Bar, Hickory BBQ, Islands, Johnny Russo, Louise's Trattoria, P.F. Changs, Pat and Oscars, Marie Calendars, Red Robin, Roadhouse Grill, Rubios, Texas Roadhouse, or Wood Ranch BBQ.

- *For the Hotel Parcel:* Hampton Inn, Wyndahm, Ayres, Doubletree, Embassy Suites, Hilton and its related brands, Holiday Inn, Marriott and its related brands, Radisson Inns, and Starwood.

In the event Buyer desires to lease the Hotel Parcel or Restaurant Parcel to a tenant that is not on the aforementioned pre-approved list, Buyer shall first obtain the approval of Seller's legislative body. Seller shall approve tenants for the Hotel or Restaurant Parcel who (i) operate a chain of stores on a nationwide basis, (ii) are comparable to the pre-approved, exemplar tenants listed above, and (iii) do significant marketing within the general market area. In its reasonable discretion, Seller may also approve other tenants, including tenants who operate a regional chain of business.

(i) **Processing Requests for Tenant Approval of Tenants Not Pre-Qualified.** Any request by Buyer to the Seller for approval of a particular tenant that is not Pre-Qualified to the Restaurant or Hotel Parcel shall be in writing and shall include such supporting information as may be reasonably required in order to enable the Seller to determine whether to approve or disapprove the identity of the tenant. The Seller's City Manager shall initially indicate within twenty (20) days after receipt of Seller's request for approval whether City' Manager believes that the proposed tenant is equivalent to a Pre-Qualified Tenant and the reasons therefore. If the City Manager deems the tenant not equivalent, the Buyer may provide additional information and request reconsideration or find a new acceptable tenant. In any event, where City Manager has approved a tenant as equivalent, or on request by Buyer for determination by the City Council, the City Manager shall schedule the matter as an open public hearing item before the next possible regularly-scheduled City Council meeting, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. Based upon substantial evidence presented at said hearing, the Council shall determine by resolution, whether to approve or disapprove the proposed Hotel or Restaurant tenant. The Council shall state its factual and policy bases for such holding.

(ii) **Expiration of Seller Tenant Approval Rights.** Seller's right to approve tenants for the Hotel Parcel shall expire after a total of 5 years, consecutive or non-consecutive, of occupancy of the Hotel Parcel. Similarly, Seller's right to approve tenants for the Restaurant Parcel shall expire after a total of 7 years, consecutive or non-consecutive, of occupancy of the Restaurant Parcel. After such period of consecutive or non-consecutive occupancy by a qualified tenant, subsequent tenancies or occupancies of such space shall be exempt from such approval. The period of Seller Tenant Approval for the Hotel and Restaurant Parcels by a qualified tenant shall not commence to run until actual occupancy of such Parcel by an approved tenant, and shall be tolled for any period where the Parcel or is not occupied by an approved tenant.

(a) *Maintenance Of Improvements.* Buyer covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site or any part thereof, that, after Seller's issuance of (i) the Certificate of Occupancy for a particular Parcel, and

(ii) the Certificate of Completion for the Site or any Parcel thereof, the Buyer shall be responsible for maintenance of all improvements that may exist on the Site or Parcel, as the case may be, from time to time, including without limitation buildings, parking lots, lighting, signs, and walls, in first class condition and repair, and shall keep the Site free from any accumulation of debris or waste materials. The Seller shall also maintain all landscaping required pursuant to Seller's approved landscaping plan in a healthy condition, including replacement of any dead or diseased plants. The foregoing maintenance obligations shall run with the land and thereby become the obligations of any transferee of the Site or any portion thereof, and such obligations are set forth in the CC&Rs. Buyer hereby waives any notice, public hearing, and other requirements of the public nuisance laws and ordinances of the City of Banning that would otherwise apply, except as specified in said CC&Rs.

(b) *Covenants Run With Land; Effect Of CC&Rs.* All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Site, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Site hereunder (i) is for the mutual benefit of and is a mutual burden upon each Parcel within the Site, (ii) runs with such lands, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

Seller is deemed a beneficiary of the terms and provisions of this Agreement and of the restrictions and covenants running with the land, including the CC&Rs, for and in their own right for the purposes of protecting the interests of the community in whose favor and for whose benefit the covenants running with the land have been provided. The covenants in favor of Seller shall run without regard to whether Seller has been, remains or is an owner of any land or interests therein in the Site. Seller, and any of its related government entities or subdivisions, shall have the right, if any of the covenants set forth in this Agreement or the CC&Rs are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it may be entitled. With the exception of a government entity related to, or designated by the City, no other person or entity shall have any right to enforce the terms of this Agreement or the CC&Rs under a theory of third-party beneficiary or otherwise.


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12. DEFAULTS; ENFORCEMENT.

12.1 Defaults & Right To Cure. A “**Non-Defaulting Party**” in its discretion may elect to declare a default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other party (“**Defaulting Party**”) to perform any material duty or obligation of said Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in “Default” under this Agreement, if said breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such breach or failure within sixty (60) days after the date of such notice (“**Cure Period**”). However, if such non-monetary breach or failure cannot be cured within such Cure Period, and if and, as long as the Defaulting Party does each of the following:

- a. Notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted Default is not curable within the sixty (60) day period;
- b. Notifies the Non-Defaulting Party of the Defaulting Party’s proposed course of action to cure the Default;
- c. Promptly commences to cure the Default within the sixty (60) day period;
- d. Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and
- e. Diligently prosecutes such cure to completion.

Then the Defaulting Party shall not be deemed in breach of this Agreement.

12.2 Legal Actions.

(a) *Institution Of Legal Actions.* In addition to any other rights or remedies, and subject to the requirements of Section 12.1, either party may institute legal action to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other legal or equitable remedy consistent with the purpose of this Agreement, including the remedy of specific performance. Legal actions must be instituted and maintained in the Superior Court of the County of Riverside, State of California, in any other appropriate court in that county, or in the Federal District Court in the Central District of California.

(b) *Applicable Law & Forum.* The laws of the State of California shall govern the interpretation and enforcement of this Agreement, without regard to conflict of law principles.

(c) *Acceptance Of Service of Process.* In the event that any legal action is commenced by Buyer against Seller, service of process on Seller shall be made by personal service upon the City Manager, or in such other manner as may be provided by law. In the event that any legal action is commenced by Seller against Buyer, service of

process on Buyer shall be made in such manner as may be provided by law and shall be valid whether made within or without the State of California.

12.3 Rights & Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its 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.

12.4 Waiver. Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition, or promise shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

12.5 Right of Reverter. The Seller shall have the right, at its option, to reenter and take possession of the Site or any Parcel thereof with all improvements thereon and to terminate and revert in the Seller the estate conveyed to the Buyer, if after conveyance of the estate and prior to the release of all Subsequent Deeds of Trust pursuant to Section 12.8, the Buyer (or his successors in interest) shall:

- (a) Fail to timely process a Final Map for the Project pursuant to California Government Code Section 66466 and/or timely and reasonably execute the Subsequent Deeds of Trust. Seller City shall not unreasonably delay or withhold approval of the Final Map.
- (b) Fail to timely commence construction of the improvements on a Parcel as required by this Agreement and in violation of Section 11.2, after exhausting the notice/cure procedures of Section 12.1, provided that the Buyer shall not have obtained an extension or postponement to which the Buyer may be entitled pursuant to this Agreement; or
- (c) Abandon or substantially suspend construction of the improvements for a period of thirty (30) days, except when due to an Enforced Delay (Section 12.8 hereof) and subject to the notice/cure procedures of Section 12.1, provided that the Buyer shall not have obtained an extension of time to which the Buyer may be entitled pursuant to this Agreement; or
- (d) Assign or attempt to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary transfer, of the Site or any Parcel, or any part thereof, in violation of Section 11.1 of this Agreement, subject to the notice/cure procedures of Section 12.1.

Seller's right to re-enter, repossess, terminate, and revest shall be subordinate to and subject to and be limited by, and shall not defeat, render invalid, or limit: (i) Mortgage, deed of trust, or other security interests permitted by this Agreement; or (ii) Any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests; or (iii) Any rights or interests which have vested with respect to any Parcel for which a partial Certificate of Completion has been recorded.

Upon the revesting in the Seller of possession to the Site or any Parcel, as the case may be, as provided in this Section 12.5, the Seller shall, pursuant to its responsibilities under State law, use its best efforts to release, or resell the Site and/or Parcel, as the case may be, as soon and in such manner as the Seller shall find feasible and consistent with the objectives of applicable law and/or of the Redevelopment Plan to a qualified and responsible party or parties who will assume the obligation of making or completing the Project improvements, or such other improvements in their stead, as shall be satisfactory to the Seller and in accordance with the uses specified for the Site and all its Parcels, or any part thereof.

In the event of a resale, the proceeds thereof shall be applied as follows:

- a. As may be required by State law at the time of resale; or
- b. First, to reimburse the Seller for all costs and expenses incurred by the Seller, including but not limited to, salaries to personnel, legal costs and attorneys' fees, and all other contractual expenses in connection with the recapture, management, and resale of the Site or Parcel, as the case may be (but less any income derived by the Seller from the Site or Parcel in connection with such management); all taxes, assessments and water and sewer charges with respect to the Site or Parcel (or, in the event that Site or Parcel is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments, or charges, as determined by the Seller City, as would have been payable if the Parcel were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Site or Parcel, as the case may be; and amounts otherwise owing the Seller by the Buyer, its successors, or transferees; and
- c. Second, to reimburse the Buyer, its successor or transferee, up to the amount equal to (i) the sum paid by the Buyer to the Seller under this Agreement for the Site or Parcel, as the case may be, subject to the resale, which sum shall be calculated at \$4.46 per square foot, (ii) the costs incurred for the development of the Project and for the agreed improvements existing on the Site or Parcel subject to resale at the time of the re-entry and repossession, less (iii) any gains or income withdrawn or made by the Buyer from the Site or Parcel, as the case may be, or the improvements thereon.

- d. Any balance remaining after such reimbursements shall be retained by the Buyer as its property.
- e. Notwithstanding the foregoing, any default as described above shall constitute a default as to any portion of the Site for which a Certificate of Occupancy has not been issued. Accordingly, a default with respect to any one Parcel shall constitute a default as to all other Parcels, except as to any Parcel where a Certificate of Occupancy has been issued for all Project improvements planned for that Parcel.. The reverter provisions of this Section 12.5 would therefore apply to the Parcels not covered by duly-issued Certificates of Occupancy for all improvements on the Parcel, as further described in Section 12.7.

12.6 Construction Against Forfeitures. To the extent that the right established in Section 12.5 involves a forfeiture, it must be strictly interpreted against the Seller, the party for whose benefit it is created. The rights established in Section 12.5 are to be interpreted in light of the fact that the Seller will convey the Site and its Parcels to the Buyer for development, and not for speculation in undeveloped land.

12.7 Enforcement of Note & Rights of Reverter Through Deed of Trust & Subsequent Deeds of Trust. All deed of trust required by the this Agreement shall contain the rights of reverter for the benefit of Seller specified in Section 12.5.

(a) *Default Prior to Final Map Approval.* Prior to the recordation of the four Subsequent Deeds of Trust, the Promissory Note and Seller's rights of reverter shall be secured in accordance with Section 3.4(a) above. Any uncured default of this Agreement by Buyer prior to the recordation of the four Subsequent Deeds of Trust shall result in Seller's right to, in Seller's sole discretion, immediately enforce the Deed of Trust to either demand the Purchase Price, which shall be immediately due and payable, or to exercise the right of reverter as to all portions of the Site that have been conveyed to Buyer to date and where no Certificate of Occupancy has been issued.

(b) *Default After Recordation of Parcelized Deeds of Trust.* After the recordation of the Subsequent Deeds of Trust pursuant to Section 3.4(b) above, the following acts of default by Seller shall, subject to the cure periods set forth in Section 12.1, result in enforcement of one or more of the Subsequent Deeds of Trust as follows:

1. Buyer's failure to pay for any portion of the Purchase Price within the time stated in Section 3.3 shall render *all* Subsequent Deeds of Trust immediately due and payable and/or the Seller's rights of reverter immediately exercisable on any and all Parcel(s) that have not received an issued Certificate of Occupancy for all Project improvements to be built on that Parcel.
2. If Buyer pays the full Purchase Price in accordance with Section 3.3, but thereafter either (1) fails to proceed with Project construction in accordance with the timeframes set forth in Section 11.2, or (2) commits

any of the actions giving rise to Seller's right of reverter pursuant to Section 12.5, then the Seller may immediately enforce any and all Deeds of Trust that have not been released pursuant to Section 12.8.

12.8 Release of Subsequent Deeds of Trust. Upon any payments of the Purchase Price pursuant to Section 3.3, the Seller shall amend or revise the Promissory Note and/or any recorded Deed(s) of Trust (as applicable) as needed to reflect the actual balance of Purchase Price plus interest due from Buyer. Even upon full payment of the Purchase Price, however, Buyer acknowledges that the Deed(s) of Trust secure not only the repayment of money, but also the performance of certain covenants, promises, agreements, obligations and responsibilities created in Seller under this Agreement with respect to performing the Project. To this end, the Deed(s) of Trust shall be released only as follows:

(a) *Initial Deed of Trust at Exhibit "G".* The initial Deed of Trust, to be recorded pursuant to Section 3.4(a), may be released partially upon recordation of the Subsequent Deeds of Trust.

(b) *Release of Subsequent Deeds of Trust Commensurate with Project Schedule.* Each Subsequent Deed of Trust shall be released from the underlying Parcel only after all the following events have occurred: (i) payment of the full Purchase Price for the whole Site or for the pro-rata share of the Purchase Price attributable to the Parcel (at \$4.46 per square foot), and (ii) Buyer's timely commencement of construction of Project improvements upon the Parcel underlying the Subsequent Deed of Trust, plus (iii) diligent, uninterrupted prosecution of such Project improvements to completion on that Parcel. For example, the Subsequent Deed of Trust recorded upon the Restaurant Parcel shall only be released upon Buyer's payment of the value of the Restaurant Parcel (at \$4.46 per square foot) and completion of Project improvements upon that Parcel (as demonstrated by issuance of a Certificate of Occupancy for all planned Restaurant Parcel Project improvements pursuant to Section 11.8(a)). The City shall release the Subsequent Deed of Trust recorded upon each Parcel no later than thirty (30) days after issuance of a Certificate of Occupancy (Section 11.8(a)) for all Project improvements on a Parcel.

12.9 Enforced Delays; Extension Of Times of Performance. Time is of the essence in the performance of this Agreement. Notwithstanding the foregoing, in addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; subsurface conditions on the Site and unknown soils conditions; governmental restrictions or priority litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of the other party; acts or the failure to act of a public or governmental agency or entity (except that acts or the failure to act of Seller shall not excuse performance by Seller); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein "**Enforced Delay**"), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the enforced delay, and shall commence to

run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within ten (10) days of the commencement of the cause. Failure to provide such notice shall constitute a waiver of the claim. The following shall not be considered as events or causes beyond the control of Buyer, and shall not entitle Buyer to an extension of time to perform: (i) Buyer's failure to obtain financing for the Project, and (ii) Buyer's failure to negotiate agreements with prospective users for the Project or the alleged absence of favorable market conditions for such uses.

Times of performance under this Agreement may also be extended by mutual written agreement by Seller and Buyer. The City Manager of Seller shall have the authority on behalf of Seller to approve extensions of time not to exceed a cumulative total of one hundred eighty (180) days with respect to the development of the Site.

13. MISCELLANEOUS.

13.1 Brokerage Commissions. Buyer and Seller each represent and warrant to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transaction contemplated by this Agreement. Buyer and Seller each agree to indemnify and hold the other party harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee.

13.2 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective heirs, representatives, transferees, successors and assigns. The transfer of all or any part of the interest of any party hereunder in the Property shall not release Seller of its obligations under this Agreement.

13.3 Time of Essence. Time is of the essence in this Agreement and with respect to each covenant and condition hereof. Buyer and Seller each specifically agrees to strictly comply and perform its obligations herein in the time and manner specified and waives any and all rights to claim such compliance by mere substantial compliance with the terms of this Agreement.

13.4 Time Period Computations. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and California state or national holidays unless the reference is to business days, in which event such weekends and holidays shall be excluded in the computation of time and provide that if the last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or California state or national holiday, such act or notice shall be deemed to have been timely performed or given on the next succeeding day which is not a Saturday, Sunday or California state or national holiday.

13.5 Qualification; Authority. Each individual executing this Agreement on behalf of a partnership or corporation represents and warrants that such entity is duly formed and authorized to do business in the State of California and that he or she is duly authorized to execute and deliver this Agreement on behalf of such partnership or corporation in

accordance with authority granted under the formation documents of such entity, and, if a corporation, by a duly passed resolution of its Board of Directors, that all conditions to the exercise of such authority have been satisfied, and that this Agreement is binding upon such entity in accordance with their respective terms. Upon request of either party, Escrow Holder or Title Company, Buyer and Seller agree to deliver such documents reasonably necessary to evidence the foregoing.

13.6 Attorneys' Fees. In the event of any dispute between the parties hereto arising out of the subject matter of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled to have and to recover from the other party its actual attorneys' fees and other expenses and costs in connection with such action or proceeding (including expert witness fees) in addition to its recoverable court costs.

13.7 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

13.8 No Waiver. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

13.9 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

13.10 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13.11 Merger of Prior Agreements and Understandings. This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

13.12 Covenants to Survive Escrow. The covenants and agreements contained herein shall survive the Close of Escrow and, subject to the limitations on assignment contained in Section 11.1 above, shall be binding upon and inure to the benefit of the parties hereto and their representatives, heirs, successors and assigns.

13.13 Consent of Parties. Whenever by the terms of this Agreement the consent or approval of Buyer or Seller is to be given, such consent or approval shall be evidenced by the signature of one person designated for such purpose. Such designated persons may be changed by the party so designating at any time by the delivery of a written notice to the other party.

13.14 No Withholding Because Non-Foreign Seller. Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or any out-of-state seller under California Revenue and Tax Code Section 18862 and that it will deliver to Buyer on or before the Close of Escrow (i) a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulation promulgated thereunder and (ii) a California Form 590.

13.15 Execution in Counterpart. This Agreement and any modifications, amendments or supplements thereto may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

13.16 Notices. Any notice which either party may desire to give to the other party or to the Escrow Holder must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto:

To Buyer: JMA Village, LLC 1137 Second Street
Santa Monica, CA 90403
Attention: Mr. Arthur Pearlman or Mr. Mark Frost
Telephone: (310) 280-2425
Facsimile: (310) 260-6334

Copy to: Cox, Castle & Nicholson LLP
Attn: Ed. Dygert
2049 Century Park East, Suite 2800
Los Angeles, California 90067
Telephone: (310) 284-2256
Facsimile: (310) 277-7889

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To Seller: The City of Banning
99 E. Ramsey St.
Banning, CA 92220
Attention: City Manager
Telephone: (951) 922-3171
Facsimile: (951) 922-3174

Copy to: Aleshire & Wynder, LLP
18881 Von Karman Ave., Ste. 1700
Irvine, CA 92612
Attn: David J. Aleshire, Esq.
Facsimile: 949-223-1180

Escrow Holder: At the above stated address.

13.17 Exhibits. Exhibits "A" through "I", inclusive are attached hereto and incorporated herein by this reference. The Exhibits are as follows:

Exhibit	Description
A.	Legal Description of Site
B.	Legal Description of City Property
C.	Legal Description of Third-Party Parcel
D.	Project Concept Plans
E.	Map Showing Restaurant, Hotel, General Retail and Retail/Office Parcels
F.	Promissory Note
G.	Deed of Trust to be Recorded upon Closing on City Property and/or Site
H.	Grant Deed Form
I.	CC&Rs

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

"BUYER"

JMA VILLAGE, LLC,
A California limited liability company

By: _____
Arthur Pearlman

By: _____
Mark Frost

ATTEST:

"SELLER"

CITY OF BANNING,
A California General Law Municipality

Secretary

By: _____
Barbara Hanna, Mayor

APPROVED AS TO FORM
ALESHIRE & WYNDER, LLP

Dave Aleshire, City Attorney

AGREED AND ACCEPTED AS OF THIS
___ DAY OF _____, 2012

CHICAGO TITLE COMPANY

By: _____
Sandra Olson, Escrow Officer

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EXHIBIT A

Legal Description of Site

EXHIBIT B

Legal Description of City Property

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EXHIBIT C

Legal Description of Third-Party Parcel

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EXHIBIT D

Project Concept Plans

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EXHIBIT E

Tentative Tract Map Showing Approximate Parcel Boundaries

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EXHIBIT F
Promissory Note

EXHIBIT G

Form Deed of Trust

EXHIBIT H

Form Grant Deed

EXHIBIT I

CC&Rs

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ATTACHMENT 3

Resolution No. 2012-03

RESOLUTION NO. 2012-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, MAKING AND APPROVING CERTAIN FINDINGS AND APPROVALS UNDER SECTION 33433 OF THE CALIFORNIA HEALTH AND SAFETY CODE, AND APPROVING A PURCHASE & SALE AGREEMENT BETWEEN THE CITY OF BANNING AND JMA VILLAGE, LLC

WHEREAS, The proposed Purchase and Sale Agreement (“Agreement”) pertains to the City’s conveyance to “Buyer,” JMA Village, LLC, of those certain parcels of vacant real property consisting of a total of 5.25 acres, or 228,690 square feet, in the City of Banning bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street (the “Site”).

WHEREAS, City’s predecessor in interest on the Site was the Community Redevelopment Agency of the City of Banning (“Agency”) which is a community redevelopment agency existing and formed pursuant to the Community Redevelopment Law (H&S §§ 33400 *et seq.* (the “CRL”)). On March 8, 2011, the Agency transferred much of its property to the City of Banning pursuant to a transfer agreement (the “Transfer Agreement”), which Transfer Agreement permitted the City to transfer parcels of property to third parties provided that the City complied with aspects of the CRL to the greatest extent possible. Accordingly, the City has prepared the 33433 Information Summary Report accompanying this Resolution.

WHEREAS, Although the Transfer Agreement requires the City to follow the public hearing procedures under Health & Safety Code § 33433, the Agency is not a party to the Site’s conveyance and thus is not taking action on the proposed Agreement. Accordingly, the City is acting as both grantor of the Site and the consenting legislative body thereto for purposes of Health & Safety Code § 33433 *et seq.*

WHEREAS, the City has prepared the required 33433 Information Summary Report and a notice of public hearing of the City Council concerning the proposed Agreement has been given in accordance with applicable law.

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

SECTION 1. The above Recitals and facts therein are true and correct and are incorporated into the terms of this Resolution in their entirety by this reference. Also, all terms, findings and conclusions stated in the accompanying Information Summary pursuant to Section 33433 are true and correct and incorporated into the terms hereof in their entirety by this reference.

SECTION 2. The value of the interest being conveyed at the allowable highest and best use is \$1,020,000.00. The fair market value of the Site was appraised at \$1,020,000.00 (or \$4.46/sq. ft.) on May 6, 2011, which fair market value shall constitute Buyer’s “Purchase Price” for the entire Site. Buyer shall purchase all Seller’s right, title and interests to the Site pursuant to a

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“Promissory Note” in favor of the Buyer for the full Purchase Price, which note shall become immediately due and payable upon the earlier of either (i) Buyer’s commencement of construction of vertical Project improvements, or (ii) Two (2) years from the close of escrow hereunder. The Promissory Note shall be secured through at least one “Deed of Trust” recorded upon the Site,

SECTION 3. The Agreement will assist in the elimination of blight and the development of a vital, centralized downtown region in the City. Specifically, the Agreement proposes that buyer will purchase the Site for purposes of developing the Site as a mixed-use, downtown commercial hub consisting of approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. hotel building, and an approximately 12,000 sq. ft. multi-tenant restaurant building with a mix of food types (the “Project”). In accordance with Health & Safety Code § 33433, and based on the Information Summary, the City has determined:

A. *That the Agreement and correspondent conveyance of the Site will assist in the elimination of blight and are consistent with the City’s redevelopment goals and policies, to wit:*

- i. For multiple decades the Site has been used for a variety of multi-tenant small-scale commercial purposes. At the time that the City acquired the parcels that make up the Site, the structures located on the Site were considered economically obsolete and exhibited severe conditions of physical degradation and dilapidation. All of the structures previously located on the Site have been removed, leaving the Site vacant.
- ii. High business vacancies and vacant or underutilized land or buildings are conditions that fall within the ambit of adverse economic conditions associated with blight. The Agreement proposed allows Buyer to occupy otherwise vacant premises, thus helping to prevent the spread of blight via commercial vacancies.

B. *The consideration to be paid by Buyer for the Site pursuant to the Agreement is not less than the fair reuse value of the use and with the covenants and conditions and development costs authorized by the Agreement; to wit:*

- i. The Buyer is purchasing the Site at the estimated fair market value, based on the highest and best use, of \$1,020,000.00. No public agency assistance is being provided. Moreover, the Project’s mixed-commercial use is consistent with the highest and best use of the Site and therefore the Purchase Price is not less than the fair reuse value.

SECTION 4. The City has already and through prior action complied with CEQA for this Project, to wit:

- i. An Initial Study/Mitigated Negative Declaration (“IS/MND”) and Mitigation Monitoring Program (“MMP”) were completed for the Project and were made available for public review between March 25 - April 25, 2011, or for a period of

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30 days. The Land Use Entitlement Process also included Design Review (DR #10-702), Tentative Parcel Map #36285, Conditions of Approval, and consistency with the General Plan regarding property acquisition at 220 E. Ramsey Street. The IS/MND and MMP were submitted to the State Clearinghouse for their distribution to other public agencies. Comment letters were received from the Public Utilities Commission ("PUC"), Caltrans District 8, and Morongo Band of Mission Indians and comments received were addressed during project review.

- ii. On May 4, 2011, the Planning Commission reviewed the IS/MND and MMP for the VPSG Project and recommended approval to the City Council of Design Review (DR) #10-702, Tentative Parcel Map (TPM) #36285, and finding of consistency with the General Plan related to property acquisition at 220 E. Ramsey Street subject to conditions of approval. On May 24, 2011, the City Council and the Community Redevelopment Agency adopted the IS/MND and MMP and approved the VPSG Project pursuant to CEQA.

SECTION 5. Pursuant to Health & Safety Code § 33433(a)(1), the City Council approves the Agreement and consents to the execution of the Agreement.

SECTION 6. The Mayor and City Manager are authorized and directed to take such actions and execute such documents as may be necessary to implement and effect this Resolution and the Agreement on behalf of the City.

SECTION 7. City Clerk shall certify to the passage and adoption hereof.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Banning City Council this ____ day of January 2012.

Don R. Robinson, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, hereby certify that Resolution No. 2012-03 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 10th day of January 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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CITY COUNCIL RESOLUTION EXHIBIT A

Information Summary

**INFORMATION SUMMARY
FOR PROPOSED
PURCHASE AND SALE AGREEMENT
WITH
JMA VILLAGE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
(For the disposition and development of certain real property)
"33433 REPORT"**

This summary was prepared for the City of Banning (the "City") pursuant to Section 33433 of the California Community Redevelopment Law (Part 1 of Division 24 of the Health and Safety Code, the "CCRL") with respect to that certain Purchase and Sale Agreement (the "PSA") between the City and JMA Village, LLC, a California Limited Liability Company (the "Developer"). On March 8, 2011, the City and the Community Redevelopment Agency of the City of Banning (the "Agency") entered into an agreement to transfer certain Agency-owned parcels to the City, subject to certain conditions (the "Transfer Agreement"). Among other matters, pursuant to the Transfer Agreement the City is required to conform with the requirements of Section 33433 of the CCRL prior to the approval of the disposition of any land that was transferred to the City pursuant to the Transfer Agreement. The PSA concerns the disposition and development of the Site (as hereinafter defined) for which some of the parcels that constitute the Site were transferred to the City by the Agency pursuant to the Transfer Agreement.

The PSA pertains to the development of an approximately 68,955 sq. ft. mixed-use multi-tenant commercial/retail project (the "Project") on an approximately 5.25-acre site bounded by the southern boundary of East Ramsey Street on the north, the southern boundary of Livingston Street on the south, the western boundary of Martin Street on the east and several "not a part" parcels on the west, which specifically includes all of APNs 541-181-009 thru 012, 541-181-024 through 028, 541-183-001 through 004 and vacated public rights-of-way as depicted on TPM # 36285 (the "Site"). The Site is located within the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. The Project is more particularly described in City Council Resolution No. 2011-44, CRA Resolution No. 2011-20, Planning Commission Resolution No. 2011-02, Design Review (DR) #10-702, TPM # 36285 and the Conditions of Approval (collectively, the "Land Use Entitlements").

1. **Cost of Project to Agency:** Over a period of several years the Agency has incurred expenses or is obligated to expend funds in the amount of approximately \$3,976,623 for property acquisition, tenant relocation, demolition and/or removal of structures and improvements, soil remediation and professional studies/analyses that are directly related to Site. This amount will be offset by approximately \$1,101,600 of land sale proceeds and purchase money loan interest resulting in a net cost to the Agency of approximately \$2,875,023. This conclusion is based upon the following data:

- a. **Land Acquisition Cost:** The Agency's records reflect the following land acquisition costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
150 E. Ramsey	\$1,820,544	Closed
220 E. Ramsey	75,000	Pending
280 E. Ramsey	660,000	Closed
50 S. Alessandro	<u>601,018</u>	Closed
TOTAL:	\$3,156,562	

It is important to note that:

- 150 E. Ramsey consists of APNs 541-181-009 through 012 and 541-181-024 through 028;
- 220 E. Ramsey is APN 541-183-001;
- 280 E. Ramsey is APN 541-183-004; and
- 50 S. Alessandro consists of APNs 541-183-002 and 003.

Further, the ultimate cost of 220 E. Ramsey is subject to a superior court determination.

- b. **Clearance Costs:** The Agency's records reflect the following clearance costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
150 E. Ramsey	\$99,900	Completed
280 E. Ramsey	114,770	Completed
150, 220 & 280 E. Ramsey	<u>210,000</u>	Pending
TOTAL:	\$424,670	

The pending costs associated with 150, 220 and 280 E. Ramsey are related to the removal of underground storage tanks and other subterranean structures. The amount shown is an estimate prepared by the City's Department of Public Works.

- c. **Relocation Costs:** The Agency's records reflect the following relocation and loss of goodwill costs with respect to the Site:

<u>Address</u>	<u>Cost</u>	<u>Status</u>
280 E. Ramsey (L & R Auto Body)	\$150,000	Moved
280 E. Ramsey (Los Bros. Tires)	<u>53,115</u>	Moved
TOTAL:	\$203,115	

- d. **Improvement Costs:** The Agency has not incurred any improvement costs.

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- e. **Finance Costs:** None.
- f. **Other Costs:** In addition to the foregoing, the Agency has incurred the following indirect costs associated with the acquisition of the Site:
- \$12,500 for professional services related to acquisition and relocation services performed by Overland Pacific Cutler (i.e., for 220 & 280 E. Ramsey Street);
 - \$7,500 for appraisal services performed by Saddleback Realty Analysis, Inc., DBA Integra Realty Resources – Orange and Riverside Counties (i.e., for 220 & 280 E. Ramsey Street);
 - \$10,000 for appraisal services performed by Villegas Appraisal Company (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$26,766 for Phase I and Phase II environmental analyses prepared by Geo Tek, Inc. (i.e., for 220 and 280 E. Ramsey Street);
 - \$2,200 for Phase I environmental analyses prepared by Terra Nova Environmental Services, LLC (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$7,515 for Phase II environmental analyses prepared by Geo Tek, Inc. (i.e., for 150 E. Ramsey Street and 50 Alessandro Street);
 - \$39,600 for real estate brokerage fees paid to NAI Capital Commercial Real Estate Services (i.e., for 280 E. Ramsey Street);
 - \$58,350 for an Environmental Impact Report for the demolition of the former San Geronio Inn building prepared by Romo Planning Group, Inc. (i.e., for the structure previously located at 150 E. Ramsey Street);
 - \$14,105 for an Historical Resource Evaluation Report prepared by Romo Planning Group, Inc. (i.e., for the structure previously located at 150 E. Ramsey Street);
 - \$2,740 for an Historical Building Research Analysis prepared by CRM TECH, Inc. (i.e., for the structure previously located at 280 E. Ramsey Street); and
 - \$11,000 for miscellaneous closing costs attributable to the Site (rounded).

On a combined basis, the Agency has incurred approximately \$192,276-worth of indirect costs associated with the acquisition of the Site.

- g. **Offsetting Revenue:** The sum of the above costs (i.e., items “a” through “f”) is \$3,976,623, which represents the Agency’s current total investment in the Site. These costs are offset by the \$1,020,000 in land sales proceeds. It is also important to note that the PSA calls for the purchase price to be financed with a purchase money loan. The maximum term on the loan is 24 months from the date escrow closes. The parties have negotiated a fair market simple interest rate of 4.00%. By way of comparison and as of the date of this report, the interest rate proposed for the Agency Loan is .75% above the Prime Rate and is equal to the SBA 504 Program rate. Given these parameters, Urban Futures, Inc. concurs that the interest rate proposed for the purchase money loan is fair and reasonable.



Pursuant to the note, any remaining principal and interest due shall be paid in a lump-sum on a date that is subsequent to the accomplishment of all the conditions precedent thereto, as defined in the PSA, or not later than 24 months from the date that escrow closes. The note allows the Developer to pre-pay any amount prior to completion of the term of the note and to receive offsetting credit (as described in Section 2, below), without penalty. Based on the proposed rate and assuming the full principal amount is outstanding, the purchase money loan will generate \$3,400 of interest earnings per month during the term of the loan. If the entire purchase money loan remains outstanding for its full 24-month term, the loan will generate a total of up to \$81,600 of interest earnings (assumes no partial repayment or offsetting credit).

Notwithstanding the foregoing, the PSA includes certain City-related performance responsibilities pertaining to the completion of the assembly of the Site that are prerequisite to the Developer obtaining a commercial policy of title insurance for the Site that is acceptable to its first lender. In the event that the City is unable to meet its obligations with respect to this matter within 24 months of the close of escrow on the Site, the Developer has the option of terminating the PSA, transferring the Site to the City and extinguishing the note without any obligation to pay either the principal or interest that would have otherwise been due. In addition, to the extent that the Developer has received any offsetting credit (as described in Section 2, below), the City will be required to reimburse the Developer for such expenses.

Assuming the Project proceeds in the matter contemplated in the PSA and is consistent with the assumptions noted above, the sum of the above noted sources is \$1,101,600 (i.e., $\$1,020,000 + \$81,600 = \$1,101,600$). Therefore, Urban Futures, Inc. projects on a net basis that the Agency's overall costs for the project will be approximately \$2,875,023 (i.e., $\$3,976,623 - \$1,101,600 = \$2,875,023$).

2. Estimated value of interest to be conveyed or leased, determined at highest and best use permitted by the Redevelopment Plan:

In order to determine the estimated value of the interest to be conveyed, staff engaged the services of Saddleback Realty Analysis, Inc., DBA Integra Realty Resources – Orange and Riverside Counties ("Integra"). Larry Webb, MAI and Diane Lawler, both Certified General Real Estate Appraisers, prepared the Appraisal for the Site. The Appraisal was prepared in conformance with the Uniform Standards of Professional Appraisal Practice ("USPAP"), the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and the appraisal regulations issued in connection with the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA").

It was requested that Integra determine the most probable price for which the Site should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. The appraisal for the site is dated May 12, 2011. The date of value is May 6, 2011. The appraisal is on file with the City. Based upon the value analysis included within the appraisal and subject to the definitions,

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assumptions and limiting conditions expressed therein, Integra concluded that the "Fair Market" value of the Site at its highest and best use as of May 6, 2011 is \$1,020,000.

It is important to state that in determining this value, the appraiser assumed that the improvements on the Site (including all structures, underground storage tanks ["UST"] and paving on APNs 541-183-001 through 004) were demolished or removed. As of the date of this report, all of the structures on the site have been removed and the paving on APNs 541-183-002 through 004 has been removed. However, due to the August 11, 2011 California Supreme Court stay on certain redevelopment agency operations, the Agency has not been able to remove the paving on APN 541-183-001 and USTs on the Site. The costs associated with the removal of these improvements are included in the amount indicated in Section 1 b., above, and are considered an Agency obligation. In order to account for these costs, the PSA includes provisions that transfers the Agency's obligation to cause the removal of these items to the Developer in exchange for the Developer receiving a dollar for dollar credit against the above described note.

The Appraiser also assumed that the Site is free from environmental contamination. With respect to this issue, Agency staff engaged the services of Geo Tek, Inc., an environmental engineer. In their Phase II Environmental Site Assessment, Geo Tek, Inc. indicated that their examination of the property did not revealed evidence of subsurface contamination resulting from the underground storage tanks, oil/water separator, or hydraulic lifts at the Site. Consequently, they did not recommend any additional investigation at this time. However, due to the numerous anomalies they detected below the surface of the Site, they recommended that their personnel be present during excavation of the USTs and Site grading activities in the event that an unforeseen environmental condition is discovered.

Therefore, pursuant to the PSA, the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

3. Estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants and development costs required by the sale or lease:

The Project will be developed in full accordance with the Land Use Entitlements, which do not affect or cause any unusual conditions, covenants and/or development costs. Therefore, pursuant to the PSA the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

4. The purchase price or sum of the lease payments which the lessor will be required to pay during the term of the lease:

Pursuant to the PSA, the Developer will purchase the Site for \$1,020,000 which is equal to its full fair market value.

5. Explanation of the reason (if applicable) why the sales price or lease rate paid to the Agency may be less than market value of the property as determined at its highest and best use:

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Not applicable. The sale price of the Agency parcels is at fair market value.

6. Explanation of why the sale or lease of the property will assist in the elimination of blight:

This PSA is part of a greater program effort designed in part to eliminate blight in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area. For multiple decades the Site has been used for a variety of multi-tenant small-scale commercial purposes. As noted in Section 1 b. funding has been allocated for clearance costs. At the time that the Agency or City acquired the parcels that make up the Site, the structures located on the Site were considered economically obsolete and exhibited severe conditions of physical degradation and dilapidation. As noted above, all of the structures previously located on the Site have been removed, which has specifically eliminated blighting conditions. Pursuant to the PSA, the Developer is obligated to remove the USTs and certain obsolete paving which will also specifically eliminate existing blighting conditions.

Section 33031 (b) of the CCRL describes economic conditions that cause blight as follows:

- a. Depreciated or stagnant property values.
- b. Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).
- c. Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.
- d. A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.
- e. Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.
- f. An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.
- g. A high crime rate that constitutes a serious threat to the public safety and welfare.

Based on the above, the following describes the types of outcomes that could occur as a result of commercial vacancies:

- i. Property values may depreciate or stagnate;

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- ii. Additional vacancies, degradation of lease rates and increase in abandoned buildings may occur.
- iii. A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions may occur.
- iv. Crime rates may increase to the point of becoming a serious threat to the public safety and welfare.

Among other reasons, the Agency acquired the Site to: i) enhance the economic vitality of the commercial core of the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area; ii) remove existing conditions of blight present on the Site; and iii) prevent the further spread of economic blight. The proposed PSA will facilitate these objectives through the development of an approximately 68,955 sq. ft. mixed-use multi-tenant commercial/retail project. The Project will bring new commercial buildings and tenants into the City thereby increasing the community's economic vitality and activity in general and in the downtown core area in particular. The increased level of economic activity in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area will assist in the avoidance of future commercial vacancies that may have otherwise contributed to possible conditions that would have caused blight, as described above. Further, not only will the physical aspects of the Project contribute to revitalizing the downtown core area and thus aid in reversing possible conditions that would have caused blight in the Downtown Redevelopment Project component area of the Merged Redevelopment Project Area, the Project will also add a significant number of employment opportunities to the City. As noted in the June 24, 2011 study prepared by economist Evans, Carroll & Associates, Inc., the Project has a job creation capability of approximately 480 direct, indirect and induced jobs.

7. Economic benefits of the Project:

The Project will consist of approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. office or hotel building, and an approximately 12,000 sq. ft. multi-tenant restaurant building with a mix of food types. For the purposes of this analysis, 10 years is used as the performance measurement period because it approximates the period of time that the Redevelopment Agency may collect tax increment from the original Downtown Redevelopment Project area after the Project is completed.

ANALYSIS OF ESTIMATED SALES TAX GENERATING POTENTIAL

Miscellaneous Retail

The latest information available for estimating retail store taxable sales potential (published by the Hdl Companies [FY 2009-10]) indicates that the taxable sales potential for miscellaneous retail ranges between \$100 and \$900 per square foot per year. The average taxable sales potential for miscellaneous retail ranges between approximately \$160 and \$320 per square foot per year. Since the retail users are currently unknown as of the date of this report, the average taxable sales potential is used in this analysis.

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Based on this, it is possible that the taxable sales potential for the 13,500 square foot Multi-tenant mixed retail component of the Project could be between \$2,160,000 and \$4,320,000 per year, if fully occupied. If these sales levels are achieved, the potential sales tax revenue attributable to the City could be between \$21,600 and \$43,200 per year.

Restaurants

The Project will include 12,000 square feet of multi-tenant restaurant space in the fast casual and/or family dining category. The latest information available for estimating fast casual and/or family dining restaurant taxable sales potential (published by the Hdl Companies [FY 2009-10]) indicates that the taxable sales potential for fast casual and/or family dining restaurant ranges between \$250 and \$700 per square foot per year. The average taxable sales potential for fast casual and/or family dining restaurant ranges between approximately \$375 and \$600 per square foot per year. Since the fast casual and/or family dining restaurant users are currently unknown at this time, the average taxable sales potential is used in this analysis. Based on this, it is possible that the taxable sales potential for the fast casual and/or family dining restaurant component of the Project could be between \$4,500,000 and \$7,200,000 per year. If these sales levels are achieved, the potential sales tax revenue attributable to the City could be between \$45,000 and \$72,000 per year.

Combined Basis

Based on the above, on a combined basis it is estimated that the retail/restaurant component of the Project could generate potential sales tax revenue attributable to the City during its first full year of operation (i.e., FY 2012-13) in the range of \$66,600 and \$115,200. During the first 10 years of full operations (i.e., post FY 2012-13) and assuming a 2% growth rate beginning during FY 2014-15, the Project is estimated to generate between \$729,000 and \$1,261,000 in total sales tax revenue (rounded). Of this amount, at least 50% is estimated to be new revenue to the City.

ANALYSIS OF ESTIMATED BUSINESS LICENSE REVENUE POTENTIAL

Based on the City's current schedule of business license fees, it is estimated that beginning during FY 2012-13 the Project will generate between \$2,610 and \$3,350 per year of business license fee revenue. This is estimated based on the following number of businesses and their employment levels:

<u>Employment Range</u>	<u>No. of Businesses</u>	<u>Applicable Tax</u>
21 to 25	2	\$275.00
6 to 10	16 to 20	\$110.00
0 to 5	6 to 8	\$50.00

During the first 10 years of full operations (i.e., post FY 2012-13) and assuming a 2% growth rate in business license fees beginning during FY 2013-14, the Project is estimated to generate between \$29,000 and \$37,000 in total business license fees (rounded).

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ANALYSIS OF ESTIMATED TAX INCREMENT REVENUE POTENTIAL

The Project site consists of approximately 5.25 acres of land divided among 15 separate parcels. The City and Agency do not have complete records with respect to the combined base value of the 15 parcels that comprise the Site. Consequently, it was necessary to estimate the applicable base value. Therefore, based on the data available and on information provided by City staff, UFI has estimated that the combined base value of the 15 parcels that comprise the Site is approximately \$1 million. Based on UFI's experience, the assumed \$1 million-worth of assessed base value is, therefore, a reasonable starting point.

The Developer has estimated that the Project's all-in development value (theoretically, the new assessed value) will be \$20.5 million. The differential between the two values is \$19.5 million, which represents the growth in assessed value directly attributable to the Project. The Project is anticipated to be completed during spring of 2013. However, for property tax roll purposes, the incremental value will not fully appear on the tax rolls until FY 2013-14. Therefore, for the purposes of this analysis, \$9.5 million in incremental value is reflected during FY 2012-13 and \$9.5 million in additional incremental value is reflected during FY 2013-14.

The combination of the LMI Housing set-aside and the tax increment pass through payments are projected to be approximately 36% of the total. Based on the foregoing, during FY 2012-13, the Project is estimated to generate approximately \$62,400 in net new non-housing tax increment revenue. Beginning during FY 2013-14, the Project is estimated to generate approximately \$124,800 in net new non-housing tax increment revenue. During the remaining period during which the Agency may collect tax increment from the original Downtown Redevelopment Project area (i.e., 10 years) and assuming a 2% growth rate beginning during FY 2012-13, the Project is estimated to generate a total of approximately \$1.4 million of net new non-housing tax increment revenue (rounded).

SUMMARY OF ESTIMATED ECONOMIC BENEFITS:

Jobs:	480 direct, indirect and induced jobs
Sales Tax:	\$66,600 to \$115,200 first year \$729,000 to \$1,261,000 over 10 years
Business License:	\$2,610 to \$3,350 first year \$29,000 to \$37,000 over 10 years
Tax Increment:	\$124,800 first year after completion \$1.4 million over 10 years
Building Permit:	\$1,633,000-worth of permit fees are projected for the Project by the Developer (does not include TUMF)

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These additional jobs, tax revenues and permit fees will assist the City and Agency in removing blight within Downtown Redevelopment Project component area of the Merged Redevelopment Project Area as well as promoting economic development, job creation and affordable housing projects and programs.

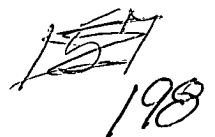
Certification: I certify that this report complies with the reporting requirements of Section 33433 of the CCRL. Further, I do not have a present or perspective interest in the Site, the PSA or the parties to the PSA. My engagement to prepare this report was not contingent upon developing or reporting predetermined results. The statements of fact contained herein and the substance of this report are based on public records, data provided by the City or Agency, reports provided by its consultants or as otherwise noted herein. This report reflects my personal, unbiased professional analyses, opinions and conclusions. If any of the underlying assumptions related to the PSA change after the date provided below, then the undersigned reserves the professional privilege to modify the contents and/or conclusions of this report.

Respectfully Submitted,
URBAN FUTURES, INC.

A handwritten signature in black ink, appearing to read 'Steven H. Dukett', with a stylized flourish at the end.

STEVEN H. DUKETT
Managing Principal

Dated: December 23, 2011

A handwritten signature and the date '12/27/11' in black ink.

**CITY COUNCIL
RESOLUTION EXHIBIT B**

Purchase and Sale Agreement

 DRAFT

**AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS**

Escrow No. _____
Date of Opening of Escrow: _____, 2012

To: Escrow Holder
Chicago Title Company
560 E. Hospitality Lane
San Bernardino, CA 92408

Attn: Sandra L. Olson, Escrow Officer
Phone: (909)381-6722; Email: Sandra.olson@ctt.com

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (this "**Agreement**") is made this ____ day of January, 2012, by and between THE CITY OF BANNING, a California general law municipality ("**Seller**" and occasionally herein "**City**"), and JMA Village, LLC, a California limited liability company ("**Buyer**").

RECITALS

A. This Agreement pertains to the conveyance to Buyer of those certain parcels of vacant real property consisting of a total of 5.25 acres, or 228,690 square feet, in the City of Banning bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street, which property is more particularly described on **Exhibit "A"** attached hereto (the "**Site**").

B. A portion of the Site is under ownership of a third-party, although such third-party parcel is currently the subject of eminent domain proceedings pursuant to which the Seller expects to obtain title to said parcel. Accordingly, the Site consists of two distinct sub-parcels representing different ownership interests:

1. *City-Owned*: All those portions of the Site owned in fee by Seller are legally described at **Exhibit "B"** hereto (the "**City Property**").
2. *Third-Party Owned*: Seller owns in fee title all portions of the Site except for one parcel approximating 15,374 square feet, which is legally described in **Exhibit "C"** attached hereto (the "**Third-Party Parcel**"). The Third-Party Parcel is currently the subject of an eminent domain proceeding by which the Seller seeks to obtain title to such Parcel. Buyer's acquisition of fee title to the Third-Party Parcel under this Agreement is conditioned upon the ability of Seller to first acquire title to such Parcel in the name of the City of Banning.

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C. City's predecessor on interest on the Site was the Banning Redevelopment Agency ("Agency") which is a community redevelopment agency existing and formed pursuant to the Community Redevelopment Law (H&S §§ 33400 *et seq.* ("CRL"). On March 8, 2011, the Agency transferred much of its property to the City of Banning pursuant to a transfer agreement (the "Transfer Agreement"), which Transfer Agreement permitted the City to transfer parcel of property to third parties provided that the City complied with aspects of the CRL to the greatest extent possible. Accordingly, the City has prepared and approved a 33433 report to accompany this Agreement, the hearing on which report was held on January 10, 2012, .

D. Buyer proposes to purchase the Site for purposes of developing the Site as a mixed-use, downtown commercial hub consisting of approximately 13,500 sq. ft. of multi-tenant office space, approximately 13,500 sq. ft. of multi-tenant mixed retail space, an approximately 29,955 sq. ft. hotel building, and an approximately 12,000 sq. ft. multi-tenant restaurant building with a mix of food types (the "**Project**"). Buyer's site plans and preliminary designs for the Project are attached hereto as **Exhibit "D"**. The Project will be further reflected in a Final Map to be recorded on the Site pursuant to California Government Code Section 66466 (the "**Final Map**"). The design of the Project shall be consistent with the City's design guidelines. Buyer shall also obtain architectural review and approval for the Project from the City's Planning Commission. Buyer will be solely responsible for obtaining all approvals and entitlements for the Project, arranging the financing for the Project, and constructing all improvements upon the Site, subject to the terms and conditions of this Agreement.

E. It is anticipated that the Final Map will divide the Site into four (4) parcels reflecting four distinct Project phases, substantially as follows:

1. **The "Restaurant Parcel"**: That portion of the Site consisting of approximately .77 acres to be dedicated to the construction and operation of a single restaurant tenant. The restaurant tenant occupying the Restaurant Parcel shall be subject to the reasonable approval of Seller.
2. **The "Hôtel Parcel"**: That portion of the Site consisting of approximately 1.85 acres to be dedicated to the construction and operation of a single hotel tenant. The hotel tenant occupying the Hotel Parcel shall be subject to the reasonable approval of Seller.
3. **The "General Retail Parcel"**: That portion of the Site consisting of approximately .78 acres to be dedicated to the construction and operation of a mixed retail and small restaurant complex.
4. **The "Retail/Office Parcel"**: That portion of the Site consisting of approximately 1.85 acres to be dedicated to the construction and operation of a mixed retail and small offices complex.

F. The above-listed parcels are occasionally herein referred to herein individually as a "**Parcel**" and collectively as "**Parcels**". A tentative tract map showing the proposed boundaries of the four Project Parcels is attached hereto as **Exhibit "E"**. Project improvements to each of the Parcels are referred to herein as a "**Phase**" and these Phases are more specifically



named respective to each Parcel to as the “**Restaurant Phase**”, “**Hotel Phase**”, “**General Retail Phase**”, or “**Retail/Office Phase**”. The boundaries for each Parcel are based on Buyer’s preliminary designs and may be amended prior to approval of the Final Map by the City of Banning, excepting that Buyer shall first comply with any additional planning review or other City procedures necessary should a change to Project designs or parcel configurations be substantial enough to require Buyer to acquire new Project approvals or permits.

G. As a material condition of Seller’s conveyance of the Site to Buyer, Buyer shall adhere to the following general Project construction schedule (subject to mutually-agreed written amendment by the parties):

1. Vertical construction on at least one Phase shall commence no later than February 1, 2014.
2. Vertical Construction on at least a second Phase shall commence no later than February 1, 2015.
3. Vertical Construction on at least a third Phase shall commence no later than February 1, 2016.
4. Vertical Construction on at least a fourth Phase shall commence no later than February 1, 2017.
5. Completion of all Project improvements by February 1, 2018.

H. The fair market value of the Site was appraised at \$1,020,000.00 (or \$4.46/sq. ft.) on May 6, 2011, which fair market value shall constitute Buyer’s “**Purchase Price**” for the entire Site. Buyer shall purchase all Seller’s right, title and interests to the Site pursuant to a “**Promissory Note**” in favor of the Buyer for the full Purchase Price, which note shall become immediately due and payable upon the earlier of either (i) Buyer’s commencement of construction of vertical Project improvements, or (ii) Two (2) years from the close of escrow hereunder. The Promissory Note shall be secured through a “**Deed of Trust**” recorded upon the Site, which Deed of Trust shall be released on a Parcel-by-Parcel basis as Buyer completes each Project Phase.

NOW, THEREFORE, based on the above recitals, which are deemed true and correct and which are incorporated into the terms of this Agreement, and in consideration of the mutual covenants set forth herein, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PURCHASE AND SALE OF PROPERTY.

1.1 Generally. Buyer hereby agrees to purchase from Seller, and Seller agrees to sell to Buyer all Buyer’s rights, title and interests to the Site upon the terms and conditions hereinafter set forth.

1.2 As to Third-Party Parcel. From and after the date of this Agreement, Seller, or one of its affiliate agencies, shall attempt to acquire the Third-Party Parcel from the current owners of the Third-Party Parcel by negotiated purchase; provided, however, that nothing in this Agreement shall obligate Sellers or their related agencies to (i) pay more than the amount Seller has determined to be the fair market value of the Third-Party Parcel, nor (ii) to agree to any other non-standard terms or conditions except as may be acceptable to Seller in its sole and absolute discretion.

2. OPENING OF ESCROW; CLOSING DATE.

2.1 Opening of Escrow. Within three (3) business days after the execution of this Agreement by Buyer and Seller and approval by the Banning City Council, the Parties shall open an escrow ("**Escrow**") with the Escrow Holder identified above, (herein the "**Escrow Holder**") by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to Escrow Holder ("**Opening of Escrow**"). Escrow Holder shall fax written notice of the Opening of Escrow date to Buyer and Seller.

2.2 Closing Date. With the exception of the Third-Party Parcel, Escrow shall close *no later than* thirty (30) days following opening ("**Closing Date**"), unless extended by mutual written agreement of the parties. The terms the "**Close of Escrow**" and/or the "**Closing**" are used herein to mean the time the Grant Deed (as hereinafter defined) is recorded in the Office of the County Recorder of Riverside County, California. Close of Escrow on the Third-Party Parcel may close later than thirty (30) days following opening and shall not occur until all the Conditions of Closing stated in Section 5.2 have occurred.

3. CONSIDERATION; PROMISSORY NOTE AND DEED(S) OF TRUST.

3.1 Purchase Price. The Purchase Price for Buyer's acquisition of all interests Seller holds in the Site is ONE MILLION, TWENTY-THOUSAND EVEN DOLLARS, (\$1,020,000.00) or \$4.46 per square foot. The Purchase Price is the total compensation to be paid by Buyer to Seller and all-inclusive of (i) Seller's fee interest in the City Property and (ii) any rights, title or interests the Seller may obtain over the Third-Party Parcel.

3.2 Payment of Purchase Price. The Purchase Price shall be paid by a Promissory Note secured by Deed of Trust.

3.3 Promissory Note. The Promissory Note shall be substantially in the form of that attached hereto as **Exhibit "F"** and reasonably acceptable to Buyer and Seller. The Promissory Note shall contain the following provisions: the Note shall be payable to the order of Seller; the principal balance shall accrue simple interest at the rate of four percent (4%) per annum; and the principal balance plus accrued interest shall be paid in one lump sum due no later than two (2) years from the Close of Escrow upon the City Property. The Promissory Note shall be prepayable at any time without premium or penalty but with interest prorated to the date of prepayment; and the principal balance of the Promissory Note, plus accrued interest, shall be due and payable in full upon the sale, transfer or other conveyance by Buyer of the Site, or any portion thereof, securing the Promissory Note.

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3.4 Deed(s) of Trust. The Deed of Trust, attached hereto as **Exhibit "G"**, is in a format typically used in the State of California and reasonably acceptable to Buyer and Seller. The Deed of Trust shall secure (i) the Seller's right of reverter in case of a Buyer default, and (ii) repayment of the Promissory Note in whole or part. The rights under the Deed of Trust will be released with respect to each Parcel, as each Parcel is developed. At the time a Subsequent Deed of Trust is recorded on a Parcel, if the Parcel is not thereafter completed with Project improvements pursuant to this Agreement, then the Seller may exercise its right of reverter. The Subsequent Deed of Trust may be subordinated for purposes of financing and Seller will not unreasonably withhold its consent to subordinating a Subsequent Deed of Trust for the purposes of financing the development of the Parcel(s) as described herein. The Escrow Officer shall record the Deed of Trust as follows:

(a) *Upon Close of Escrow & Prior to Final Map Recordation*. Concurrent with the Close of Escrow on the City Property, the Escrow Officer shall record upon the City Property the Deed of Trust, in the form attached hereto as Exhibit "G". If the Third-Party Parcel is acquired by Seller before the recordation of the Final Map, the Deed of Trust in the form attached hereto as Exhibit "G" may, upon transfer of the Third-Party Parcel to Buyer and upon Seller's discretion, also be recorded upon the Third-Party Parcel, such that the Promissory Note and Seller's rights of reverter will be secured by the entire Site.

(b) *After Final Map Recordation; Deed of Trust to be Recorded on Each Parcel*. Once Buyer has obtained City approval of its Final Map for the Project, Seller shall release the single Deed of Trust recorded upon the City Property pursuant to subpart (a), above, and re-secure the Seller's Promissory Note and rights of reverter by recording four new, separate deeds of trust (the **"Subsequent Deeds of Trust"**) with one deed of trust recorded upon each Parcel. This shall be accomplished within forty-five (45) days of Final Map approval, subject to the requirement that Buyer hereby agrees to execute said Subsequent Deeds of Trust in a timely manner. So long as the Subsequent Deeds of Trust are presented in a form substantially similar to that of Exhibit "G" (subject to Parcel-specific particulars that will necessarily be added to the Subsequent Deeds of Trust), Seller's failure to promptly execute the Subsequent Deeds of Trust shall constitute a default of this Agreement. The Subsequent Deeds of Trust shall be recorded to reflect the Site's parcelization into the four Project Parcels and securing each Parcel's proportional value to the Purchase Price, substantially as follows:

(i) One Subsequent Deed of Trust shall be recorded upon the Restaurant Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Restaurant Parcel. For example, under current estimates, the Restaurant Parcel will account for approximately 33,541 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Restaurant Parcel would secure \$149,594.

(ii) One Subsequent Deed of Trust shall be recorded upon the Hotel Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Hotel Parcel. For example, under current estimates, the Hotel Parcel will account for approximately 80,586 square

feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Hotel Parcel would secure \$359,414.

(iii) One Subsequent Deed of Trust shall be recorded upon the General Retail Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the General Retail Parcel. For example, under current estimates, the General Retail Parcel will account for approximately 33,976 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the General Retail Parcel would secure \$151,537.

(iv) One Subsequent Deed of Trust shall be recorded upon the Retail/Office Parcel; such Subsequent Deed of Trust shall secure the proportionate share of the Purchase Price attributable to the value of the Retail/Office Parcel. For example, under current estimates, the Retail/Office Parcel will account for approximately 80,586 square feet. Given the Purchase Price was based on a per square foot value of \$4.46, the Subsequent Deed of Trust for the Retail/Office Parcel would secure \$359,414.

(c) *Form of Subsequent Deeds of Trust.* Each Subsequent Deed of Trust shall be substantially in the same form as attached hereto at Exhibit "G" (subject to Parcel-specific particulars that will necessarily be added to the Subsequent Deeds of Trust). The boundaries for each Parcel are based on Buyer's preliminary designs and, therefore, both the legal descriptions and Subsequent Deed amounts secured by each Parcel may, at the time of recording the Final Map, be different from those identified in the foregoing subpart (b).

(d) *Release of Subsequent Deeds of Trust.* Each Subsequent Deed of Trust shall be released from its Parcel upon both (i) Buyer's payment of the full Purchase Price and (ii) Buyer's satisfaction of all conditions precedent to the release of Seller's rights of reverter for the Parcel, as described in Sections 12.8(b) hereof.

4. ADDITIONAL FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.

4.1 Buyer. Buyer agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, Buyer will deposit with Escrow Holder all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including, without limitation, the following:

(a) A Preliminary Change of Ownership Statement completed in the manner required in Riverside County, if any; and

(b) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

4.2 Seller. Seller agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, Seller will deposit with Escrow Holder such funds and other items and



instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including, without limitation, the following:

(a) A grant deed conveying the City Property to Buyer, or if Seller has secured title to the Third-Party Parcel before the Closing then conveying the whole Site to Buyer, in the form attached hereto as **Exhibit "H" ("Grant Deed")**.

(b) Two duplicate originals of California Form 590 Real Estate Withholding Exemption Certificates in the form required by the California Franchise Tax Board ("**California Residency Affidavit**"); and

(c) An executed copy of the "**CC&Rs**" to be recorded upon the Site, in accordance with Section 11.9 hereof, in substantially the form attached hereto as **Exhibit "I"**.

(d) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

4.3 Recordation, Completion and Distribution of Documents. Escrow Holder will cause the Grant Deed and Deed of Trust to be recorded when (but in no event after the date specified in Section 2.2 above) it can issue the Title Policy in the form described in Section 5.2 below, and holds for the account of Seller the items described above to be delivered to Seller through Escrow, less costs, expenses and disbursements chargeable to Seller pursuant to the terms hereof.

4.4 Escrow Holder Responsibilities. Escrow Holder will not have any responsibilities for the parties' performance of the terms of the Agreement which are to be performed after the 30-day Closing. The parties may execute supplemental escrow terms and instructions into Escrow Holder's general form and consistent with the terms hereof.

5. TITLE MATTERS.

5.1 Approval of Title. Buyer acknowledges that it has received copies of that preliminary title report for the entire Site (both City Property and Third-Party Parcel) dated December 19, 2011, as Order No. 930016309-U50 (the "**Preliminary Title Report**"). By executing this Agreement, Buyer approves all matters contained in the Preliminary Title Report and waives any objections Buyer may have to title exceptions or other matters contained in the Preliminary Title Report. Buyer hereby approves title in the form specified in Section 5.2.

5.2 Title Policy. When Escrow Holder holds for Buyer the Grant Deed in favor of Buyer executed and acknowledged by Seller covering the Site, Escrow Holder shall cause to be issued and delivered to Buyer and Seller as of the Close of Escrow a CLTA standard coverage owner's policy of title insurance ("**Title Policy**"), or, upon Buyer's request therefore, an ALTA extended coverage owner's policy of title insurance, issued by Title Company, with liability in the amount of the Purchase Price, covering the Site and showing title vested in Buyer free of encumbrances, *except*:



(a) All non-delinquent general and special real property taxes and assessments for the current fiscal year;

(b) Those easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matters of record shown on the Preliminary Title Report;

(c) The standard printed exceptions and exclusions contained in the CLTA or ALTA form policy;

(d) The following interests in the Third-Party Parcel, which Seller and/or one of its affiliate agency/bodies shall acquire through eminent domain: Frederick H. L. Huang and Audie P. H. Huang, husband and wife, as community property, as to an undivided one-half interest; and Jen H. Huang, a single man, as to an undivided one-half interest, as tenants in common as to the Third-Party Parcel.

(e) Any exceptions created or consented to by Buyer, including, without limitation, any exceptions arising by reason of Buyer's possession of or entry on the Site.

6. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

6.1 Conditions to Closing on City Property.

(a) *Conditions to Buyer's Obligations.* The obligations of Buyer under this Agreement shall be subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent:

(i) Title Company will issue the Title Policy as required by Section 5.2 of this Agreement.

(ii) Seller has deposited an executed Grant Deed into Escrow.

(iii) An executed Deed of Trust to be recorded upon the City Property has been deposited into escrow.

(iv) Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.

(v) All representations and warranties specified in Section 8.1 are true and correct.

(vi) Buyer's approval of any other conditions specified in this Agreement.

(vii) Seller shall not be in default of any term or condition of this Agreement.


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Buyer's approval shall be based upon Buyer's sole and absolute discretion; provided, however, if Buyer has not delivered written notice of approval of the above conditions to Seller and Escrow Holder by the times provided above, or if no time is provided, on or before the Close of Escrow, each such condition shall automatically and conclusively be deemed to have been disapproved by Buyer.

(b) *Conditions to Seller's Obligations.* The obligations of Seller under this Agreement shall be subject to the satisfaction or written waiver, in whole or in part, by Seller of each of the following conditions precedent:

(i) Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.

(ii) An executed Deed of Trust to be recorded upon the City Property has been deposited into escrow.

(iii) An executed copy of the CC&Rs (Exhibit "T") to be recorded upon the City Property has been deposited into escrow.

(iv) Buyer shall not be in default of any term or condition of this Agreement.

If requested by Escrow Holder or Buyer, Seller shall deliver to Escrow Holder and Buyer written notice of satisfaction of the conditions set forth in this Section 6.1.

6.2 Conditions to Closing on Third-Party Parcel if Seller Does Not Hold Title to the Third-Party Parcel Before Closing on the City Property. Conveyance of title to the Third-Party Parcel to Buyer is strictly conditioned upon the Seller obtaining title to the Third-Party Parcel, as further detailed hereafter. If Seller obtains title to the Third-Party Parcel prior to the deadline for Closing on the City Property, then the Third-Party Parcel shall be conveyed to the Buyer in the same manner as the City Property, subject to Section 6.1, and pursuant to a single Deed of Trust (in the form of Exhibit "G"). If however, Seller cannot obtain title to the Third-Party Parcel until after the 30-day Closing deadline for the City Property, Seller shall convey the Third-Party Parcel to Buyer as provided in this Section 6.2.

Seller's failure to obtain title to the Third-Party Parcel, after exercising reasonable efforts to do so, shall not constitute a default of this Agreement or waiver of any of Buyer's obligations hereunder. Notwithstanding the foregoing, if Seller is unable to acquire all or any portion of the Third-Party Parcel, Buyer may elect either (i) to terminate this Agreement, or (ii) to amend the Project plans and to proceed with the development of the Site without the Third-Party Parcel, if and only if the City approves such amended Project plans. If such amended Project plans are not approved by the City, Buyer shall not proceed with the development of the Site and this Agreement shall terminate.

(a) *Possession/Title to Third-Party Parcel to be Assigned to Buyer.* Seller, or its affiliate agency, is currently in the process of seeking possession and title to the Third-Party Parcel pursuant to an eminent domain action pending in the Riverside County Superior Court as *The City of Banning Redevelopment Agency v. Frank H.L. Huang*,

Audie P.H. Huang, et al., Case No. RIC 1109186. Seller shall pursue such acquisition of the Third-Party Parcel with reasonable diligence and, upon acquisition of an order of pre-judgment possession and title to the Third-Party Parcel, commit to assign such rights of possession and title to the Buyer. To this end, Seller shall deposit a copy of the Order of Prejudgment Possession for the Third-Party Parcel into Escrow as soon as such Order is issued. Upon Seller acquiring a right of Prejudgment Possession to the Third-Party Parcel pursuant to the pending eminent domain action, Seller shall assign its rights of possession to Buyer. If Seller shall actually obtain title pursuant to some earlier settlement or a final judgment prior to the 30-day Closing, Seller shall also deposit into escrow a grant deed to the Third-Party Parcel to convey to Buyer all rights, title and interests in the Third-Party Parcel. If title is not obtained until after the 30-day Closing deadline stated in Section 2.2, then there shall be either (i) a simple Closing including the Third-Party Parcel so long as title insurance can be obtained, with the City handling the obligation to deliver title separately outside of escrow when obtained, or (ii) separate closings for the City Property and the Third-Party Parcel.

(b) *Close of Escrow for Third-Party Parcel.* Notwithstanding any other provision of this Agreement to the contrary, if at any time prior to Seller's acquisition to title of the Third-Party Parcel, (i) Seller deposits the Grant Deed and a copy of the Order of Prejudgment Possession for the Third-Party Parcel into Escrow, (ii) Seller tenders possession of the whole Site, including the Third-Party Parcel, to Buyer, and (iii) Seller is diligently proceeding with the eminent domain action seeking the rendering of a final judgment authorizing the taking, (iv) Seller provides such indemnification(s) as Title Company may require to the end of assuring that Seller will obtain a final judgment authorizing the taking of the Third-Party Parcel such that Title Company will issue title insurance on the Third-Party Parcel, and (v) the Title Company commits to issuing title insurance as provided herein; then, subject to the satisfaction or waiver of all the conditions specified in Section 6.1, Buyer shall accept such right of possession and proceed with development of the Site. The date of such transfer of possession from Seller to Buyer shall be treated as the "Close of Escrow" for all purposes of the Third-Party Parcel. In such event, Seller shall exercise reasonable diligence to conclude the eminent domain proceedings and obtain a final order of condemnation terminating all third-party interests in the Site; Seller's title to the Third-Party Parcel shall thereupon be conveyed to Buyer via grant deed.

6.3 Covenant of Seller and Buyer. Buyer and Seller agree to cooperate with one another, at no cost or expense to the cooperating party, in satisfying the conditions precedent to Close of Escrow. Buyer shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to Buyer's performance set forth in Section 6.1(a) and Seller shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to Seller's performance set forth in Section 5.1(b). Additionally, both parties will have cooperated to execute and file a Stipulation for Entry of Judgment in the eminent domain action of *The City of Banning Redevelopment Agency v. Frank H.L. Huang, Audie P.H. Huang, et al.*, Case No. RIC 1109186.

6.4 Termination for Failure of Condition. In the event Buyer fails to approve or disapprove any condition precedent specified in Section 5.1(a) or elsewhere in this

Agreement on or before the date for approval set forth therein, Seller shall notify Buyer of such failure and Buyer shall have a period of five (5) days from receipt of such notice to elect to approve such matter or to disapprove such matter and terminate this Agreement. The failure of Buyer to approve such matter within said five (5) days shall be deemed to constitute disapproval thereof and Buyer's election to terminate. In the event Seller fails to approve or disapprove any condition precedent specified in Section 5.1(b) or elsewhere in this Agreement on or before the date for approval set forth therein, Buyer shall notify Seller of such failure and Seller shall have a period of five (5) days from receipt of such notice to elect to approve such matter or to disapprove such matter and terminate this Agreement. The failure of Seller to approve such matter within said five (5) days shall be deemed to constitute disapproval thereof and Seller's election to terminate.

7. **CONDITION OF SITE; RELEASES/INDEMNITY SITE CONDITION.**

7.1 Environmental Laws. For purposes of this Agreement, "Environmental Laws" shall mean all federal, state or local statutes, regulations, ordinances, codes or rules as such have been or may hereafter be enacted, adopted, amended or supplemented and all common law causes of action relating to the protection of human health or the environment, including without limitations the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 7401, et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601, et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. Section 136, et seq.) and the Clean Air Act, as amended (42 U.S.C. 7401, et seq.), and private rights of action for nuisance, trespass, or damages to property or persons.

7.2 Hazardous Materials. For the purposes of this Agreement, Hazardous Materials shall be deemed to mean asbestos, polychlorinated biphenyls, petroleum or by-products thereof, radioactive materials, or any chemical, material or substance included in the definitions of "hazardous substances", "hazardous materials", "hazardous waste", "toxic substances" and/or words of similar import under any federal, state and local laws, ordinances, rules and regulations whether present or future, relating to and/or dealing with the protection of the environment and/or human health and safety and/or applicable to the generation, handling, manufacture, installation, treatment, storage, use, transportation, discharge, disposal, presence and/or release into the air, soil, water at, above or below ground level (whether accidental or intentional) of such substances or materials.

7.3 As-Is Purchase; Disclaimer of Warranties. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer shall and does agree to take the Site in its current condition AS-IS, WITH ALL FAULTS, all defects and conditions whatsoever then existing on the Site, including any Hazardous Materials (as defined herein above), vaults, debris, pipelines, wells, or other structures that are or may be located in, on, under, or around the Site, whether known or unknown. Buyer assumes all responsibility for any and all such defects, faults, and conditions and shall be responsible for any and all defects in the Site, whether patent or

latent, including, without limitation, the physical, environmental and geotechnical condition of the Site, and the existence of any contamination, Hazardous Materials, within the Site.

Seller makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Site. Buyer acknowledges that, once Buyer obtains title to the Site, any liability of Seller for the environmental condition of the Site shall be extinguished, that Seller shall have no liability for remediating any environmental condition of the Site and that Buyer shall indemnify Seller against any claim or liability relating to the condition of the Site.

7.4 Buyer's Release of Seller. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer shall and does hereby release Seller, its officers, directors, shareholders, affiliates, subsidiaries, heirs, and successors from any and all claims, liabilities, expenses, costs, or damages that Buyer may incur arising from the presence of any Hazardous Materials (as defined herein above) which are or may be located in, on, under, or around the Site, whether or not caused by Seller or any predecessor-in-interest of Seller, and whether or not known to Seller or Buyer at or before the Close of Escrow. Buyer expressly preserves its rights against other parties and does not release, or waive its rights to contribution against, any other party.

7.5 Buyer's Indemnification of Seller. Notwithstanding any contrary provisions of this Agreement or otherwise, upon the execution of this Agreement by Buyer, Buyer hereby agrees to indemnify, defend (by Seller's choice of counsel), and hold harmless Seller, its directors, officers, employees, agents, representatives, heirs, and successors from and against any and all costs, expenses, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from any violation of the Environmental Laws (as defined herein above) including, without limitation, any release, treatment, use, generation, storage, or disposal of Hazardous Materials in, on, under, around, or from the Site at any time before or after close of escrow including, without limitation, the cost of any required or necessary remediation or removal of any such Hazardous Materials, any costs of repair or improvements on the Site or surrounding properties necessitated by such remediation or removal and costs of any testing, sampling, or other investigation or preparation of remediation or other required plans undertaken prior to such remediation or removal. Buyer expressly preserves its rights against other parties and does not release, or waive its rights to contribution against, any other party.

7.6 Indemnification and Release from Liabilities Relating to New Legislation. Buyer acknowledges that it is aware of, and has received advice from legal counsel on, the matter of new legislation effective June 1, 2011, purporting to limit or disenfranchise the authority of local governments to transfer or control assets that are, or once were, owned by a local redevelopment agency. Specifically, the 2011 Assembly Bills ABx1 26 and ABx1 27 became effective on June 29, 2011. ABx1 26 purports to eliminate redevelopment agencies while ABx1 27 allows agencies to continue to exist if they agree to pay to the State a proportional share of \$1.7 billion this year and \$400 million annually in perpetuity. The bills are both the subject of litigation before the California Supreme Court, in which the constitutionality of the bills is being challenged. At this time, it is unknown whether the bills will be upheld in whole or in part or how otherwise the Supreme Court may rule on the



bills. Buyer hereby acknowledges the possibility that ABx1 26 and/or ABx1 27 might be upheld, interpreted or applied in such a manner as to undermine or invalidate (i) Buyer's rights to the Site, and/or (ii) Seller's authority to convey the Site to Buyer. Notwithstanding such risk, Buyer hereby agrees to indemnify, defend (by Seller's choice of counsel), and hold harmless Seller, its directors, officers, employees, agents, representatives, heirs, and successors from and against any and all costs, expenses, damages, claims, and liabilities, including reasonable attorney fees, foreseeable or unforeseeable, directly or indirectly arising from any application or impact of ABx1 26 and/or ABx1 27 upon (i) Seller's existing rights to the Site, (ii) this Agreement, (iii) Seller's authority to convey the Site to Buyer, (iv) Buyer's authority to acquire the Site, (v) delivery of the Project, or (vi) any other costs or expenses whatsoever that may result to Buyer as a result of ABx1 26 and/or ABx1 27.

7.7 Buyer Assumes All Liabilities Arising After Closing. Buyer assumes ALL liabilities that arise from post-closing events.

7.8 Survival. Notwithstanding any other provision of this Agreement, the provisions of this Article 8 shall survive the Close of Escrow and the delivery of the Grant Deed(s).

8. REPRESENTATIONS AND WARRANTIES BY SELLER.

8.1 Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer, each of which (i) is material and relied upon by Buyer in making its determination to enter into this Agreement; (ii) to the best of Seller's knowledge, is true in all respects as of the date hereof and shall be true in all respects on the date of Close of Escrow on the Site; and (iii) shall survive the Close of Escrow of the purchase and sale of the Site as well as any future transfer of the Site to Buyer or any transferee, successor or assignee of Buyer:

(a) With the exception of the condemnation action on the Third-Party Parcel or the matters stated in 7.6, as disclosed hereinabove, to the best of Seller's knowledge there are no contracts, leases, claims or rights affecting the Site and no agreements entered into by or under Seller shall survive the Close of Escrow that would adversely affect Buyer's rights with respect to the Property, except as heretofore disclosed through the Preliminary Title Report.

(b) Seller has delivered or, within the period required in Section 6.1(a) and Article 4, will have delivered true, correct and complete copies of all the documents and other information specified in Section 6.1(a) and Article 4 in Seller's possession or control (or has reasonable access thereto). To the best of Seller's knowledge, the information contained in the said documents is true and accurate.

(c) With the exception of the condemnation action on the Third-Party Parcel, as disclosed hereinabove, and any items disclosed in the Preliminary Title Report, there are no executory contracts, options or agreements existing (other than this Agreement) relating to the purchase of all or any portion of the Site or any interest therein.



(d) All federal, state, municipal, county and local taxes, which are actually a direct monetary obligation of the owner of the Site, the nonpayment of which might become a lien on or affect all or part of the Site, which are due and payable prior to the Closing have been paid, or on the Closing Date will have been paid in full.

(e) With the exception of the condemnation action on the Third-Party Parcel, as disclosed hereinabove, since the time of issuance of the Preliminary Title Report, Seller has taken no action to create, nor otherwise caused, any additional encumbrances to title other than those shown on the Preliminary Title Report.

(f) Seller is not a foreign person as defined in Internal Revenue Code Section 1445(f)(3).

8.2 Changed Circumstances. If Seller becomes aware of any fact or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by Seller under this Agreement, whether as of the date given or any time thereafter through the Close of Escrow and whether or not such representation or warranty was based upon Seller's knowledge and/or belief as of a certain date, Seller will give immediate written notice of such changed fact or circumstance to Buyer, but such notice shall not release Seller of its liabilities or obligations with respect thereto. Seller shall issue a certificate as of the Close of Escrow stating that all the representations and warranties contained in Section 8.1 are true and correct as of said date, or setting forth in detail which of such matters are not true and correct. Buyer shall have five (5) days from the receipt of any notice by Seller of the material change of any representation or warranty made by Seller hereunder to terminate this Agreement by providing written notice to Seller and Escrow Holder, and receive return of its Deposit and any other sums deposited in the Escrow.

8.3 No Other Representations or Warranties by Seller. Other than those express representations and warranties contained in this Agreement, Seller makes no other representations or warranties, either express or implied.

9. REPRESENTATIONS AND WARRANTIES BY BUYER.

9.1 "AS-IS" Condition of Site. Buyer represents, acknowledges, and agrees that Buyer is electing to purchase the Site in its "AS-IS, WHERE IS" physical condition pursuant to Article 7.0.

9.2 Buyer Assumes All Liability. Buyer represents and acknowledges that Seller has not agreed to perform any environmental remediation work nor to any offset to the Purchase Price as a result of any physical or environmental condition Buyer discovers on the Site, whether before or after the Close of Escrow.

9.3 Sole Reliance. Buyer represents and acknowledges that it is relying solely upon Buyer's own inspections in purchasing the Site.

9.4 Legislation. Buyer represents that as for the matters disclosed in Section 7.6, Buyer has received advice through its own legal counsel and is not relying on any legal analysis of Seller or Seller's legal counsel.

10. ESCROW PROVISIONS.

10.1 Escrow Instructions. This Agreement, when signed by Buyer and Seller, shall also constitute escrow instructions to Escrow Holder.

10.2 General Escrow Provisions. Escrow Holder shall deliver the Title Policy to the Buyer and instruct the Riverside County Recorder to mail the Grant Deed to Buyer at the address set forth in Section 12.16 after recordation. All funds, if any, received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Riverside County, California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be made by Escrow Holder's check.

10.3 Prorations of Real Property Taxes. Buyer acknowledges that Seller is a governmental agency, not subject to payment of taxes. Accordingly, Buyer shall be solely responsible for payment of taxes accruing after Close of Escrow and/or seeking a refund of any overpayment of taxes from the appropriate taxing agencies. Utilities and other expenses of the Site which are payable by or to the owner of the Site shall be prorated to the Close of Escrow on the basis of a thirty (30) day month and a three hundred sixty (360) day year. Any party who is obligated to pay net amounts based on said final proration shall reimburse the other party said amount within five (5) business days after completion of the final proration. Seller shall receive a credit for any refundable utility or governmental deposits made by Seller with respect to the Site, if any, and shall assign Buyer all rights to refund of same.

10.4 Payment of Costs. Buyer shall pay one hundred percent (100%) of the documentary transfer taxes, escrow fees, recording fees, Title Policy premiums, and the charges for recording the Grant Deed, and the additional portion of the Title Policy premium which is attributable to the additional cost of obtaining any additional coverage requested by Buyer, including the difference between CLTA and ALTA coverage. Seller and Buyer shall each be responsible for their respective attorneys' fees and costs. All other costs of escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder.

10.5 Termination and Cancellation of Escrow. If Escrow fails to close as provided above, Escrow shall terminate automatically without further action by Escrow Holder or any party, and Escrow Holder is instructed to return all funds and documents then in Escrow to the respective depositor of the same with Escrow Holder; provided that any document which has been signed by a party who is not to receive the return of such document, shall be marked "void and of no force or effect" by Escrow Holder before it is delivered. Cancellation of Escrow, as provided herein, shall be without prejudice to whatever legal rights Buyer or Seller may have against each other arising from the Escrow or this Agreement.

10.6 Information Report. The "Reporting Person" within the meaning of Treasury Regulation Section 1.6045-4(e)(5) with respect to the transactions contemplated by this Agreement shall be Escrow Holder. The name and address of Escrow Holder is set

forth on the first page of this Agreement. It is agreed that Escrow Holder is an eligible person under Section 1.6045-4(e)(5)(ii) of said Regulations. Escrow Holder hereby agrees to be responsible for complying with the reporting and other requirements of Internal Revenue Code Section 6045(e) and the income tax regulations promulgated thereunder. Pursuant to said regulations, the address for the transferor and transferee are as set forth for Seller and Buyer respectively in Section 12.16 below, and the identifying information regarding the real estate transferred is the legal description for the Site or portion thereof being transferred. Escrow Holder agrees to file the form required by said regulations between the end of the calendar year in which the Close of Escrow occurs and February 28 of the following calendar year. Buyer and Seller agree (i) to cooperate with Escrow Holder and with each other in completing any report and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including, without limitation, Internal Revenue Service Form 1099-S as such may be hereafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereafter promulgated by the Treasury Department with respect thereto; (ii) that Buyer and Seller, their respective employees and attorneys, and Escrow Holder and its employees may disclose to the Internal Revenue Service, this Agreement or the transaction contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045(e); (iii) that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information; and (iv) to retain this Agreement for at least four (4) years following the close of the calendar year in which the Close of Escrow occurs.

10.7 Possession. Possession of the Property shall be delivered to Buyer as of Close of Escrow. In the event any personal property remains on the Property following the Close of Escrow, it shall automatically become the property of Buyer.

11. COVENANTS RELATING TO THE PROJECT.

11.1 Restrictions On Transfer. The qualifications and identity of Buyer are of particular concern to the Seller, and it is because of such qualifications and identity that Seller has entered into this Agreement with Buyer. Seller has undertaken an extensive marketing program to identify appropriate users for the Site. The Seller has considered the experience, financial capability, and product being marketed by Buyer and its affiliates, the Site location and characteristics, the public costs of acquiring and developing the Site and return on investment, and the product mix necessary to produce a successful Project. Based upon these considerations, the Seller has imposed the restrictions on transfer set forth in this Agreement.

(a) *Transfer Defined.* As used in this section, the term “**Transfer**” shall include any assignment, hypothecation, mortgage, pledge, conveyance, or encumbrance of this Agreement, the Site, or the improvements thereon. A Transfer shall also include the Transfer to any person or group of persons acting in concert of more than fifty percent (50%) of the present ownership and/or control of Buyer in the aggregate taking all Transfers into account on a cumulative basis. In the event Buyer or its successor is a

corporation or trust, such Transfer shall refer to the Transfer of the issued and outstanding capital stock of Buyer, or of beneficial interests of such trust; in the event that Buyer is a limited or general partnership, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the limited or general partnership interest; in the event that Buyer is a joint venture, such Transfer shall refer to the Transfer of more than fifty percent (50%) of the ownership and/or control of any such joint venture partner, taking all Transfers into account on a cumulative basis.

(b) *Transfers Require Approval.* Buyer shall not Transfer this Agreement or any of Buyer's rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of Seller, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant written approval to any assignment by Buyer of its interests in the Site, which assignment requires Seller approval, Seller shall consider factors such as (i) whether the completion of the Project is jeopardized; (ii) the financial strength and capability of the proposed assignee to perform Buyer's obligations hereunder; (iii) the proposed assignee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (iv) how the proposed assignee will complement the other users and uses in the City of Banning downtown area, whether commercial users or otherwise.

In the absence of a specific written agreement with the Seller, prior to the issuance of a Certificate of Completion for the entire Project or any portion thereof, no assignment or transfer by of all or any portion of its interest in the Site or this Agreement (including without limitation an assignment or transfer not requiring Seller approval hereunder) shall be deemed to relieve Buyer or any successor party from any obligations under this Agreement with respect to the completion of the development of the Project with respect to that portion of the Site which is so transferred. In addition, no attempted assignment of any of Buyer's obligations hereunder shall be effective unless and until the successor party executes and delivers to Seller an assumption agreement in a form reasonably approved by the Seller assuming such obligations.

(c) *Exceptions.* The foregoing prohibition shall not apply to any of the following:

(i) Any mortgage, deed of trust, or other form of conveyance for financing, as provided in Section 11.3, but Buyer shall notify Seller in advance of any such mortgage, deed of trust, or other form of conveyance (but only for purposes of financing the Project).

(ii) Any mortgage, deed of trust, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above, provided that the amount of indebtedness incurred in the restructuring or refinancing does not exceed the outstanding balance on the debt incurred to finance the Project, including any additional costs of construction, whether direct or indirect.

(iii) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of any easements or permits needed to facilitate the Site's development.

(iv) A sale or Transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(v) A conveyance of the Site to any entity Buyer Affiliate. **"Buyer Affiliate"** shall mean any entity which owns or controls Buyer, to any entity owned or controlled by Buyer, to any entity owned or controlled by or affiliated with any entity which owns or controls Buyer, or to any entity resulting from a consolidation, or to the surviving entity in case of a merger, to which consolidation or merger Buyer shall be a party, or to an entity to which all or substantially all of the assets of Buyer have been sold.

(vi) Transfers of ownership or control interest between members of Buyer's immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the Buyer's immediate family, or among the entities constituting Buyer.

(d) *Release Of Buyer.* Seller's consent to a Transfer shall not be deemed to release Buyer of liability for performance under this Agreement unless such release is specific and in writing executed by Seller, which release shall not be unreasonably withheld. Upon the written consent of Seller to the complete assignment of this Agreement and the express written assumption of the assigned obligations of Buyer under this Agreement by the assignee, Buyer shall be relieved of its legal duty from the assigned obligations under this Agreement, except to the extent Buyer is in default under the terms of this Agreement prior to said Transfer.

(e) *Buyer To Pay Transfer Costs.* Buyer will pay Seller its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any Transfer.

(f) *Termination; Lease Provisions.* The Transfer restriction in this Section 11.1 terminates upon the recordation of the Notice of Completion for the entire Project.

11.2 Scope Of Development & Schedule Of Performance. The Site shall be developed by Buyer as provided in the Buyer's Scope of Development and Conceptual Plans (Exhibit "D") and the plans and permits approved by the City pursuant to Section 11.4. Notwithstanding any other provision set forth in this Agreement to the contrary, in the event of any conflict between the narrative description of the Project in this Agreement (including



Exhibit "D") and the approved plans and permits, the approved plans and permits shall govern.

(a) *Critical Construction Deadlines.* Once construction is commenced, it shall be diligently pursued to completion, and shall not be abandoned for more than thirty (30) consecutive days, except when due to an Enforced Delay (Section 13.9 hereof). Buyer shall keep the Seller informed of the progress of construction and submit to the Seller written reports of the progress of the construction when and in the form requested by the Seller. Critical Project construction deadlines are as follows:

(i) Vertical construction on at least one Phase shall commence no later than February 1, 2014.

(ii) Vertical Construction on at least a second Phase shall commence no later than February 1, 2015.

(iii) Vertical Construction on at least a third Phase shall commence no later than February 1, 2016.

(iv) Vertical Construction on at least a fourth Phase shall commence no later than February 1, 2017.

(v) Completion of all Project improvements by February 1, 2018.

(b) *Extensions of Time.* In addition to delays in the Project deadlines as may be permitted due to Enforced Delays, it is understood that the foregoing critical deadlines are subject to all other terms and conditions set forth in this Agreement, and as will be more thoroughly set forth in the future. The critical construction deadlines may be altered or amended by written agreement signed by both Buyer and Seller. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The City Manager of Seller shall have the authority to approve extensions of time without City Council action if such extension does not exceed a cumulative total of 180 days.

(c) *Delays Due to City Vacations of Rights-of-Way.* Notwithstanding the foregoing, and in addition to the events of Enforced Delay (Section 13.9), the parties acknowledge that certain rights-of-way must be vacated by the City of Banning prior to Buyer commencing construction of certain Project improvements. If Buyer is unable to commence construction or progress with Project construction in accordance with this Section because of delays in City vacations of rights-of-way (at no fault of Buyer), such resultant delay to Project construction shall not constitute a breach or default of this Agreement by Buyer. Buyer's deadlines for Project construction shall be extended by the time period that Project continuation is delayed as a result of the City's failure to vacate a particular right-of-way so long as (i) such right-of-way vacation is actually necessary to Project continuation, and (ii) provided notice by the Buyer claiming such extension is sent to the Seller within ten (10) days of the commencement of the cause.

11.3 Project Financing.

(a) *Buyer Responsible for Project Costs.* Buyer is responsible for paying all costs for the Project unless otherwise provided herein. Project costs include the total Project construction costs, all Site preparation costs, all infrastructure costs, building permits and development fees, all design and consultant costs, all financing costs, all fixtures and equipment for the facility, and all other costs related to the Project of any nature whatsoever.

Although the parties hereto believe that the Site is being conveyed to the Buyer at fair market value and that no financial assistance or public monies are being provided to Buyer with respect to the Project, Buyer fully accepts the risk that construction or development of the Site may qualify as a "public work" "paid for in whole or in part out of public funds," as described in California Labor Code Section 1720 *et seq.*, ("Prevailing Wage Law"), such that it would cause Buyer to be required to pay prevailing wages for any aspect of the development. Buyer hereby represents and warrants that the Project is not subject to Prevailing Wage Law because no funding sources for the Project will trigger the application of Prevailing Wage Laws. Notwithstanding the foregoing, the Buyer fully bears any and all risk that Prevailing Wage Laws may be found to apply to the Project. To this end, Buyer acknowledges and agrees that should any third party, including but not limited to the Director of the Department of Industrial Relations ("DIR"), require Buyer or any of its contractors or subcontractors to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the DIR under Prevailing Wage Law for all or any of the assistance provided hereunder, then Buyer shall indemnify, defend, and hold Seller harmless from any such determinations, or actions (whether legal, equitable, or administrative in nature) or other proceedings, and shall assume all obligations and liabilities for the payment of such wages and for compliance with the provisions of the Prevailing Wage Law. The Seller makes no representation that any construction completed by Buyer is or is not subject to Prevailing Wage Law.

(b) *Buyer's Financial Statements.* Buyer agrees to provide the Seller with documentation and financial statements to the end of demonstrating that Buyer can fund the total projected/estimated Project costs through, cumulatively, the following sources: (i) Buyer equity, (ii) private financing from financial institutions, and/or (iii) financing provided through foreign investment via the USCIS-administered Immigrant Investor Program, also known as the "EB-5" program. To this end, no later than the Close of Escrow on the City Parcel, Buyer agrees to deliver to Seller, for Seller's approval, financial statements which, in the opinion of Seller, demonstrate that Buyer has the financial capability to undertake the development provided herein. Such financial statements shall include statements from financial institutions with whom Buyer conducts business evidencing their willingness to provide the financing required hereunder. If Buyer elects to self-fund the construction of the Project, Buyer may satisfy this obligation by providing Seller with a letter evidencing approval of the Project by the relevant parties on behalf of Buyer along with an explanation of facts demonstrating Buyer's ability to self-fund the Project.

(c) *Obtaining Construction & Permanent Loans.* Should Buyer choose to utilize any financing towards Project completion ("**Buyer Financing**"), Buyer agrees to deliver to Seller and obtain the approval of Seller of irrevocable written commitments from financial institutions licensed to do business in California and acceptable to the Seller ("**Lender**") agreeing to make a construction loan and a permanent loan to Buyer and secured by a First Deed of Trust (said commitment and loan are sometimes referred to collectively as the "**Loan**"). The amount of the commitment shall include all consultant and loan fees, "points," commissions, charges, furnishings, fixtures, taxes, interest start-up and other costs and expenses in an amount not less than the total Project construction contract and costs, less the amount of financing provided through foreign investment via the USCIS-administered Immigrant Investor "EB-5" Program.

Buyer covenants and agrees to take all action, furnish all information, give all consents and pay all sums required to keep said commitment and Loan in full force and effect and shall comply with all conditions thereof, and shall promptly execute, acknowledge and deliver all loan applications, credit applications and data, financial statements, and loan documents in connection therewith, and shall actually draw upon and utilize the full amount of said Loan only for financing the cost of the Project.

(d) *Seller Approval Of Lender.* Buyer shall not enter into any conveyance for financing without the prior written approval of Seller. Seller's written approval or disapproval shall not be unreasonably withheld or delayed. Seller's review of the Lender shall be limited to the question of whether or not said Lender is a qualified and responsible financial or lending institution or other acceptable entity or person capable of performing its obligations under the Loan.

(e) *EB-5 Financing.* The parties anticipate that Buyer will finance the project, in part, via foreign investments administered pursuant to the USCIS-administered Immigrant Investor "EB-5" Program. Buyer covenants and agrees to abide by all EB-5 regulations and requirements, 8 U.S.C.S. §§ 1153 (b)(5), 1186b; 8 C.F.R. §§ 204.6, 216.6.

11.4 Project Plans, Final Building Plans.

(a) *Proposed Project's Consistency With Plans and Codes.* Seller warrants and represents that the City of Banning General Plan, Zoning Ordinance, and Redevelopment Plan permit Seller's proposed development, and construction, operation, and use of the Site as provided in this Agreement, including without limitation the Project as described in Exhibit "D", subject only to (i) approval of this Agreement and the proposed Project pursuant to Health and Safety Code Section 33433, and (ii) those development approvals yet to be obtained, including site plan review, and (iii) City of Banning review and approval of the Final Map for the Project. It is expressly understood by the parties hereto that Seller makes no representations or warranties with respect to approvals required by any other governmental entity or with respect to approvals hereinafter required from City. The City and any other governmental body with jurisdiction over the Project reserve full police power authority over the Project. However, Seller shall reasonably cooperate with Buyer in procuring the foregoing approvals. Nothing in this Agreement shall be deemed

to be a prejudgment or commitment with respect to such items or a guarantee that such approvals or permits will be issued within any particular time or with or without any particular conditions.

(b) *Evolution Of Development Plan.* Prior to the Effective Date of this Agreement, the Seller approved the Buyer's Conceptual Plans (Exhibit "D"). On or before commencement of any Project construction, Buyer must submit to the Seller preliminary, and thereafter final, drawings and specifications for development of the Project in accordance with the City's requirements. The term preliminary and final drawings shall be deemed to include site plans, building plans and elevations, grading plans, if applicable, landscaping plans, parking plans, material pallets, a description of structural, mechanical, and electrical systems, the Final Map and all other plans, drawings and specifications. Final drawings will be in sufficient detail to obtain a building permit. Said plans, drawings and specifications shall be consistent with the Concept Plans (Exhibit "D") and the various development approvals referenced hereinabove, except as such items may be amended by Seller and Buyer in writing. Plan submissions shall be progressively more detailed and will be approved if a logical evolution of plans, drawings or specifications previously approved.

(c) *Buyer Efforts To Obtain Approvals.* Buyer shall exercise its commercially reasonable efforts to timely submit all documents and information necessary to obtain all development and building approvals from the City in a timely manner. Not by way of limitation of the foregoing, in developing and constructing the Project, Buyer shall comply with all applicable development standards in the City of Banning Municipal Code and shall comply with all building codes, landscaping, signage, and parking requirements, except as may be permitted through approved variances and modifications.

(d) *Disapproval.* The Seller shall reasonably approve or disapprove any submittal made by Buyer pursuant to this Section within sixty (60) business days after such submittal. All submittals made by Buyer shall note the 60-business day time limit, and specifically reference this Agreement and this Section. Any disapproval shall state in writing in reasonable detail the reason for the disapproval and the changes which the Seller requests be made. Buyer shall make the required changes and revisions and resubmit for approval as soon as is reasonably practicable but no more than thirty (30) business days of the date of disapproval. Thereafter, Seller shall have an additional ten (10) business days for review of the re-submittal, but if the Seller disapproves the re-submittal, then the cycle shall repeat, until the Seller's approval has been obtained. If Buyer desires to make any substantial change to approved working drawings, Buyer shall submit the proposed change to Seller for approval. If the drawings as modified by the proposed change conform to this Agreement and the Concept Plans (Exhibit "D"), City of Banning design criteria for the downtown region, and all other applicable City of Banning regulations, Seller shall approve the change and Seller shall notify Buyer of its approval or disapproval in writing within thirty (30) business days after submission of such proposed change.

Seller's Community Development Director or designee shall have authority to determine on behalf of Seller if a proposed revision or change to any plans, drawings, or other

documents previously approved by Seller is a substantial change requiring further City approval. If the Community Development Director or his/her designee determines that the proposed revision or change is not substantial, no approval by City of such revision or change will be necessary. Seller shall reasonably approve or disapprove the plans, drawings and related documents referred to in this Section 11.4 within the times stated in foregoing paragraph of this subpart (d). However, to the extent that Buyer proposes substantial revisions or changes to any plan, drawing, or other document previously approved by Seller, Buyer acknowledges that such substantial revision will require review by the City Council or such other legislative body(ies) as may be applicable and, in such circumstance, Buyer agrees to waive the time frames set forth herein if necessary. City's review is intended to insure that the plans, drawings and related documents are consistent with the Project Concept (Exhibit "D"). Any disapproval shall state in writing the reasons for disapproval and the changes which Seller requests to be made. Such reasons and such changes must be consistent with the Project Concept (Exhibit "D") and any items previously approved or deemed approved hereunder. Buyer, upon receipt of a disapproval based upon powers reserved to Seller hereunder, shall revise the plans, drawings and related documents, and shall resubmit to Seller as soon as possible after receipt of the notice of disapproval; provided that in no case shall Seller be entitled to require changes which are inconsistent with the Project Concept (Exhibit "D"), the most recently-applicable, previously-approved or deemed-approved items.

During the preparation of all drawings and plans, the parties shall hold regular progress meetings to coordinate the preparation of, submission to, and review of construction plans and related documents by Seller. If any substantial revisions or corrections of plans approved by Seller shall be required by any government official, agency, department or bureau having jurisdiction, or any lending institution involved in financing, the parties shall cooperate in efforts to develop a mutually acceptable alternative.

11.5 Applicable Laws. Buyer shall carry out the construction of the Project improvements in conformity with all applicable laws, including all applicable federal and state labor laws.

11.6 Anti-Discrimination During Construction. Buyer, for himself and his successors and assigns, agrees that in the construction of the improvements to be constructed by Buyer, it shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, ancestry or national origin.

11.7 Rights Of Holders Of Approved Security Interests In Site.

(a) *Definitions.* As used in this Section, the term "mortgage" shall mean a leasehold mortgage and include any mortgage, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term "holder" shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

(b) *No Encumbrances Except Mortgages To Finance The Project.* Notwithstanding the restrictions on transfer in Section 11.1, mortgages required for any reasonable method of financing of the construction of the Project improvements are permitted before issuance of a Certificate of Completion but only for the construction of Project improvements thereon, and for any other expenditures necessary and appropriate to develop the Site under this Agreement, or for restructuring or refinancing any of same, so long as the refinancing does not exceed the then-outstanding balance of the existing financing. The Buyer (or any entity permitted to acquire title under this Section) shall notify the Seller in advance of any mortgage, if the Buyer or such entity proposes to enter into the same before issuance of the Certificate of Completion. The Buyer or such entity shall not enter into any such conveyance for financing without the prior written approval of the Seller as provided in Section 11.1. Any lender approved by the Seller pursuant to Section 11.1 shall not be bound by any amendment, implementation, or modification to this Agreement subsequent to its approval without such lender giving its prior written consent thereto. In any event, the Buyer shall promptly notify the Seller of any mortgage, encumbrance, or lien that has been created or attached thereto prior to issuance of a Certificate of Completion, whether by voluntary act of the Buyer or otherwise.

(c) *Buyer's Breach Shall Not Defeat Mortgage Lien.* Buyer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith and for value as to the Site, or any part thereof or interest therein, but unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage of the Site whose interest is acquired by foreclosure, trustee's sale or otherwise.

(d) *Holder Not Obligated To Construct Or Complete Improvements.* The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the Project improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Site or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

(e) *Notice Of Default To Mortgagee, Deed Of Trust Or Other Security Interest Holders.* Whenever Seller shall deliver any notice or demand to Buyer with respect to any breach or default by Buyer hereunder, Seller shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to Seller therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

(f) *Right To Cure.* Each holder (insofar as the rights of Seller are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, to:

(i) Obtain possession, if necessary, and to commence and diligently pursue said cure until the same is completed, and

(ii) Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that in the case of a default which cannot with diligence be remedied or cured within such ninety (90) day period, such holder shall have additional time as reasonably necessary to remedy or cure such default.

In the event there is more than one such holder, the right to cure or remedy a breach or default of Buyer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of Buyer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed Buyer's obligations to Seller by written agreement satisfactory to Seller with respect to the Site or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the Seller that it has the qualifications and financial responsibility necessary to perform such obligations. Any holder properly completing such improvements shall be entitled, upon written request made to Seller, to a Certificate of Completion from Seller.

(g) *Seller's Rights Upon Failure Of Holder To Complete Improvements.* In any case where one hundred eighty (180) days after default by Buyer in completion of construction of Project improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Site or improvements thereon has not exercised the option to construct afforded in this Section or if it has exercised such option and has not proceeded diligently with construction, Seller may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

(i) The unpaid mortgage debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

(ii) All expenses, incurred by the holder with respect to foreclosure, if any;

(iii) The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the Site, such as insurance premiums or real estate taxes, if any;

(iv) The costs of any improvements made by such holder, if any; and

(v) An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by the Seller.

In the event that the holder does not exercise its option to construct afforded in this Section, and Seller elects not to purchase the mortgage of holder, upon written request by the holder to Seller, Seller agrees to use reasonable efforts to assist the holder selling the holder's interest to a qualified and responsible party or parties (as determined by Seller), who shall assume the obligations of making or completing the improvements required to be constructed by Buyer, or such other improvements in their stead as shall be satisfactory to Seller. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs (i) through (v) listed hereinabove, and any balance remaining thereafter shall be applied as follows:

(i) First, to reimburse Seller for all costs and expenses actually and reasonably incurred by Seller, including but not limited to payroll expenses, management expenses, legal expenses, and others.

(ii) Second, to reimburse Seller for all payments made by Seller to discharge any other encumbrances or liens on the Site or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due, to obligations, defaults, or acts of Buyer, its successors or transferees.

(iii) Third, any balance remaining thereafter shall be paid to Buyer.

(h) *Right Of Seller To Cure Mortgage, Deed Of Trust Or Other Security Interest Default.* In the event of a default or breach by Buyer (or entity permitted to acquire title under this Section) of a mortgage prior to the issuance by Seller of a Certificate of Completion for the Site or portions thereof covered by said mortgage, and the holder of any such mortgage has not exercised its option to complete the development, Seller may cure the default prior to completion of any foreclosure. In such event, Seller shall be entitled to reimbursement from Buyer or other entity of all costs and expenses incurred by Buyer in curing the default, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to:

(i) Any mortgage for financing permitted by this Agreement; and

(ii) Any rights or interests provided in this Agreement for the protection of the holders of such mortgages for financing;

provided that nothing herein shall be deemed to impose upon Seller any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Site in the event of its enforcement of its lien.

(i) *Right Of The Seller To Satisfy Other Liens On The Site After Conveyance Of Title.* After the conveyance of title and prior to the recordation of a Certificate of

Completion for construction and development of the Project, and after the Buyer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Site or any portion thereof, the Seller shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Buyer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Buyer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site or any portion thereof to forfeiture or sale.

(j) *Minor Amendments.* Seller's City Manager shall be authorized to approve and execute minor non-substantive amendments to this Agreement as may be requested by Buyer's lender in relation to the protection of such lender's security interest in the Site, without formal approval of Seller's legislative body.

11.8 Certificate(s) Of Occupancy & Certificate Of Completion.

(a) *Certificate(s) Of Occupancy.* It is anticipated that each Parcel may be suitable for occupation and the carrying-on of business prior to actual completion of all Project improvements. When a Project Phase has been constructed to such a point that the commercial improvements on a particular Parcel can be safely opened for business (in compliance with all applicable codes, permit requirements and local agency regulation) without any interference by further Project activities, the Buyer shall request from the City a Certificate of Occupancy for all the improvements on that Parcel. The issuance of such Certificate of Occupancy shall be in the sole discretion of the City and based on its review of the existing Project improvements versus those improvements that will be required for Project completion, determination of whether further Project activities will unreasonably or harmfully interfere with the ongoing business activities upon a particular Parcel opened for business, and whether the issuance of a Certificate of Occupancy will comply with all codes, permit conditions and local agency regulations. Seller shall not unreasonably withhold a Certificate of Occupancy.

Upon issuance of a Certificate of Occupancy, Buyer shall promptly open the Business for business to the public. The Buyer shall exert all reasonable efforts to keep the Business open for business to the public during regular and customary business hours despite any ongoing Project activities. Buyer shall reasonably coordinate any ongoing Project activities with business hours in order to minimize any interference between the Project and the business. Such efforts to be undertaken by Buyer shall include, without limitation, the undertaking of Project activity during hours other than regular and customary business hours and the phasing of the Project such that Project activities continuing after the issuance of the Certificate of Occupancy will be in locations other than areas open to the public.

(b) *Certificate(s) Of Project Completion.* Upon the completion of all Project construction required to be completed by Buyer on the Site or any Parcel thereof pursuant to the terms of this Agreement, Seller shall furnish Buyer with the Certificate of Completion for the Site or Parcel thereof, to be in a form acceptable to Seller, upon written request therefore by Buyer. The Certificate(s) of Completion shall be executed

and notarized so as to permit it to be recorded in the Office of the Recorder of Riverside County.

(i) A Certificate of Completion shall be, and shall state that it constitutes, conclusive determination of satisfactory completion of the construction and development of the improvements required by this Agreement upon the Site or Parcel thereof and of full compliance with the terms of this Agreement with respect thereto. A partial Certificate may be issued for any Parcel as defined in Section 3.4 and shall constitute a Certificate as defined herein for any such Parcel, but not for any other Parcel not included in the Certificate.

(ii) After the issuance of a Certificate of Completion, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site or Parcel for which the Certificate is issued shall not (because of such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by the covenants, encumbrances, and easements contained in the Deed and the CC&Rs. In the event of issuances of a Certificate for a Parcel only, Buyer shall continue to be bound by the provisions of this Agreement with respect to the other Parcels for which a Certificate has not been issued.

(iii) Seller shall not unreasonably withhold a Certificate of Completion. If Seller refuses or fails to furnish a Certificate of Completion within thirty (30) days after written request from Buyer or any entity entitled thereto, Seller shall provide a written statement of the reasons Seller refused or failed to furnish a Certificate of Completion. The statement shall also contain Seller's opinion of any further action Buyer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, or other minor so-called "punch list" items, Seller will issue its Certificate of Completion upon the posting of a bond or other security reasonably acceptable to Seller by Buyer with Seller in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed.

(iv) A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Buyer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Certificate of Completion is not notice of completion as referred to in the California Civil Code § 3093. Nothing herein shall prevent or affect Buyer's right to obtain a Certificate of Occupancy from the Seller before the Certificate of Completion is issued.

11.9 Use of the Site & Project; CC&Rs.

(a) *Use For Mixed Retail/Office/Hotel/Restaurant Businesses.* The Buyer covenants and agrees for itself, its successors, its assigns and every successor in interest that during construction and thereafter, that the Buyer and such successors and such

assigns shall devote the Site to the uses specified therefore in the Project Concept Plan (Exhibit "D"). Buyer further agrees to use, devote, and maintain the Site and each part thereof only for the following business uses:

- The approximate .77 acre Restaurant Parcel to be dedicated to the construction and operation of a single restaurant tenant.
- The approximate 1.85 acre Hotel Parcel to be dedicated to the construction and operation of a single hotel tenant.
- The approximate .78 acre General Retail Parcel to be dedicated to the construction and operation of a mixed retail and small restaurant complex.
- The approximate 1.85 acre Retail/Office Parcel to be dedicated to the construction and operation of a mixed retail and small offices complex.

In order to maintain these Site uses, Covenants, Conditions & Restrictions ("CC&Rs") substantially in the form attached hereto as **Exhibit "I"**, shall be recorded upon the Property by Seller on or before the Close of Escrow. Buyer acknowledges that the Site shall become subject to the CC&Rs upon Seller's execution and recordation of the CC&Rs and Buyer will comply with all of the terms and conditions contained in the CC&Rs.

(b) Seller's Rights of Tenant Approval as to Restaurant Parcel & Hotel Parcel.

Of particular concern to Seller's conveyance of the Site to Buyer pursuant to the Agreement is the identity and quality of the commercial tenants to occupy the Hotel Parcel and Restaurant Parcel. The Site is situated in the City of Banning's central, downtown commercial area, and the major Hotel/Restaurant tenants on the Site shall represent high quality goods and services commensurate with one of the most centralized commercial locations in Banning. To this end, the initial and subsequent tenants for the Hotel Parcel and the Restaurant Parcel shall be subject to Seller's prior written approval (to be obtained from Seller prior to any occupancy by a Hotel or Restaurant tenant). For purposes of such tenant approval the following tenants are hereby approved as "**Pre-Qualified Tenants**" and are exemplars of the tenants sought for the Restaurant and Hotel Parcels:

- *For the Restaurant Parcel:* Applebee's, Red Lobster, Guys Italian Dinner House, Olive Garden, Hickory BBQ, B.J. Chicago Pizza, Buca de Beppo, Brinker International (Chillis, Macaroni Grill, etc.), California Pizza Kitchen, Chevys Mexican Restaurant, Elephant Bar, Hickory BBQ, Islands, Johnny Russo, Louise's Trattoria, P.F. Changs, Pat and Oscars, Marie Calendars, Red Robin, Roadhouse Grill, Rubios, Texas Roadhouse, or Wood Ranch BBQ.

- *For the Hotel Parcel:* Hampton Inn, Wyndahm, Ayres, Doubletree, Embassy Suites, Hilton and its related brands, Holiday Inn, Marriott and its related brands, Radisson Inns, and Starwood.

In the event Buyer desires to lease the Hotel Parcel or Restaurant Parcel to a tenant that is not on the aforementioned pre-approved list, Buyer shall first obtain the approval of Seller's legislative body. Seller shall approve tenants for the Hotel or Restaurant Parcel who (i) operate a chain of stores on a nationwide basis, (ii) are comparable to the pre-approved, exemplar tenants listed above, and (iii) do significant marketing within the general market area. In its reasonable discretion, Seller may also approve other tenants, including tenants who operate a regional chain of business.

(i) Processing Requests for Tenant Approval of Tenants Not Pre-Qualified. Any request by Buyer to the Seller for approval of a particular tenant that is not Pre-Qualified to the Restaurant or Hotel Parcel shall be in writing and shall include such supporting information as may be reasonably required in order to enable the Seller to determine whether to approve or disapprove the identity of the tenant. The Seller's City Manger shall initially indicate within twenty (20) days after receipt of Seller's request for approval whether City' Manager believes that the proposed tenant is equivalent to a Pre-Qualified Tenant and the reasons therefore. If the City Manager deems the tenant not equivalent, the Buyer may provide additional information and request reconsideration or find a new acceptable tenant. In any event, where City Manager has approved a tenant as equivalent, or on request by Buyer for determination by the City Council, the City Manager shall schedule the matter as an open public hearing item before the next possible regularly-scheduled City Council meeting, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. Based upon substantial evidence presented at said hearing, the Council shall determine by resolution, whether to approve or disapprove the proposed Hotel or Restaurant tenant. The Council shall state its factual and policy bases for such holding.

(ii) Expiration of Seller Tenant Approval Rights. Seller's right to approve tenants for the Hotel Parcel shall expire after a total of 5 years, consecutive or non-consecutive, of occupancy of the Hotel Parcel. Similarly, Seller's right to approve tenants for the Restaurant Parcel shall expire after a total of 7 years, consecutive or non-consecutive, of occupancy of the Restaurant Parcel. After such period of consecutive or non-consecutive occupancy by a qualified tenant, subsequent tenancies or occupancies of such space shall be exempt from such approval. The period of Seller Tenant Approval for the Hotel and Restaurant Parcels by a qualified tenant shall not commence to run until actual occupancy of such Parcel by an approved tenant, and shall be tolled for any period where the Parcel or is not occupied by an approved tenant.

(a) *Maintenance Of Improvements.* Buyer covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site or any part thereof, that, after Seller's issuance of (i) the Certificate of Occupancy for a particular Parcel, and

(ii) the Certificate of Completion for the Site or any Parcel thereof, the Buyer shall be responsible for maintenance of all improvements that may exist on the Site or Parcel, as the case may be, from time to time, including without limitation buildings, parking lots, lighting, signs, and walls, in first class condition and repair, and shall keep the Site free from any accumulation of debris or waste materials. The Seller shall also maintain all landscaping required pursuant to Seller's approved landscaping plan in a healthy condition, including replacement of any dead or diseased plants. The foregoing maintenance obligations shall run with the land and thereby become the obligations of any transferee of the Site or any portion thereof, and such obligations are set forth in the CC&Rs. Buyer hereby waives any notice, public hearing, and other requirements of the public nuisance laws and ordinances of the City of Banning that would otherwise apply, except as specified in said CC&Rs.

(b) *Covenants Run With Land; Effect Of CC&Rs.* All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any rights or interests in the Site, or any portion thereof, whether by operation of laws or in any manner whatsoever and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Site hereunder (i) is for the mutual benefit of and is a mutual burden upon each Parcel within the Site, (ii) runs with such lands, and (iii) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person having any interest therein derived in any manner through any owner of such lands, or any portion thereof, and each other person succeeding to an interest in such lands.

Seller is deemed a beneficiary of the terms and provisions of this Agreement and of the restrictions and covenants running with the land, including the CC&Rs, for and in their own right for the purposes of protecting the interests of the community in whose favor and for whose benefit the covenants running with the land have been provided. The covenants in favor of Seller shall run without regard to whether Seller has been, remains or is an owner of any land or interests therein in the Site. Seller, and any of its related government entities or subdivisions, shall have the right, if any of the covenants set forth in this Agreement or the CC&Rs are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it may be entitled. With the exception of a government entity related to, or designated by the City, no other person or entity shall have any right to enforce the terms of this Agreement or the CC&Rs under a theory of third-party beneficiary or otherwise.

12. DEFAULTS; ENFORCEMENT.

12.1 Defaults & Right To Cure. A “**Non-Defaulting Party**” in its discretion may elect to declare a default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other party (“**Defaulting Party**”) to perform any material duty or obligation of said Defaulting Party under the terms of this Agreement. However, the Non-Defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by Defaulting Party to cure such breach or failure. The Defaulting Party shall be deemed in “Default” under this Agreement, if said breach or failure can be cured, but the Defaulting Party has failed to take such actions and cure such breach or failure within sixty (60) days after the date of such notice (“**Cure Period**”). However, if such non-monetary breach or failure cannot be cured within such Cure Period, and if and, as long as the Defaulting Party does each of the following:

- a. Notifies the Non-Defaulting Party in writing with a reasonable explanation as to the reasons the asserted Default is not curable within the sixty (60) day period;
- b. Notifies the Non-Defaulting Party of the Defaulting Party’s proposed course of action to cure the Default;
- c. Promptly commences to cure the Default within the sixty (60) day period;
- d. Makes periodic reports to the Non-Defaulting Party as to the progress of the program of cure; and
- e. Diligently prosecutes such cure to completion.

Then the Defaulting Party shall not be deemed in breach of this Agreement.

12.2 Legal Actions.

(a) *Institution Of Legal Actions.* In addition to any other rights or remedies, and subject to the requirements of Section 12.1, either party may institute legal action to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other legal or equitable remedy consistent with the purpose of this Agreement, including the remedy of specific performance. Legal actions must be instituted and maintained in the Superior Court of the County of Riverside, State of California, in any other appropriate court in that county, or in the Federal District Court in the Central District of California.

(b) *Applicable Law & Forum.* The laws of the State of California shall govern the interpretation and enforcement of this Agreement, without regard to conflict of law principles.

(c) *Acceptance Of Service Of Process.* In the event that any legal action is commenced by Buyer against Seller, service of process on Seller shall be made by personal service upon the City Manager, or in such other manner as may be provided by law. In the event that any legal action is commenced by Seller against Buyer, service of

process on Buyer shall be made in such manner as may be provided by law and shall be valid whether made within or without the State of California.

12.3 Rights & Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its 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.

12.4 Waiver. Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition, or promise shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

12.5 Right of Reverter. The Seller shall have the right, at its option, to reenter and take possession of the Site or any Parcel thereof with all improvements thereon and to terminate and revert in the Seller the estate conveyed to the Buyer, if after conveyance of the estate and prior to the release of all Subsequent Deeds of Trust pursuant to Section 12.8, the Buyer (or his successors in interest) shall:

- (a) Fail to timely process a Final Map for the Project pursuant to California Government Code Section 66466 and/or timely and reasonably execute the Subsequent Deeds of Trust. Seller City shall not unreasonably delay or withhold approval of the Final Map.
- (b) Fail to timely commence construction of the improvements on a Parcel as required by this Agreement and in violation of Section 11.2, after exhausting the notice/cure procedures of Section 12.1, provided that the Buyer shall not have obtained an extension or postponement to which the Buyer may be entitled pursuant to this Agreement; or
- (c) Abandon or substantially suspend construction of the improvements for a period of thirty (30) days, except when due to an Enforced Delay (Section 12.8 hereof) and subject to the notice/cure procedures of Section 12.1, provided that the Buyer shall not have obtained an extension of time to which the Buyer may be entitled pursuant to this Agreement; or
- (d) Assign or attempt to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary transfer, of the Site or any Parcel, or any part thereof, in violation of Section 11.1 of this Agreement, subject to the notice/cure procedures of Section 12.1.



Seller's right to re-enter, repossess, terminate, and revest shall be subordinate to and subject to and be limited by, and shall not defeat, render invalid, or limit: (i) Mortgage, deed of trust, or other security interests permitted by this Agreement; or (ii) Any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests; or (iii) Any rights or interests which have vested with respect to any Parcel for which a partial Certificate of Completion has been recorded.

Upon the revesting in the Seller of possession to the Site or any Parcel, as the case may be, as provided in this Section 12.5, the Seller shall, pursuant to its responsibilities under State law, use its best efforts to release, or resell the Site and/or Parcel, as the case may be, as soon and in such manner as the Seller shall find feasible and consistent with the objectives of applicable law and/or of the Redevelopment Plan to a qualified and responsible party or parties who will assume the obligation of making or completing the Project improvements, or such other improvements in their stead, as shall be satisfactory to the Seller and in accordance with the uses specified for the Site and all its Parcels, or any part thereof.

In the event of a resale, the proceeds thereof shall be applied as follows:

- a. As may be required by State law at the time of resale; or
- b. First, to reimburse the Seller for all costs and expenses incurred by the Seller, including but not limited to, salaries to personnel, legal costs and attorneys' fees, and all other contractual expenses in connection with the recapture, management, and resale of the Site or Parcel, as the case may be (but less any income derived by the Seller from the Site or Parcel in connection with such management); all taxes, assessments and water and sewer charges with respect to the Site or Parcel (or, in the event that Site or Parcel is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments, or charges, as determined by the Seller City, as would have been payable if the Parcel were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Site or Parcel, as the case may be; and amounts otherwise owing the Seller by the Buyer, its successors, or transferees; and
- c. Second, to reimburse the Buyer, its successor or transferee, up to the amount equal to (i) the sum paid by the Buyer to the Seller under this Agreement for the Site or Parcel, as the case may be, subject to the resale, which sum shall be calculated at \$4.46 per square foot, (ii) the costs incurred for the development of the Project and for the agreed improvements existing on the Site or Parcel subject to resale at the time of the re-entry and repossession, less (iii) any gains or income withdrawn or made by the Buyer from the Site or Parcel, as the case may be, or the improvements thereon.

- d. Any balance remaining after such reimbursements shall be retained by the Buyer as its property.
- e. Notwithstanding the foregoing, any default as described above shall constitute a default as to any portion of the Site for which a Certificate of Occupancy has not been issued. Accordingly, a default with respect to any one Parcel shall constitute a default as to all other Parcels, except as to any Parcel where a Certificate of Occupancy has been issued for all Project improvements planned for that Parcel. The reverter provisions of this Section 12.5 would therefore apply to the Parcels not covered by duly-issued Certificates of Occupancy for all improvements on the Parcel, as further described in Section 12.7.

12.6 Construction Against Forfeitures. To the extent that the right established in Section 12.5 involves a forfeiture, it must be strictly interpreted against the Seller, the party for whose benefit it is created. The rights established in Section 12.5 are to be interpreted in light of the fact that the Seller will convey the Site and its Parcels to the Buyer for development, and not for speculation in undeveloped land.

12.7 Enforcement of Note & Rights of Reverter Through Deed of Trust & Subsequent Deeds of Trust. All deed of trust required by the this Agreement shall contain the rights of reverter for the benefit of Seller specified in Section 12.5.

(a) *Default Prior to Final Map Approval.* Prior to the recordation of the four Subsequent Deeds of Trust, the Promissory Note and Seller's rights of reverter shall be secured in accordance with Section 3.4(a) above. Any uncured default of this Agreement by Buyer prior to the recordation of the four Subsequent Deeds of Trust shall result in Seller's right to, in Seller's sole discretion, immediately enforce the Deed of Trust to either demand the Purchase Price, which shall be immediately due and payable, or to exercise the right of reverter as to all portions of the Site that have been conveyed to Buyer to date and where no Certificate of Occupancy has been issued.

(b) *Default After Recordation of Parcelized Deeds of Trust.* After the recordation of the Subsequent Deeds of Trust pursuant to Section 3.4(b) above, the following acts of default by Seller shall, subject to the cure periods set forth in Section 12.1, result in enforcement of one or more of the Subsequent Deeds of Trust as follows:

1. Buyer's failure to pay for any portion of the Purchase Price within the time stated in Section 3.3 shall render *all* Subsequent Deeds of Trust immediately due and payable and/or the Seller's rights of reverter immediately exercisable on any and all Parcel(s) that have not received an issued Certificate of Occupancy for all Project improvements to be built on that Parcel.
2. If Buyer pays the full Purchase Price in accordance with Section 3.3, but thereafter either (1) fails to proceed with Project construction in accordance with the timeframes set forth in Section 11.2, or (2) commits

any of the actions giving rise to Seller's right of reverter pursuant to Section 12.5, then the Seller may immediately enforce any and all Deeds of Trust that have not been released pursuant to Section 12.8.

12.8 Release of Subsequent Deeds of Trust. Upon any payments of the Purchase Price pursuant to Section 3.3, the Seller shall amend or revise the Promissory Note and/or any recorded Deed(s) of Trust (as applicable) as needed to reflect the actual balance of Purchase Price plus interest due from Buyer. Even upon full payment of the Purchase Price, however, Buyer acknowledges that the Deed(s) of Trust secure not only the repayment of money, but also the performance of certain covenants, promises, agreements, obligations and responsibilities created in Seller under this Agreement with respect to performing the Project. To this end, the Deed(s) of Trust shall be released only as follows:

(a) *Initial Deed of Trust at Exhibit "G".* The initial Deed of Trust, to be recorded pursuant to Section 3.4(a), may be released partially upon recordation of the Subsequent Deeds of Trust.

(b) *Release of Subsequent Deeds of Trust Commensurate with Project Schedule.* Each Subsequent Deed of Trust shall be released from the underlying Parcel only after all the following events have occurred: (i) payment of the full Purchase Price for the whole Site or for the pro-rata share of the Purchase Price attributable to the Parcel (at \$4.46 per square foot), and (ii) Buyer's timely commencement of construction of Project improvements upon the Parcel underlying the Subsequent Deed of Trust, plus (iii) diligent, uninterrupted prosecution of such Project improvements to completion on that Parcel. For example, the Subsequent Deed of Trust recorded upon the Restaurant Parcel shall only be released upon Buyer's payment of the value of the Restaurant Parcel (at \$4.46 per square foot) and completion of Project improvements upon that Parcel (as demonstrated by issuance of a Certificate of Occupancy for all planned Restaurant Parcel Project improvements pursuant to Section 11.8(a)). The City shall release the Subsequent Deed of Trust recorded upon each Parcel no later than thirty (30) days after issuance of a Certificate of Occupancy (Section 11.8(a)) for all Project improvements on a Parcel.

12.9 Enforced Delays; Extension Of Times of Performance. Time is of the essence in the performance of this Agreement. Notwithstanding the foregoing, in addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; subsurface conditions on the Site and unknown soils conditions; governmental restrictions or priority litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of the other party; acts or the failure to act of a public or governmental agency or entity (except that acts or the failure to act of Seller shall not excuse performance by Seller); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein "**Enforced Delay**"), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the enforced delay, and shall commence to

run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within ten (10) days of the commencement of the cause. Failure to provide such notice shall constitute a waiver of the claim. The following shall not be considered as events or causes beyond the control of Buyer, and shall not entitle Buyer to an extension of time to perform: (i) Buyer's failure to obtain financing for the Project, and (ii) Buyer's failure to negotiate agreements with prospective users for the Project or the alleged absence of favorable market conditions for such uses.

Times of performance under this Agreement may also be extended by mutual written agreement by Seller and Buyer. The City Manager of Seller shall have the authority on behalf of Seller to approve extensions of time not to exceed a cumulative total of one hundred eighty (180) days with respect to the development of the Site.

13. MISCELLANEOUS.

13.1 Brokerage Commissions. Buyer and Seller each represent and warrant to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transaction contemplated by this Agreement. Buyer and Seller each agree to indemnify and hold the other party harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee.

13.2 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective heirs, representatives, transferees, successors and assigns. The transfer of all or any part of the interest of any party hereunder in the Property shall not release Seller of its obligations under this Agreement.

13.3 Time of Essence. Time is of the essence in this Agreement and with respect to each covenant and condition hereof. Buyer and Seller each specifically agrees to strictly comply and perform its obligations herein in the time and manner specified and waives any and all rights to claim such compliance by mere substantial compliance with the terms of this Agreement.

13.4 Time Period Computations. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and California state or national holidays unless the reference is to business days, in which event such weekends and holidays shall be excluded in the computation of time and provide that if the last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or California state or national holiday, such act or notice shall be deemed to have been timely performed or given on the next succeeding day which is not a Saturday, Sunday or California state or national holiday.

13.5 Qualification; Authority. Each individual executing this Agreement on behalf of a partnership or corporation represents and warrants that such entity is duly formed and authorized to do business in the State of California and that he or she is duly authorized to execute and deliver this Agreement on behalf of such partnership or corporation in

accordance with authority granted under the formation documents of such entity, and, if a corporation, by a duly passed resolution of its Board of Directors, that all conditions to the exercise of such authority have been satisfied, and that this Agreement is binding upon such entity in accordance with their respective terms. Upon request of either party, Escrow Holder or Title Company, Buyer and Seller agree to deliver such documents reasonably necessary to evidence the foregoing.

13.6 Attorneys' Fees. In the event of any dispute between the parties hereto arising out of the subject matter of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled to have and to recover from the other party its actual attorneys' fees and other expenses and costs in connection with such action or proceeding (including expert witness fees) in addition to its recoverable court costs.

13.7 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

13.8 No Waiver. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

13.9 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

13.10 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13.11 Merger of Prior Agreements and Understandings. This Agreement and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

13.12 Covenants to Survive Escrow. The covenants and agreements contained herein shall survive the Close of Escrow and, subject to the limitations on assignment contained in Section 11.1 above, shall be binding upon and inure to the benefit of the parties hereto and their representatives, heirs, successors and assigns.

13.13 Consent of Parties. Whenever by the terms of this Agreement the consent or approval of Buyer or Seller is to be given, such consent or approval shall be evidenced by the signature of one person designated for such purpose. Such designated persons may be changed by the party so designating at any time by the delivery of a written notice to the other party.

13.14 No Withholding Because Non-Foreign Seller. Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or any out-of-state seller under California Revenue and Tax Code Section 18862 and that it will deliver to Buyer on or before the Close of Escrow (i) a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulation promulgated thereunder and (ii) a California Form 590.

13.15 Execution in Counterpart. This Agreement and any modifications, amendments or supplements thereto may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

13.16 Notices. Any notice which either party may desire to give to the other party or to the Escrow Holder must be in writing and shall be effective (i) when personally delivered by the other party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified; (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; or (iv) upon receipt of a telecopy or fax transmission, provided a hard copy of such transmission shall be thereafter delivered in one of the methods described in the foregoing (i) through (iii); in each case postage fully prepaid and addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other parties hereto:

To Buyer: JMA Village, LLC 1137 Second Street
Santa Monica, CA 90403
Attention: Mr. Arthur Pearlman or Mr. Mark Frost
Telephone: (310) 280-2425
Facsimile: (310) 260-6334

Copy to: Cox, Castle & Nicholson LLP
Attn: Ed. Dygert
2049 Century Park East, Suite 2800
Los Angeles, California 90067
Telephone: (310) 284-2256
Facsimile: (310) 277-7889

To Seller: The City of Banning
99 E. Ramsey St.
Banning, CA 92220
Attention: City Manager
Telephone: (951) 922-3171
Facsimile: (951) 922-3174

Copy to: Aleshire & Wynder, LLP
18881 Von Karman Ave., Ste. 1700
Irvine, CA 92612
Attn: David J. Aleshire, Esq.
Facsimile: 949-223-1180

Escrow Holder: At the above stated address.

13.17 Exhibits. Exhibits "A" through "I", inclusive are attached hereto and incorporated herein by this reference. The Exhibits are as follows:

Exhibit	Description
A.	Legal Description of Site
B.	Legal Description of City Property
C.	Legal Description of Third-Party Parcel
D.	Project Concept Plans
E.	Map Showing Restaurant, Hotel, General Retail and Retail/Office Parcels
F.	Promissory Note
G.	Deed of Trust to be Recorded upon Closing on City Property and/or Site
H.	Grant Deed Form
I.	CC&Rs

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

"BUYER"

JMA VILLAGE, LLC,
A California limited liability company

By: _____
Arthur Pearlman

By: _____
Mark Frost

ATTEST:

"SELLER"

CITY OF BANNING,
A California General Law Municipality

Secretary

By: _____
Barbara Hanna, Mayor

APPROVED AS TO FORM
ALESHIRE & WYNDER, LLP

Dave Aleshire, City Attorney

AGREED AND ACCEPTED AS OF THIS
___ DAY OF _____, 2012

CHICAGO TITLE COMPANY

By: _____
Sandra Olson, Escrow Officer

Handwritten signature and the number 240.

EXHIBIT A

Legal Description of Site

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EXHIBIT B

Legal Description of City Property

Handwritten signature and the number 242.

EXHIBIT C

Legal Description of Third-Party Parcel

[Handwritten signature]
243

EXHIBIT D

Project Concept Plans


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EXHIBIT E

Tentative Tract Map Showing Approximate Parcel Boundaries

[Handwritten signature]
245

EXHIBIT F
Promissory Note

[Handwritten signature]
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EXHIBIT G

Form Deed of Trust


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EXHIBIT H

Form Grant Deed

EXHIBIT I

CC&Rs

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CITY COUNCIL AGENDA

Date: February 11, 2014

TO: City Council

FROM: David J. Aleshire, Aleshire & Wynder, City Attorney

SUBJECT: Proposal to Amend Municipal Code to Vest The Power of Appointment/Removal of City Personnel in the City Council

I. INTRODUCTION.

At the conclusion of the City's last Council meeting of 2013, on December 10, 2013, Councilmember Miller requested preparation of a report on the City Council's ability to approve the appointment of the position of Chief of Police. The Council directed that the City Attorney bring back a report on this subject.

It was not entirely clear what the scope of this proposal might include: (i) interim and permanent positions, (ii) other management positions, (iii) appointment and termination, and (iv) whether the power would merely be a veto over the City Manager's appointee?

II. BACKGROUND.

A. Banning Past Practice

Since at least 1965, the City Manager has held the power to appoint and remove department heads and all city personnel. This is generally known as a council-manager form of government, where the City Manager appoints and removes city personnel and oversees day-to-day city operations, but ultimately reports to the Council.

It has been proposed that the City may wish to amend the municipal code to grant the power of appointment and/or removal of the chief of police or maybe other department heads to the City Council.

The Banning Municipal Code currently provides that the City Manager has the power to "appoint, promote, demote and remove any officers and employees of the city except the city clerk, city treasurer and city attorney." (BMC § 2.08.080(C).)

The Municipal Code also provides: "The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry; and neither the city council nor any member thereof shall give orders to any subordinate of the city manager." (BMC § 2.08.110.) This provision is common in municipal codes throughout the state, and is generally known as a provision against "councilmanic interference".

It has been proposed to amend the municipal code to grant the City Council the power to appoint and/or remove certain employees, presumably requiring an amendment to section 2.08.080(C) of the BMC.

B. State Law

By way of background, state law describes the procedures for a city council of a general law city to establish its form of government. (*See* Govt. Code § 36501.) One such form of government is the “council-manager” form, where the city manager is granted authority over management of the city, and the city council focuses on policy-making. (*See* Govt. Code §§ 34851-34859.) The City Council “define[s] the powers and duties of the city manager” by ordinance. (Govt. Code § 34852.) This broad authority encompasses the traditional city manager position but some cities have actually changed the title of the chief executive position of the City to City Administrator.

The government code does not use the label city administrator - rather it leaves broad flexibility for defining the authority of the City Manager. While the city manager and city administrator terms are used interchangeably at times, there has developed a difference in practice. The consensus among local government officials is that the key distinction between city manager and city administrator systems lies in the power to appoint and remove city personnel.¹ Generally, a council-administrator system vests the power of appointment and removal of city personnel in the City Council [normally only applies to department heads and often only a veto power]. However, the title of the position is not determinative.

Thus, depending on the type of changes made by the Council, the system could shift towards more of what is in practice, a council-administrator system whether the title is actually changed or not. Nothing in the Government Code prohibits such a system.² Under the Government Code, a city council may “define the powers and duties of the city manager” as it chooses, so presumably a council could limit the authority of its “manager” to administrative duties. (Govt. Code § 34852.)

Although the choice here is clearly a policy choice for the City Council, the City Attorney would offer two comments for the Council’s consideration. First, although the title City Manager or City Administrator does not reveal the actual power of the position,³ in general our experience is that the predominant arrangement in California reflects the current Banning structure: appointing power resides in the City Manager, and a non-interference clause limiting the City Council from interfering with administration. Secondly, in a recent recruiting situation in a City Administrator-City, the recruiter expressed the opinion that it would be easier to find candidates

¹ *See, e.g.,* CEB, *Municipal Law Handbook*, § 1.182; *see also* Ammons, David N. “City Manager and City Administrator Role Similarities and Differences: Perception Among Person Who Have Served as Both” *The American Review of Public Administration*, vol. 38, no. 1(March 2009): pp. 24-40.

² The rule for charter cities is somewhat distinguishable. Nothing precludes a charter city from creating a city administrator position. Charter cities that have chosen such a form of government typically assign to the city administrator the day-to-day operations of the city, but retain for the council significant authority over personnel matters (e.g., hiring and firing of department heads, financial transactions, contracts, and similar matters) that would be within the purview of a manager in the traditional council-manager form of government.

³ As demonstrated by the examples below, the City Manager/City Administrator dicotary is not clear and various jurisdictions demonstrate a wide variety of legal structures.

for a City Manager position rather than City Administrator as the City Manager position has more prestige within the profession.

III ISSUES TO REVIEW TO DEVELOP ORDINANCE

Information Required:

If the Council wishes to consider a change in the personnel system, the City Attorney's office could provide a draft ordinance with the Council's proposed amendments for its review. However, we need the following information to prepare the draft ordinance:

1. Chief of Police only or all Department Heads. Which positions would this ordinance apply to? Does the Council intend for this to apply only to the police chief or other department heads as well?
2. Appointment and Removal. Will the Council shift the appointment power only or does this include removal power as well? Does it apply to interim appointments to these positions?
3. Veto Power Only. Does the Council only want veto power so that City Manager will solicit and nominate appointees?
4. City Administrator. Does the Council want to change the title of the position to City Administrator? ?
5. Reporting. Who will the department heads/appointees report to on a day-to-day basis, the City Council or the City Manager?

IV. SAMPLES OF OTHER JURISDICTIONS

To assist the Council in answering these questions, we have provided the following examples of council-administrator or hybrid systems from other cities. Notably, each of these cities have a municipal code provision prohibiting "councilmanic interference":

1. **Duarte**: The City Manager appoints and removes all city personnel (with the exception of the city attorney, city clerk and city treasurer), but the City Council must approve appointments of department heads. This essentially gives the City Council "veto power" over the appointment of department heads. (Exhibit B.)
2. **Lawndale**: The City Manager recommends to the city council the appointment, promotion, demotion or removal of department heads or other at will employees identified by resolution for the City Council's approval. But the City Manager appoints, promotes, disciplines, demotes or removes all subordinate personnel. (Exhibit C.)
3. **Huntington Beach (charter city)**: The City Manager appoints and removes all city personnel, but the City Council must first approve appointment and removal of department heads. (Exhibit D.)
4. **Bell (charter)**: The Chief Administrative Officer appoints and removes all personnel except as specifically provided in Charter where appointment is by the Council (this exception includes the city attorney, city clerk and city treasurer). However, the City Manager must obtain approval for appointment or removal of department heads. (Exhibit E.)

FISCAL DATA: Unclear. This will require further analysis once the Council decides whether and how to amend the municipal code.

RECOMMENDED BY:

David J. Aleshire, City Attorney

EXHIBIT "A"

EXHIBIT A

PROS AND CONS OF CITY MANAGER VS. COUNCIL AS APPOINTED AUTHORITY

While the City Attorney's office has no position on this issue, having worked with both systems, the following are arguments we have heard for and against each approach:

	<u>Manager Appointment</u>	<u>Council Appointment</u>
<u>Pros</u>	(1) The City Manager's capability to execute policy is enhanced by the power to appoint or remove department heads. Employees are more responsive to City Manager, so that manager can be held responsible to implement council policies (2) Key personnel actions may be accomplished more quickly and easily. (3) The City may recruit better City Manager candidates, who are attracted to the City Manager position for the greater authority it allows. (4) The individual making appointment/removal decisions is more likely to be trained and have experience in human resources. (5) Tradition: This is the historical system implemented by the City, and widely used by the vast majority of cities.	(1) Council can assure that department heads responsiveness to public is of the highest importance. (2) Greater checks and balances over City Manager. (3) As elected officials, the City Council presumably has a more understanding of the qualifications the voters want to see in their department heads.
<u>Cons</u>	(1) Delegates appointment power to a single person, which may be less considered than the judgments of three or more. (2) The City Council has little input on the recruitment, appointment and dismissal process. (3) The City Manager has a more indirect connection to the voters and is therefore less accountable to the voters.	(1) Appointment/dismissal will likely require more time and documentation, and many elected officials do not have the professional background and/or perspective in human resources. (2) Increased risk of councilmanic interference in day-to-day operations of city and personnel actions may become politicized. Employee decisions might be driven by politics rather than employee performance. (3) May lose good candidates for department head positions who are

	<u><i>Manager Appointment</i></u>	<u><i>Council Appointment</i></u>
		concerned that their position could be compromised after each election. (4) Potential loss of institutional knowledge with the increased risk of turnover. (5) The City Administrator position may be less appealing as a career opportunity. Additionally, it can be difficult for any administrator to be effective in managing without hiring/firing authority.

EXHIBIT "B"

2.12.090 Powers and duties.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council except as otherwise provided in this chapter. He shall be responsible for the efficient administration of all the affairs of the city which are under his control. In addition to his general powers as administrative head, and not as a limitation thereon, it shall be his duty and he shall have the powers set forth in the following subsections:

- (a) **LAW ENFORCEMENT.** It shall be the duty of the city manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the city council are faithfully observed. For the purpose of law enforcement, the city manager is hereby designated as director of public safety of the city. As such director, and without limiting the generality of the foregoing grant of power with respect to law enforcement, the city manager shall have the authority:
 - (1) To act pursuant to sections 41601 and 38791 of the Government Code of the state;
 - (2) To establish any and all public safety functions and necessary rules and regulations;
 - (3) To appoint peace officers pursuant to the provisions of Section 830 of the Penal Code;
 - (4) To issue weapons' permits pursuant to Section 12050 of the Penal Code; provided, that the exercise of this power shall be dependent upon adoption of a resolution by the city council authorizing such exercise;
 - (5) To issue indicia of authority, such as badges, identification, uniforms, or other insignia of peace officer status; and
 - (6) To perform any other such duties as may be assigned by the city council.
- (b) **AUTHORITY OVER EMPLOYEES.** It shall be the duty of the city manager, and he shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his jurisdiction through their department heads.
- (c) **POWER OF APPOINTMENT AND REMOVAL.** It shall be the duty of the city manager to, and he shall appoint, remove, promote and demote any and all officers and employees of the city, except the city attorney, the city clerk, and the city treasurer, subject to all applicable personnel ordinances, rules and regulations; provided, however, that any appointment of a department head shall be subject to concurrence by a majority vote of the city council.
- (d) **ADMINISTRATIVE REORGANIZATION OF OFFICES.** It shall be the duty and responsibility of the city manager to conduct studies and effect such administrative reorganization of offices, positions or units under his direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business; provided, however, that any major administrative reorganization at the department head level shall be subject to concurrence by a majority vote of the city council.
- (e) **ORDINANCES.** It shall be the duty of the city manager and he shall recommend to the city council for adoption such measures and ordinances as he deems necessary.
- (f) **ATTENDANCE AT COUNCIL MEETINGS.** It shall be the duty of the city manager to attend all meetings of the city council unless at his request he is excused therefrom by the mayor individually or the city council, except when his removal is under

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consideration.

- (g) **FINANCIAL REPORTS.** It shall be the duty of the city manager to keep the city council at all times fully advised as to the financial condition and needs of the city.
- (h) **BUDGET.** It shall be the duty of the city manager to prepare and submit the proposed annual budget and the proposed annual salary plan to the city council for its approval.
- (i) **EXPENDITURE CONTROL AND PURCHASING.** It shall be the duty of the city manager to see that no expenditures shall be submitted or recommended to the city council except on approval of the city manager or his authorized representative. The city manager, or his authorized representative, shall be responsible for the purchase of all supplies for all the departments or divisions of the city.
- (j) **INVESTIGATIONS AND COMPLAINTS.** It shall be the duty of the city manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city.
- (k) **PUBLIC BUILDINGS.** It shall be the duty of the city manager and he shall exercise general supervision over all public buildings, public parks, and all other public property which are, under the control and jurisdiction of the city council.
- (l) **ADDITIONAL DUTIES.** It shall be the duty of the city manager to perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinance or resolution or other official action of the city council.

2.12.100 Internal relations.

- (a) **COUNCIL-MANAGER RELATIONS.** The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders or instructions to any subordinates of the city manager. The city manager shall take his orders and instructions from the city council only when sitting in a duly convened meeting of the city council and no individual councilman shall give any orders or instructions to the city manager.
- (b) **DEPARTMENTAL COOPERATION.** It shall be the duty of all subordinate officers and the city clerk, city treasurer, and city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously.
- (c) **ATTENDANCE AT COMMISSION MEET-INGS.** The city manager may attend any and all meetings of the planning commission, recreation and park commission, and any other commissions, boards or committees created by the city council upon his own volition or upon direction of the city council. At such meetings which the city manager attends he shall be heard by such commission, boards or committees as to all matters upon which he wishes to address the members thereof, and he shall inform the members as to the status of any matter being considered by the city council and he shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the city council.

EXHIBIT "C"

[Home](#) [Informational Codes](#)[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)Title 2 ADMINISTRATION AND PERSONNELChapter 2.08 CITY MANAGER**2.08.090 Specific powers and duties.**

In addition to the city manager's general powers as administrative head of the city government, and not a limitation thereon, it shall be the city manager's duty and he or she shall have the power to:

- A. See that the laws of the state pertaining to the city and all laws and ordinances of the city are duly enforced;
- B. Recommend to the city council the appointment, promotion, demotion, or removal of all heads of departments or other at will employees identified in the applicable central management employee resolution; however, the city manager shall have the ability to discipline all employees identified in the central management employee resolution;
- C. Appoint, promote, discipline, demote, or remove all subordinate officers and employees, transfer employees from one department to another, and consolidate or combine offices, positions, departments, or other administrative units of the city under his or her jurisdiction;
- D. Under the direction and control of the city council, exercise control over and supervise in general all departments and divisions of the city government and all appointive officers and employees thereof, except the city clerk, city attorney and city treasurer;
- E. Attend all meetings of the council and its committees unless excused therefrom by the council;
- F. Recommend to the council for adoption such measures and ordinances as the manager deems necessary or expedient;
- G. Keep the council at all times fully advised of the financial condition and needs of the city;
- H. Prepare and submit to the council the annual budget, and administer it after adoption;
- I. Prepare and recommend to the council a salary plan;
- J. Purchase or cause to be purchased all supplies for all of the departments or divisions of the city. No expenditure shall be submitted or recommended to the council except upon report or approval of the city administrator;
- K. Make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligation running to the city;
- L. Investigate all complaints in relation to matters concerning the administration of the government of the city and in regard to the service maintained by public utilities in the city, and see that all franchises, permits and privileges granted by the city are faithfully observed;
- M. Exercise general supervision over all public buildings, public parks, streets and other public property which are under the control and jurisdiction of the council;
- N. Devote his or her entire time to the duties and interests of the city;
- O. Make reports and recommendations as may be desirable or as requested by the council;
- P. Serve in any appointed office or head of department within the city government to which he or she may be qualified when appointed thereto by the council, and hold and perform the duties thereof at the pleasure of the council;
- Q. Perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution of the council. (Ord. 950-05 § 1; Ord. 877-00 § 1 (part); Ord. 848-98 §§ 3—6; prior code § 2-53)

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[Lawndale Municipal Code](#)[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 2 ADMINISTRATION AND PERSONNEL](#)[Chapter 2.08 CITY MANAGER](#)**2.08.080 General administrative duties.**

The city manager shall be the administrative head of the city government under the direction and control of the city council. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under his or her control. (Ord. 848-98 § 2; prior code § 2-52)

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The council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry; and neither the council nor any members thereof shall give orders to any subordinates of the city manager. (Amended during 6/30/96 supplement; prior code § 2-34)

EXHIBIT "D"

[Huntington Beach Municipal Code](#)[Go](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)CHARTERARTICLE IV APPOINTIVE OFFICES AND PERSONNEL**Section 401. POWERS AND DUTIES.**

Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Manager shall have the power and be required to:

- (a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the Chief of Police. The Chief of Police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.
 - (b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration upon adoption.
 - (c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.
 - (d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
 - (e) Maintain a centralized purchasing system for all City offices, departments and agencies.
 - (f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.
 - (g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.
- Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.
- (h) Perform such other duties consistent with this Charter as may be required by the City Council.

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Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in administrative service of the City, of any person to any office or employment, or removal therefrom. Except for the purpose of investigation and inquiry, the members of the City Council shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and no member of the City Council shall give orders to any subordinate of the City Manager, either publicly or privately.

No elected department head or staff of the Office of the elected department head shall be a member of the management negotiation team for the purposes of negotiations of memorandums of understanding with the employee bargaining units.

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EXHIBIT "E"

The City Council may by ordinance or resolution provide a method for the sale or exchange of real or personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or Chief Administrative Officer upon forms approved by the Chief Administrative Officer and at rates fixed by the City Council.

The provisions of this Section shall not apply to services rendered by any person in the employ of the City at a regular salary.

ARTICLE VI - CHIEF ADMINISTRATIVE OFFICER

Section 600. CHIEF ADMINISTRATIVE OFFICER. There shall be a Chief Administrative Officer who shall be the chief administrative officer of the City. The Chief Administrative Officer shall be appointed by the affirmative vote of at least a majority of all members of the City Council and shall serve at the pleasure of the City Council, provided, however, that the Chief Administrative Officer shall not be removed from the office except as provided in this Charter. The Chief Administrative Officer shall be chosen on the basis of executive and administrative qualifications.

Section 601. RESIDENCE. The Chief Administrative Officer need not be a resident of the City at the time of appointment, but shall within 90 days after appointment, establish residence within such distance from the City as the City Council may establish, unless such period is extended by the City Council, and thereafter maintain residence within such distance during tenure of office.

Section 602. ELIGIBILITY. No person shall be eligible to receive appointment as Chief Administrative Officer while serving as a member of the City Council nor within one year after ceasing to be a member of the City Council.

Section 603. COMPENSATION AND BOND. The Chief Administrative Officer shall be paid a salary commensurate with the responsibilities of chief administrative officer of the City. The Chief Administrative Officer shall furnish a corporate surety bond conditioned upon the faithful performance of duties in such form and in such amount as may be determined by the City Council.

Section 604. POWERS AND DUTIES. The Chief Administrative Officer shall be the administrative head of the City Government. Except as otherwise provided in this Charter, the Chief Administrative Officer shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions of this Charter, including the personnel system provisions thereof, the Chief Administrative Officer shall have power and be required to:

(a) Appoint, and may promote, demote, suspend or remove, all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. The Chief Administrative Officer may authorize the head of any department or office to appoint or remove subordinates in such department or office. In case of the appointment or removal of any department head, the Chief Administrative Officer shall first review such appointment or removal with the City Council and obtain its approval.

(b) Prepare the budget, submit to the City Council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances and administrative activities to the City for the preceding fiscal year.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for purchasing, inspection, storing, inventory, distribution and disposal of all supplies, material and equipment required by ordinance, and administer and enforce the same after adoption.

(g) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City are enforced.

(h) Exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under jurisdiction of the Chief Administrative Officer.

(i) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 605. MEETINGS. The Chief Administrative Officer shall be accorded a seat at all meetings of the City Council and of all boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. The Chief Administrative Officer shall receive notice of all special meetings of the City Council, and of all boards and commissions.

Section 606. ASSISTANT CHIEF ADMINISTRATIVE OFFICER. The City Council may direct the Chief Administrative Officer to appoint an Assistant Chief Administrative Officer.

If there is no Assistant Chief Administrative Officer and the position of Chief Administrative Officer becomes vacant or the Chief Administrative Officer is absent or is incapacitated to such an extent the Chief Administrative Officer cannot perform the duties of the office, then the Mayor, or if absent or unable to act, the Vice Mayor, or if absent or unable to act, the senior member of the City Council temporarily shall act as the administrative head of the City until the City Council fills the position of Chief Administrative Officer or appoints an Assistant Chief Administrative Officer.

Section 607. REMOVAL. The Chief Administrative Officer may be removed at any regular meeting of the City Council upon the affirmative vote of a majority of all the members of the City Council. However, the Chief Administrative Officer may not be removed, nor shall the notice described in Subsection (a) be given for a period of 90 days before or following any municipal election in which a member of the City Council is elected.

The procedure for removal is as follows:

(a) The Chief Administrative Officer must be given a written notice stating the Council's intention to remove the Chief Administrative Officer from office. The written notice must be given at least 30 days before the effective date of removal. The notice must state the reason for the removal.

(b) The duties of the Chief Administrative Officer may be suspended immediately upon receipt of the notice described in Subsection (a). The compensation paid to the Chief Administrative Officer must continue until removal is completed as prescribed within this Section.

(c) In removing the Chief Administrative Officer, the City Council may use its sole and uncontrolled discretion, and its action shall be final.

Section 608. NON-INTERFERENCE WITH ADMINISTRATIVE SERVICE. Except as otherwise provided in this Charter, neither the Council nor any of its members shall interfere with the powers and duties of the Chief Administrative Officer, nor shall they directly or indirectly order the Chief Administrative Officer or subordinates to appoint or remove any person to or from any office or employment. Except for the purpose of inquiry, investigation or report, the City Council and its members shall deal with the administrative service under the jurisdiction of the Chief Administrative Officer solely through the Chief Administrative Officer, and neither the City Council nor any member thereof shall publicly or privately give orders to any subordinate of the Chief Administrative Officer.

ARTICLE VII - OFFICERS AND EMPLOYEES

Section 700. ENUMERATION. In addition to the City Council and Chief Administrative Officer, the officers and employees of the City shall consist of a City Attorney, a City Clerk, a City Treasurer, such other officers, assistants, deputies, and employees as the City Council may provide by resolution.

When the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more offices; provided, however, that the same person shall not hold the positions of City Treasurer and be responsible for the functions of finance at the same time.

Section 701. APPOINTMENT AND REMOVAL. The City Attorney, City Clerk, and City Treasurer shall be appointed by and may be removed by the affirmative votes of at least a majority of all the members of the City Council. All other officers, department heads and employees of the City shall be appointed and may be removed as elsewhere in this Charter provided.

Section 702. ADMINISTRATIVE FUNCTIONS. The City may provide through its own staff for all departments as may be determined necessary to carry out the business of the City. The City may provide the following functions and services: finance, public works, water, building & safety, public safety and city planning. The City Council may provide by ordinance or resolution not inconsistent with this Charter for the organization, conduct and operation of the functions of the City as established by this Charter, for the creation of additional functions, departments, divisions, offices and agencies and for their consolidation or alteration. It may further provide by ordinance or resolution for the assignment and reassignment of functions, duties, offices and agencies to offices and departments, and for the number, titles, qualifications, powers, duties, and compensation of all officers and employees, consistent with this Charter. Each department so created shall be headed by a department head.

Section 703. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person appointed shall be an attorney at law duly licensed as such under State law and shall be chosen on the basis of legal qualifications,

**ACCOUNTS PAYABLE AND
PAYROLL WARRANTS FOR THE
MONTH OF DECEMBER, 2013**

*City Council Agenda
2/11/14*

PREPARED 12/05/2013, 16:02:22
PROGRAM: GM339L
CITY OF BANNING

EXPENDITURE APPROVAL LIST
AS OF: 12/31/2013 CHECK DATE: 12/05/2013

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VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000814	00	E.S. BABCOCK & SONS, INC.						
BJ32473-0030		PI2692 026234 00 11/13/2013			660-6300-471.23-32	ANALYTICAL SERVICES	1,020.00	
BK30590-0030		PI2678 026210 00 11/23/2013			680-8000-454.23-32	ANALYTICAL SERVICES	40.00	
0004993	00	ESCALANTE, TERRI				VENDOR TOTAL *	1,060.00	
2013-1125		PI2700 026038 00 11/26/2013			001-2740-442.23-07	NOTARY SERVICES	20.00	
2013-1127		PI2701 026038 00 11/27/2013			001-2740-442.23-07	NOTARY SERVICES	40.00	
0005816	00	JB PAVING & ENGINEERING				VENDOR TOTAL *	60.00	
2234		PI2682 026175 00 11/07/2013			660-6300-471.45-08	PAVING VARIOUS LOCATIONS	3,326.00	
2235		PI2683 026175 00 11/11/2013			660-6300-471.45-08	PAVING VARIOUS LOCATIONS	2,514.00	
0006654	00	LEAF				VENDOR TOTAL *	5,840.00	
4747898		PI2814 026236 00 12/02/2013			610-5800-434.32-06	DECEMBER COPIER SERVICES	184.59	
4698007		PI2816 026236 00 11/01/2013			610-5800-434.32-06	NOVEMBER COPIER SERVICE	160.96	
4648591		PI2818 026236 00 10/02/2013			610-5800-434.32-06	OCTOBER COPIER SERVICE	160.12	
4747898		PI2815 026236 00 12/02/2013			610-5850-434.32-06	DECEMBER COPIER SERVICES	184.61	
4698007		PI2817 026236 00 11/01/2013			610-5850-434.32-06	NOVEMBER COPIER SERVICE	160.99	
4648591		PI2819 026236 00 10/02/2013			610-5850-434.32-06	OCTOBER COPIER SERVICE	160.14	
0003506	00	MST BACKFLOW				VENDOR TOTAL *	1,011.41	
11212013		PI2679 026309 00 12/16/2013			660-6300-471.45-08	TEST & CERTIFY BACKFLOWS	2,850.00	
0001295	00	PRESS-ENTERPRISE, THE				VENDOR TOTAL *	2,850.00	
100143507		PI2707 026055 00 10/28/2013			001-2800-441.23-01	ORD 1472 BUILDING CODE	168.00	
0001555	00	RECORD GAZETTE, THE				VENDOR TOTAL *	168.00	
00097228		PI2702 026057 00 12/02/2013			001-2800-441.23-01	ORD 1470 ZTA 97504	48.88	
00097230		PI2703 026057 00 12/02/2013			001-2800-441.23-01	ORD 1472 BUILDING CODE	63.25	
00097239		PI2704 026057 00 12/02/2013			001-2800-441.23-01	ORD 1474	57.50	
00097355		PI2705 026057 00 12/02/2013			001-2800-441.23-01	ZTA 13-97505 ORD 1476	103.50	
00097360		PI2706 026057 00 12/02/2013			001-2800-441.23-01	CUP 13-806 RIO RANCH SIGN	94.88	
0006078	00	ROQUET PAVING				VENDOR TOTAL *	368.01	
0811-13		PI2689 026365 00 11/25/2013			660-6300-471.45-08	PAVING VARIOUS LOCATIONS	3,559.02	
0811-13A		PI2690 026365 00 11/25/2013			660-6300-471.45-08	PAVING VARIOUS LOCATIONS	3,378.02	
0001371	00	SOUTHERN CALIFORNIA EDISON				VENDOR TOTAL *	6,937.04	
2015215072NOV13PI2673		026139 00 11/13/2013			660-6300-471.26-04	WELL 9 ELECTRIC CHARGES	30.43	
2016215049NOV13PI2674		026139 00 11/13/2013			660-6300-471.26-04	WELL 11 ELECTRIC CHARGES	118.27	
2196273304NOV13PI2675		026139 00 11/13/2013			660-6300-471.26-04	DEL RITA BOOSTER ELECTRIC	69.44	
2015215098NOV13PI2676		026139 00 11/22/2013			660-6300-471.26-04	WELL 10 ELECTRIC CHARGES	980.71	

EXPENDITURE APPROVAL LIST
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PREPARED 12/12/2013, 16:08:04
PROGRAM: GM339L
CITY OF BANNING

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0006605	00	ADDCOX, RENEE	00	12/09/2013	001-1900-412.23-06	GOV'T TAX SEMINAR	92.60	
MILEAGE 12/3	001791							
0004781	00	ADVANCE WORKPLACE STRATEGIES INC				VENDOR TOTAL *	92.60	
259014	PI2711	026076	00	12/16/2013	001-1300-412.33-32	NOV RANDOM TESTING	294.00	
0002454	00	AIRGAS WEST				VENDOR TOTAL *	294.00	
9913544029	PI2758	026022	00	11/25/2013	660-6300-471.36-08	CYL RNT FOR NITROGEN	128.60	
0000034	00	AL'S KUBOTA TRACTOR				VENDOR TOTAL *	128.60	
330527	PI2743	026025	00	12/16/2013	660-6300-471.45-16	STEEL CHAINSAW	313.59	
0002298	00	ALTURA CREDIT UNION				VENDOR TOTAL *	313.59	
20131213	-PR1213		00	12/13/2013	001-0000-204.80-06	PAYROLL SUMMARY	1,260.00	
0000903	00	AMERICAN AIR SERVICE				VENDOR TOTAL *	1,260.00	
32709	PI2725	026224	00	11/19/2013	001-3200-412.30-21	MODULE REPAIR	494.20	
0004265	00	AMERICAN FORENSIC NURSES				VENDOR TOTAL *	494.20	
63919	PI2653	026295	00	11/09/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	200.00	
63920	PI2654	026295	00	11/09/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	150.00	
64094	PI2709	026295	00	12/22/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	800.00	
64034	PI2713	026295	00	12/10/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	50.00	
64035	PI2714	026295	00	12/10/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	150.00	
63977	PI2715	026295	00	11/25/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	300.00	
63978	PI2716	026295	00	11/25/2013	001-2200-421.33-31	MISCELLANEOUS SERVICES	100.00	
0006131	00	APPLE INC.				VENDOR TOTAL *	1,750.00	
COMP LOAN	001773		00	12/09/2013	670-0000-116.21-02	COMPUTER LOAN - YOUNG	2,394.36	
0006456	00	ARROW STAFFING SERVICE				VENDOR TOTAL *	2,394.36	
00073778-1	001669		00	09/16/2013	001-3000-442.23-27	WILLIAMS, L (W/E 9/14/13)	79.17	
00074418	001687		00	11/18/2013	001-3000-442.23-27	WILLIAMS, L (W/E 11/16)	59.02	
00074486	001695		00	11/25/2013	001-3000-442.23-27	WILLIAMS, L (W/E 11/23)	78.45	
00074561	001765		00	12/02/2013	001-3000-442.23-27	WILLIAMS, L (W/E 11/30)	54.41	
00073778-1	001670		00	09/16/2013	001-3200-412.23-27	WILLIAMS, L (W/E 9/14/13)	127.77	
00074418	001688		00	11/18/2013	001-3200-412.23-27	WILLIAMS, L (W/E 11/16)	95.24	
00074486	001696		00	11/25/2013	001-3200-412.23-27	WILLIAMS, L (W/E 11/23)	126.59	
00074561	001766		00	12/02/2013	001-3200-412.23-27	WILLIAMS, L (W/E 11/30)	87.80	
00073778-1	001671		00	09/16/2013	100-4900-431.23-27	WILLIAMS, L (W/E 9/14/13)	224.94	
00074418	001689		00	11/18/2013	100-4900-431.23-27	WILLIAMS, L (W/E 11/16)	167.67	
00074486	001697		00	11/25/2013	100-4900-431.23-27	WILLIAMS, L (W/E 11/23)	222.87	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
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0006456	00	ARROW STAFFING SERVICE						
00074561		001767	00	12/02/2013	100-4900-431.23-27	WILLIAMS, L (W/E 11/30)	154.56	
00073778-1		001672	00	09/16/2013	600-5100-435.23-27	WILLIAMS, L (W/E 9/14/13)	89.97	
00074418		001690	00	11/18/2013	600-5100-435.23-27	WILLIAMS, L (W/E 11/16)	67.08	
00074486		001698	00	11/25/2013	600-5100-435.23-27	WILLIAMS, L (W/E 11/23)	89.14	
00074561		001768	00	12/02/2013	600-5100-435.23-27	WILLIAMS, L (W/E 11/30)	61.82	
00073778-1		001673	00	09/16/2013	660-6300-471.23-27	WILLIAMS, L (W/E 9/14/13)	125.97	
00074418		001691	00	11/18/2013	660-6300-471.23-27	WILLIAMS, L (W/E 11/16)	93.89	
00074486		001699	00	11/25/2013	660-6300-471.23-27	WILLIAMS, L (W/E 11/23)	124.81	
00074561		001769	00	12/02/2013	660-6300-471.23-27	WILLIAMS, L (W/E 11/30)	86.55	
00073778-1		001674	00	09/16/2013	680-8000-454.23-27	WILLIAMS, L (W/E 9/14/13)	125.97	
00074418		001692	00	11/18/2013	680-8000-454.23-27	WILLIAMS, L (W/E 11/16)	93.89	
00074486		001700	00	11/25/2013	680-8000-454.23-27	WILLIAMS, L (W/E 11/23)	124.81	
00074561		001770	00	12/02/2013	680-8000-454.23-27	WILLIAMS, L (W/E 11/30)	86.55	
00073778-1		001675	00	09/16/2013	690-9600-453.23-27	WILLIAMS, L (W/E 9/14/13)	125.97	
00074418		001693	00	11/18/2013	690-9600-453.23-27	WILLIAMS, L (W/E 11/16)	93.89	
00074486		001701	00	11/25/2013	690-9600-453.23-27	WILLIAMS, L (W/E 11/23)	124.81	
00074561		001771	00	12/02/2013	690-9600-453.23-27	WILLIAMS, L (W/E 11/30)	86.55	
						VENDOR TOTAL *	3,080.16	
0006456	00	ARROW STAFFING SERVICE, CK GRP-1						
00073778		001676	00	09/16/2013	001-2200-421.23-27	ADAMSON, S (W/E 9/14/13)	453.60	
00074417		001702	00	11/25/2013	001-2200-421.23-27	ADAMSON, S (W/E 11/16/13)	463.68	
						VENDOR TOTAL *	917.28	
0006456	00	ARROW STAFFING SERVICE, CK GRP-2						
00074416		001704	00	11/18/2013	761-3100-480.23-27	SOTO, A (W/E 11/16/2013)	276.00	
00074484		001706	00	11/25/2013	761-3100-480.23-27	SOTO, A (W/E 11/23/13)	276.00	
00074559		001707	00	11/25/2013	761-3100-480.23-27	SOTO, A (W/E 11/30/13)	276.00	
						VENDOR TOTAL *	828.00	
0003008	00	ASPLUNDH TREE EXPERT CO.						
79K39313		PI2761 026265	00	11/01/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	3,514.80	
79V56313		PI2762 026265	00	11/08/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	3,514.80	
80M19913		PI2763 026265	00	11/15/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	10,544.40	
						VENDOR TOTAL *	15,574.00	
0006190	00	ASSURANT EMPLOYEE BENEFITS						
DEC 2013		001776	00	12/09/2013	001-0000-204.32-00	DENTAL PREMIUMS	6,944.66	
DEC 2013		001777	00	12/09/2013	001-0000-204.30-00	LIFE PREMIUMS	5,685.12	
DEC 2013		001778	00	12/09/2013	001-0000-204.14-00	LTD-STD PREMIUMS	3,187.40	
						VENDOR TOTAL *	15,817.18	
0004816	00	AT&T GLOBAL CUSTOMER CARE CENTER						
0601630279		PI2661 026136	00	11/19/2013	370-2200-421.26-05	JPA CIRCUIT CHARGES	359.68	
						VENDOR TOTAL *	359.68	
0003844	00	AT&T MOBILITY						
992351038X1113		PI2670 026174	00	11/19/2013	001-2200-421.26-05	DP PROCESSING & SOFTWARE	1,545.63	
999374722X1113		PI2656 026174	00	11/19/2013	001-2200-421.26-05	DP PROCESSING & SOFTWARE	181.80	

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 CITY OF BANNING

EXPENDITURE APPROVAL LIST
 AS OF: 01/31/2014 CHECK DATE: 12/12/2013

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0003844	00	AT&T MOBILITY						
0006574	00	BACHMAN, JERI		00 12/03/2013	675-7020-473.42-36	VENDOR TOTAL *	1,727.43	
FEB - JUL 2013	001726					ENERGY ASSISTANCE REBATE	123.19	
0000939	00	BANNING POLICE OFFICERS ASSOC		00 11/30/2013	001-0000-204.50-00	VENDOR TOTAL *	123.19	
NOV 2013	001760					POLICE OFFICER ASSN DUES	2,400.00	
0003674	00	BEAUMONT CHERRY VALLEY WATER		00 12/02/2013	660-6300-471.27-14	VENDOR TOTAL *	2,400.00	
0000109	PI2693	026160		00 12/02/2013	660-6300-471.27-14	RECHARGE WATER OCT 2013	6,114.00	
0004923	00	BEAUMONT LAWNMOWER		00 11/04/2013	001-3600-461.30-06	VENDOR TOTAL *	6,114.00	
1089	PI2821	026029		00 11/04/2013	001-3600-461.30-06	TUNE UP/CLEAN CARB	144.76	
0002643	00	BIG TEX TRAILERS				VENDOR TOTAL *	144.76	
PWTRAILER	PI2902	026383		00 12/12/2013	100-4900-431.89-56	UTILITY TRAILER PUBLICWKS	3,132.00	
PWTRAILER	PI2903	026383		00 12/12/2013	100-4900-431.89-56	UTILITY TRAILER PUBLICWKS	97.20	
PWTRAILER	PI2904	026383		00 12/12/2013	100-4900-431.89-56	UTILITY TRAILER PUBLICWKS	214.60	
0006675	00	BROWN, SHAEQUICE BRANAY		00 11/30/2013	001-4000-461.23-15	VENDOR TOTAL *	3,443.80	
NOV 2013	001683					MODERN DANCE INSTRUCTOR	14.70	
0006114	00	BUDS FULL SERVICE AUTO CENTER				VENDOR TOTAL *	14.70	
23553	PI2718	026095		00 11/18/2013	702-3800-480.30-05	SMOG CHECK UNIT 910	43.00	
23556	PI2719	026095		00 11/18/2013	702-3800-480.30-05	SMOG CHECK UNIT 01	43.00	
23557	PI2720	026095		00 11/18/2013	702-3800-480.30-05	SMOG CHECK UNIT 311	43.00	
23559	PI2721	026095		00 11/18/2013	702-3800-480.30-05	SMOG CHECK UNIT 309	43.00	
23561	PI2722	026095		00 11/18/2013	702-3800-480.30-05	SMOG CHECK UNIT 440	43.00	
0003780	00	CALIFORNIA LAW ENFORCE ASSN		00 11/20/2013	001-0000-204.80-13	VENDOR TOTAL *	215.00	
DEC 2013	001782					POLICE LTD PREMIUMS	661.50	
0003958	00	CALIFORNIA-NEVADA J.A.T.C.		00 10/02/2013	670-7000-473.23-06	VENDOR TOTAL *	661.50	
1805	PI2774	026357		00 10/02/2013	670-7000-473.23-06	EDUCATIONAL SERVICES	900.00	
0006661	00	CANYON TIRE SALES, INC				VENDOR TOTAL *	900.00	
10088328	PI2756	026346		00 11/07/2013	702-3800-480.23-49	TIRES FOR UNIT #608	3.50	
10088928	PI2757	026346		00 11/07/2013	702-3800-480.38-52	TIRES FOR UNIT #608	430.79	
0006381	00	CHRIS TAYLOR'S PLUMBING				VENDOR TOTAL *	434.29	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0006381	00	CHRIS TAYLOR'S PLUMBING						
2429		PI2724 026135	00	11/14/2013	001-3200-412.30-02	REPAIR TOILET - CITY HALL	85.00	
0099001	00	CI & S INVESTIGATIONS AND SERVICES				VENDOR TOTAL *	85.00	
13-297-01		001680	00	11/18/2013	700-5040-480.40-02	INVESTIGATION SVCS	418.30	
0006082	00	CIGNA HEALTHCARE				VENDOR TOTAL *	418.30	
DEC 2013		001779	00	11/20/2013	001-0000-204.31-00	HEALTH INSURANCE PREMIUMS	71,574.79	
0004157	00	COBELL, IRENE JANE				VENDOR TOTAL *	71,574.79	
NOV 2013		001684	00	11/30/2013	001-4000-461.23-15	TOT TIME INSTRUCTOR	308.00	
0006673	00	COUNTY OF RIVERSIDE, AIRPORT LAND				VENDOR TOTAL *	308.00	
GPA3-2505.2		001179	00	10/31/2013	001-2800-441.33-11	LAND USE ACTION REVIEW		
0004047	00	CUMMINS CAL PACIFIC LLC				VENDOR TOTAL *		1,018.25-
008-5592		PI2806 026033	00	10/28/2013	702-3800-480.38-52	UNIT 219 ACTUATOR	.00	1,018.25-
0005025	00	CUSTOM SERVICE SYSTEMS				VENDOR TOTAL *	2,572.80	
52655		PI2861 026351	00	12/27/2013	001-2200-421.33-18	DEC JANITORIAL SERVICE	2,572.80	
52623		PI2858 026351	00	12/27/2013	001-3200-412.33-18	DEC JANITORIAL SERVICE	2,026.34	
52652		PI2859 026351	00	12/27/2013	001-3200-412.33-18	DEC JANITORIAL SERVICE	412.34	
52654		PI2860 026351	00	12/27/2013	001-3200-412.33-18	DEC JANITORIAL SERVICE	1,740.80	
0006189	00	CYBERTIME NETWORK COMMUNICATIONS				VENDOR TOTAL *	792.80	
1013-1294		PI2846 026079	00	09/27/2013	001-2200-421.26-07	MICRO W.A.N. - QTR 4	4,972.28	
1013-1294		PI2847 026079	00	09/27/2013	660-6300-471.26-07	MICRO W.A.N. - QTR 4	1,800.06	
1013-1294		PI2848 026079	00	09/27/2013	670-7000-473.26-07	MICRO W.A.N. - QTR 4	4,560.00	
1013-1293		PI2849 026080	00	09/27/2013	703-3700-480.30-19	FIREWALL - QTR 4	5,039.94	
0003752	00	DANCEL, JESSIE				VENDOR TOTAL *	2,097.00	
NOV 2013		001682	00	11/30/2013	001-4000-461.23-15	KARATE INSTRUCTOR	13,497.00	
0006551	00	DATA TICKET, INC				VENDOR TOTAL *	161.00	
49988		PI2699 026355	00	11/05/2013	001-2740-442.33-11	OCT. 2013 JOINT ACCT. FEE	161.00	
0006109	00	DE ZORZI, PATRICK M. & SHIRLEY M.				VENDOR TOTAL *	50.00	
53RD PMT		001734	00	12/03/2013	830-9200-490.61-16	2301 W RAMSEY ST.	50.00	
53RD PMT		001735	00	12/03/2013	830-9200-490.62-16	2301 W RAMSEY ST.	2,774.79	
0005155	00	DIAMOND HILLS AUTO GROUP INC				VENDOR TOTAL *	4,532.81	
							7,307.60	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
INVOICE NO		VOUCHER P.O. NO						
0005155	00	DIAMOND HILLS AUTO GROUP INC						
487126CVW		PI2804 026244	00	12/16/2013	702-3800-480.38-52	PARTS FOR #701 & #311	94.37	
487273CVW		PI2805 026244	00	12/20/2013	702-3800-480.38-52	SPARK PLUGS	69.47	
						VENDOR TOTAL *	163.84	
0005383	00	DIAZ, ALEJANDRO						
MEAL 12/20/2013001729		00	12/03/2013		001-2200-421.23-06	PSP TRAINING MEAL	12.00	
						VENDOR TOTAL *	12.00	
0005383	00	DIAZ, ALEJANDRO, CK GRP-1						
ZBF9WJ		001793	00	11/13/2013	001-2200-421.23-06	CALPAL FLIGHT	113.30	
						VENDOR TOTAL *	113.30	
0000814	00	E. S. BABCOCK & SONS, INC.						
BK31618-0030		PI2737 026234	00	12/06/2013	660-6300-471.23-32	ANALYTICAL SERVICES	165.00	
BK31619-0030		PI2738 026234	00	12/06/2013	660-6300-471.23-32	ANALYTICAL SERVICES	15.00	
BK31094-0030		PI2687 026234	00	11/30/2013	660-6300-471.23-32	ANALYTICAL SERVICES	90.00	
BK31106-0030		PI2688 026234	00	11/30/2013	660-6300-471.23-32	ANALYTICAL SERVICES	165.00	
BK30894-0030		PI2684 026210	00	11/27/2013	680-8000-454.23-32	ANALYTICAL SERVICES	315.00	
BK31097-0030		PI2685 026210	00	11/30/2013	680-8000-454.23-32	ANALYTICAL SERVICES	650.00	
BK31464-0030		PI2686 026210	00	12/04/2013	680-8000-454.23-32	ANALYTICAL SERVICES	40.00	
						VENDOR TOTAL *	1,440.00	
0099001	00	EGETTER, ALBERTA						
8427-6222		001721	00	12/03/2013	675-7020-473.42-35	ENERGY STAR AC REBATE	1,000.00	
						VENDOR TOTAL *	1,000.00	
0002753	00	ENTERPRISE RENT-A-CAR						
SETTLEMENT		001757	00	11/26/2013	700-5040-480.40-02	FULL AND FINAL SETTLEMENT	169.00	
						VENDOR TOTAL *	169.00	
0002753	00	ENTERPRISE RENT-A-CAR, CK GRP-1						
787394626		001792	00	11/13/2013	001-2200-421.23-06	CALPAL RENTAL CAR	47.79	
						VENDOR TOTAL *	47.79	
0004993	00	ESCALANTE, TERRI						
2013-1107		PI2710 026038	00	11/26/2013	001-1300-412.41-16	NOTARY SERVICES	10.00	
						VENDOR TOTAL *	10.00	
0006100	00	FRIESEN, MATT						
MEAL 12/02/2013001730		00	12/03/2013		001-2200-421.23-06	PSP TRAINING MEAL	12.00	
						VENDOR TOTAL *	12.00	
0001375	00	GAS COMPANY, THE						
08562460009NV13PI2837		026261	00	11/25/2013	001-3600-461.26-06	OCT 22 - NOV 21	7.48	
08562460009NV13PI2838		026261	00	11/25/2013	100-4900-431.26-06	OCT 22 - NOV 21	7.48	
13392459007NV13PI2723		026101	00	11/22/2013	600-5100-435.26-06	GAS CHARGES - AIRPORT	28.37	
08562460009NV13PI2839		026261	00	11/25/2013	660-6300-471.26-06	OCT 22 - NOV 21	14.97	
08562460009NV13PI2840		026261	00	11/25/2013	670-7000-473.26-06	OCT 22 - NOV 21	14.97	
08562460009NV13PI2841		026261	00	11/25/2013	702-3800-480.26-06	OCT 22 - NOV 21	14.97	

PREPARED 12/12/2013, 16:08:04 EXPENDITURE APPROVAL LIST
 PROGRAM: GM339L AS OF: 01/31/2014 CHECK DATE: 12/12/2013
 CITY OF BANNING

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0001375	00	GAS COMPANY, THE				VENDOR TOTAL *	88.24	
0006009	00	GLICK, PAULA RAE						
6TH PMT		001736	00	12/03/2013	830-9300-490.61-15	128-130 N SAN GORGONIO AV	10,937.27	
6TH PMT		001737	00	12/03/2013	830-9300-490.62-15	128-130 N SAN GORGONIO AV	9,593.49	
0004889	00	HARPER, KRIS				VENDOR TOTAL *	20,530.76	
EYEWEAR		001756	00	11/27/2013	670-7000-473.25-10	VISION REIMBURSEMENT	237.40	
0006072	00	HARRELL, JENNIFER				VENDOR TOTAL *	237.40	
REIMBURSEMENT		001786	00	12/12/2013	200-9100-446.36-68	HOLIDAY LUNCHEON DRINKS	98.57	
REIMBURSEMENT		001787	00	12/12/2013	200-9100-446.36-68	HOLIDAY LUNCHEON PRIZES	319.18	
0001550	00	HD SUPPLY WATERWORKS, LTD				VENDOR TOTAL *	417.75	
B752150		PI2748 026312	00	12/09/2013	660-6300-471.30-02	20X20 PVC SCH 80 PIPE	682.45	
0005480	00	HIGGINS, BLANCHE				VENDOR TOTAL *	682.45	
MAY - OCT 2013		001725	00	12/03/2013	675-7020-473.42-36	ENERGY ASSISTANCE REBATE	132.87	
0005196	00	HOBB, STEVE				VENDOR TOTAL *	132.87	
MEAL 12/20/2013		001731	00	12/03/2013	001-2200-421.23-06	PSP TRAINING MEAL	12.00	
0001805	00	I C W A				VENDOR TOTAL *	12.00	
2013-29		001788	00	12/12/2013	660-6300-471.23-06	MONTHLY MEETINGS	250.00	
2013-22		001789	00	12/12/2013	660-6300-471.23-03	MEMBERSHIP	152.00	
0001146	00	I.B.E.W. LOCAL 47				VENDOR TOTAL *	402.00	
NOV 2013		001759	00	11/30/2013	001-0000-204.53-00	UNION DUES	6,189.56	
0004086	00	I.B.E.W. LOCAL 47 (PAC)				VENDOR TOTAL *	6,189.56	
NOV 2013		001758	00	11/30/2013	001-0000-204.80-01	PAC DUES	86.00	
0005217	00	IBEW LOCAL 47 RETIREE MEDICAL TRUST				VENDOR TOTAL *	86.00	
20131213		PR1213	00	12/13/2013	001-0000-204.80-10	PAYROLL SUMMARY	1,776.16	
0002297	00	ICWA RETIREMENT TRUST 457				VENDOR TOTAL *	1,776.16	
20131213		PR1213	00	12/13/2013	001-0000-204.16-00	PAYROLL SUMMARY	1,788.36	
0006490	00	INFOSEND, INC				VENDOR TOTAL *	1,788.36	

EXPENDITURE APPROVAL LIST
AS OF: 01/31/2014 CHECK DATE: 12/12/2013

PREPARED 12/12/2013, 16:08:04
PROGRAM: GM339L
CITY OF BANNING

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
INVOICE NO		VOUCHER P.O. NO						
0006490	00	INFOSEND, INC						
74007		PI2826 026134	00	11/04/2013	761-3100-480.23-04	OCT 30 BILLING SVCS	666.44	
74007		PI2827 026134	00	11/04/2013	761-3100-480.33-11	OCT 30 BILLING SVCS	1,917.82	
74146		PI2828 026134	00	11/11/2013	761-3100-480.23-04	NOV 8 BILLING SVCS	295.39	
74146		PI2829 026134	00	11/11/2013	761-3100-480.33-11	NOV 8 BILLING SVCS	95.65	
74272		PI2830 026134	00	11/18/2013	761-3100-480.23-04	NOV 15 BILLING SVCS	404.99	
74272		PI2831 026134	00	11/18/2013	761-3100-480.33-11	NOV 15 BILLING SVCS	132.26	
74445		PI2832 026134	00	11/25/2013	761-3100-480.23-04	NOV 19 BILLING SVCS	730.02	
74445		PI2833 026134	00	11/25/2013	761-3100-480.33-11	NOV 19 BILLING SVCS	246.23	
74544		PI2834 026134	00	11/29/2013	761-3100-480.23-04	NOV 25 BILLING SVCS	1,752.68	
74544		PI2835 026134	00	11/29/2013	761-3100-480.33-11	NOV 25 BILLING SVCS	581.65	
						VENDOR TOTAL *	6,823.13	
0002274	00	INLAND WATER WORKS SUPPLY CO.						
257657		PI2741	00	11/07/2013	660-0000-131.00-00	6" STD STEEL PIPE	272.61	
						VENDOR TOTAL *	272.61	
0001158	00	INTERNATIONAL CODE COUNCIL, INC						
2981519		001679	00	11/21/2013	001-2700-442.23-03	MEMBERSHIP RENEWAL	125.00	
						VENDOR TOTAL *	125.00	
0005701	00	JOE A GONSALVES & SON						
24031		PI2775 026341	00	11/20/2013	001-1000-411.33-11	DEC13 STATE LOBBYING	2,050.00	
24031		PI2776 026341	00	11/20/2013	670-7000-473.33-11	DEC13 STATE LOBBYING	1,250.00	
						VENDOR TOTAL *	3,300.00	
0000842	00	KAISER FOUNDATION HEALTH						
DEC 2013		001780	00	11/20/2013	001-0000-204.31-00	PREMIUMS - GRP 101565-002	22,953.78	
DEC 2013		001781	00	11/20/2013	001-0000-204.31-00	PREMIUMS - GRP 101565-006	12,955.32	
						VENDOR TOTAL *	35,909.10	
0006632	00	LAND ENGINEERING CONSULTANTS, INC						
1760		PI2802 026148	00	11/26/2013	855-9500-490.93-30	SURVEY/ENG. SERVICES	8,173.50	
						VENDOR TOTAL *	8,173.50	
0002496	00	LEAGUE OF CALIFORNIA CITIES						
136680		001774	00	12/06/2013	001-1000-411.23-03	MEMBERSHIP DUES	10,487.40	
						VENDOR TOTAL *	10,487.40	
0004249	00	LIEBERT CASSIDY WHITMORE						
172416		001753	00	10/31/2013	700-5040-480.33-11	PD GRIEVANCE ISSUES	2,493.50	
						VENDOR TOTAL *	2,493.50	
0005763	00	LOPEZ, CARMEN S						
NOV 2013		001685	00	11/30/2013	001-4000-461.23-15	ZUMBA INSTRUCTOR	113.40	
						VENDOR TOTAL *	113.40	
0006398	00	LSA ASSOCIATES, INC						
125781		001741	00	11/18/2013	002-0000-222.30-30	PROFESSIONAL SERVICES	13,781.55	
125781		PI2728 025177	00	11/18/2013	002-2830-441.33-11	PROFESSIONAL SERVICES	13,781.55	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0006398	00	LSA ASSOCIATES, INC		00 11/18/2013	002-2830-351.35-30	PROFESSIONAL SERVICES	13,781.55-	
125781		001741	00			VENDOR TOTAL *	13,781.55	
0005097	00	LYNCH, MIKE		00 11/04/2013	001-1300-412.25-09	TUITION REIMBURSEMENT	144.00	
		001755	00			VENDOR TOTAL *	144.00	
0006294	00	MAGANA, ALEX / INGRID		00 12/03/2013	670-7000-356.38-01	MEDICAL LIFELINE REBATE	79.08	
OCT - DEC 2013		001727	00		675-7020-356.38-15	MEDICAL LIFELINE REBATE	2.23	
OCT - DEC 2013		001728	00			VENDOR TOTAL *	81.31	
0004765	00	MAGNUM BREEZE II, INC DBA		00 12/03/2013	702-3800-480.30-05	REPAIRS UNIT 55	1,938.27	
13786		PI2736 026169	00			VENDOR TOTAL *	1,938.27	
0004486	00	MASON, FRED		00 10/31/2013	670-7000-473.23-05	CAISO SYMPOSIUM EXPENSES	142343	120.00-
10/242013		001202	00			VENDOR TOTAL *	.00	
0001068	00	MATICH CORPORATION		00 11/06/2013	660-6300-471.45-17	1/2 AR 4000	1,657.14	
158738		PI2680 026047	00			VENDOR TOTAL *	1,657.14	
0006191	00	MCDONALD, ROY		00 11/30/2013	661-6300-471.90-78	WHITEWATER FLUME RESTORAT	17,434.50	
2013-11		PI2731 025928	00			VENDOR TOTAL *	17,434.50	
0005363	00	MIDWAY PLUMBING & IRRIGATION SUPPLY		00 11/20/2013	670-7000-473.45-16	BLANKET ORDER	318.60	
1326		PI2759 026048	00			VENDOR TOTAL *	318.60	
0006402	00	MITSUBISHI ELECTRIC & ELECTRONICS		00 12/01/2013	001-3200-412.30-02	MONTHLY SERVICE	270.00	
245474		PI2727 026073	00			VENDOR TOTAL *	270.00	
0003506	00	MST BACKFLOW		00 12/29/2013	660-6300-471.45-08	TEST & CERTIFY BACKFLOWS	3,750.00	
12042013		PI2856 026309	00			VENDOR TOTAL *	3,750.00	
0003909	00	MYERS & SONS HI-WAY SAFETY INC.		00 12/15/2013	100-4900-431.36-00	MISC. SIGNAGE	508.68	
11251		PI2732 026049	00			VENDOR TOTAL *	508.68	
0000384	00	NAPA AUTO PARTS		00 11/08/2013	702-3800-480.38-52	PARTS UNIT 41	54.51	
836156		PI2733 026104	00		702-3800-480.38-52	PARTS UNIT 41	52.79	
836711		PI2734 026104	00		702-3800-480.38-52	FUEL PUMP	242.45	
835634		PI2791 026104	00		702-3800-480.38-52	PARTS UNIT #231	188.96	
836674		PI2792 026104	00					

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
837548	00	NAPA AUTO PARTS						
837557		PI2793 026104 00	00	11/20/2013	702-3800-480.38-52	PARTS UNIT #56	23.21	
		PI2794 026104 00	00	11/20/2013	702-3800-480.38-52	MACS BELT UNIT #56	8.51	
						VENDOR TOTAL *	570.43	
0002301	00	NATIONWIDE RETIREMENT SOLUTIONS						
20131213		PR1213 00 12/13/2013	00	12/13/2013	001-0000-204.16-00	PAYROLL SUMMARY	1,484.51	
						VENDOR TOTAL *	1,484.51	
0005153	00	NOBEL SYSTEMS, INC						
13082		PI2739 026315 00	00	11/19/2013	660-6300-471.33-11	ADD NEW FIELD	965.00	
13085		PI2740 026315 00	00	11/19/2013	660-6300-471.33-11	CHANGE CCTV VIDEO VIEWER	990.00	
						VENDOR TOTAL *	1,955.00	
0005575	00	NOLAN, MIKE						
MEAL 12/09/2013001732			00	12/03/2013	001-2200-421.23-06	PSP TRAINING MEAL	12.00	
						VENDOR TOTAL *	12.00	
0004076	00	O'REILLY AUTO PARTS						
2678-259259		PI2735 026105 00	00	12/07/2013	702-3800-480.38-52	PARTS UNIT 41	225.62	
						VENDOR TOTAL *	225.62	
0002933	00	OEI, KAHONO						
502472		001681 00 11/26/2013	00	11/26/2013	001-3000-442.36-07	CDBG LUNCH MTG	34.00	
						VENDOR TOTAL *	34.00	
0005811	00	OERTEL, ERICH						
065524		001694 00 11/15/2013	00	11/15/2013	001-2200-421.23-06	CATO CONF GAS	30.35	
MEAL 12/09/2013001733			00	12/03/2013	001-2200-421.23-06	PSP TRAINING MEAL	12.00	
						VENDOR TOTAL *	42.35	
0002460	00	OFFICE DEPOT						
687197692001		PI2823 026050 00 12/15/2013	00	12/15/2013	001-1900-412.36-00	UTILITY CART, EVELOPES	15.91	
687197692001		PI2824 026050 00 12/15/2013	00	12/15/2013	001-1900-412.89-46	UTILITY CART, EVELOPES	65.30	
683036393001		PI2822 026050 00 12/11/2013	00	12/11/2013	761-3100-480.36-00	REFILL INK - RED AND BLUE	6.39	
687197692001		PI2825 026050 00 12/15/2013	00	12/15/2013	761-3100-480.89-46	UTILITY CART, EVELOPES	65.30	
						VENDOR TOTAL *	152.90	
0000516	00	OFFICE MAX CONTRACT INC						
097856		000671 00 08/27/2013	00	08/27/2013	001-0001-361.41-61	AMERICA SAVES REBATE	98.62	
666877387001		PI1772 026051 00 11/08/2013	00	11/08/2013	001-2800-441.36-00	ACCORDION FILES, CLIPS, E	67.42	
458791		PI2760 026051 00 12/16/2013	00	12/16/2013	610-5800-434.36-00	LAMINATING POUCHES	25.64	
384005		PI2681 026051 00 12/11/2013	00	12/11/2013	610-5800-434.36-00	DESKTOP CALCULATOR	87.04	
650887		PI2768 026051 00 10/27/2013	00	10/27/2013	660-6300-471.36-00	OFFICE SUPPLIES	69.35	
914503		PI2770 026051 00 11/11/2013	00	11/11/2013	660-6300-471.36-00	OFFICE SUPPLIES	46.53	
650887		PI2769 026051 00 10/27/2013	00	10/27/2013	670-7000-473.36-00	OFFICE SUPPLIES	92.58	
914503		PI2771 026051 00 11/11/2013	00	11/11/2013	670-7000-473.36-00	OFFICE SUPPLIES	104.38	
918509		PI2772 026051 00 11/12/2013	00	11/12/2013	670-7000-473.36-00	OFFICE SUPPLIES	36.66	
368748		PI2744 026051 00 12/10/2013	00	12/10/2013	702-3800-480.36-00	CALENDARS & WIPES	155.54	
						VENDOR TOTAL *	586.52	
0001277	00	PACIFIC ALARM SERVICE						

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
INVOICE NO		VOUCHER P.O. NO						
0001277	00	PACIFIC ALARM SERVICE		11/12/2013	430-2900-441.90-15	ALARM RE-CABLING/DEVICE	4,125.00	
P85277		PI2851 026372	00					
0005191	00	PARS		12/13/2013	001-0000-204.25-00	PAYROLL SUMMARY	252.77	
20131213		PR1213	00					
0001974	00	PETTY CASH CUSTODIAN-COMM SVCS		11/25/2013	001-4000-461.36-09	ICE AND DRINKS	12.93	
2766		001711	00	11/25/2013	001-4000-461.36-00	POSTAGE	7.60	
6771		001716	00	11/25/2013	001-4000-461.36-09	HALLOWEEN BALLOONS	7.54	
6772		001717	00	11/25/2013	001-4000-461.36-09	LAMINATIONS	21.06	
6773		001718	00	11/25/2013	001-4000-461.36-09	POSTAGE	6.11	
6767		001712	00	11/25/2013	610-5800-434.23-04	POSTAGE	11.50	
6768		001713	00	11/25/2013	610-5800-434.23-04	POSTAGE	6.77	
6769		001714	00	11/25/2013	610-5800-434.23-04	TABLE COVERS	14.00	
6770		001715	00	11/25/2013	610-5800-434.23-00	POSTAGE	6.97	
6774		001719	00	11/25/2013	610-5800-434.23-04			
0003015	00	PETTY CASH CUSTODIAN-SR CENTER		11/25/2013	201-4060-446.36-65	PLATES	12.90	
2534		001709	00	11/25/2013	201-4060-446.36-65	CHIPS FOR BBQ	11.99	
3533		001710	00	11/25/2013	201-4060-446.36-65			
0006316	00	PINNACLE MEDICAL GROUP		08/23/2013	100-4900-431.33-32	DOT PHYSICAL	24.89	
88-10-05-3		PI2852 026054	00	10/31/2013	610-5800-434.23-32	DOT PHYSICAL	59.01	
183365107		PI1988 026054	00	08/23/2013	702-3800-480.33-32	DOT PHYSICAL	142354	58.00-
88-40-14-2		PI2853 026054	00				60.00	
0004411	00	PRE-PAID LEGAL SERVICES, INC		11/30/2013	001-0000-204.80-07	PREPAID LEGAL DUES	119.01	
NOV 2013		001762	00				455.40	
0006607	00	PROSSER, SANDRA		12/03/2013	675-7020-473.42-36	ENERGY ASSISTANCE REBATE	455.40	
MAY - OCT 2013		001724	00				207.24	
0000858	00	PRUDENTIAL OVERALL SUPPLY		11/26/2013	001-3200-412.25-02	BUILDING MAINTENANCE	207.24	
20783528		PI2755 026343	00	11/26/2013	001-3600-461.25-02	PARKS DEPARTMENT	2.10	
20783527		PI2754 026343	00	11/26/2013	100-4900-431.25-02	STREET DEPARTMENT	6.65	
20783525		PI2753 026343	00	11/26/2013	610-5800-434.23-16	UNIFORM SERVICE	12.15	
20783526		PI2695 026343	00	11/26/2013	610-5800-434.23-16	UNIFORM SERVICE	11.00	
20783526		PI2696 026343	00	11/26/2013	610-5800-434.23-16	UNIFORM SERVICE	43.82	
20787458		PI2778 026343	00	12/03/2013	610-5800-434.23-16	UNIFORM SERVICE	11.00	
20787458		PI2779 026343	00	12/03/2013	610-5800-434.23-16	UNIFORM SERVICE	43.82	
20756269		PI2843 026343	00	10/01/2013	610-5800-434.23-16	RAGS, SHOP TOWELS, WIPING	11.00	
20756269		PI2844 026343	00	10/01/2013	610-5800-434.23-16	CLOTHING & APPAREL	46.24	
20783526		PI2697 026343	00	11/26/2013	610-5850-434.25-02	UNIFORM SERVICE	8.86	

CHECK #:

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT
INVOICE		VOUCHER P.O.	NO	DATE	NO	DESCRIPTION	AMOUNT	EPAY OR
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								AMOUNT
0000858	00	PRUDENTIAL OVERALL SUPPLY						
20787458		PI2780 026343 00 12/03/2013			610-5850-434.25-02	UNIFORM SERVICE	8.86	
20756269		PI2845 026343 00 10/01/2013			610-5850-434.25-02	CLOTHING & APPAREL	8.86	
20780596		PI2749 026343 00 11/19/2013			660-6300-471.25-02	UNIFORMS WATER DIV	52.00	
20780609		PI2765 026343 00 11/19/2013			670-7000-473.25-02	CLOTHING & APPAREL	123.91	
20783530		PI2767 026343 00 11/19/2013			680-8000-454.25-02	UNIFORMS SEWER COLLECTION	15.00	
20780597		PI2750 026343 00 11/19/2013			702-3800-480.23-16	FLEET DEPARTMENT	11.98	
20783524		PI2751 026343 00 11/26/2013			702-3800-480.23-16	FLEET DEPARTMENT	15.60	
20783524		PI2752 026343 00 11/26/2013			761-3110-480.25-02	CLOTHING & APPAREL	20.00	
20780607		PI2764 026343 00 11/19/2013			761-3110-480.25-02	CLOTHING & APPAREL	20.00	
20783529		PI2765 026343 00 11/26/2013						
						VENDOR TOTAL *	596.76	
0004759	00	RACEWAY FORD INC						
668810		PI2800 026117 00 12/14/2013			702-3800-480.30-05	REPAIRS UNIT 231	319.00	
						VENDOR TOTAL *	319.00	
0000465	00	RDO EQUIPMENT COMPANY						
P69858		PI2801 026124 00 12/08/2013			702-3800-480.38-52	KNOB FOR UNIT 609	8.66	
						VENDOR TOTAL *	8.66	
0000237	00	REDLANDS FORD						
5078608		PI2745 026107 00 11/13/2013			702-3800-480.38-52	PARTS UNIT 41	72.14	
6096686/1		PI2795 026107 00 11/20/2013			702-3800-480.30-05	ALIGNMENT UNIT #231	66.60	
						VENDOR TOTAL *	138.74	
0001316	00	RIV. CO. ASSESSOR, LARRY W. WARD						
12057		001668 00 09/30/2013			001-2800-441.36-00	PARCEL MAP	6.50	
						VENDOR TOTAL *	6.50	
0001327	00	RIV. CO. CLERK RECORDER						
RELEASES		001678 00 11/26/2013			001-2740-442.23-07	LEIN RELEASES	69.00	
						VENDOR TOTAL *	69.00	
0002938	00	RIV. CO. INFORMATION TECHNOLOGY						
9990110000-1310		PI2671 026215 00 11/01/2013			001-2200-421.26-07	RADIO & TELECOMMUNICATION	67.76	
						VENDOR TOTAL *	67.76	
0006532	00	ROBINSON, BRANDON A						
COMP LOAN		001772 00 12/09/2013			670-0000-116.21-00	COMPUTER L OAN	695.92	
						VENDOR TOTAL *	695.92	
0005998	00	SAN BERNARDINO PUBLIC EMPLOYEES						
NOV 2013		001761 00 11/30/2013			001-0000-204.51-00	SBPEA DUES	216.00	
						VENDOR TOTAL *	216.00	
0099001	00	SAVARD, DANIEL						
SETTLEMENT		001599 00 12/12/2013			700-5040-480.40-02	FULL AND FINAL SETTLEMENT	97.15	
						VENDOR TOTAL *	97.15	
0005569	00	SAVARD, DANIELE S						

VEND NO	SEQ#	INVOICE NO	VENDOR NAME	VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK #	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005569	00	SETTLEMENT	SAVARD, DANIELE S	001599	00	11/27/2013	700-5040-480.40-02	FULL AND FINAL SETTLEMENT	142708	142708	97.15-
								VENDOR TOTAL *		.00	97.15-
0005336	00	107204	SCCI, INC DBA	PI2747	00	11/18/2013	660-6300-471.33-11	SAFETY MTG 11/14/13		250.00	
								VENDOR TOTAL *		250.00	
0006461	00	TUITION	SHOWERS, TISHA L	001723	00	12/03/2013	001-1300-412.25-09	TUITION REIMBURSEMENT		1,745.00	
								VENDOR TOTAL *		1,745.00	
0004327	00	9402837590	SHRED-IT USA, INC	PI2669	00	11/19/2013	001-2200-421.23-07	MISCELLANEOUS SERVICES		97.20	
								VENDOR TOTAL *		97.20	
0001561	00	123089	SMART & FINAL	001706	00	11/18/2013	001-0000-218.10-00	BREAKROOM SUPPLIES		3.86	
							001-1900-412.36-00	BREAKROOM SUPPLIES		25.58	
							201-4060-446.36-65	SR.CENTER PROGRAM		25.48	
								VENDOR TOTAL *		54.92	
0006123	00	NOV 2013	SMITH, LOIS E	001686	00	11/30/2013	001-4000-461.23-15	GUITAR INSTRUCTOR		14.00	
								VENDOR TOTAL *		14.00	
0006565	00	B22097	SONSRAY MACHINERY LLC	PI2803	00	11/13/2013	702-3800-480.38-52	PARTS FOR UNIT #619		500.52	
								VENDOR TOTAL *		500.52	
0005200	00	325031	SPINITAR	PI2842	00	11/08/2013	001-2060-446.90-56	COPACT 2 WAY LOUDSPEAKER		6,864.00	
								VENDOR TOTAL *		6,864.00	
0006647	00	108	STACY BAVOL - NOTARY	PI2820	00	12/03/2013	001-2800-441.33-11	NOTARY SERVICES		40.00	
								VENDOR TOTAL *		40.00	
0000396	00	1-902701	STAR AUTO PARTS	PI2796	00	11/26/2013	702-3800-480.38-52	AIR FILTER PANEL UNIT 622		14.69	
							702-3800-480.38-52	PARTS UNIT #622		27.89	
							702-3800-480.38-52	AIR FILTER PANEL #503		8.12	
							702-3800-480.38-52	BOXED FUEL CAP UNIT #436		5.92	
							702-3800-480.38-52	PCV VALVE UNIT #703		3.40	
							702-3800-480.38-52	AIR FILTER UNIT #703		3.88	
							702-3800-480.38-52	PARTS UNIT #703		21.58	
							702-3800-480.38-52	PARTS UNIT #301		26.42	
							702-3800-480.38-52	PARTS UNIT #619		34.31	
							702-3800-480.38-52	PARTS UNIT #619		8.64	
							702-3800-480.38-52	PARTS UNIT #223		58.82	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
INVOICE NO		VOUCHER P.O. NO						
0000396	00	STAR AUTO PARTS				VENDOR TOTAL *	213.67	
0004772	00	SUN RIDGE SYSTEMS INC		12/21/2013	148-2213-421.89-49	COMPUTERS, DP & WORD PROC.	2,840.00	
3441		PI2708 026012	00			VENDOR TOTAL *	2,840.00	
0001126	00	SUNGARD PUBLIC SECTOR INC		12/14/2013	761-3100-480.23-46	TRANS MGR - OCT	156.01	
74256		PI2836 026235	00			VENDOR TOTAL *	156.01	
0006617	00	SUNRISE SERVICES		11/18/2013	001-3200-412.36-03	JANITORIAL SUPPLIES	1,703.99	
7		PI2746 026110	00			VENDOR TOTAL *	1,703.99	
0004939	00	SUPER SUBS +	00	12/05/2013	001-1300-412.41-15	ORAL BRD LNCH - OFC SPEC	15.79	
425321		001775				VENDOR TOTAL *	15.79	
0006583	00	TELEPACIFIC COMMUNICATIONS		11/16/2013	001-2200-421.26-05	NOV 16 - DEC 15	617.36	
51166305-0		001706	00		001-4500-412.26-05	NOV 16 - DEC 15	1,641.98	
51166305-0		001706	00			VENDOR TOTAL *	2,259.34	
0006533	00	TRI-STAR CONTRACTING II, INC		06/28/2013	662-0000-232.00-00	RETENTION	96,631.88	
270912ER		001790 025699	00			VENDOR TOTAL *	96,631.88	
0003285	00	UNITED WATER ENVIRONMENTAL SERVICES		12/05/2013	680-8000-454.23-38	O & M AT WWTP DEC 2013	52,930.00	
201319511		PI2885 026378	00		680-8000-454.23-38	O & M AT WWTP NOV 2013	52,930.00	
201319280		PI2887 026378	00		680-8000-454.23-38	O & M AT WWTP OCT 2013	52,930.00	
201319054		PI2888 026378	00			VENDOR TOTAL *	158,790.00	
0002269	00	UNITED WAY OF THE INLAND VALLEY		12/13/2013	001-0000-204.60-00	PAYROLL SUMMARY	88.50	
20131213		PR1213	00			VENDOR TOTAL *	88.50	
0006685	00	URBAN, FRANCESCA		12/12/2013	200-9100-446.36-68	CATERING DEPOSIT	800.00	
12182013		001785	00			VENDOR TOTAL *	800.00	
0001993	00	USABLUBOOK		11/20/2013	660-0000-131.00-00	100 LAB TESTS	494.13	
205788		PI2726	00		660-0000-131.00-00	REPLACEMENT 2 MEMBRANES &	454.56	
205787		PI2742	00			VENDOR TOTAL *	948.69	
0004206	00	VERIZON CALIFORNIA		11/16/2013	001-2200-421.26-05	FAX&COPPER BACKUP LINES	765.39	
849-8256	NOV13	PI2712 026250	00		001-4500-412.26-05	NOV 13 - DEC 12	100.34	
849-9205	NOV13	001705	00					

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK NO	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	BFT, EPAY OR HAND-ISSUED AMOUNT
0004206	00	VERIZON CALIFORNIA						
849-7124	NOV13	001706	00	11/10/2013	001-4500-412.26-05	NOV 10 - DEC 9	45.87	
849-7296	NOV13	001706	00	11/16/2013	001-4500-412.26-05	NOV 16 - DEC 15	96.86	
QR5-7265	NOV13	PI2717 026116	00	11/25/2013	370-2200-421.26-05	JPA FRAME RELAY	479.61	
						VENDOR TOTAL *	1,488.07	
0004206	00	VERIZON CALIFORNIA,CK GRP-2						
197-4926	NOV13	001706	00	11/16/2013	001-4500-412.26-05	NOV 16 - DEC 15	314.19	
197-4926	NOV13	001706	00	11/16/2013	660-6300-471.26-05	NOV 16 - DEC 15	41.36	
						VENDOR TOTAL *	355.55	
0006014	00	VERIZON COMMUNICATIONS						
1101562189	NOV13	001706	00	11/19/2013	703-3700-480.30-19	NOV 19 - DEC 18	294.50	
						VENDOR TOTAL *	294.50	
0006143	00	VISION SECURITY SYSTEMS						
10766		001666	00	08/22/2013	670-7000-473.30-02	INT LOBBY DOOR KEYPAD	832.40	
10942		PI2729 025857	00	11/05/2013	673-7000-473.90-16	CORP YARD GATES ACCESS	9,213.84	
10943		PI2730 025857	00	11/05/2013	673-7000-473.90-16	CORP YARD GATES ACCESS	2,674.53	
						VENDOR TOTAL *	12,720.77	
0005873	00	VOELTZ, RAY						
TUITION		001764	00	12/09/2013	001-1300-412.25-09	TUITION REIMBURSEMENT	1,650.00	
						VENDOR TOTAL *	1,650.00	
0001453	00	WHITMORE CONSTRUCTION, INC.						
00002595		PI2854 026270	00	12/19/2013	001-3200-412.30-02	CITY HALL PARKING LOT	222.43	
00002601		PI2850 026314	00	12/13/2013	430-2900-441.90-15	PROJECT 2013-05	28,490.50	
00002595		PI2855 026270	00	12/19/2013	430-2900-441.90-15	CITY HALL PARKING LOT	2,097.57	
						VENDOR TOTAL *	30,810.50	
0099001	00	WHITSITT, LELAND						
56689-51976		001722	00	12/03/2013	675-7020-473.42-35	ENERGY STAR AC REBATE	1,000.00	
						VENDOR TOTAL *	1,000.00	
0006184	00	WILLDAN ENGINEERING						
002-13855		PI2698 026233	00	11/07/2013	001-2700-442.33-11	OCTOBER 2013 B&S SERV	14,923.87	
						VENDOR TOTAL *	14,923.87	
0000873	00	XEROX CORPORATION						
071136317		PI2694 026221	00	11/20/2013	001-2200-421.32-06	EQUIPMENT MAINT & REPAIR	382.13	
						VENDOR TOTAL *	382.13	
0005135	00	YOUNGBLOOD & ASSOCIATES						
1116A		PI2857 026165	00	11/08/2013	001-1300-412.33-11	SKINNER POLYGRAPH	200.00	
						VENDOR TOTAL *	200.00	
						HAND ISSUED TOTAL ***		1,293.40-
						TOTAL EXPENDITURES ****	648,689.17	1,293.40-

PREPARED 12/12/2013, 16:08:04
PROGRAM: GM339L
CITY OF BANNING

EXPENDITURE APPROVAL LIST
AS OF: 01/31/2014 CHECK DATE: 12/12/2013

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VEND NO	SEQ#	VENDOR NAME	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND- ISSUED AMOUNT
INVOICE NO		VOUCHER P.O.					

0005135 00

GRAND TOTAL *****

647,395.77

VEND NO	SEQ#	VENDOR NAME	VOUCHER P.O.	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002073	00	A-Z BUS SALES, INC. (COLTON)							
B163941		P12783 026093	00	11/13/2013		702-3800-480.38-52	O-RING	54.11	
0004781	00	ADVANCE WORKPLACE STRATEGIES INC					VENDOR TOTAL *	54.11	
259331		P12863 026076	00	12/23/2013		001-1300-412.33-32	NOV DRUG TESTING	57.00	
0099001	00	AGUILERA, ANTHONY					VENDOR TOTAL *	57.00	
000084121		UT	00	12/14/2013		001-0000-218.22-22	UB CR REFUND-FINALS	15.94	
0004956	00	AIR & HOSE SOURCE INC					VENDOR TOTAL *	15.94	
02-24373		P12782 026023	00	12/14/2013		702-3800-480.38-52	HOSE	45.36	
0006456	00	ARROW STAFFING SERVICE					VENDOR TOTAL *	45.36	
00074560		001832	00	12/02/2013		001-2200-421.23-27	ADAMSON, S (W/E 11/30/13)	463.68	
00074485		001835	00	11/25/2013		001-2200-421.23-27	ADAMSON, S (W/E 11/23)	540.96	
00074626		001846	00	12/09/2013		001-2200-421.23-27	ADAMSON, S (W/E 12/7)	618.24	
0006456	00	ARROW STAFFING SERVICE, CK GRP-1					VENDOR TOTAL *	1,622.88	
00074625		001846	00	12/09/2013		761-3100-480.23-27	SOTO, A (W/E 12/7/13)	276.00	
0006456	00	ARROW STAFFING SERVICE, CK GRP-2					VENDOR TOTAL *	276.00	
00074627		001846	00	12/09/2013		001-3000-442.23-27	WILLIAMS, L (W/E 12/7)	77.72	
00074627		001846	00	12/09/2013		001-3200-412.23-27	WILLIAMS, L (W/E 12/7)	125.41	
00074627		001846	00	12/09/2013		100-4900-431.23-27	WILLIAMS, L (W/E 12/7)	220.80	
00074627		001846	00	12/09/2013		600-5100-435.23-27	WILLIAMS, L (W/E 12/7)	88.32	
00074627		001846	00	12/09/2013		660-6300-471.23-27	WILLIAMS, L (W/E 12/7)	123.65	
00074627		001846	00	12/09/2013		680-8000-454.23-27	WILLIAMS, L (W/E 12/7)	123.65	
00074627		001846	00	12/09/2013		690-9600-453.23-27	WILLIAMS, L (W/E 12/7)	123.65	
0006175	00	AT&T CALNET 2					VENDOR TOTAL *	883.20	
000004915347		P12913 026173	00	12/01/2013		001-2200-421.26-05	DP PROCESSING & SOFTWARE	662.79	
0000816	00	BANNING CHAMBER OF COMMERCE					VENDOR TOTAL *	662.79	
0717BC18		001822	00	07/31/2013		850-9200-490.23-01	JOB FAIR AD REIMBURSEMENT	150.00	
0099001	00	BATTEN, KEN					VENDOR TOTAL *	150.00	
DEPOSIT REFUND		001840	00	12/16/2013		600-0000-223.10-00	HANGER B-2 DEPOSIT REFUND	285.00	
DEPOSIT REFUND		001841	00	12/16/2013		600-0000-223.10-00	HANGER E-4 DEPOSIT REFUND	177.50	
0006498	00	BAVOL, STACY					VENDOR TOTAL *	462.50	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0006498	00	BAVOL, STACY	00	12/18/2013	761-0000-116.21-00	COMPUTER LOAN	467.39	
0000113	00	PI2924 026160	00	12/30/2013	660-6300-471.27-14	RECHARGE WTR FOR NOV 2013	6,114.00	
0006091	00	BEAUMONT DO IT BEST HOME CENTER	00	12/11/2013	001-2400-422.33-95	DRYWALL SUPPLIES-FS89	7.32	
379368	00	PI2784 026027	00	12/11/2013	001-3200-412.30-06	STAKES FOR POSTING	14.55	
382085	00	PI2906 026027	00	12/02/2013	001-3600-461.36-00	DEPARTMENT SUPPLIES	7.08	
381579	00	PI2785 026027	00	12/02/2013	100-4900-431.38-54	DEPARTMENT SUPPLIES	14.53	
381579	00	PI2786 026027	00	12/02/2013	100-4900-431.38-54	DEPARTMENT SUPPLIES	14.53	
0006575	00	BECHERRA, ELADIO	00	12/09/2013	675-7020-473.42-36	ENERGY ASSISTANCE REBATE	164.28	
0005577	00	BENNETT, MICHAEL	00	12/13/2013	001-2200-421.23-06	ICI CRSE MEALS	388.00	
0006114	00	BUDS FULL SERVICE AUTO CENTER	00	11/19/2013	702-3800-480.30-05	SMOG CHECK UNIT 301	43.00	
23563	00	PI2891 026095	00	11/19/2013	702-3800-480.30-05	SMOG CHECK UNIT 310	43.00	
23565	00	PI2892 026095	00	11/19/2013	702-3800-480.30-05	SMOG CHECK UNIT 110	43.00	
23566	00	PI2893 026095	00	11/19/2013	702-3800-480.30-05	SMOG CHECK UNIT 307	43.00	
23567	00	PI2894 026095	00	11/19/2013	702-3800-480.30-05	SMOG CHECK UNIT 307	43.00	
0006684	00	BUDSGUNSHOP.COM	00	12/09/2013	001-0000-116.21-01	GUN LOAN - VOELTZ	3,182.54	
0004042	00	CALIFORNIA WATER ENVIRONMENT	00	12/11/2013	680-8000-454.41-04	COLL SYSTM CERT RENEWAL	82.00	
0004000	00	CALIFORNIA, STATE OF	00	12/04/2013	001-2200-421.33-94	MISCELLANEOUS SERVICES	614.00	
0005350	00	CAROLLO ENGINEERS	00	12/13/2013	001-3000-442.33-11	PROFESSIONAL SERVICES	537.40	
0132220	00	PI2936 001820	00	12/13/2013	001-3000-351.35-61	PROFESSIONAL SERVICES	537.40	
0132220	00	PI2936 001820	00	12/13/2013	002-0000-222.30-28	PROFESSIONAL SERVICES	537.40	
0006381	00	CHRIS TAYLOR'S PLUMBING	00	12/13/2013	002-0000-222.30-28	PROFESSIONAL SERVICES	537.40	

INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O.	BNK NO	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002225	00	FIELD, MATT						
OT MEAL 11/30	001828	00	11/30/2013	670-7000-473.25-06	BNG ARPRT PWR OUTAGE	14.00		
OT MEAL 11/29	001830	00	11/29/2013	670-7000-473.25-06	VARIOUS CALL OUTS	14.00		
0099001	00	FINE LINE INVESTMENTS, LLC.						
000084925	UT	00	12/14/2013	001-0000-218.22-22	VENDOR TOTAL *	28.00		
					UB CR REFUND-FINALS	24.02		
0006164	00	FLAMINGO'S EVENT PLANNER						
12192013	001847	00	12/19/2013	201-4060-446.36-65	VENDOR TOTAL *	24.02		
					SR CNTR HOLIDAY LUNCH	256.00		
0006168	00	FREEDOM FLAG AND POLE, LLC						
5687	001846	00	12/10/2013	001-0000-201.10-00	VENDOR TOTAL *	256.00		
5687	001846	00	12/10/2013	001-2200-421.36-00	SALES AND USE TAX	58.64		
					LAW ENFORCEMENT FLAGS	791.64		
0005602	00	G & G ENVIRONMENTAL COMPLIANCE, INC						
BA-1113	PI2878	00	12/02/2013	680-8000-454.33-11	VENDOR TOTAL *	733.00		
					PRETREATMENT SERVICES	1,254.77		
0005395	00	GRAVES & KING LLP						
1310-0009518	001824	00	10/31/2013	700-5040-480.40-02	VENDOR TOTAL *	1,254.77		
					DEFENSE COSTS	15,698.29		
0001117	00	GREEN, MICHELLE						
12042013	001853	00	12/04/2013	001-1900-412.23-06	VENDOR TOTAL *	15,698.29		
MEALS 12/9-12	001854	00	12/16/2013	001-1900-412.23-05	LCW SRVSRY MILEAGE/MEALS	30.76		
MEALS 12/9-12	001855	00	12/16/2013	703-3700-480.23-05	SUGA CONF MEALS	26.00		
MEALS 12/9-12	001856	00	12/16/2013	761-3100-480.23-05	SUGA CONF MEALS	13.00		
0005553	00	HAWLEY, CAMERON						
OT MEAL 11/30	001829	00	11/30/2013	670-7000-473.25-06	VENDOR TOTAL *	82.76		
OT MEAL 11/29	001831	00	11/29/2013	670-7000-473.25-06	BNG ARPRT PWR OUTAGE	14.00		
					VARIOUS CALL OUTS	14.00		
0001550	00	HD SUPPLY WORKS, LTD						
B781970-1	PI2916	00	12/22/2013	660-0000-131.00-00	VENDOR TOTAL *	28.00		
					WELD ON FLANGE	615.10		
0003874	00	HEMET OIL COMPANY						
11122790	PI2895	00	11/26/2013	702-3800-480.36-11	VENDOR TOTAL *	615.10		
11122791	PI2896	00	11/26/2013	702-3800-480.36-11	DIESEL FUEL	2,900.74		
					GASOLINE	25,345.19		
0099001	00	HEYWOOD COMPANY						
000016475	UT	00	12/14/2013	001-0000-218.22-22	VENDOR TOTAL *	28,245.93		
					UB CR REFUND-FINALS	401.07		
0002274	00	INLAND WATER WORKS SUPPLY CO.						
					VENDOR TOTAL *	401.07		

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002274	00	INLAND WATER WORKS SUPPLY CO.						
257015		PI2967	00	10/17/2013	660-0000-131.00-00	STEEL PIPE 12", 20" & 24"	3,120.55	
0004067	00	JOHNNY RUSSO'S ITALIAN KITCHEN				VENDOR TOTAL *	3,120.55	
12192013		001847	00	12/19/2013	201-4050-446.42-08	SR CNTR LUNCHEON CATERING	1,290.00	
0005511	00	KABOO LEASING CO				VENDOR TOTAL *	1,290.00	
341169		PI2935	00	12/16/2013	660-6300-471.45-06	WELD FLANGES ON FIRE HYDR	420.00	
0099001	00	KOSTIUK, LOURDES				VENDOR TOTAL *	420.00	
000055713		UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	1.17	
0005283	00	LANDMARK CONSULTANTS				VENDOR TOTAL *	1.17	
LP1213-15		PI2890	00	12/04/2013	683-8000-454.90-78	PROFESSIONAL SERVICES	3,800.00	
0099001	00	LARRY JACINTO CONSTRUCTION				VENDOR TOTAL *	3,800.00	
000057309		UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	356.47	
0003870	00	LEXISNEXIS MATTHEW BENDER				VENDOR TOTAL *	356.47	
160860120131130		PI2909	00	12/25/2013	001-2200-421.41-20	INVESTIGATION SERVICES	170.00	
0004968	00	LITHOPASS PRINTING, FORMS,				VENDOR TOTAL *	170.00	
30511		PI2973	00	12/22/2013	001-2740-442.23-02	#10 REGULAR EVELOPES	69.12	
0004803	00	LOGAN, KIERAN				VENDOR TOTAL *	69.12	
OT MEAL 12/5		001846	00	12/05/2013	660-6300-471.25-06	WELL 10 PWR OUTAGE	14.00	
OT MEAL 12/8		001846	00	12/08/2013	660-6300-471.25-06	WTR LEAK @ BIRDIE LN	28.00	
0006398	00	LSA ASSOCIATES, INC				VENDOR TOTAL *	42.00	
126216		001819	00	12/11/2013	002-0000-222.30-30	PROFESSIONAL SERVICES	3,560.00	
126216		PI2918	00	12/11/2013	002-2830-441.33-11	PROFESSIONAL SERVICES	3,560.00	
126216		001819	00	12/11/2013	002-2830-351.35-30	PROFESSIONAL SERVICES	3,560.00-	
0099001	00	LUM, MILTON & ROBERTA				VENDOR TOTAL *	3,560.00	
000084435		UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	42.61	
0005097	00	LYNCH, MIKE				VENDOR TOTAL *	42.61	
OT MEAL 12/8		001845	00	12/08/2013	660-6300-471.25-06	WATER LEAK AT BIRDIE LN.	28.00	
0006612	00	MARINA LANDSCAPE, INC				VENDOR TOTAL *	28.00	

VEND NO	SEQ#	VENDOR NAME	VOUCHER P.O.	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND- ISSUED AMOUNT
INVOICE NO		NO	NO						
0006612	00	MARINA LANDSCAPE, INC							
1830911300		P12882 026278	00		11/30/2013	660-6300-471.45-07	MONTHLY MAINTENANCE	1,000.00	
1830910301		P12975 026278	00		11/21/2013	660-6300-471.45-07	IRRIGATION REPAIR	395.63	
0001721	00	MARTINEZ, DAVE					VENDOR TOTAL *	1,395.63	
OT MEAL 12/8		001846	00		12/08/2013	660-6300-471.25-06	WTR LEAK @ BIRDIE LN	28.00	
0099001	00	MENDOZA, MARIA G & ERNESTO L					VENDOR TOTAL *	28.00	
000084373		UT	00		12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	114.57	
0003577	00	MERLIN JOHNSON CONSTRUCTION, INC					VENDOR TOTAL *	114.57	
060091		P12925 026188	00		12/02/2013	100-4900-431.30-13	GRADING CONCRETE & ASPHAL	956.25	
060092		P12929 026188	00		12/02/2013	100-4900-431.30-13	GRADE & CLEAN ROADS	1,085.63	
060091		P12926 026188	00		12/02/2013	660-6300-471.45-08	GRADING CONCRETE & ASPHAL	956.25	
060092		P12930 026188	00		12/02/2013	660-6300-471.45-08	GRADE & CLEAN ROADS	1,085.62	
060091		P12927 026188	00		12/02/2013	670-7000-473.45-01	GRADING CONCRETE & ASPHAL	956.25	
060092		P12931 026188	00		12/02/2013	670-7000-473.45-01	GRADE & CLEAN ROADS	1,085.63	
060091		P12928 026188	00		12/02/2013	680-8000-454.45-09	GRADING CONCRETE & ASPHAL	956.25	
060092		P12932 026188	00		12/02/2013	680-8000-454.45-09	GRADE & CLEAN ROADS	1,085.62	
0006431	00	NI GOVERNMENT SERVICES, INC					VENDOR TOTAL *	8,167.50	
3110752145		P12884 026200	00		12/02/2013	001-2400-422.26-07	SAT RADIO-FD	38.89	
0002460	00	OFFICE DEPOT					VENDOR TOTAL *	38.89	
685202561001		P12907 026214	00		12/28/2013	001-2200-421.36-00	STAPLERS;HOLE PUNCHES	145.57	
685202647001		P12908 026214	00		12/28/2013	001-2200-421.36-00	FILE FOLDERS	89.94	
683545066001		P12910 026214	00		12/10/2013	001-2200-421.36-00	DIVIDERS;GUIDES;MARKERS	75.71	
683545101001		P12911 026214	00		12/14/2013	001-2200-421.36-00	INK STAMP	19.70	
0006226	00	OLIN CORPORATION DBA					VENDOR TOTAL *	330.92	
1749516		P12879 026157	00		11/25/2013	660-6300-471.36-08	SODIUM HYPOCHLORITE	2,762.41	
0001591	00	PASS ECONOMIC DEVELOPMENT ASSN.					VENDOR TOTAL *	2,762.41	
12122013		001846	00		12/11/2013	001-1000-411.23-05	MEMBERSHIP MTG LUNCHEON	20.00	
0005752	00	PAYPRO ADMINISTRATORS					VENDOR TOTAL *	20.00	
28143		P12883 026077	00		12/05/2013	001-1300-412.33-11	NOV COBRA ADMIN	133.00	
0000858	00	PRUDENTIAL OVERALL SUPPLY					VENDOR TOTAL *	133.00	
20787459		P12790 026343	00		12/03/2013	001-3600-461.25-02	PARKS DEPARTMENT	6.65	
20787457		P12789 026343	00		12/03/2013	100-4900-431.25-02	STREET DEPARTMENT	12.15	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER P.O.	NO	DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO								AMOUNT
0000858	00	PRUDENTIAL OVERALL SUPPLY						
20787453		PI2870 026343 00 12/03/2013			660-6300-471.25-02	WATER DIVISION UNIFORMS	52.00	
20783521		PI2976 026343 00 11/26/2013			660-6300-471.25-02	WATER DIVISION UNIFORMS	52.00	
20787454		PI2971 026343 00 12/03/2013			680-8000-454.25-02	SEWER COLLECTION UNIFORMS	15.00	
20783522		PI2977 026343 00 11/26/2013			680-8000-454.25-02	SEWER COLLECTION UNIFORMS	15.00	
20787456		PI2787 026343 00 12/03/2013			702-3800-480.23-16	FLEET DEPARTMENT	11.98	
		PI2788 026343 00 12/03/2013			702-3800-480.25-02	FLEET DEPARTMENT	15.60	
0005242	00	PUBLIC AGENCY RETIREMENT SERVICES				VENDOR TOTAL *	180.38	
27500		001825 00 12/06/2013			001-1900-412.33-11	PARS ADMIN - OCT	300.00	
0000978	00	PUBLIC ENTITY RISK MANAGEMENT				VENDOR TOTAL *	300.00	
BA1214		001846 00 12/06/2013			700-5040-480.40-02	SIR BALANCE	7,596.51	
0006655	00	R.F. MACDONALD CO				VENDOR TOTAL *	7,596.51	
186315		PI2876 00 11/06/2013			660-0000-131.00-00	HIGH PRESSURE TUBING	1,445.56	
0001555	00	RECORD GAZETTE, THE				VENDOR TOTAL *	1,445.56	
00097486		PI2886 026057 00 12/09/2013			001-2800-441.23-01	CHARLES CC 12/10/13	138.00	
00495307		PI2992 026057 00 12/02/2013			201-4060-446.36-65	HOLIDAY BOUTIQUE	112.90	
0005926	00	REMOTE SATELLITE SYSTEMS INT., INC				VENDOR TOTAL *	250.90	
00061427		PI2905 026140 00 01/03/2014			001-2200-421.26-05	SATELLITE PHONE SVC/MCC	48.95	
0001327	00	RIV. CO. CLERK RECORDER				VENDOR TOTAL *	48.95	
RELEASES		001847 00 12/11/2013			001-2740-442.23-07	LEIN RELEASES	138.00	
0001643	00	RIV. CO. FIRE DEPARTMENT				VENDOR TOTAL *	138.00	
231759		001848 00 09/30/2013			001-0000-219.00-00	FIRE SVCS - FY 14 QTR 1	554,838.50	
0003314	00	ROBERTSON'S				VENDOR TOTAL *	554,838.50	
257803		PI2922 026060 00 12/02/2013			660-6300-471.45-17	SLURRY	612.90	
255904		PI2950 026060 00 11/26/2013			660-6300-471.45-17	CONCRETE BASE	378.30	
0006689	00	SAN BERNARDINO CO SHERIFF'S DEPT				VENDOR TOTAL *	991.20	
RNG-13-069		001826 00 12/04/2013			001-2200-421.23-06	USE OF FRCE TRAINING (22)	1,650.00	
0005901	00	SAN GORGONIO PASS DESIGN AND PRINT				VENDOR TOTAL *	1,650.00	
6897		PI2991 026388 00 12/03/2013			001-2200-421.23-02	PRINTING	51.66	
0003125	00	SAN GORGONIO PASS WATER AGENCY				VENDOR TOTAL *	51.66	

VEND NO	SEQ#	VENDOR NAME	VOUCHER P.O.	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND- ISSUED AMOUNT
0003125	00	SAN GORGONIO PASS WATER AGENCY	PI2369 026159	00	12/02/2013	660-6300-471.27-14	PUCHASE STATE WTR NOV 13	31,700.00	
13-00057							VENDOR TOTAL *	31,700.00	
0099001	00	SANROMAN, MARIE D	UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	20.09	
000085413							VENDOR TOTAL *	20.09	
0099001	00	SCOTT, JACQUELINE M	UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	187.54	
000085657							VENDOR TOTAL *	187.54	
0006461	00	SHOWERS, TISHA L	001843	00	12/16/2013	200-9100-446.36-68	CRAFT RAFFLE BASKET, ETC	189.84	
REIMBURSEMENT							VENDOR TOTAL *	189.84	
0003716	00	SIRCHIE FINGER PRINT LABORATORIES	PI2912 026369	00	11/21/2013	001-2200-421.36-62	SYRINGE TUBES	53.19	
0145032-IN							VENDOR TOTAL *	53.19	
0001561	00	SMART & FINAL	PI2983 026063	00	12/11/2013	001-4000-461.36-03	JANITORIAL SUPPLIES	47.20	
130064			PI2984 026063	00	12/11/2013	201-4050-446.36-00	JANITORIAL SUPPLIES	47.21	
130064			PI2985 026063	00	12/11/2013	610-5800-434.36-00	JANITORIAL SUPPLIES	47.20	
0006565	00	SONSRAY MACHINERY LLC	PI2864 026162	00	11/22/2013	702-3800-480.38-52	GLASS SEAL UNIT 619	211.68	
C21242							VENDOR TOTAL *	211.68	
0006647	00	STACY BAVOL - NOTARY	PI2889 026147	00	12/04/2013	001-3000-442.33-11	NOTARY SERVICES	50.00	
109							VENDOR TOTAL *	50.00	
0002452	00	STATE WATER RESOURCES CONTROL	001846	00	12/11/2013	100-4900-431.23-37	WASTE DISCHARGE FEES	9,594.00	
WD-0088293							VENDOR TOTAL *	9,594.00	
0006390	00	STEFFENS, JIM	001847	00	12/13/2013	670-7000-473.25-10	VISION REIMBURSEMENT	250.00	
EYEWEAR							VENDOR TOTAL *	250.00	
0099001	00	STEPHENSON, BEN & IRENE	UT	00	12/14/2013	001-0000-218.22-22	UB CR REFUND-FINALS	52.36	
000055975							VENDOR TOTAL *	52.36	
0004269	00	STEVEN ENTERPRISES INC	PI2899 026339	00	11/09/2013	001-3000-442.90-48	ENGINEERING PLOTTER	5,507.82	
0303690-IN			PI2900 026339	00	11/09/2013	660-6300-471.90-48	ENGINEERING PLOTTER	783.09	
0303690-IN			PI2901 026339	00	11/09/2013	680-8000-454.90-48	ENGINEERING PLOTTER	783.09	

VEND NO	SEQ#	VENDOR NAME	VOUCHER P.O.	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND- ISSUED AMOUNT
INVOICE NO		NO	NO						
0004269	00	STEVEN ENTERPRISES INC							
0099001	00	STEWART, MICHAEL			00 12/14/2013	001-0000-218.22-22	VENDOR TOTAL *	7,074.00	
000019209		UT					UB CR REFUND-FINALS	177.55	
0099001	00	TEELE &, JENNIFER			00 12/14/2013		VENDOR TOTAL *	177.55	
000083511		UT				001-0000-218.22-22	UB CR REFUND-FINALS	149.90	
0099001	00	THE GOLBA GROUP			00 12/14/2013		VENDOR TOTAL *	149.90	
000084593		UT				001-0000-218.22-22	UB CR REFUND-FINALS	76.56	
0005804	00	THORNTON, CHRIS			00 12/08/2013		VENDOR TOTAL *	76.56	
00 12/8		001844				660-6300-471.25-06	WATER LEAK AT BIRDIE LN.	14.00	
0004412	00	TIME WARNER CABLE			00 12/01/2013		VENDOR TOTAL *	14.00	
CABLEDEC13		PI2877 026084				001-2400-422.33-95	DEC CABLE-FS89	12.79	
0006634	00	TRANSPORTATION MGMT & DESIGN, INC			00 12/03/2013		VENDOR TOTAL *	12.79	
814-6		PI2972 026020				610-5800-434.33-11	NOV 1 THRU NOV 30, 2013	10,195.89	
0004648	00	TRUGREEN LANDCARE			00 11/30/2013		VENDOR TOTAL *	10,195.89	
7624659		PI2874 026340				001-3200-412.23-29	FM MONTHLY SERVICE	436.00	
7624660		PI2875 026340			00 11/30/2013		CH MONTHLY SERVICE	950.00	
0001422	00	UNITED STATES POSTAL SERVICE			00 12/11/2013		VENDOR TOTAL *	1,386.00	
PO BOX 1177		001846				001-2200-421.23-04	BOX RENEWAL	180.00	
0004124	00	URBAN FUTURES INCORPORATED			00 11/11/2013		VENDOR TOTAL *	180.00	
1113-008		PI2781 023791				855-9500-490.33-11	PROFESSIONAL SVCS	315.00	
0006685	00	URBAN, FRANCESCA			00 12/16/2013		VENDOR TOTAL *	315.00	
12182013		001842				200-9100-446.36-68	HOLIDAY LUNCHEON CATERING	800.00	
0002577	00	USDA FOREST SERVICE			00 11/25/2013		VENDOR TOTAL *	800.00	
BF051254P0024		001834				660-6300-471.41-04	SPECIAL USES PERMITS	304.46	
0004444	00	VALDEZ, JASON			00 12/10/2013		VENDOR TOTAL *	304.46	
COMP LOAN		001847				660-0000-116.21-05	COMPUTER LOAN	1,363.77	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0006613	00	ADRIAN, MARION	00	12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	195.28	
APR - SEP 2013	001928							
0004781	00	ADVANCE WORKPLACE STRATEGIES INC				VENDOR TOTAL *	195.28	
260600	PI2996	026076	00	12/30/2013	001-1300-412.33-32	RANDOM ALCOHOL TEST	35.00	
						VENDOR TOTAL *	35.00	
0005784	00	ADVANCED ELECTRONICS, INC				EQUIPMENT MAINT & REPAIR	1,137.38	
0135063-IN	PI2990	026368	00	12/11/2013	001-2200-421.30-08	EQUIPMENT MAINT & REPAIR	1,406.00	
0135194-IN	PI3036	026368	00	12/16/2013	001-2200-421.30-08	EQUIPMENT MAINT & REPAIR	1,406.00	
0135196-IN	PI3037	026368	00	12/16/2013	001-2200-421.30-08	EQUIPMENT MAINT & REPAIR	1,406.00	
0002454	00	AIRGAS WEST				VENDOR TOTAL *	3,949.38	
9914421502	PI3060	026022	00	12/25/2013	660-6300-471.36-08	CYLINDER RENTAL	124.75	
9914421501	PI3065	026022	00	12/25/2013	670-7000-473.45-05	MISCELLANEOUS SERVICES	124.75	
0000034	00	AL'S KUBOTA TRACTOR				VENDOR TOTAL *	249.50	
330526	PI2946	026025	00	12/16/2013	660-6300-471.45-16	TRIMMER, BLOWER	668.07	
330526	PI2947	026025	00	12/16/2013	670-7000-473.45-16	TRIMMER, BLOWER	668.08	
						VENDOR TOTAL *	1,336.15	
0004994	00	ALESHIRE & WYNDER, LLP				PRDE CEQA LEGAL SVC - OCT	10,472.42	
26144	001876		00	11/19/2013	002-0000-222.35-00	HLND ENA LEGAL SVC - OCT	95.00	
26147	001877		00	11/19/2013	002-0000-222.36-00	RNCHO S G LEGAL SVC - OCT	800.00	
26136	001877		00	11/19/2013	002-0000-222.30-33	PRDE/PLMR LEGAL SVC - OCT	43.50	
26129	001877		00	11/19/2013	002-0000-222.30-30	PRDE CEQA LEGAL SVC - OCT	10,472.42	
26144	001876		00	11/19/2013	002-2800-361.41-02	PRDE CEQA LEGAL SVC - OCT	10,472.42	
26144	001876		00	11/19/2013	002-2800-441.33-04	PRDE CEQA LEGAL SVC - OCT	95.00	
26147	001877		00	11/19/2013	002-2800-361.41-02	HLND ENA LEGAL SVC - OCT	95.00	
26147	001877		00	11/19/2013	002-2800-441.33-04	HLND ENA LEGAL SVC - OCT	800.00	
26136	001877		00	11/19/2013	002-2800-361.41-02	RNCHO S G LEGAL SVC - OCT	800.00	
26136	001877		00	11/19/2013	002-2800-441.33-04	RNCHO S G LEGAL SVC - OCT	43.50	
26129	001877		00	11/19/2013	002-2800-441.33-04	PRDE/PLMR LEGAL SVC - OCT	43.50	
26129	001877		00	11/19/2013	002-2800-441.33-04	GENERAL LEGAL SVCS - OCT	13,455.10	
26125	001865		00	11/19/2013	700-5300-480.33-04	LTIGATON LEGAL SVCS - OCT	2,271.46	
26126	001866		00	11/19/2013	700-5300-480.33-04	PRSNELL LEGAL SVCS - OCT	8,017.50	
26127	001867		00	11/19/2013	700-5300-480.33-04	PLNNING LEGAL SVCS - OCT	9,541.00	
26128	001868		00	11/19/2013	700-5300-480.33-04	PUB WRKS LEGAL SVCS - OCT	522.00	
26129	001869		00	11/19/2013	700-5300-480.33-04	UTILITY LEGAL SVCS - OCT	190.00	
26130	001870		00	11/19/2013	700-5300-480.33-04	POLICE LEGAL SVCS - OCT	681.50	
26131	001871		00	11/19/2013	700-5300-480.33-04	CODE ENF LEGAL SVCS - OCT	6,392.80	
26132	001872		00	11/19/2013	700-5300-480.33-04	AGENCY LEGAL SVCS - OCT	823.00	
26133	001873		00	11/19/2013	700-5300-480.33-04	WATER LEGAL SVCS - OCT	19,962.93	
26134	001874		00	11/19/2013	700-5300-480.33-04	CNDMNTN LEGAL SVCS - OCT	869.26	
26135	001875		00	11/19/2013	700-5300-480.33-04	AG REAL LEGAL SVCS - OCT	449.62	
26137	001876		00	11/19/2013	700-5300-480.33-04	SMITH LEGAL SVCS - OCT	399.00	
26138	001876		00	11/19/2013	700-5300-480.33-04	SMITH LEGAL SVCS - OCT	399.00	

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004994	00	ALESHIRE & WYNDER, LLP					
26139		001876	00 11/19/2013	700-5300-480.33-04	FIELDS LEGAL SVCS - OCT	703.00	
26140		001876	00 11/19/2013	700-5300-480.33-04	MASCARO LEGAL SVCS - OCT	3,434.00	
26141		001876	00 11/19/2013	700-5300-480.33-04	PD PRSNL LEGAL SVCS - OCT	7,353.06	
26142		001876	00 11/19/2013	700-5300-480.33-04	LABOR LEGAL SVCS - OCT	969.00	
26143		001876	00 11/19/2013	700-5300-480.33-04	DUREAU LEGAL SVCS - OCT	400.80	
26145		001876	00 11/19/2013	700-5300-480.33-04	SUC AGENCY LEGAL SVC - OCT	96.32	
26146		001876	00 11/19/2013	700-5300-480.33-04	ODDFLOWS LEGAL SVC - OCT	58.92	
26149		001876	00 11/19/2013	700-5300-480.33-04	HCI ENVRN LEGAL SVC - OCT	4,222.10	
26148		001877	00 11/19/2013	700-5300-480.33-04	ROBERTSON'S LEGAL SVC - OCT	1,425.00	
					VENDOR TOTAL *	93,648.29	
0002298	00	ALTURA CREDIT UNION					
20131227		PR1227	00 12/27/2013	001-0000-204.80-06	PAYROLL SUMMARY	1,260.00	
					VENDOR TOTAL *	1,260.00	
0006456	00	ARROW STAFFING SERVICE					
00074712		001913	00 12/16/2013	761-3100-480.23-27	SOTO, A (W/E 12/14/13)	276.00	
					VENDOR TOTAL *	276.00	
0003008	00	ASPLUNDH TREE EXPERT CO.					
81B43813		PI2959 026265	00 11/22/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	2,636.10	
81R21213		PI2960 026265	00 11/29/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	3,514.80	
82N50813		PI2937 026265	00 12/06/2013	670-7000-473.23-17	ELECTRIC DEPT SERVICES	2,636.10	
					VENDOR TOTAL *	8,787.00	
0005644	00	BAEZA, HECTOR					
OT MEAL 12/5/13001928			00 12/10/2013	660-6300-471.25-06	MAIN LINE REPAIR	14.00	
					VENDOR TOTAL *	14.00	
0006091	00	BEAUMONT DO IT BEST HOME CENTER					
382267		PI2999 026027	00 12/16/2013	001-3600-461.36-00	DEPARTMENT SUPPLIES	19.07	
381781		PI2998 026027	00 12/05/2013	100-4900-431.38-54	DEPT SUPPLIES	37.52	
38200		PI3000 026027	00 12/10/2013	100-4900-431.36-00	PROPANE	51.17	
382152		PI3049 026027	00 12/12/2013	660-6300-471.45-16	3/8" STAPLE	31.84	
					VENDOR TOTAL *	139.60	
0004923	00	BEAUMONT LAWNMOWER					
1121		PI3001 026029	00 12/17/2013	111-4900-432.30-01	TRIMMER HEAD AND LINE	162.83	
1122		PI3002 026029	00 12/17/2013	111-4900-432.30-01	AIR FILTERS	23.20	
					VENDOR TOTAL *	186.03	
0006575	00	BECERRA, ELADIO					
JUN - NOV 2013 001928			00 12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	203.39	
					VENDOR TOTAL *	203.39	
0099001	00	BEHAVIORAL ANALYSIS TRAINING					
1/27-31 REG 001930			00 12/03/2013	001-2200-421.23-06	INV INTRVW CRSE - TAMMANY	472.00	
					VENDOR TOTAL *	472.00	
0005692	00	BENNETT, LYNN					

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VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005692	00	BENNETT, LYNN	00	12/16/2013	001-3000-442.36-07	SNSET GRDE SEP INVITES	168.42	
REIMBURSEMENT		001914				VENDOR TOTAL *	168.42	
0002051	00	BIO-TOX LABORATORIES			001-2200-421.33-31	MISCELLANEOUS SERVICES	516.00	
27922		PI3033 026178 00 12/07/2013			001-2200-421.33-31	MISCELLANEOUS SERVICES	417.00	
27923		PI3034 026209 00 12/07/2013				VENDOR TOTAL *	933.00	
0006628	00	BLANK, BARBARA			675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	212.10	
APR - SEP 2013		001928				VENDOR TOTAL *	212.10	
0006404	00	BRIDGEWATER, LYNN			675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	174.54	
MAR - AUG 2013		001928				VENDOR TOTAL *	174.54	
0006114	00	BUDS FULL SERVICE AUTO CENTER			702-3800-480.30-05	SMOG CHECK UNIT 111	43.00	
23569		PI3015 026095 00 11/19/2013			702-3800-480.30-05	SMOG CHECK UNIT 834	43.00	
23570		PI3016 026095 00 11/19/2013			702-3800-480.30-05	SMOG CHECK UNIT 230	43.00	
23571		PI3017 026095 00 11/21/2013			702-3800-480.30-05	SMOG CHECK UNIT 308	43.00	
23584		PI3018 026095 00 11/21/2013			702-3800-480.30-05	SMOG CHECK UNIT 213	43.00	
23586		PI3019 026095 00 11/21/2013			702-3800-480.30-05	SMOG CHECK UNIT 507	43.00	
23595		PI3020 026095 00 11/21/2013			702-3800-480.30-05	SMOG CHECK UNIT 25	43.00	
23596		PI3021 026095 00 11/25/2013			702-3800-480.30-05	SMOG CHECK UNIT 503	43.00	
23599		PI3022 026095 00 11/26/2013			702-3800-480.30-05	SMOG CHECK UNIT 25	43.00	
23600		PI3084 026095 00 11/26/2013				VENDOR TOTAL *	387.00	
0000972	00	BURLINGTON SAFETY LABORATORY			670-7000-473.30-06	ELECTRONIC COMPONENTS	40.96	
34886		PI2965 026320 00 10/25/2013			670-7000-473.30-06	TESTING EQUIPMENT	403.00	
		PI2966 026320 00 10/25/2013				VENDOR TOTAL *	443.96	
0005201	00	C & S ENGINEERS, INC			600-5100-435.93-73	PROFESSIONAL SERVICES	4,075.00	
0143549		PI3081 026298 00 12/17/2013				VENDOR TOTAL *	4,075.00	
0002954	00	CALIFORNIA SOC. OF MUNICIPAL			001-1900-412.23-03	MEMBER DUES - OVERHOLT	110.00	
DHA51862		001911 00 12/11/2013				VENDOR TOTAL *	110.00	
0002954	00	CALIFORNIA SOC. OF MUNICIPAL, CK GRP-1			001-1900-412.23-03	MEMBER DUES - GREEN	110.00	
DIL51257		001912 00 12/11/2013				VENDOR TOTAL *	110.00	
0004000	00	CALIFORNIA, STATE OF			001-1300-412.33-11	NOV FINGERPRINT FEES	192.00	
007911		PI2997 026266 00 12/04/2013			001-2200-421.33-31	MISCELLANEOUS SERVICES	35.00	
009376		PI2914 026194 00 12/10/2013				VENDOR TOTAL *	227.00	
0000095	00	CALOLYMPIC GLOVE & SAFETY CO, INC						

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VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000095	00	CALOLYMPIC GLOVE & SAFETY CO, INC						
323710		PI2942 026370 00		12/10/2013	670-7000-473.45-16	CLOTHING & APPAREL	51.66	
323710		PI2944 026370 00		12/10/2013	670-7000-473.45-16	SAFETY EQUIPMENT	68.36	
323710		PI2943 026370 00		12/10/2013	680-8000-454.45-16	CLOTHING & APPAREL	51.66	
323710		PI2945 026370 00		12/10/2013	680-8000-454.45-16	SAFETY EQUIPMENT	68.37	
						VENDOR TOTAL *	240.05	
0002232	00	COUNSELING TEAM INTERNATIONAL, THE						
21982		PI2994 026078 00		12/04/2013	700-5040-480.23-07	NOV SUPPORT SVCS	700.00	
						VENDOR TOTAL *	700.00	
0001031	00	CUSTOM TROPHIES & U-NEEK AWARDS						
012618		001928 00		12/16/2013	001-1000-411.36-00	NAME PLATE - WESTHOLDER	78.57	
						VENDOR TOTAL *	78.57	
0099001	00	CWEA-SDS						
11202013		001884 00		12/05/2013	660-6300-471.23-06	COLL WRKSHR REG - BARNHAR	45.00	
11202013		001885 00		12/05/2013	660-6300-471.23-06	COLL WRKSHR REG - THORNT	45.00	
						VENDOR TOTAL *	90.00	
0099001	00	DIXON, STARLIE						
000081827		UT 00		12/19/2013	001-0000-218.22-22	UB CR REFUND	75.24	
						VENDOR TOTAL *	75.24	
0000814	00	E.S. BABCOCK & SONS, INC.						
BL30432-0030		PI3043 026234 00		12/21/2013	660-6300-471.23-32	ANALYTICAL SERVICES	60.00	
BK31571-0030		PI3048 026234 00		12/05/2013	660-6300-471.23-32	ANALYTICAL SERVICES	90.00	
BL30454-0030		PI3056 026234 00		12/21/2013	660-6300-471.23-32	ANALYTICAL SERVICES	165.00	
						VENDOR TOTAL *	315.00	
0005399	00	FOX OCCUPATIONAL MEDICAL CENTER						
22683-47795		PI2995 026041 00		12/06/2013	001-1300-412.33-32	PRE-EMPLOYMENT EXAMS	160.00	
						VENDOR TOTAL *	160.00	
0001375	00	GAS COMPANY, THE						
12662493001DEI3PI3039		026111 00		12/11/2013	001-2400-422.26-06	DECEMBER GAS-FD	29.04	
05602682006DEI3PI3040		026111 00		12/18/2013	001-2400-422.26-06	DECEMBER GAS-FS89	225.72	
03292684002DCI3PI3077		026150 00		12/18/2013	001-4000-461.26-06	COMM CTR DEC GAS BILL	452.35	
05192710001DCI3PI3078		026150 00		12/18/2013	001-4000-461.26-06	PRK & REC DEC GAS BILL	19.70	
16108344439DCI3PI3080		026150 00		12/18/2013	001-4010-461.26-06	AQUATICS DEC GAS BILL	31.48	
09142474007DCI3PI3079		026150 00		12/18/2013	001-4050-461.26-06	SR CTR.DEC GAS BILL	478.35	
						VENDOR TOTAL *	1,236.64	
0002077	00	GOVERNMENT FINANCE OFFICERS ASSN						
0171844		001910 00		12/11/2013	001-1900-412.23-03	MEMBER DUES - OVERHOLT	375.00	
						VENDOR TOTAL *	375.00	
0000448	00	GRAINGER						
9315206905		PI3038 026042 00		12/10/2013	001-2400-422.33-95	STORAGE ITEMS-FS89	212.58	
9320335764		PI3041 026042 00		12/16/2013	001-2400-422.33-95	STORAGE BINS-FS89	250.26	

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0000448	00	GRAINGER				VENDOR TOTAL *	462.84	
0000393 2421695-01	00	HD SUPPLY POWER SOLUTIONS LTD PI3063 026350	00	12/11/2013	670-7000-473.95-06	ELECTRIC EQUIP.& HARDWARE	2,751.84	
0005217 20131227	00	IBEW LOCAL 47 RETIREE MEDICAL TRUST PR1227	00	12/27/2013	001-0000-204.80-10	PAYROLL SUMMARY	1,783.13	
0002297 20131227	00	ICMA RETIREMENT TRUST 457 PR1227	00	12/27/2013	001-0000-204.16-00	PAYROLL SUMMARY	1,788.28	
0002274 258625 258655 258656	00	INLAND WATER WORKS SUPPLY CO. PI3045 026382 PI3046 026382 PI3059 026382	00	12/12/2013 12/13/2013 12/13/2013	660-6300-471.45-08 660-6300-471.45-08 660-6300-471.45-08	FIP 2" STEEL SPOOLS 6" PVC, 1/2 ELLS	400.81 432.00 21.60	
0001158 2981519	00	INTERNATIONAL CODE COUNCIL, INC 001886	00	12/05/2013	001-2700-442.23-03	MEMBER DUES	125.00	
0002740 49848	00	J & R CONCRETE PRODUCTS, INC. PI3047 026389	00	12/12/2013	660-6300-471.45-11	PRECAST CONCRETE	2,916.00	
0006216 JUN - NOV 2013	00	KALAPACA, SHIRLEY 001928	00	12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	215.92	
0001193 005926	00	LEE'S AUTO BODY PI3023 026387	00	12/14/2013	702-3800-480.30-05	REPAIRS TO UNIT 803	1,511.15	
0004968 30633	00	LITHOPASS PRINTING, FORMS, PI3024 026046	00	12/01/2013	001-1200-412.23-02	WINTER'13 NEWSLETTER	947.39	
0005427 26524 26524 26524 26524	00	MAIN'S LOCK SUPPLY PI3066 026381 PI3068 026381 PI3067 026381 PI3069 026381	00	11/12/2013 11/12/2013 11/12/2013 11/12/2013	660-6300-471.45-16 660-6300-471.45-16 670-7000-473.45-16 670-7000-473.45-16	HARDWARE, AND ALLIED ITEMS HARDWARE, AND ALLIED ITEMS HARDWARE, AND ALLIED ITEMS HARDWARE, AND ALLIED ITEMS	24.30 112.50 24.30 37.50	
0003577 060060	00	MERLIN JOHNSON CONSTRUCTION, INC PI3085 025925	00	08/22/2013	680-8000-454.95-12	FINAL BILL	198.60 4,016.00	

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0003577	00	MERLIN JOHNSON CONSTRUCTION, INC				VENDOR TOTAL *	4,016.00	
0006013	00	MUNICIPAL CODE CORPORATION			703-3700-480.33-11	ANNUAL DUES	900.00	
00236763		001927		00 12/04/2013				
0003909	00	MYERS & SONS HI-WAY SAFETY INC.			673-7000-473.90-16	ROAD/HIGHWAY EQUIPMENT	292.25	
11858		PI3064 026377	00	01/04/2014				
0002301	00	NATIONWIDE RETIREMENT SOLUTIONS			001-0000-204.16-00	PAYROLL SUMMARY	292.25	
20131227		PR1227		00 12/27/2013			1,484.51	
0002460	00	OFFICE DEPOT			001-2200-421.36-00	CONTROLLED DOCUMENT STAMP	54.80	
685202648001		PI2993 026214	00	12/30/2013			1,484.51	
0000516	00	OFFICE MAX CONTRACT INC				VENDOR TOTAL *	54.80	
449819		PI2949 026051	00	12/16/2013	670-7000-473.36-00	TONER	370.85	
590500		PI2920 026051	00	12/25/2013	670-7000-473.36-00	BLANKET ORDER	100.00	
590500		PI2921 026051	00	12/25/2013	680-8000-454.36-00	BLANKET ORDER	99.59	
0006559	00	OGAZ, LUCY				VENDOR TOTAL *	570.44	
JUN - NOV 2013		001928		00 12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	215.92	
0005076	00	ONE SOURCE DISTRIBUTORS				VENDOR TOTAL *	215.92	
S4162377.001		PI2963 026335	00	11/21/2013	660-6300-471.45-16	HARDWARE,AND ALLIED ITEMS	122.04	
S4162377.001		PI2964 026335	00	11/21/2013	670-7000-473.45-16	HARDWARE,AND ALLIED ITEMS	122.04	
0001277	00	PACIFIC ALARM SERVICE				VENDOR TOTAL *	244.08	
P 85337		001928		00 12/02/2013	001-4500-412.36-00	BATTERIES	186.80	
0002686	00	PACKHAM & TOOMEY, INC				VENDOR TOTAL *	186.80	
120913		PI3004 026211	00	12/09/2013	600-5100-435.30-06	MONTHLY UST INSPECTIONS	100.00	
120913		PI3005 026211	00	12/09/2013	702-3800-480.30-06	MONTHLY UST INSPECTIONS	125.00	
121013		PI3006 026211	00	12/10/2013	702-3800-480.30-06	ANNUAL MONITORING CERT	650.00	
0005191	00	PARS				VENDOR TOTAL *	875.00	
20131227		PR1227		00 12/27/2013	001-0000-204.25-00	PAYROLL SUMMARY	187.63	
0000858	00	PRUDENTIAL OVERALL SUPPLY				VENDOR TOTAL *	187.63	
20790842		PI3010 026343	00	12/10/2013	001-3600-461.25-02	PARKS DEPARTMENT	6.65	

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0000858	00	PRUDENTIAL OVERALL SUPPLY						
20794322	PI3014	026343	00	12/17/2013	001-3600-461.25-02	PARKS DEPARTMENT	6.65	
20790840	PI3009	026343	00	12/10/2013	100-4900-431.25-02	STREET DEPARTMENT	12.15	
20794320	PI3013	026343	00	12/17/2013	100-4900-431.25-02	STREET DEPARTMENT	12.15	
20790841	PI3025	026343	00	12/10/2013	610-5800-434.23-16	UNIFORM SERVICE	11.00	
20790841	PI3026	026343	00	12/10/2013	610-5800-434.25-02	UNIFORM SERVICE	43.82	
20794321	PI3028	026343	00	12/17/2013	610-5800-434.23-16	UNIFORM SERVICE	11.00	
20794321	PI3029	026343	00	12/17/2013	610-5800-434.25-02	UNIFORM SERVICE	43.82	
20790841	PI3027	026343	00	12/10/2013	610-5850-434.25-02	UNIFORM SERVICE	8.86	
20794321	PI3030	026343	00	12/17/2013	610-5850-434.25-02	UNIFORMS WATER DIV.	8.86	
20790836	PI3057	026343	00	12/10/2013	660-6300-471.25-02	CLOTHING & APPAREL	123.91	
20787462	PI2939	026343	00	12/03/2013	670-7000-473.25-02	CLOTHING & APPAREL	123.91	
20790844	PI2941	026343	00	12/10/2013	670-7000-473.25-02	CLOTHING & APPAREL	123.91	
20794324	PI3058	026343	00	12/17/2013	670-7000-473.25-02	CLOTHING & APPAREL	15.00	
20790837	PI3062	026343	00	12/10/2013	680-8000-454.25-02	UNIFORMS SEWER COLLECTION	11.98	
20790839	PI3007	026343	00	12/10/2013	702-3800-480.23-16	FLEET DEPARTMENT	15.60	
20790839	PI3008	026343	00	12/10/2013	702-3800-480.25-02	FLEET DEPARTMENT	15.60	
20794319	PI3011	026343	00	12/17/2013	702-3800-480.23-16	FLEET DEPARTMENT	11.98	
20794319	PI3012	026343	00	12/17/2013	702-3800-480.25-02	FLEET DEPARTMENT	15.60	
20787461	PI2938	026343	00	12/03/2013	761-3110-480.25-02	CLOTHING & APPAREL	20.00	
20790843	PI2940	026343	00	12/10/2013	761-3110-480.25-02	CLOTHING & APPAREL	20.00	
20794323	PI3061	026343	00	12/17/2013	761-3110-480.25-02	CLOTHING & APPAREL	20.00	
						VENDOR TOTAL *	718.85	
0000978	00	PUBLIC ENTITY RISK MANAGEMENT						
2013-14 WRK CMP001928				00 12/13/2013	700-0000-101.12-00	DEPOSIT PREMIUM	99,306.00	
2013-14 WRK CMP001928				00 12/13/2013	700-5020-480.29-08	DEPOSIT PREMIUM	35,292.75	
						VENDOR TOTAL *	134,598.75	
0006320	00	QUINTANILLA, ANGELA		00 12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	69.21	
JUN - NOV 2013 001928						VENDOR TOTAL *	69.21	
0099001	00	REVUELTA, RICARDO		00 12/09/2013	700-5040-480.40-02	FULL & FINAL SETTLEMENT	3,378.86	
SETTLEMENT 001928						VENDOR TOTAL *	3,378.86	
0001327	00	RIV. CO. CLERK RECORDER		00 12/23/2013	001-2400-422.23-39	LEIN RELEASES	33.00	
RELEASES 001928						VENDOR TOTAL *	33.00	
0006289	00	RUBIO, RAMON		00 12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	194.56	
APR - SEP 2013 001928						VENDOR TOTAL *	194.56	
0001561	00	SMART & FINAL		00 12/17/2013	201-4060-446.36-65	SR. CHRISTMAS LUNCH	187.21	
132120 PI3072 026063						VENDOR TOTAL *	187.21	
0001371	00	SOUTHERN CALIFORNIA EDISON						

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0001371	00	SOUTHERN CALIFORNIA EDISON						
2015215072DEC13PI3042	026139	00 12/12/2013			660-6300-471.26-04	WELL 9 ELECTRIC BILLS	36.35	
2015215049DEC13PI3052	026139	00 12/12/2013			660-6300-471.26-04	WELL 11 ELECTRICITY COSTS	122.80	
2015215098DEC13PI3053	026139	00 12/13/2013			660-6300-471.26-04	WELL 10 ELECTRICITY COSTS	706.04	
2015215155DEC13PI3054	026139	00 12/13/2013			660-6300-471.26-04	WELL 12 ELECTRICITY COSTS	186.58	
2196273304DEC13PI3055	026139	00 12/13/2013			660-6300-471.26-04	DEL RITA BOOSTER STATION	70.93	
2011958816DC13 PI2933	026198	00 12/03/2013			670-7000-473.26-04	AIR CONDITIONING & HEATING	58.70	
						VENDOR TOTAL *	1,181.40	
0001376	00	SOUTHERN CALIFORNIA GAS CO						
09242310481-05 PI3003	026108	00 12/05/2013			702-3800-480.36-61	NATURAL GAS FUEL BILL	4,930.72	
						VENDOR TOTAL *	4,930.72	
0001373	00	SOUTHERN CALIFORNIA JOINT POLE						
17978	PI2951	026199	00 11/30/2013		670-7000-473.27-11	BOOKING FEES	847.00	
						VENDOR TOTAL *	847.00	
0004269	00	STEVEN ENTERPRISES INC						
0311447-IN	PI3082	026393	00 01/13/2014		001-2800-441.30-06	3YR SERVICE AGREEMENT	1,999.93	
0311447-IN	PI3083	026393	00 01/13/2014		001-3000-442.30-06	3YR SERVICE AGREEMENT	150.07	
						VENDOR TOTAL *	2,150.00	
0004939	00	SUPER SUBS +	00 12/11/2013		001-1300-412.41-15	ORAL BRD LNCH - PD ASST	21.81	
425331	001928					VENDOR TOTAL *	21.81	
0006146	00	SUPERMEDIA INC						
360000667804DE4PI3035	026155	00 12/14/2013			001-2200-421.23-01	MISCELLANEOUS SERVICES	34.95	
						VENDOR TOTAL *	34.95	
0006218	00	THOMSON REUTERS / BARCLAYS						
636928	001879	00 11/15/2013			001-2400-422.33-95	PUBLIC SAFETY US	135.00	
						VENDOR TOTAL *	135.00	
0002403	00	TURBO DATA SYSTEMS INC						
20871	PI3032	026218	00 12/07/2013		001-2200-421.23-45	MISCELLANEOUS SERVICES	316.02	
						VENDOR TOTAL *	316.02	
0000871	00	UNDERGROUND SERVICE ALERT						
1120130037	PI3073	026132	00 12/26/2013		100-4900-431.30-13	DIG ALERTS	39.50	
1120130037	PI3074	026132	00 12/26/2013		660-6300-471.45-08	DIG ALERTS	39.50	
1120130037	PI3075	026132	00 12/26/2013		670-7000-473.45-02	DIG ALERTS	39.50	
						VENDOR TOTAL *	118.50	
0002269	00	UNITED WAY OF THE INLAND VALLEY						
20131227	PR1227	00 12/27/2013			001-0000-204.60-00	PAYROLL SUMMARY	88.50	
						VENDOR TOTAL *	88.50	
0001570	00	V & V MANUFACTURING, INC.						
38658	PI2989	026337	00 12/06/2013		001-2200-421.36-04	BADGES & OTHER ID EQUIP.	44.66	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
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0001570	00	V & V MANUFACTURING, INC.						
0004206	00	VERIZON CALIFORNIA				VENDOR TOTAL *	44.66	
849-4532	DEC13	PI2986 026113	00	12/04/2013	001-2200-421.26-05	PD ALARM SYSTEM	92.45	
849-6777	DEC13	PI2987 026114	00	12/01/2013	001-2200-421.26-05	ELEVATOR PHONE	91.08	
PLN-5001	DEC13	PI2988 026121	00	12/01/2013	001-2200-421.26-05	RIVERSIDE RADIO CIRCUIT	159.48	
UH1-7723	DEC13	PI3031 026122	00	12/07/2013	001-2200-421.26-05	DS1 CLEAR CHANNEL	264.36	
922-3301	DEC13	001928	00	12/01/2013	001-2300-424.26-05	DEC 1 - DEC 31	182.65	
922-3201	DEC13	001928	00	12/01/2013	001-4500-412.26-05	DEC 1 - DEC 31	224.54	
769-5052	DEC13	001928	00	12/04/2013	001-4500-412.26-05	DEC 4 - JAN 3	46.07	
849-3260	DEC13	001928	00	11/28/2013	001-4500-412.26-05	NOV 28 - DEC 27	150.55	
						VENDOR TOTAL *	1,211.18	
0004206	00	VERIZON CALIFORNIA, CK GRP-1						
197-6452	DEC13	001922	00	11/28/2013	001-2200-421.26-05	NOV 28 - DEC 27	60.19	
197-6452	DEC13	001920	00	11/28/2013	001-4500-412.26-05	NOV 28 - DEC 27	496.01	
197-6452	DEC13	001926	00	11/28/2013	001-4500-412.26-05	NOV 28 - DEC 27 COMM CNTR	657.09	
197-6452	DEC13	001925	00	11/28/2013	600-5100-435.26-05	NOV 28 - DEC 27	151.72	
197-6452	DEC13	001921	00	11/28/2013	660-6300-471.26-05	NOV 28 - DEC 27	819.15	
197-6452	DEC13	001923	00	11/28/2013	670-7000-473.26-05	NOV 28 - DEC 27	945.21	
197-6452	DEC13	001924	00	11/28/2013	702-3800-480.26-05	NOV 28 - DEC 27	59.06	
						VENDOR TOTAL *	3,188.43	
0005284	00	VERIZON SELECT SERVICES INC						
31444	DEC13	001915	00	12/01/2013	001-4500-412.26-05	DEC 1 - DEC 30	233.32	
31444	DEC13	001916	00	12/01/2013	660-6300-471.26-05	DEC 1 - DEC 30	32.68	
31444	DEC13	001917	00	12/01/2013	670-7000-473.26-05	DEC 1 - DEC 30	39.84	
31444	DEC13	001918	00	12/01/2013	680-0000-112.05-00	DEC 1 - DEC 30	9.57	
31444	DEC13	001919	00	12/01/2013	702-3800-480.26-05	DEC 1 - DEC 30	12.46	
						VENDOR TOTAL *	327.87	
0005369	00	VERIZON WIRELESS						
9715703746		001882	00	11/26/2013	001-2200-421.26-05	OCT 27 - NOV 26	194.97	
9715674804		001928	00	11/26/2013	670-7000-473.26-05	OCT 27 - NOV 26	9.01	
9715733493		001928	00	11/26/2013	670-7000-473.26-05	OCT 27 - NOV 26	9.01	
9715723709		001928	00	11/26/2013	670-7000-473.26-05	OCT 27 - NOV 26	90.24	
9715684630		001928	00	11/26/2013	670-7000-473.26-05	OCT 27 - NOV 26	9.01	
9715583227		001880	00	11/23/2013	703-3700-480.30-19	OCT 24 - NOV 23	14.06	
9715703746		001881	00	11/26/2013	703-3700-480.30-19	OCT 27 - NOV 26	8.57-	
						VENDOR TOTAL *	317.73	
0005369	00	VERIZON WIRELESS, CK GRP-1						
9715937208		001890	00	12/01/2013	001-1200-412.26-05	NOV 2 - DEC 1	99.22	
9715937208		001891	00	12/01/2013	001-1210-412.26-05	NOV 2 - DEC 1	26.18	
9715937208		001898	00	12/01/2013	001-1300-412.26-05	NOV 2 - DEC 1	58.03	
9715937208		001887	00	12/01/2013	001-1900-412.26-05	NOV 2 - DEC 1	75.22	
9715937208		001901	00	12/01/2013	001-2200-421.26-05	NOV 2 - DEC 1	418.66	
9715937208		001893	00	12/01/2013	001-2210-421.26-05	NOV 2 - DEC 1	10.80	
9715937208		001896	00	12/01/2013	001-2400-422.26-05	NOV 2 - DEC 1	38.01	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
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9715937208		001888	00	12/01/2013	001-2700-442.26-05	NOV 2 - DEC 1	39.67	
9715937208		001895	00	12/01/2013	001-3000-442.26-05	NOV 2 - DEC 1	154.52	
9715937208		001889	00	12/01/2013	001-3200-412.26-05	NOV 2 - DEC 1	13.15	
9715937208		001905	00	12/01/2013	001-4000-461.26-05	NOV 2 - DEC 1	38.23	
9715937208		001903	00	12/01/2013	100-4900-431.26-05	NOV 2 - DEC 1	118.74	
9715937208		001902	00	12/01/2013	203-2200-446.36-00	NOV 2 - DEC 1	12.06	
9715937208		001904	00	12/01/2013	610-5800-434.26-05	NOV 2 - DEC 1	271.37	
9715937208		001892	00	12/01/2013	610-5850-434.26-05	NOV 2 - DEC 1	32.46	
9715937208		001908	00	12/01/2013	660-6300-471.26-05	NOV 2 - DEC 1	276.01	
9715937208		001894	00	12/01/2013	670-7000-473.26-05	NOV 2 - DEC 1	287.87	
9715937208		001907	00	12/01/2013	680-8000-454.26-05	NOV 2 - DEC 1	38.32	
9715937208		001897	00	12/01/2013	702-3800-480.26-05	NOV 2 - DEC 1	42.53	
9715937208		001899	00	12/01/2013	703-3700-480.26-05	NOV 2 - DEC 1	90.21	
9715937208		001906	00	12/01/2013	761-3100-480.26-05	NOV 2 - DEC 1	10.80	
9715937208		001900	00	12/01/2013	761-3110-480.26-05	NOV 2 - DEC 1	45.29	
						VENDOR TOTAL *	2,197.35	
0006143	00	VISION SECURITY SYSTEMS						
11074		PI3070 025857	00	12/23/2013	673-7000-473.90-16	PROJECT 2012-03	9,213.77	
11075		PI3071 025857	00	12/23/2013	673-7000-473.90-16	CHANGE ORDER PROJ 2012-03	2,674.51	
						VENDOR TOTAL *	11,888.28	
0001090	00	WENDT, CARL W.						
JAN 2014		PI3076 026133	00	12/15/2013	660-6300-471.15-16	RETIREMENT BENEFITS	473.38	
						VENDOR TOTAL *	473.38	
0006531	00	WESCO DIST, INC #6331						
833313		PI2917 00	11/25/2013		670-0000-131.00-00	ELEC UTIL OVERHEAD HDWARE	423.90	
836216		PI2961 026333	00	11/27/2013	670-7000-473.45-16	ELECTRIC EQUIP. & HARDWARE	62.60	
836216		PI2962 026333	00	11/27/2013	670-7000-473.95-04	ELECTRIC EQUIP. & HARDWARE	435.32	
						VENDOR TOTAL *	921.82	
0002690	00	WESTERN RIVERSIDE COUNCIL						
NOV 1 - NOV 30		001883	00	12/05/2013	001-0000-223.22-00	TUMF FEE PAYMENT	8,873.00	
						VENDOR TOTAL *	8,873.00	
0006230	00	WILCE, MARLENE						
MAY - OCT 2013		001928	00	12/18/2013	675-7020-473.42-36	ENERGY ASSISTANCE PROGRAM	202.56	
						VENDOR TOTAL *	202.56	
0002857	00	YOUNGBLOOD, RICHARD						
COMP LOAN		001928	00	12/18/2013	001-0000-116.21-03	COMPUTER LOAN	1,082.64	
						VENDOR TOTAL *	1,082.64	
0006499	00	ZENNER PERFORMANCE METERS, INC						
0022759-IN		PI3050 026066	00	12/09/2013	660-6300-471.45-11	1" PERF METER	50.00	
0022760-IN		PI3051 026066	00	12/09/2013	660-6300-471.45-11	NITRO METERS 1"	100.00	
						VENDOR TOTAL *	150.00	

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INVOICE		VOUCHER P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO	NO					AMOUNT

0006499 00

GRAND TOTAL *****
TOTAL EXPENDITURES *****

323,328.37

323,328.37

VEND NO	SEQ#	VENDOR NAME	CA. ST.	EMPLOYMENT DEV. DEPT.	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
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0000985	00	CA. ST. EMPLOYMENT DEV. DEPT.								
PPE 11/24/13	002090	00	12/02/2013	001-0000-204.12-00		PAYROLL TAX DEPOSIT		CHECK #: 9005365	23,277.34	
PPE 12/8/13	002092	00	12/16/2013	001-0000-204.12-00		PAYROLL TAX DEPOSIT		CHECK #: 9005372	16,409.19	
PPE 12/22/2013	002094	00	12/30/2013	001-0000-204.12-00		PAYROLL TAX DEPOSIT		CHECK #: 9005381	14,585.22	
0000997	00	CA. ST. PUBLIC EMPLOYEES								
PPE 11/10/13	002092	00	12/09/2013	001-0000-204.20-00		RETIREMENT BENEFITS		CHECK #: 9005369	128,647.35	
PPE 11/24/13	002092	00	12/18/2013	001-0000-204.20-00		RETIREMENT BENEFITS		CHECK #: 9005374	124,644.34	
PPE 12/8/2013	002094	00	12/31/2013	001-0000-204.20-00		RETIREMENT BENEFITS		CHECK #: 9005383	125,720.16	
0004051	00	CALPERS 457 PLAN - 450260								
PPE 11/24/13	002092	00	12/02/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005367	379,011.85	
PPE 11/24/13	002092	00	12/02/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005367	24,497.59	
PPE 12/8/2013	002092	00	12/18/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005375	5,058.11	
PPE 12/8/2013	002092	00	12/18/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005375	14,732.05	
PPE 12/22/2013	002093	00	12/30/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005375	5,058.11	
PPE 12/22/2013	002093	00	12/30/2013	001-0000-204.16-00		CAL PERS 457 CONTRIBUTION		CHECK #: 9005379	14,731.97	
0002484	00	INTERNAL REVENUE SERVICE								
PPE 11/24/13	002091	00	12/02/2013	001-0000-204.11-00		PAYROLL TAX DEPOSIT		CHECK #: 9005366	69,179.34	
PPE 11/24/13	002092	00	12/02/2013	001-0000-204.13-00		PAYROLL TAX DEPOSIT		CHECK #: 9005366	63,833.80	
PPE 12/8/13	002092	00	12/16/2013	001-0000-204.11-00		PAYROLL TAX DEPOSIT		CHECK #: 9005373	58,716.27	
PPE 12/22/2013	002093	00	12/30/2013	001-0000-204.11-00		PAYROLL TAX DEPOSIT		CHECK #: 9005373	46,269.94	
PPE 12/22/2013	002094	00	12/30/2013	001-0000-204.13-00		PAYROLL TAX DEPOSIT		CHECK #: 9005380	53,220.52	
0004433	00	RIVERSIDE PUBLIC UTILITIES								
150	002101	00	12/19/2013	670-7000-331.20-01		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	313,472.57	
150	002102	00	12/19/2013	670-7000-356.38-17		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	10,46-	
150	002103	00	12/19/2013	670-7000-356.38-20		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	90,775.72-	
150	002104	00	12/19/2013	670-7000-356.38-10		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	90,459.62-	
150	002096	00	12/19/2013	670-7010-473.27-09		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	30,004.75-	
150	002097	00	12/19/2013	670-7010-473.27-70		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	49,543.00	
150	002098	00	12/19/2013	670-7010-473.27-60		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	219,003.15	
150	002099	00	12/19/2013	670-7010-473.27-50		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	185,883.69	
150	002100	00	12/19/2013	670-7010-473.33-02		ELECTRIC REVENUE/EXPENSE		CHECK #: 845	1,062,161.83	
0005885	00	TASC								
PPE 12/8/13	002092	00	12/12/2013	001-0000-204.80-04		MEDICAL CONTRIBUTIONS		CHECK #: 9005370	3,392.64	
PPE 12/8/13	002092	00	12/12/2013	001-0000-204.80-05		DEP CARE CONTRIBUTIONS		CHECK #: 9005370	1,308,733.76	
PPE 12/8/13	002092	00	12/12/2013	001-0000-204.80-15		INDIVIDUAL CONTRIBUTIONS		CHECK #: 9005370	4,006.07	
PPE 12/22/2013	002092	00	12/24/2013	001-0000-204.80-04		INDIVIDUAL PREMIUMS		CHECK #: 9005377	1,164.62	
PPE 12/22/2013	002092	00	12/24/2013	001-0000-204.80-05		DEP CARE PREMIUMS		CHECK #: 9005377	4,006.07	
PPE 12/22/2013	002093	00	12/24/2013	001-0000-204.80-15		INDIVIDUAL PREMIUMS		CHECK #: 9005377	1,164.62	
0002256	00	WELLS FARGO BANK								
						VENDOR TOTAL *		CHECK #: 9005377	418.42	
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VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT			
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0002256	00	WELLS FARGO BANK									
PPE 12/8/13	002092	00	12/13/2013	001-0000-204.10-00	PAYROLL		CHECK #: 9005371	305,280.49			
PPE 12/22/2013	002093	00	12/27/2013	001-0000-204.10-00	PAYROLL		CHECK #: 9005378	267,207.40			
						VENDOR TOTAL *	.00	572,487.89			
0004228	00	WELLS FARGO BANK									
PPE 11/24/13	002092	00	12/03/2013	001-0000-204.80-14	VEBA CONTRIBUTIONS		CHECK #: 9005368	1,366.62			
PPE 12/8/2013	002092	00	12/19/2013	001-0000-204.80-14	VEBA CONTRIBUTIONS		CHECK #: 9005376	1,276.88			
PPE 12/22/2013	002094	00	12/31/2013	001-0000-204.80-14	VEBA CONTRIBUTIONS		CHECK #: 9005382	1,119.60			
						VENDOR TOTAL *	.00	3,763.10			
						HAND ISSUED TOTAL ***		2,712,098.48			
						TOTAL EXPENDITURES ****	.00	2,712,098.48			
						*****		2,712,098.48			
						GRAND TOTAL					

Dept/Div Activity	Check Payee	Social Security	Check Number	Amount
	FRANCHISE TAX BOARD		8822	100.00
	UNITED STATES TREASURY		8823	209.00
	CALIF. STATE DISBURSEMENT UNIT		8824	285.69
	US DEPT OF EDUCATION		8825	599.22
	CALIF. STATE DISBURSEMENT UNIT		8826	223.00
	FRANCHISE TAX BOARD		8827	60.00
	CHAPPAROSA, ANGEL A	1259	8828	479.71
4000-461	KUE, GER	4220	8829	369.68
4000-461	OROZCO AQUINO, FRANCISCO J	6246	8830	82.69
4010-461	RAMIREZ, CHRISTIAN	6753	8831	82.69
4010-461	INTERNAL REVENUE SERVICE		8832	100.00
	SHERIFF'S COURT SVCS-CENTRAL		8833	278.38
	FRANCHISE TAX BOARD		8834	198.01
	KEREKES, DIANE	4152	8835	1,092.91
5800-434	UNITED STATES TREASURY		8836	150.00
	CALIF. STATE DISBURSEMENT UNIT		8837	163.38
	JAMI MC LAUGHLIN		8838	646.16
	CALIF. STATE DISBURSEMENT UNIT		8839	23.07
	CALIF. STATE DISBURSEMENT UNIT		8840	122.40
	FRANCHISE TAX BOARD		8841	25.00
	Total Checks -		20	5,290.99

Prepared 12/24/13, 11:59:42
Program PR655L
CITY OF BANNING

Check Register
BIWEEKLY
Pay Date 12/27/13

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Pay Period 267
12/09/13 To 12/22/13

Dept/Div Activity	Check Payee	Social Security	Check Number	Amount
	FRANCHISE TAX BOARD		8842	100.00
	UNITED STATES TREASURY		8843	209.00
	CALIF. STATE DISBURSEMENT UNIT		8844	717.35
	US DEPT OF EDUCATION		8845	704.70
	CALIF. STATE DISBURSEMENT UNIT		8846	223.00
	FRANCHISE TAX BOARD		8847	60.00
4000-461	CHAPPAROSA, ANGEL A	1259	8848	299.56
4000-461	KUE, GER	4220	8849	290.66
	INTERNAL REVENUE SERVICE		8850	100.00
	SHERIFF'S COURT SVCS-CENTRAL		8851	340.45
	FRANCHISE TAX BOARD		8852	31.52
	UNITED STATES TREASURY		8853	150.00
	CALIF. STATE DISBURSEMENT UNIT		8854	163.38
	JAMI MC LAUGHLIN		8855	646.16
	CALIF. STATE DISBURSEMENT UNIT		8856	23.07
	CALIF. STATE DISBURSEMENT UNIT		8857	122.40
	FRANCHISE TAX BOARD		8858	25.00
	Total Checks -		17	4,206.25

DEC 20 11 23

PAYROLL

DIRECT DEPOSIT TOTALS

PAY PERIOD ENDING	DIRECT DEPOSIT DATES	DIRECT DEPOSIT AMOUNTS
12/08/2013	12/13/2013	\$305,280.49
12/22/2013	12/27/2013	\$267,207.40

MANUAL CHECKS ISSUED

CHECK DATE	CHECK #	CHECK AMOUNT

\$0.00