

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

December 9, 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 Banning Housing Authority.

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

I. CALL TO ORDER

- Invocation – Pastor/Police Chaplain Juan De La Fuente, New Creation Church
- Pledge of Allegiance
- Roll Call – Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin

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

II. CERTIFICATION OF ELECTION RESULTS

1. Resolution No. 2014-84, Reciting the Facts of the Consolidated General Election Held in Said City on November 4, 2014 Declaring the Result Thereof and Such Other Matters as Provided by Law 1
Recommended Motion: **That the City Council adopt Resolution No. 204-84, Reciting the Facts of the General Municipal Election Held in Said City on November 4, 2014 and Declaring the Result Thereof and Such Other Matters as Provided by Law.**

III. PRESENTATIONS TO OUTGOING CITY COUNCIL MEMBERS

- by Mayor Pro Tem Franklin

IV. SWEARING IN OF COUNCILMEMBERS

- City Clerk

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.

V. REORGANIZATION OF CITY COUNCIL AND THE BANNING HOUSING AUTHORITY

- City Clerk

RECESS COUNCIL MEETING – *At this time please join the City Council for a small reception in the Large Conference Room.*

Adjourn Joint Meeting of the Banning City Council and the Banning Housing Authority and Reconvene Regular City Council Meeting.

VI. REPORT ON CLOSED SESSION

VII. PUBLIC COMMENTS/CORRESPONDENCE

PUBLIC COMMENTS – *On Items Not on the Agenda*

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

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

PRESENTATIONS:

1. Update on Sunset Grade Separation – Dennis Green (ORAL)

VIII. 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 11

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

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

1. Approval of Minutes – Special Meeting – 11/12/14 (Closed Session) 8
2. Approval of Minutes – Regular Meeting – 11/12/14 10
3. Approval of Minutes – Special Meeting – 11/13/14 (Closed Session) 31

4.	Report of Investments for October 2014	32
5.	Approval of Accounts Payable and Payroll Warrants for Month of October 2014	39
6.	Resolution No. 2014-75, Accepting the General Order 165 and 174 Annual Reports.	42
7.	Resolution No. 2014-83, Accepting the 2015 Supplemental Law Enforcement Services Allocation in the Amount of \$100,000 and Authorizing the Banning Police Department to Use the Funds Towards the Purchase of Law Enforcement Related Equipment, Services and Supplies	48
8.	Resolution No. 2014-86, Approving Extensions to the Memoranda of Understanding Between the City and the International Brotherhood of Electrical Workers – Local 47, Representing the General Employees Unit and the Utility Employees Unit.	52
9.	Resolution No. 2014-87, Approving Amendments to the Memoranda of Understanding Between the City and the International Brotherhood of Electrical Workers – Local 47, Representing the General Employees Unit and the Utility Unit to Add a Y-Rating Provision	62
10.	Notice of Completion for Project No. 2014-01, Street Rehabilitation and Sidewalk Improvements at Various Locations.	72
11.	Notice of Completion for Project No. 2014-01WW, Hargrave Street Sewer main Repair	77
12.	Resolution No. 2014-88, Declaring the Mathewson Building Fire a Local Emergency Requiring Immediate Fire Remediation Services. ...	81

- Open for Public Comments
- Make Motion

IX. **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. | Amendments to the General Plan and Zoning Code in Response to the
State Housing and Community Development (HCD) Comments on the
2013-2021 Housing Element.
Staff Report | 86 |
| Recommendations: That the Council: | | |
| I. | Conduct a public hearing on the Addendum to the Initial Study/
Mitigated Negative Declaration; General Plan Amendment No.
14-2502, Zone Text Amendment No. 14-97501 and Zone Change
No. 14-3502 (Ordinance No. 1482); and | |

- II. Motion to adopt Resolution No. 2014-85 approving:
 - a) Addendum to the Initial Study/Mitigated Negative Declaration that was adopted by the City Council on July 23, 2013; and
 - b) General Plan Amendment No. 14-2502, An amendment to the Land Use and Housing Element text and maps to create an Affordable Housing Opportunity (AHO) Overlay Zone.
- III. Introduce Ordinance No. 1482 to approve:
 - a) Zone Text Amendment No. 14-97501, An Amendment to the Zoning Code text to provide standards to implement the Affordable Housing Opportunity (AHO) Overlay Zone; and
 - b) Zone Change No. 14-3502, An amendment to the Zoning Map to apply the AHO zoning designation to eight parcels in the HDR-20 zone.

Mayor asks the City Clerk to read the title of Ordinance No. 1482:

"An Ordinance of the City Council of the City of Banning, California, Adopting zone Text Amendment No. 14-97501 and Zone Change No. 14-3502 to Establish and Affordable Housing Opportunity (AHO) Overlay Zone in Conformance with the General Plan Housing Element."

Motion: I move to waive further reading of Ordinance No. 1482.
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1482 pass its first reading.

X. REPORTS OF OFFICERS

1. Butterfield Specific Plan Litigation Settlement Agreement: Highland Springs Resort v. City of Banning, et al. (Riverside County Superior Court Case No. RIC 1206246, Consolidated with Case No. RIC 1206271)

Staff Report 320

Recommendation: That the City Council approve the proposed Settlement Agreement in the pending litigation entitled *Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No RIC1206246, Consolidated with Case No. RIC 1206271), and authorize the Acting City Manager to sign the Settlement Agreement on behalf of the City of Banning ("City" or "City of Banning") as resolution of the dispute among the City of Banning, Pardee Homes ("Pardee"), Highland Springs Resort ("Resort"), and Cherry Valley Pass Acres and Neighbors and Cherry Valley Environmental Planning Group ("CVEPG") (collectively, "CVAN") with regard to the City's approval of the Butterfield Specific Plan, certification of the environmental impact report ("EIR") and related approvals.

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

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

XII. ITEMS FOR FUTURE AGENDAS

New Items – None

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials *(Jan. 2015)*
2. Discussion on how to handle loans or distributions to charities. *(Midyear budget)*
3. Discussion on how the City Council handles donations to the City. *(Feb. 2015)*
4. Grocery Cart Policy *(In planning process.)*
5. Workshop to discuss the future of the airport. *(Jan. 2015)*
6. Discussion regarding Public Works Committee and Ad Hoc Committees *(Jan. 2015)*
7. Discussion regarding City's ordinance dealing with sex offenders and child offenders. *(Feb. 2015)*
8. Discussion to move "Announcements" (events) up on the agenda after Public Comments. *(Jan. 2015)*
9. Discussion regarding flex scheduling to keep city hall open five days a week.
10. Discussion regarding Animal Control Services *(Midyear Budget)*
11. Discussion regarding Police Staffing *(Midyear Budget)*
12. Golf Cart Lanes
13. Bond Workshop *(Midyear Budget)*
14. Report on 33-day Billing Cycle
15. Report on process used to collect unpaid utility bills.
16. Verify what our City laws are in regards to public comment.
17. Report on Electric Rates
18. Report on Code Enforcement and taking care of vacant properties.

XIII. ADJOURNMENT

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

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

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

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

That the City Council approve the proposed Settlement Agreement in the pending litigation entitled *Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No RIC1206246, Consolidated with Case No. RIC 1206271), and authorize the Acting City Manager to sign the Settlement Agreement on behalf of the City of Banning ("City" or "City of Banning") as resolution of the dispute among the City of Banning, Pardee Homes ("Pardee"), Highland Springs Resort ("Resort"), and Cherry Valley Pass Acres and Neighbors and Cherry Valley Environmental Planning Group ("CVEPG") (collectively, "CVAN") with regard to the City's approval of the Butterfield Specific Plan, certification of the environmental impact report ("EIR") and related approvals.

RESOLUTION NO. 2014-84

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, RECITING THE FACT OF THE CONSOLIDATED GENERAL
ELECTION HELD IN SAID CITY ON NOVEMBER 4, 2014,
DECLARING THE RESULT THEREOF AND SUCH OTHER
MATTERS AS PROVIDED BY LAW.**

WHEREAS, a consolidated general election was held and conducted in the City of Banning, California on Tuesday, November 4, 2014, as required by law; and

WHEREAS, the City Clerk has been informed by the Election Department of the County of Riverside that notice of said election was duly and regularly given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects said election was held and conducted and the votes cast thereat, received and canvassed and the return made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in cities; and

WHEREAS, pursuant to Resolution No. 2014-36 adopted June 10, 2014, the Registrar of Voters of the County of Riverside canvassed the returns of said election and certified the results to this City Council, said results are received and attached and made a part hereof as "Exhibit A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE AND DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That there were seven voting precincts established for the purpose of holding said election consisting of consolidations of the regular election precincts in said City as established for the holding of state and county elections.

SECTION 2. That said consolidated general election was held for the purpose of electing the following officers of said City as required by laws relating to cities in the State of California; to wit:

Two members of the City Council of said City for the full term of four years.

SECTION 3. That at said consolidated general election, the following measure was submitted to the electors of said City, to wit:

Shall an Ordinance be adopted establishing a general mining tax of 80 cents per ton upon the excavation and processing of rock material, and placing the proceeds of these taxes in the City's general fund to be spent for general governmental purposes, which includes police, fire, and maintaining streets and public areas; as well as to pay for studying, collecting and reducing the effects of mining on residents and businesses?

SECTION 4. That the whole number of votes cast in said City (except vote by mail ballots) was 1838.

That the whole number of vote by mail ballots cast in said City was 4888, making a total of 6726 votes cast in said City.

That the names of persons voted for at said election for Member of the City Council of said City are as follows:

George Moyer
Jerry "Chappy" Westholder
Deborah "Debbie" Franklin

That the number of votes given at each precinct and the number of votes given in the City for the measure above named and to each of such persons above named for the respective offices for which said persons were candidates were as listed in Exhibit "A" attached.

SECTION 5. The City Council does declare and determine that:

George Moyer was elected as Member of the City Council of said City for the full term of four years.

Deborah "Debbie" Franklin was elected as Member of the Council of said City for the full term of four years.

As a result of said election, a majority of the qualified voters voting on said measure relating to Measure J – Establishing a General Mining Tax, did vote in favor thereof, and that said measure was carried, and shall be deemed adopted and ratified.

SECTION 6. The City Clerk shall enter on the records of the City Council of the City of Banning a statement of the result of said election, showing: (1) The whole number of votes cast in the City; (2) The names of the persons voted for; (3) For what office each person was vote for; (4) The measure voted upon; (5) The number of votes given at each precinct to each person, and for and against the measure; (6) The number of votes given in the City to each person, and for and against the measure.

SECTION 7. That the City Clerk shall immediately sign and deliver to each of the persons elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2014.

Mayor

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2014-84 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of December, 2014, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

REBECCA SPENCER
Registrar of Voters



2724 Gateway Drive
Riverside, CA 92507-0918
(951) 486-7200 • FAX (951) 486-7272
TTY (951) 697-8966
www.voteinfo.net

**REGISTRAR OF VOTERS
COUNTY OF RIVERSIDE**

**CERTIFICATE OF REGISTRAR OF VOTERS
TO THE RESULTS OF THE CANVASS OF ELECTION RETURNS**

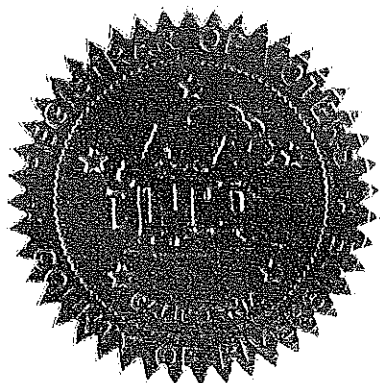
State of California)
) ss.
County of Riverside)

I, **REBECCA SPENCER**, Registrar of Voters of said County, do hereby certify that, in pursuance of the provisions of Sections 15301, 15372, and 15374 of the California Elections Code, and the resolution adopted by the City Council, I did canvass the returns of the votes cast on November 4, 2014, as part of the Consolidated General Election in the

CITY OF BANNING

and I further certify that the statement of votes cast, to which this certificate is attached, shows the whole number of votes for each candidate for elective office and for and against each measure at said election, in said City, and in each precinct therein, and that the totals as shown for said election are full, true, and correct.

Dated this 21st day of November 2014.



Rebecca Spencer
REBECCA SPENCER
Registrar of Voters

RIVERSIDE COUNTY Statement of Vote
CONSOLIDATED GENERAL ELECTION

100066	NO PARTY PREFERENCE MEMBER, CITY COUNCIL CITY OF BANNING													
	Registration	Ballots Cast	Turnout (%)		GEORGE MOYER	JERRY "CHAPPY" WESTHOLDER	DEBORAH "DEBBIE" FRANKLIN							
55004 BANNING	671	18	2.68		8	6	7							
55004 - Vote by Mail Reporting	671	317	47.24		122	176	122							
55006 BANNING	1881	292	15.52		175	104	161							
55006 - Vote by Mail Reporting	1881	1097	58.32		740	364	605							
55011 BANNING	2320	376	16.21		242	133	177							
55011 - Vote by Mail Reporting	2320	1493	64.35		1107	472	804							
55014 BANNING	1735	287	16.54		103	142	112							
55014 - Vote by Mail Reporting	1735	616	35.50		292	309	278							
55018 BANNING	1242	197	15.86		77	84	95							
55018 - Vote by Mail Reporting	1242	385	31.00		186	155	210							
55020 BANNING	1611	252	15.64		99	126	119							
55020 - Vote by Mail Reporting	1611	342	21.23		157	163	159							
55023 BANNING	1298	224	17.26		76	99	129							
55023 - Vote by Mail Reporting	1298	322	24.81		131	147	165							
55025 BANNING	1504	192	12.77		69	69	102							
55025 - Vote by Mail Reporting	1504	316	21.01		131	138	160							
Precinct Totals	12262	1838	14.99		848	763	902							
Vote by Mail Reporting Totals	12262	4888	39.86		2866	1924	2503							
Grand Totals	12262	6726	54.85		3714	2687	3405							
Riverside County	12262	6726	54.85		3714	2687	3405							
36th Congressional District	12262	6726	54.85		3714	2687	3405							
23rd Senatorial District	12262	6726	54.85		3714	2687	3405							
42nd Assembly District	12262	6726	54.85		3714	2687	3405							
State Bd. of Equalization, Dist 4	12262	6726	54.85		3714	2687	3405							
5th Supervisorial District	12262	6726	54.85		3714	2687	3405							
City of Banning	12262	6726	54.85		3714	2687	3405							

RIVERSIDE COUNTY Statement of Vote
CONSOLIDATED GENERAL ELECTION

140137	NO PARTY PREFERENCE MEASURE J - CITY OF BANNING														
	Registration	Ballots Cast	Turnout (%)		YES	NO									
55004 BANNING	671	18	2.68		8	6									
55004 - Vote by Mail Reporting	671	317	47.24		139	168									
55006 BANNING	1881	292	15.52		126	148									
55006 - Vote by Mail Reporting	1881	1097	58.32		623	433									
55011 BANNING	2320	376	16.21		154	206									
55011 - Vote by Mail Reporting	2320	1493	64.35		874	558									
55014 BANNING	1735	287	16.54		128	148									
55014 - Vote by Mail Reporting	1735	616	35.50		312	284									
55018 BANNING	1242	197	15.86		84	107									
55018 - Vote by Mail Reporting	1242	385	31.00		193	187									
55020 BANNING	1611	252	15.64		87	159									
55020 - Vote by Mail Reporting	1611	342	21.23		181	157									
55023 BANNING	1298	224	17.26		110	104									
55023 - Vote by Mail Reporting	1298	322	24.81		167	148									
55025 BANNING	1504	192	12.77		88	92									
55025 - Vote by Mail Reporting	1504	316	21.01		171	143									
Precinct Totals	12262	1838	14.99		785	970									
Vote by Mail Reporting Totals	12262	4888	39.86		2660	2078									
Grand Totals	12262	6726	54.85		3445	3048									
Riverside County	12262	6726	54.85		3445	3048									
36th Congressional District	12262	6726	54.85		3445	3048									
23rd Senatorial District	12262	6726	54.85		3445	3048									
42nd Assembly District	12262	6726	54.85		3445	3048									
State Bd. of Equalization, Dist 4	12262	6726	54.85		3445	3048									
5th Supervisorial District	12262	6726	54.85		3445	3048									
City of Banning	12262	6726	54.85		3445	3048									

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/12/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on November 12, 2014 at 3:00 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: Homer Croy, Interim City Manager
Lona N. Laymon, Assistant City Attorney
June Overholt, Administrative Services Dir./Deputy City Manager
Colin Tanner, Attorney – Aleshire & Wynder, LLC
Pete Ferguson, Attorney
Marie A. Calderon, City Clerk

CLOSED SESSION

Assistance City Attorney Laymon said that there are four closed session items on the agenda. In regards to Item 1, two cases of potential initiation of litigation pursuant to Government Code Section 54956.9 (d)(4) there are actually no items to discuss. In regards to Item 2, existing litigation pursuant to Government Code Section 54956.9 (d)(1) those are two cases Robertson's Ready Mix, Lt., v. City of Banning and the Banning City Council; City of Banning Mayor Debbie Franklin, City of Banning Council Members Edward Miller, Art Welch, Don M. Peterson and Jerry Westholder those are filed as two separate cases Riverside Superior Court Case No. 1409829 and Riverside Superior Court Case No. RIC 1409037. Item No. 4, existing litigation pursuant to Government Code Section 54956.9 (d)(1): a) Julie Robles v. City of Banning, et al. Case No. CV 14-00856-VaP-SPx; and b) Highland Springs Resort v. City of Banning, Riverside County. Superior Court Case No. 1206246 (Consolidated with Cherry Valley Pass Acres and Neighbors v. City of Banning – Riverside Superior Court Case No. 1206271). With respect to Item No. 3, Public Employee Discipline/Dismissal/Release pursuant to the Brown Act Government Code Section 54957 (b)(2) the employee in question was given: 1) notice that this matter has been placed on the closed session agenda for this special meeting of November 12, 2014; and 2) that said employee has an opportunity to request that the matter instead be heard in open session. She said that their office has been informed that the employee is requesting that this matter will be discussed in the open, rather than closed, session. Therefore, any complains or allegations relating to this matter will be heard as part of the open session agenda after the report from the closed session is made.

Assistant City Attorney Laymon returned the closed session to the Council and we would open this for public comment with respect to all the closed session items excepting Item No. 3 as the public will have an opportunity to comment on Item No. 3 on the open session agenda.

Councilmember Peterson said regarding this matter with the employee is this actually a Council decision or this entirely a City Manager decision.

Assistant City Attorney Laymon said this is a City Manager decision and we will have a full staff report when we return into open session. There is and never has been expected to be any reportable action or action taken by the Council on this matter as it is within the City Manager's purview.

Councilmember Peterson said then the purpose of Council being involved in this is what, if it is entirely a City Manager's position.

Interim City Manager Croy said because he is the Council's Interim City Manager and to be transparent with all actions that he does he is reporting out his findings to the Council and he has an updated report from the one the Council received in their packet that will actually clarify more in line with what he is doing.

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

Meeting went into closed session at 3:04 p.m. For the record Councilmembers Westholder did not participate in the discussion regarding existing litigation pursuant to Government Code Section 54956.9 (d)(1) Highland Springs Resort v. City of Banning, Riverside County Superior Court Case No. 1206246 (Consolidated with Cherry Valley Pass Acres and Neighbors v. City of Banning – Riverside Superior Court Case No. 1206271) because of a conflict of interest.

Meeting reconvened at 3:40 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 3:40 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/12/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on November 12, 2014, at 5:01 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: Homer Croy, Interim City Manager
Lona N. Laymon, Assistant City Attorney
Colin Tanner, Attorney – Aleshire & Wynder, LLC
June Overholt, Administrative Services Dir./Deputy City Manager
Duane Burk, Public Works Director
Alex Diaz, Interim Chief of Police
Heidi Meraz, Community Services Director
Fred Mason, Electric Utility Director
Tim Chavez, Battalion Chief
Marie A. Calderon, City Clerk

The invocation was given by Merle Malland, Chaplain-Banning Police Department. Councilmember Welch led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Assistant City Attorney said that four items were listed for closed session: 1) In regards to the two cases of potential initiation of litigation there were no items to discuss and so there was no discussion or reportable action; 2) with respect to existing litigation pursuant to Government Code Section 54956.9 (d)(1): Robertson's Ready Mix, Lt., v. City of Banning two cases Superior Court Case No. RIC 1409829 and Superior Court Case No. RIC 1409037 there is no reportable action; and 4) with respect to existing litigation pursuant to Government Code Section 54956.9 (d)(1): a) Robles v. City of Banning, et al. Case No. CV 14-00856-VaP-SPx the Council did unanimously approve a settlement agreement of \$40,000 to be paid by the City to the plaintiff in exchange of a full release of all claims; and b) Highland Springs Resort v. City of Banning, Superior Court Case No. RIC 1206246 consolidated Case No. RIC 1206271 there is no reportable action.

Assistant City Attorney said with respect to Item No. 3 there were no specific complaints for allegations discussed in closed session because the subject employee requested that this matter be discussed in open session pursuant to Government code Section 54957(b). She asked the Mayor and Council where on the agenda they would like to hear this item.

Mayor Franklin said now as part of Report Out. Assistant City Attorney asked if there was consensus that as part of this Report Out and part of this action now we will hear this item. **There was Council consensus.**

Assistant City Attorney said before we begin she will take a few moments to explain the process that we will use to conduct this discussion. Under the Brown Act, an employee may request that complaints and charges be discussed in the open session rather than closed session. This open meeting requirement means that, when such a request is made, we are required to discuss in open session, the complaints or the charges that we would otherwise have discussed in closed session. This matter pertains to that certain anonymous letter dated April 7, 2014, that was sent to the City Council alleging various allegations against City Public Works Director Duane Burk. As may be further discussed by the City's Personnel Attorney, an investigation of the complaint has been made at the order of the City Manager. Under the City's Municipal Code, the City Manager has the exclusive authority to evaluate and investigate City Department Heads and administration. Therefore, there is actually no action for the Council to take on this matter. It was being purely presented as an update. The City Manager, in pursuing the anonymous complaint, had an investigative report conducted. That report is dated October 6, 2014. Based on this report, the City Manager has determined that the allegations against Mr. Burk are unfounded. Thus, he has determined to take no further action on this matter. Although the City Manager's decision in this regard is outside the action authority of the City Council, the City Manager did want to produce the report to the Council and update the Council with his intended action in a confidential closed session. However, as previously noted, any closed session held with regard to any complaint against a specific public employee is subject to this requirement that the employee in question is advised of the opportunity to request that the matter instead be heard in open session. Notwithstanding the fact that no action was or ever has been proposed for the Council on this item, out of an abundance of caution, the City did provide Mr. Burk with the required notice under Government Code Section 54957(b)(2). On November 20, 2014, Mr. Burk through his attorney did request that this matter be heard in open session. Accordingly we advised that this matter needed to be discussed in open session and that is why we are hearing it now. To further facilitate Mr. Burk's request, and in the interest of public transparency, the City Manager's report and his decision with regard to Mr. Burk, and the investigative report that was conducted on the anonymous letter, dated April 7, 2014 will both be available publically. As the complete reports with exhibits is very lengthy, we only have one copy of the report currently available and it is up front for review by those who wish to see it next to the City Clerk's desk. Members of the public may also request copies of the report pursuant to the Public Records Act. In closing, the City is already in more than one lawsuit concerning former employees. With regard to this matter, the Council's desire was that the anonymous complaint be thoroughly investigated and it has been and that report is available. The City Manager has considered the investigative report within his authority as set forth in the City's Municipal Code and he has determined not to take further action. The availability of the report will allow everyone to

evaluate this matter for themselves and the report basically speaks for itself. Perhaps most importantly, as the Council is not responsible for employee discipline in this particular matter, and because of the risk of comments being used against you in the pending litigation, it is their strong recommendation that Councilmembers make no statements in response to either Mr. Burk or to the public in the course of this matter or this hearing. She advised the Council to simply listen to public comment, take any further updates that Mr. Croy may have on this matter, and then "receive and file" Mr. Croy's report. At this time Assistant City Attorney turned this item over to the Council and advised the Mayor that they start with any further information from staff if they have any.

Mayor Franklin asked Interim City Manager Croy if he had any other comments he would like to add. He said that he had no comments to add and that it is all outlined in his report.

Mayor Franklin asked Colin Tanner if he had anything to add. Mr. Tanner said that the report obviously speaks for itself and while it did find most of the serious allegations unfounded there was some criticism in the report and that is commented on in the memo from Mr. Croy to the Council but it is taken into consideration in terms of his final action and typically personnel investigation reports are confidential and this report was done by an attorney hired by the City at the request of Mr. Croy but since it was being submitted to the Council to "receive and file" in closed session but that was asked to be done in open session that that report that which is typically confidential has now been made public at the request of the employee's attorney.

Mayor Franklin asked the Council if they had any questions. There were none.

Mayor Franklin asked Mr. Burk if he had any comments he would like to add. He said none.

Mayor Franklin asked the Council if they had any clarifying questions of Mr. Burk, if any. There were none.

Mayor Franklin opened the item for public comments.

Inge Schuler resident of Banning addressed the Council stating that she has brought this before the Council at their last Council meeting pertaining to the billing cycles of our utility bills. We are now asked to reduce our water use by 20%. She asked how is she to figure out 20% of her water use if one billing cycle is 26 days, and the next one is 34 days. Does the City have any software available that will enable her to plow through her records that are provided by the City to find out exactly what that 20% is? And while she has to reduce this by 20% sometimes this may even cut into, depending on what cycle we are using, the actual use of the water for her livestock. It is really quite a problem. If she does not reduce it by 20%, she may face a fine by the State for \$500 and her water bill is already over that amount because she is using a lot of water for agricultural use. She is really in pickle here and would like to get some answers very quickly before she starts depleting her financial resources and maybe have to change her lifestyle entirely and do something else.

Mayor Franklin clarified that public comment for right now is specifically on this one matter and regular public comments will be opened after they finish with this part of the meeting.

Fred Sakauri said he was wondering if there was any more attempt to try to determine who wrote the anonymous letter and also, if there will be a certain protocol with the City Council or with the City legal staff with regards to what will be done in the future rather than wasting all of this time on an anonymous letter. Is there some sort of criteria that has to be met so that we will not waste all this time on some stupid anonymous letter?

Don Smith addressed the Council stating that the result of this investigation does not surprise him. Having worked with the subject employee on numerous projects for twenty years he had no doubt of the outcome. He is curious as to how much this investigation cost and that would be nice to be released also because he somewhat agrees with Mr. Sakauri that this was an anonymous letter with no supporting facts, just allegations. And he understands that they were serious allegations but if he starts writing silly letters about things the Council did as he told the Council before, he hopes that we don't start spending \$30,000 in attorney's fees to see if his made up allegations are true.

Mayor Franklin closed this item for public comment seeing no one else coming forward.

Mayor Franklin asked if there was any further discussion from the Council; there was none. As noted by the City Attorney, this item falls outside the purview of the City Council's authority and no action is proposed and is that correct.

Assistant City Attorney said that is correct. The Council may discuss the item further if it wishes, but as noted previously, the Council is not responsible for employee discipline in this particular matter and because of the risk of comments being used against you in pending litigation, it is their strong recommendation that Councilmembers do not make statements at this point in time. She also reiterated that reports in this matter will be treated as public records. Otherwise, you are correct that no action is proposed and the Council is to simply receive and file the report and a motion to take that action just to receive and file the report is appropriate.

Mayor Franklin asked staff if there was any response for either of the questions that were asked regarding the protocol for the future cost and is that something we may bring up later.

Mr. Tanner said as a personnel matter when the City receives complaints against City personnel it is the City Manager's job to weigh and evaluate those complaints in conjunction with the City Attorney's office. The fact that something is anonymous it is not ideal but there certainly have been many anonymous complaints in the history of municipal government. Some of them very serious and some that lead to serious investigations. So sort of gate keeper is what he thinks is being asked is usually the City Manager and the City Attorney and if there is sufficient allegations such that the City knows how to conduct the investigation and they are serious, then often times at an abundance of caution the City Manager, with advice of the City Attorney's office, will recommend that the investigation be undertaken. That is usually a degree of what is the nature of the allegations, are they specific enough where they can be investigated, and who it involves. Again, that is a determination that is made by the City Manager as part of his duties and responsibilities.

Motion Welch/Peterson to receive and file the report. Motion carried, all in favor.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – On Items Not on the Agenda

Don Smith addressed the Council stating that in this year's election something happened that we need to have a policy so that it doesn't happen again. When we first build this magnificent building that we are sitting in and had discussions about spending the money to put in the camera system, discussing whether that would be a good thing or a bad thing. One of the things we discussed was that the camera system would allow us during the elections to actually have debates that mostly everybody in town could see. Now anybody with a computer can see them because they will be scrolled later. He doesn't want to discuss why it happened, how it happened; he doesn't care. But this year for the first time since this building was built we did not do that for this election. We did not have debates in this building where the public before they got their ballots could hear the candidates take on the issues from either the Water Board, the City Council, the Library District; we never got that opportunity. We need a policy so that in the future it happens. What we got unfortunately is a lot of outside money spent on all of the candidates telling us to vote for Sue because she is nice and don't vote for John because he is mean and too not vote for Measure J because bad things will happen but we never really got to hear anybody discuss the issues in a meaningful way because we didn't have that debate. He hopes at the end of this meeting you add to the future agendas that a policy is set that we know how we are going to have those and that they actually happen.

Fred Sakauri addressed the Council stating that with the unfortunate burning of Bud Mathewson's former building and the new Council coming in he thinks we have a wonderful opportunity for the City Council to hold to the word about streamlining the processes of getting a building permit and getting things done. That building has to come down and this is a great opportunity to invite developers to come into Banning and we can show them that Banning can be friendly to developers to get something in there and streamline the building processes instead of nitpicking every single item on the plans or whatever and let's get things done. We have the Paseo that will hopefully start construction fairly soon and we can show people that want to build something here in Banning that we can streamline the processes instead of just talking about it. Personally he would like to see a western steakhouse with a dance floor on the upper floor but he doesn't have the money to do all of that. He hopes the City Council can induce some developer to come in there and get something done in a streamline fashion.

Frank Burgess, 2201 W. Wilson Street addressed the Council stating that he has been in Banning for fifty plus years and he has built about ten buildings and has never had a problem in the Planning Department or the Engineering Department as long as he presented his thing properly. We have ordinances and resolutions and these outside developers that come into our community want you to give them the moon. Look around downtown, the millions of dollars that have been spent, what we as a taxpayer have got to show for it. It is unbelievable the money we have wasted. And to bend over backwards for a developer we knew back in 1960 Banning was to be at some 50,000 population and that was the goal at year 2000 and that didn't

happen and that is okay but we knew the growth was coming and it is still coming but let's plan the way the City wants it and not the way the developer wants it.

Amy Pippenger, forty year resident of Banning addressed the Council stating that she is here to talk about Dysart Park. She said the Council's October 13th City Council meeting there was an approval of CDBG Funds for approximately \$30,000 to be spent on each park in the city with the exception of Dysart Park. She wanted to know why Dysart Park was excluded. She hears all the time that there is nothing to do in this city. We need more space to build soccer fields and baseball diamonds. As a parent and resident of Banning she knows that when her children wanted to play sports such as basketball, football, soccer, baseball or softball she could take them to Reppier Park, Sylvan, Roosevelt Williams, Lions, Nicolet Middle School, or even the high school but when her daughter wanted to take on a new sport which was barrel racing she has one choice in the city and is Dysart Park. So why doesn't it not receive funding like the other parks? The City of Banning is sitting on a gold mine called Dysart Park but the equestrian world has so many different events that Dysart Park if developed correctly could have events 364 days a year. The money that the City could make from these events would create income to fund other recreation programs within the city. Heidi Meraz, Parks and Recreation Director has already stated that there is one event, the Gay and Lesbian Rodeo held every year in May and they pay \$2,500 for the weekend and that money is used to fund the Youth Basketball Program. So think about it for a second, if one event helps to fund the basketball program just think what we could do with events being held there all year around. She wishes that all of the Council could envision what she sees; the potential there. She said that some events that could be held there would be barrel races, bull riding, 4H shows, gymkhana, dressage, hunter-jumpers, reining, carriage driving, calf roping, California Junior Rodeo, high school rodeos and possibly BPAL, the Boys and Girls Club or the 4H could offer after school programs because we all know the more activities we have for kids the less likely they are going to get into mischief. She can't understand why money is not spent on Dysart Park developing an equestrian center when she knows that approximately \$200,000 that the Grand Jury found unaccounted for with the Cultural Alliance could have provided permanent restrooms, ADA compliant bleachers, snack bar with a full kitchen, permanent holding pens that are desperately needed at Dysart Park. Also, she forgot to mention the \$32,000 that the Chamber has failed to pay in electric bills that could have installed fencing. The amount of money that has been wasted over the past few years makes her sad and angry as a resident because she knows what \$200,000 could do at Dysart Park. She asked the Council to please include Dysart Park in the future for all your decisions when you are giving out money. Dysart Park is just as important as our other parks.

Mayor Franklin said for clarification on page 43 of the Agenda for today, Dysart Park is on there for funding.

CORRESPONDENCE -- None

CONSENT ITEMS

Mayor Franklin pulled consent Item No. 5 and 6.

1. Approval of Minutes – Special Meeting – 10/28/14 (*Closed Session*)

Recommendations: That the minutes of the Special Meeting of October 28, 2014 be approved.

2. Approval of Minutes – Regular Meeting – 10/28/14

Recommendations: That the minutes of the Regular Meeting of October 28, 2014 be approved.

3. Resolution No. 2014-80, In Support for March Air Reserve Base and the Naval Surface Warfare Center Corona

Recommendation: That the City Council adopt approve Resolution No. 2014-80, thereby affirming the Council's formal position in support of our Local and Regional Military Installations in the County of Riverside.

4. Resolution No. 2014-76, Approving the Projects for the Fiscal Year 2015-2016 Community Development Block Grant (CDBG) Program

Recommendation: That the City Council adopt Resolution No. 2014-76, Approving the Projects for Fiscal year 2015-2016 Community Development Block Grant (CDBG) Program, and authorize staff to submit said applications to the Riverside County Economic Development Agency.

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

Motion Peterson/Welch to approve Consent Items 1 through 4. Motion carried, all in favor.

5. Resolution No. 2014-77, Awarding the Construction Contract for Project No. 2014-EL, Demolition of the Building Located at 215 E. Barbour Street

Director Mason gave the staff report on this item as contained in the agenda packet. He said this property was purchased by the City back in May and we now need to demolish the old dilapidated building so that we can utilize the property.

There was dialogue between the City Council and staff in regards to the price being high to demolish the building, the bidding process and getting this to a broader point to be able to bring in more people or advertise in alternative ways to get more interest, and also review the purchasing policy to include some mechanism for having a much wider distribution for the bid request.

Mayor Franklin opened the item for public comment.

Frank Burgess addressed the Council stating that \$28,000 is what the bid is and what is the rule of the City to go out to bid over the department head's authorization? In other words, some years back we set a maximum that anything over \$5,000 they had to go out for bid so what is the bid now that they are authorized.

Interim City Manager said the City Manager can approve anything less than \$25,000 and Council approves everything over that amount.

Mr. Burgess said he would probably go down there and tear it down without a license for about \$15,000 and still have money left over but he is concerned that staff doesn't know to go out for bid as Councilmember Miller just described in regards to the construction world magazine and things and you go out for legal bids and what was the procedure in the bid program; what did you ask for in the bid?

Mayor Franklin explained that the Council is not to discuss the items in that sense but she believes Councilmember Miller stated it well. We will be working on the new policy and hopefully adopting.

Mr. Burgess said this will be coming up and let's worry about the millions of dollars we spent and it is always after the fact. We have to stop this. Now you have a \$28,000 bid and how soon does the City need the building removed. He would recommend that the City Council put their heads together and do not accept this bid and you solicit more widely.

Amy Pippenger said that in Beaumont you register as a contractor and anytime that there are upcoming jobs they send emails out to the contractors letting them know.

Mayor Franklin said that the City of Banning does that also.

Mayor Franklin closed the item for public comments seeing no one else coming forward.

There was further Council comments in regards to this bid going out further and broader, more distribution to get additional bids.

Motion Councilmember Miller that we postpone approval of this until we get additional bids or send out additional information to additional advertising sources. Motion seconded by Councilmember Welch.

Mayor Franklin said it has been moved and seconded that we will reject this bid and put it out to bid again to see if we get a better response.

Assistant City Attorney said for clarification on the record are we moving to reject this bid and rebid or to hold this bid which she is not sure we have authorization to do. She believes Councilmember Miller stated to "postpone" awarding this bid so she thinks the proper term would actually to "reject this bid and to rebid".

Mayor Franklin asked Councilmember Miller if that was his motion. Councilmember Miller said that was fine and Councilmember Welch seconded. Motion carried, all in favor.

6. Resolution No. 2014-78, Approving the Purchase of Two (2) 2015 Chevrolet 3500 Crew Cab 4 Wheel Drive Vehicles for the City of Banning Electric Utility Department.

Director Mason gave the staff report on this item as contained in the agenda packet and said this is a request for two new vehicles to replace a 13 and 14 year old truck. He gave the Council some background that was included in the staff report and stated that the individual that does the purchasing and the bidding for the Utility actually contracted four different dealerships and got four bids from different dealerships and that was sent through and they were informed by the Finance Department that that was not acceptable as it was over \$5,000 and had to go out for formal bid. So they went out for formal bid and received one bid. He stated that Diamond Hills was the lowest of the four when they actually went out and contracted the four dealerships. In this situation he would say that they really don't need to go out because they actually got four bids from dealerships in the area and this was the lowest and when they went out to do the formal bid as instructed by the Finance Department, these were the only ones that responded to that formal bid.

There was dialogue between the City Council and staff in regards to the use of any tools like an Edmonds or anything like that to get an idea, the fleet or commercial people, internet managers to find out if this is your best buy, using formal protocol, need to look at purchasing ordinance to see when it is appropriate to use the tools available now through technology, benefits of technology, local preference, use of State contract, and consideration of the use of the internet. There was also some discussion in regards to the useful life of vehicles and what happens to old trucks.

Mayor Franklin opened the item for public comments.

Frank Burgess asked what is the ordinance number in regards to the 10% preference because he would assume you have a bid system.

Frank Burgess asked for the ordinance number that gives that 10% preference because he would like to read it and he realizes that he is going back thirty years but we had the old father family in the community that was getting the insurance contract for the City and they would never go out to bid on it and it was costing us thousands of dollars. And you have a bid system he would assume that a department head would tell what they want for the truck and send it out to the different departments. He listed to Director Mason talk and he cannot believe that informal bids and then they don't follow up. He said he had an experience on that also when they had bids on water pipe had already been delivered in the yard and unfortunately the water companies that he contracted never got anything from the City saying they were asking for bids so he is suspicious when he doesn't hear the facts. He said he is a taxpayer here and his taxes are awful high. He said Banning has the highest tax rate of Riverside, San Bernardino, Calimesa, Rancho Mirage and Palm Springs. It is 1.41 higher than any other city in the area and why he doesn't know but it has to stop.

Interim City Manager said the number is 3.24.140 and it is titled local preference.

Mayor Franklin closed the item for public comment seeing no one else coming forward.

Mayor Franklin said she asked that this item be pulled only because she did receive a contribution for her campaign from Diamond Hills and she did check with FPPC (Fair Political Practices Commission) and it is okay for her to vote on it but until she gets it in writing she will abstain on this vote.

Motion Peterson/Miller to approve Consent Item No. 6 adopting Resolution No. 2014-78, Approving the purchase of two (2) 2015 Chevrolet 3500 Crew Cab 4 Wheel Drive vehicles from Diamond Hills auto Group of Banning, California in the amount of \$37,980.80 each, totaling \$75,961.60 plus taxes and fees. Motion carried, all in favor.

REPORTS OF OFFICERS

1. Resolution No. 2014-79, Awarding the Construction Contract for Project No. 2014-05, Sidewalk Repairs at Various Locations and Rejecting All Other Bids.
(Staff Report – Duane Burk, Public Works Director)

Director Burk gave the staff report on this item as contained in the agenda packet. He said that these locations come in basically through observation by City's field staff and complaints through the community. At this time he displayed to the Council and the audience some of the locations of these sidewalk repairs. He said that this is not the entire city and it is not rated in any other scale. He said that they did advertise in the Record Gazette, sent it out to their Plan Holder group, advertised on the City's website and did not advertise in the Press Enterprise. They received three bids and the lowest responsible bidder was Hardy & Harper of Santa Ana, California.

There was dialogue between the City Council and staff in regards to where these sidewalk repairs will be done/locations, possible removal of roots and/or replacement of trees causing sidewalk damage, verifying the work that is done, and making this an annual project.

Director Burk said that he would make the list of locations an exhibit to the resolution.

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

Motion Miller/Peterson that the City Council adopt Resolution No. 2014-79: I.) Awarding the Construction Contract for Project No. 2014-05, Sidewalk Repairs at Various Locations to Hardy & Harper, Inc. of Santa Ana, CA in the Amount of \$73,905.00 and allowing a 10% contingency of \$7,390.50; and II.) Authorizing the Administrative Services Director to approve change orders within the 10% contingency. Motion carried, all in favor.

2. Resolution No. 2014-73, Amending the Contract Services Agreement between the City of Banning and the Romo Planning Group.
(Staff Report – Brian Guillot, Acting Community Development Director)

Acting Director Guillot gave the staff report on this item as contained in the agenda packet. He directed Council's attention to page 225 of the agenda packet in regards to the scope of the amendment. He said the hourly rate is \$80.00 and that would be variable. He said that they intend on resolving the staffing issues within the next four months or so. At the begging of this term they would use a contract planner for 36 hours per week so if they were to do a calculation for two months that would be about \$23,000 and if they would continue on for four months that would be about \$46,000. They are seeking these services to fill a gap so that could change

depending on the circumstances in the department. Staff does recommend approval of this amendment in order to continue providing planning services to the public and to proceed with the projects and applications they have on hand right now.

There was Council dialogue in regards to this being a needed and necessary service to continue until we get in-house personnel and the price is very good and as a stop gap it is excellent. Also the need to keep track of how many hours we use them so that we know as we evaluate going forward whether or not it is more cost effective to continue to contract out as opposed to hiring somebody full-time.

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

Motion Peterson/Welch that the City Council: I.) Adopt Resolution No. 2014-73, Amending the professional Services Agreement between the City of Banning and Romo Planning Group, Inc. for Additional Planning Services for remainder of the contract period; and II.) Authorize the City Manager to execute the First Amendment with Romo Planning Group, Inc. on the form that is approved by the City Attorney; and III.) Authorize the Administrative Services Director to make necessary budget adjustments for FY 2015. Motion carried, all in favor.

3. Airport Land Use Commission (ALUC) Report – General Plan Amendment and Zone Change for 18 properties located in a Neighborhood Bounded by Hargrave, Barbour, Juarez and Westward Avenue.
(Staff Report – Brian Guillot, Acting Community Development Director)

Acting Director Guillot gave the staff report on this item as contained in the agenda packet. In June of 2014 the Council approved a resolution directing staff to do a rezone. Part of the process, although complicated, is to present the application to the Airport Land Use Commission (ALUC) and that is because the property in question is located within Zone D of Banning Municipal Airport that compatibility plan. So the application was made to ALUC and when the staff report was prepared it came back with a finding of inconsistency and they listed the reasons for that. Staff immediately asked for a continuance on this item in order to bring it back to Council to get their comments. Basically, although it seems complex, their issue is very simple. If you are going to do a rezone like this and there are non-conforming properties those are fine but if you allow a potential for development which would mean an increase in density, they cannot find that consistent. Acting Director Guillot displayed a map of the area and said some of the properties are quite large going from 1.8 acres to 2.8 acres so those properties are the ones in question. Under the proposed zoning the VLDR (Very Low Density Residential) could be subdivided so you could add single family dwellings which is the objection. Staff is recommending a solution in that we create a VLDR Zone with an overlay and the overlay would be simply not allowing anymore further subdivision and we could do that by limiting it to 80,000 square feet or basically about 2 acres. In speaking with Airport Land Use planners they said that would be suitable and could recommend consistency. He said that before staff proceeded on this solution they wanted to present it to Council.

Councilmember Welch said this in no way hampers the City's ability to continue with commercial in and around the airport.

Acting Director Guillot said this would just find the proposal consistent with their Airport Compatibility Plan for just the parcels in question. Council must realize that if we proceed with this proposed recommendation the parcels will basically exist as they are now. They would be prevented from further being subdivided.

Councilmember Miller said that this is a rezoning and it seems to him that before we rezone anyone's property we should have some comments from the owners of that property and have they contacted the City or has staff contacted them to see what their opinion is of this proposal.

Acting Director Guillot said he was actually going to contact them after he heard from the City Council to know his direction as to how to proceed. They will be sent a letter of the proposed solution and then this will follow the normal process with a Planning Commission hearing and the recommendation of the Planning Commission will be delivered to the City Council and then there will be another public hearing.

Councilmember Miller asked about the history of the zoning of these 8 parcels. Acting Director Guillot said that there are actually 18 parcels. As he understands it some years ago they were zoned residential and then at a later date they were rezoned industrial and what it created was legal non-conforming residential properties. So the City Council initiated this City to zone it back to residential so they took that proposal to the ALUC. Now remember in that time period probably before it was rezoned the very first time the ALUC did not exist and laws developed and constraints developed and became more complicated.

Councilmember Miller said originally these were residential and as he remembers it was rezoned industrial without the owners of the property being aware of that and that is why they came and we are rezoning it back to residential. So it was originally residential and there was no problem and the problem is that the ALUC was developed after the initial zoning and this introduces a restriction that did not exist in the original residential zoning and is that correct.

Acting Director Guillot said the Airport Compatibility Laws are designed so that future development is compatible with existing airports and so this property is about 1700 feet from the airport so that's kind of a fact we are having to deal with now so as we proceed with Airport Land Use and Riverside County policies then we had this matter and that is why he is proposing this solution.

Councilmember Miller said you mentioned somewhere in this is another possibility to rezone these as very high density and he cannot understand that and would he please explain that.

Acting Director Guillot said in the policies of the ALUC basically single-family dwellings, low density residential (LDR) are highly desirable and those individuals are not a good fit for Zone D of the Compatibility Plan. So what the policies of the ALUC say is either you push them into very, very high densities (18 to 20 units and above) because those are subject to more ambient noise than a low density residential or you make it so there is one unit for every ten

acres so there are not as many individuals suffering from any airport noise. That is their policy and so we are trying to work within their guidelines.

Councilmember Miller said before he says this is a good idea he would like to hear from the owners instead of them going through the whole Planning Commission thing and then having them object. He would like to hear before-hand, right now before he approves this what they think of this. If the owners of these properties thinks it is fine, that great. But if they have a really strong objection to it they own the property at this stage we should take into account what they want and see what we can do with it instead of going through this long-winded process.

Mayor Franklin said she thinks the whole idea of this coming to the Council is for them to give direction to staff so if that is what you want or if that is what the Council wants, then that is the direction that we would be providing tonight.

Councilmember Westholder said he is totally confused. He said the reason we rezoned this back residential is so that the people who own the property can get their roofs fixed, take care of their property and do what they need to do with it and is this correct.

Acting Director Guillot said yes and they will have all the rights that go with VLDR zoning. In other words lot coverage, setbacks; all those will apply. Simply the stipulation by Airport Land Use would be no further subdividing and that is why he is proposing this 80,000 square foot overlay.

Councilmember Westholder said he would agree with Councilmember Miller in that it would be nice to hear what the residents actually say because they already went through the problem once already and why put them through that additional frustration.

Councilmember Peterson said that this occurred in 2006 and it was changed and affected all the residents on Charles Street as well as Barbour and that entire block moving eastward from Hargrave. So we have redone and rezoned the homes that were affected on the north side of Charles and now we are dealing with the homes on the south side of Barbour in between Hargrave down to Juarez. What if these people own less than two acres? You want to have 80,000 square foot lots; right.

Acting Director Guillot said no. By adopting the overlay on the parcels that could be subdivided under VLDR it prevents that and that is acceptable. All the other parcels with some being quite small their policy, their own ALUC policy says those non-conforming stay non-conforming. There is nothing they can do about existing residences.

Councilmember Peterson said if we have a house there now that is non-conforming because it is zoned industrial, you are not going to change that back.

Mayor Franklin said that for those properties that are already residential this allows them to stay residential and do whatever they need to do on their properties and it will also allow them to sell as residential. We are rezoning back to residential.

Acting Director Guillot from your initiating the proceedings directing staff to rezone and the actual resolution to be presented to Council to rezone is a process and in that process we have to go through Airport Land Use. So we came upon a little hiccup and he is addressing it to Council because in that staff report that initiated it said if there is a problem with Airport Land Use we will come back to you and so there was and he has and he is just seeking direction at this time. Also, we rezoned this area south of this and the reason we didn't have the issue is because they are on the other side of the line and were not subject to Zone D restrictions.

Mayor Franklin opened the item for public comments.

Heidi Meraz, resident of the area said that they are happy with the solution that Acting Director Guillot has come up with. It does preserve the lifestyle that they are used to which is maintaining their residential area as well as not worrying about the future of maybe high density being put next door or down the street. She said this seems like a good solution.

Frank Burgess asked if this has gone before the Planning Commission and isn't that what the Planning Commission duties are on these things to recommend to the Council the action instead of the Council making a recommendation on it. Does this ALUC override our Planning Commission? It sounds to him like this should be going to the Planning Commission for their action regardless which way it is going to go.

Don Smith said that he would have to agree with Councilmember Miller. The houses on Hargrave, the 10 houses that are on these smaller lots, the ALUC doesn't have a problem with. This all started because of the six houses on the south side of Barbour want their residential back and Heidi Meraz is one of them. Two of those are on small lots that cannot be subdivided and four of them are on big lots that could be subdivided. He would assume although he would think you are right before Council votes on this those other houses need to be directly contacted and told about this and when the hearings will be held so that if they have any input they can come. He said that he sees the problem as being the three land owners of the very large completely empty vacant lots that are now being asked their two-acre vacant lots can only ever be used to build one house on. Those three lots are ones that you are really going to have to talk to the owner because maybe they would rather have the high density. Maybe those three lots would rather stay industrial. The six will be positively impacted and he wants to give them what they want and he thinks this plan is a good one but those three vacant lots may need to be treated differently.

Mayor Franklin closed the item for public comments seeing no one else coming forward.

Mayor Franklin asked if there was a possibility that we would be able to split it or does it all have to be zoned the same way.

Acting Director Guillot said the issue with ALUC is creating an additional problem so they are okay with the solution as proposed. If for some reason the Council wanted to allow subdividing, he thinks that they would find it inconsistent again. If you read their staff report on page 275, the very last paragraph states, "This leaves the three vacant properties as was

mentioned proposed as VLDR ... So if we were to treat it any differently that what he has proposed to the Council except for the high density option, they would find inconsistent and that would complicate matters greatly. He is trying to put forward the solution that he feels would work best in this unique situation.

Mayor Franklin asked Acting Director Guillot to summarize what the next steps would be depending on the direction given to the Council you would then be contacting the residents.

Acting Director Guillot said he could do that and then he could come back with a very similar report to the Council and at that point if it is acceptable, it would go to the Planning Commission for a recommendation and then they would give their recommendation back to the City Council so there would be two public hearings.

Mayor Franklin asked would it need to come back to the Council before it goes to the Planning Commission. Acting Director Guillot said no, not necessarily. Mayor Franklin said if we give you direction the residents are okay with it; she is just trying to think how to eliminate a step. Acting Director Guillot said he would appreciate that and it would take out that one step of coming back to the Council and then they would have the Public Hearing at the Planning Commission and take comments and then bring the final resolution back to Council.

Councilmember Peterson said all this block and area will all be returned back to residential with no more industrial, no more warehouses, nothing can be built there except for a house. Acting Director Guillot said that was correct.

Councilmember Miller commented that this really irritates him in that it is a snafu that was generated by government for who knows for what purpose but this was originally residential, the owners of this property had residential property and it was changed by a previous Council to commercial and as he understands with the knowledge and approval of the owners and now we are trying to change it back to residential and there is another government agency the ALUC that says no, you can't do that. It seems to him that all this happened by government interfering with these property owners without their knowledge and that is what really disturbers him. He wants to make sure that the homeowners are truly informed and are invited to come and give their opinion before anything else happens.

Councilmember Westholder said we are righting a wrong here and the bottom line is that previous Council's made it industrial and now we are going back just to take care of our residents that reside there and the property owners.

Acting Director Guillot said he is simply following the direction of the Council in that we are returning it to VLDR zoning.

Mayor Franklin reopened the public hearing because there is a resident that came in.

Mr. Meraz, resident of the area address the Council stating that he owns a parcel, 1.9 acres and from what he read in the agenda he is mostly in support of the recommendation of staff because it does restore the property owner's ability to make residential improvements that they lost

when it was rezoned to commercial/industrial zoning. He is looking forward to that possibility. However though because they have had to qualify how we do this overlay it appears to him that that comes with an added burden to the property owners that we cannot subdivide our parcels because then we get to this density ratio issue that the Airport Land Use is applying to our area. So he is 80% in favor of what he is seeing in the proposal because it does give them back the ability to do residential improvements. He pointed out that when he went to the September ALUC hearing he was a bit surprised because he went there to try to make his case why we should go back to the original proposal which was just to do our low density zoning without any qualifications but what surprised him is that apparently City staff had already talked to the Commission and were backing off from the original proposal because they had found out there was an inconsistent finding from the ALUC. Why he was surprised was that it seemed like the Commission staff report had actually opened the door a little bit that if the City had just made their case why our standard zoning met the compatibility requirement, if we would have made that justification, they would have accepted it. But it seems like we didn't go through that effort that we just withdrew the request to maybe find what appears to be a compromise solution. It seems if we would have made the case and did get the original proposal approved, we would have the ability to subdivide. He said the area hasn't changed in 50 years since the original homes were built and nobody has looked in to subdivide or do any of those sorts of things; that would probably happen under the industrial/commercial zoning issue. But one consideration for him would be if and when we ever sell the property would it lose value because it can't be subdivided because it appears that the proposal would require if you have one development and two acres right now that is all you could every do with that property from this point forward. The proposal at least gives them what they wanted originally to do residential improvements so he is in favor of it in that way.

Mayor Franklin closed the item for public comments seeing no one else coming forward.

Councilmember Miller recommended that staff contact all the homeowners and have them involved in the discussions with the Planning Commission. He doesn't think it is necessary that it come back to the Council as long as the homeowners themselves are involved in the future negotiations.

Mayor Franklin asked Councilmember Miller if that was his motion. Assistant City Attorney said actually we are not looking for any formal approval; just general guidance from the Council.

There was Council consensus to the recommendation given by Councilmember Miller.

4. Purchasing System
(Staff Report – Homer Croy, Interim City Manager)

Interim City Manager gave the staff report as contained in the agenda packet describing his action plan in regards to the discretionary fund and the \$25,000 being a sufficient amount of money for the City Manager to be authorized to spend without Council's approval and that the Budget and Finance Sub-committee work with staff and come up with a plan to fix the gaps that are in the Municipal Code that are in conflict or don't address things. Also, you

mentioned tonight about issues regarding advertising methodologies, modifying to add in internet services for purchases processes, etc. these are all things that you could address in this committee and hopefully solidify this. Your Administrative Policy should really just be temporary and an Administrative Policy from 2001 is long beyond temporary measure. It should have been included in your Municipal Code and then rescinded and would also recommend the same thing with this Administrative Policy that he has in the packet for Council's review and approval to also rescind it once you have modified your Municipal Code to take in these areas of concern. There are things that need to be taken care of here that he thinks would help with control of your dollars and would also give the Council more authority and provide more transparency.

Councilmember Welch said that we have discussed this before and this kindly puts direction and priority to policy and administrative direction that we have not had before and it has been kind of a mixture in choosing the one that pleases you the best approach to get the job done. This does put a lot more direction to that and he is very much in favor of Interim City Manager's recommendations.

Councilmember Miller said that the recommendation that you have in the report is to approve the Purchasing Policy Addendum but you also mentioned having the entire purchasing policy reviewed by the Budget Committee so that really is your recommendation both the addendum and have the Budget Committee look at the whole purchasing process.

Interim City Manager said that was correct.

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

Motion Peterson to approve the purchasing policy addendum.

Councilmember Miller made a substitute motion to include what they were just talking about and approve Policy Addendum B23 (a), and have the Budget Committee look at the whole purchasing process. Motion seconded by Councilmember Peterson. Motion carried, all in favor.

5. Consideration of a Resolution No. 2014-82 entitled: A Resolution of the City Council of the City of Banning Adopted to Immunize the City from Litigation and Entitle it to Recover Legal Costs of Frivolous Litigation by Ratifying the Expenditure of Monies for Measure J Education Outreach and Restating Banning's Commitment to Comply with the Brown Act Consistent with the City's Current Practices and Policies
(Staff Report – Lona N. Laymon, Assistant City Attorney)

Assistant City Attorney gave the staff report on this item as contained in the agenda packet. This proposed resolution which the Mayor has already read into the record is basically reaffirming our commitment to the Brown Act. It does not admit any violation of the Brown Act. In fact, it expressly says that we believe that we did not violate the Brown Act but simply reaffirms our commitment to it. It also makes note of the fact that this action that was alleged against us that occurred on September 23rd is curable because the City Council's action was

unnecessary to begin with and therefore, we will simply nullify that City Council action as it was already authorized by the City Manager.

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

Motion Welch/Peterson to approve Resolution No. 2014-82. Motion carried, all in favor.

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

City Council

Councilmember Peterson --

- He said that he would like to follow up on what Acting Director Guillot from our Planning Department and also what Mr. Sakauri had pointed out earlier in public comment in his opening statement about the speeding of the process for people coming to Banning. When he first moved to Banning and he bought a piece of commercial property downtown and of course he wasn't on the City Council and he had no political connections whatsoever and was just the average citizens going in and making application to do work at his building. When he went in the first person he met was Brian Guillot followed up by Gary Speck from Building and Safety. He honestly has to say that in all his years he never met two fine people who assisted him through the process from start to finish as long as his paperwork was together. He had no problems, he paid his fees, Gary came out and did the inspections and everything went well. Sometimes he really gets tired of hearing how hard we are to do business with in the City and he does not really, really believes that because he has experienced it on a building owner's end or on a contractor's end and it really is not that hard. He has to commend Building and Safety and Planning for the way they do assist the people and coming through and going through the process and to include the people in electric when you are trying to turn on your meters, etc. he has never and this is outside the political arena but just as a building owner he has never encountered a bad day with them. He said if he had come in, perhaps with an attitude or demanded or didn't have the proper paperwork and then failed to comply with the request, perhaps he would have gotten angry or upset but he did what they asked and went through without a problem. He commended the people that work in city hall because he thinks they do great.

Mayor Franklin said she would have to echo what he said only because she has hear it from different property and business owners also.

Councilmember Welch --

- Said he would second what Councilmember Peterson said because he just heard the same story about a week ago from one of our very, very new businesses Papa Murphy's that is moving in. The gentleman and the lady who own and manage that business had nothing but praise for the staff at city hall and the help they got in walking through. In fact, they get a note back from corporate because they couldn't believe that the process took such a short period of time to get their business up and running.

- On the 20th of November at the Banning Community Center beginning at 8 a.m. to Noon the Pass Area Supporting Soldiers organization will be packing boxes to send to all of our men and women who are deployed. Everyone is invited to participate.

Mayor Franklin –

- Monday she went to the San Geronio Pass Water Agency meeting and they gave a presentation on where our water is in the Pass Area. It is available on their website so you can look at the various basins in our area see where they are now compared to where they were in the past.
- She attended the Riverside County Transportation Commission meeting and they had a report on Highway 91 to inform us what closures are going to be going on and what construction will be going on. There will be construction on the 91 until 2017. You can go either to their website which is www.sr91project.info or you can call their hotline at 877-770-9191 24-hours a day, every day of the week and they tell you where construction is going on and where you may want to detour. For example, this weekend the freeway is going to be closed from Friday night at 9 p.m. until Sunday morning at 9 a.m. So will be doing a lot of construction and a lot of the work is going to be the equivalent of 6 million feet of additional road and will include 22 lanes at one point on the freeway and they will be crossing 84 bridges. That is just part of the work that will be going on and the widening of the 91 freeway. They said that this is probably the largest project to be undertaken by any agency in California.
- We also received some information in regards to the Metrolink extension and they are calling it the Coachella Valley San Geronio Pass Corridor Rail Service. If things move along the way it is anticipated, within 7 years we may be able to have a plan for how we will be able to extend the Metrolink all the way to Coachella. They are looking at a couple of stops along the way with one in Indio, one somewhere around Palm Desert, one would be in the Pass Area and we are looking at Morongo as the location, another would be along Redlands and then possibly one at the Ontario Airport. So as we hear more about it she will share that with everyone. They are still in the first phase of it and application was made to try to get \$3 million of federal funding to continue work on the planning.
- Western Riverside Council of Governments had a presentation regarding Ebola by our Public Health Agent, Cameron Kaiser. He is our Public Health Officer for the County. He talked about what we have done here in the county to prevent the spread of Ebola. There had been a rumor that we actually had a case here and he wanted to dispel that rumor and absolutely there has not been a case here. They are training all of the medical facilities through the hospitals to try to make sure everything is done to make sure we don't have anything like that happening here. They also had an update regarding the HERO Program and in Banning we have had 235 homes that have applied and been approved for a value of \$5,269,000.00 and that is out of 19,700 applications throughout Riverside county which is over \$727 million dollars.

City Committee Reports – None

Report by City Attorney

Assistant City Attorney said she didn't have an official report but as the Council and some of the members of the audience may know this will be Homer's last public meeting with us in the City of Banning and on behalf of the employees June Overholt would like to say a few words of thanks.

Director Overholt said to the Councilmembers who selected Homer to be the Interim City Manager and our appreciation to Homer for all the efforts and work he has done during these months that he has been here kind of keeping everything going and we have had a lot of exciting activity that we have had to handle during this time and she thinks that he has handled it marvelously and certainly has been an encouragement to us so thank you very much.

Report by City Manager – Interim City Manager reported:

- In regards to the Mathewson Building that burnt over the weekend there was a deceased person inside and that matter has been resolved and taken care of through fire and the police. There is a fence around the property to prevent people from entering to increase our safety. On Friday the road will be open back to the public for people to be able to traverse back on Ramsey without being detoured.
- Thank you to the Council and the citizens and staff for supporting him during this time. The executive management staff are outstanding and it has been a pleasure working with them. It has been a pleasure to work with everyone on the Council. Every citizen he has met and worked with it has been a pleasure as well. He said his last day is November 20th officially.
- There will be a City Council Special Closed Session meeting tomorrow, November 13th at 3:30 p.m. in the large conference room and it has been properly noticed.

ITEMS FOR FUTURE AGENDAS

New Items

Councilmember Miller said he would like to propose for the future as Don Smith said that we should have a public policy to assure that we have a debate for all of the public offices when the next election comes up. He would also like to propose that we have as an agenda item a discussion of the billing cycle because there have been so many complaints.

Mayor Franklin said that item is already on the Pending Items list as No. 15.

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials *(Jan. 2015)*
2. Discussion on how to handle loans or distributions to charities. *(Midyear budget)*
3. Discussion on how the City Council handles donations to the City. *(Feb. 2015)*
4. Grocery Cart Policy *(In planning process.)*
5. Workshop to discuss the future of the airport. *(Nov. 2014)*
6. Discussion regarding Public Works Committee and Ad Hoc Committees *(Jan. 2015)*
7. Discussion regarding City's ordinance dealing with sex offenders and child offenders. *(Feb. 2015)*
8. Discussion to move "Announcements" (events) up on the agenda after Public Comments. *(Nov. 2014)*
9. Discussion regarding flex scheduling to keep city hall open five days a week.
10. Discussion regarding Animal Control Services *(Midyear Budget)*
11. Discussion regarding Police Staffing *(Midyear Budget)*
12. Prepare a staff report regarding delinquent utility fees owed by the Banning Chamber of Commerce. *(Nov. 2014)*

13. Golf Cart Lanes
14. Bond Workshop (*Midyear Budget*)
15. Report on 33-day Billing Cycle
16. Report on process used to collect unpaid utility bills.
17. Verify what our City laws are in regards to public comment.
18. Report on Electric Rates
19. Report on Code Enforcement and taking care of vacant properties.

ADJOURNMENT

By common consent the meeting adjourned at 7:19 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.

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

11/13/14
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on November 13, 2014 at 3:37 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Councilmember Miller

OTHERS PRESENT: David J. Aleshire, City Attorney
Wesley A. Miliband, Attorney – Aleshire & Wynder, LLC
June Overholt, Administrative Services Dir./Deputy City Manager
Duane Burk, Public Works Director
Marie A. Calderon, City Clerk

CLOSED SESSION

The item on the closed session is in regards to conference with legal counsel regarding initiation of litigation pursuant to Government Code Section 54956.9 (d) (4).

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

Meeting went into closed session at 3:38 p.m. and reconvened at 4:34 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 4:34 p.m.

Marie A. Calderon, City Clerk

CITY COUNCIL AGENDA

Date: December 9, 2014
TO: City Council
FROM: June Overholt, Administrative Services Director/Deputy City Manager
SUBJECT: Report of Investments for October 2014

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 October 2014. As of October 31, 2014, the City's operating funds totaled \$72,963,992. Included in Successor Agency operating funds is \$762,102 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Summary Schedule.

As of October 31, 2014 approximately 38% of the City's unrestricted cash balances were invested in investments other than LAIF.

The October 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

The attached Summary Schedule of Cash and Investments has been updated to show the rate of earnings allowance received from Wells Fargo Bank. The amount earned reduces the total amount of bank fees charged.

Staff has also enhanced the Investment Report Supplemental Information to provide additional information related to Wells Fargo that will further facilitate the understanding of the Investment Report.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) was increased to 0.261% in October. The average rate for all investments in October was 0.351%.

RECOMMENDED AND APPROVED BY:



June Overholt
Acting City Manager

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

Amount

3,705

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.200% *

544,643

Bank of America-Airport

0.020%

6,972

Bank of America-Parking Citations

0.020%

3,166

Bank of America-CNG Station

0.020%

6,016

Money Market and Bank Account Sub-Total

560,797

Government Pools

Account #1 Operating Amount

42,794,736

Account #1 CRA Bond Cash Bal.

762,102

Local Agency Investment Fund: Account #1

0.261%

43,556,838

Account #2 Successor Agency Cash Bal

0

Local Agency Investment Fund: Account #2

0.261%

0

Government Pool Sub-Total

43,556,838

Operating Cash Balance**44,121,340****Restricted Operating Funds**

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

0.010%

1,064,783

California ISO Corp- Union Bank

100,181

Worker's Compensation Program- (PERMA)

1,825,957

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.505%

25,851,730

*Operating Funds Total*72,963,992**Fiscal Agent**

US Bank

Amount

35,816,811

*Fiscal Agent Total*35,816,811

* Rate of earnings allowance received, offsets analyzed bank charges.

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Date	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
544,643	Wells Fargo Bank-Operating	n/a	0.20%	daily	varies	544,643	n/a	544,643
6,972	Bank of America-Airport	n/a	0.02%	daily	varies	6,972	n/a	6,972
3,166	Bank of America-Parking Citations	n/a	0.02%	daily	varies	3,166	n/a	3,166
6,016	Bank of America-Parking Citations	n/a	0.02%	daily	varies	6,016	n/a	6,016
Sub-total								
								560,797
<u>Government Pools</u>								
43,556,838	L.A.I.F. account #1	n/a	0.261%	daily	varies	43,556,838	n/a	43,556,838
0	L.A.I.F. account #2	n/a	0.261%	daily	varies	0	n/a	0
43,556,838								
<u>Investments-US Bank/Piper Jaffray</u>								
1,000,000	FHLMC Mtn	n/a	0.570%	6/20/2016	6/6/2013	1,000,000		998,640
1,000,000	FNMA	n/a	0.750%	12/19/2016	6/19/2013	1,000,000		998,000
2,000,000	FHLMC Mtn	n/a	0.375%	6/24/2016	12/24/2013	2,000,000		2,000,300
2,000,000	FHLMC Mtn	n/a	0.500%	6/27/2016	12/27/2013	2,000,000		1,996,500
2,000,000	FHLMC Mtn	n/a	0.750%	12/27/2016	12/27/2013	2,000,000		2,001,160
2,000,000	Federal Home Loan Bks	n/a	0.700%	12/27/2016	3/27/2014	2,000,000		1,999,360
2,000,000	Federal Home Loan Bks	n/a	0.900%	3/27/2017	3/27/2014	2,000,000		1,994,680
2,000,000	Federal Home Loan Bks	n/a	0.500%	7/15/2016	4/15/2014	2,000,000		1,998,980
1,000,000	Federal Home Loan Bks	n/a	1.050%	4/17/2017	4/17/2014	1,000,000		1,001,230
1,700,000	FHLMC Mtn	n/a	0.700%	12/30/2016	6/30/2014	1,700,000		1,699,966
3,000,000	Federal Home Loan Bks	n/a	0.660%	10/7/2016	7/14/2014	3,000,000		3,000,090
6,162,824	Money Market	n/a	0.010%	daily	varies	6,162,824	0	6,162,824
US Bank/Piper Jaffray Average Rate=								
			0.505%					25,851,730

Average Rate All= 0.351%

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 202 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

October 31, 2014

Individual Investments with Fiscal Agent

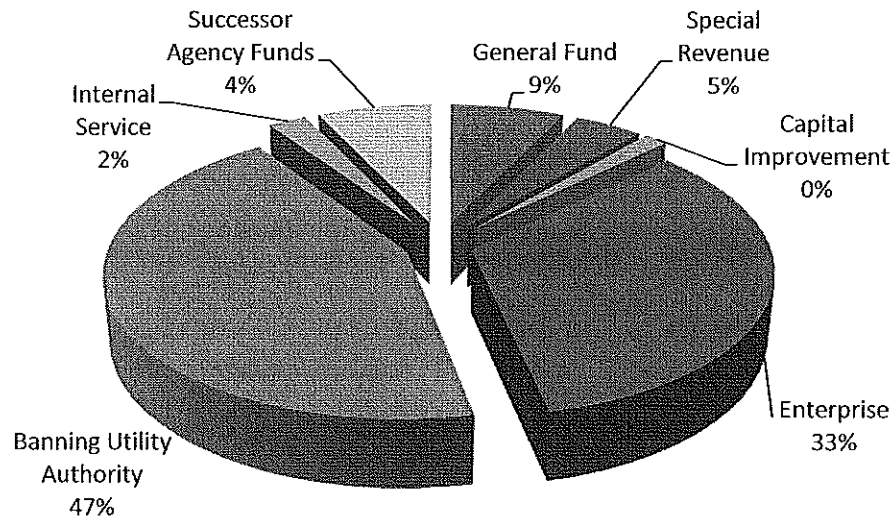
Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Oct-14 Value
COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A						
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct	0.030%	daily	188,024	188,040
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003						
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	4.61%	7/28/2011	971,250	991,980
		US Bank Mmkt 5-Ct	0.030%	daily		21,024
		US Bank Mmkt 5-Ct	0.060%	daily		18
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily		12
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		8,332,457
Reserve Fund		US Bank Mmkt 5-Ct	0.030%	daily	1,875,100	1,875,288
Special Fund		US Bank Mmkt 5-Ct	0.030%	daily		32
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily		11
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES						
Interest Account		US Bank Mmkt 5-Ct	0.030%	daily		198,720
Principal Account		US Bank Mmkt 5-Ct	0.030%	daily		77,510
		US Bank Mmkt 5-Ct	0.030%	daily		3,265,931
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES						
Interest Account		US Bank Mmkt 5-Ct	0.030%	daily		1,154,633
Principal Account		US Bank Mmkt 5-Ct	0.030%	daily		402,551
Reserve Fund		US Bank Mmkt 5-Ct	0.030%	daily	2,310,738	2,311,489
Project Fund		US Bank Mmkt 5-Ct	0.030%	daily		1,602,203
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES						
		US Bank Mmkt 5-Ct	0.040%	daily		25
		US Bank Mmkt 5-Ct	0.030%	daily	2,672,050	2,672,582
Acquisition & Construction		US Bank Mmkt 5-Ct	0.030%	daily		12,722,306
*Paid Semi-Annually-Deposited into Money Mkt Account						
Total						35,816,811

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 Oct. 2013 to Sept. 2014. *(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 –

When reviewing the *Report of Investments*, please keep in mind that the balances shown on the *Summary Schedule of Cash and Investments* for bank accounts are “statement” balances. They reflect what the financial institution has on hand as of particular date and lists on their statement. They are not “general ledger” balances. General ledger balances reflect all activity through a particular date (i.e. all checks that have been written and all deposits that have been made) and is what we show on our books (the general ledger). The general ledger balance more accurately reflects the amount of cash we have available.

It should be noted that statement balances and general ledger balances can differ significantly. For example – on June 30th the statement balance for Wells Fargo Bank could show \$1,000,000, however, staff may have prepared a check run in the amount of \$750,000 on the same day. Our general ledger balance would show \$250,000, as the Wells Fargo statement does not recognize the checks that have been issued until they clear the bank.

For investment decisions and cash handling purposes staff relies on the balance in the general ledger. Staff does not invest funds that are not available. Sufficient funds must be kept in the bank accounts to cover all checks issued.

- 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. The Summary Schedule of Cash and Investments shows the rate of earnings allowance received from the bank. The amount earned reduces the total amount of bank fees charged.
- 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.

Summary Schedule – Line item descriptions – Cont.

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.

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: December 9, 2014

TO: City Council

FROM: June Overholt, Administrative Services Director

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of October 2014

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 October 2014.

The reports are:

Expenditure approval lists

October 2, 2014	426,244.74
October 9, 2014	488,353.28
October 17, 2014	412,637.27
October 23, 2014	467,185.22
October 30, 2014	210,956.68
November 25, 2014	4,100,754.42 (October Month End)

Payroll check registers

October 3, 2014	6,343.14
October 17, 2014	6,346.91
October 31, 2014	3,590.90

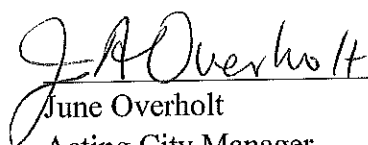
Payroll direct deposits*

October 3, 2014	289,711.66
October 17, 2014	272,904.83
October 31, 2014	272,531.45

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

RECOMMENDED AND APPROVED BY:


June Overholt
Acting City Manager

CITY of BANNING

Fund/Department Legend

Fund/Department Legend

001 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: December 9, 2014
To: Honorable Mayor and City Council
From: Fred Mason, Electric Utility Director
Subject: Resolution No. 2014-75, Accepting the General Order 165 and 174 Annual Reports

RECOMMENDATION: Adopt Resolution No. 2014-75, accepting the General Order 165 and 174 Annual Reports, attached herewith as Exhibit "A".

JUSTIFICATION: General Order ("GO") 165 and GO 174 require that electric utilities prepare annual reports regarding overhead distribution and substation maintenance and inspections, and make them available to the public.

BACKGROUND: In August of 2014 the Safety and Enforcement Division of the California Public Utilities Commission ("CPUC") sent letters to a large number of publicly owned utilities ("POUs"), reminding them of the annual reporting required by GO 165 and 174. These letters requested that each POU submit a copy of their GO 165 and 174 Annual Reports to the CPUC. However, the CPUC does not have jurisdiction over POUs, and legal counsel for the California Municipal Utilities Association ("CMUA") reviewed the situation and determined that POUs weren't **required** to provide the CPUC with copies of the report, but for goodwill purposes, utilities should make it available to them in the same manner they were making it available to the public at large. Therefore, the Banning Electric Utility ("Utility") will be providing the CPUC a link to the City's website where the reports will be posted.

The Utility currently complies with extensive federal and state open record requirements, which includes requirements from the California Energy Commission ("CEC") in regards to inspection and reporting for GO 165 and 174. The POUs will make this information available to the public in order to continue to demonstrate their commitment to transparency regarding the operation and safety of their electric distribution systems. Each utility will make the information available in a manner best suited for their individual utility and customers' needs.

FISCAL DATA: There are no fiscal impacts.

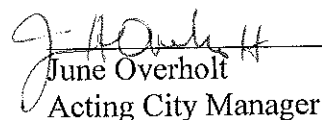
RECOMMENDED BY:



Fred Mason
Electric Utility Director

Prepared by Brandon Robinson

APPROVED BY:


June Overholt
Acting City Manager

RESOLUTION NO. 2014-75

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
ACCEPTING THE GENERAL ORDER 165 AND 174 ANNUAL REPORTS**

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

WHEREAS, the California Municipal Utilities Association ("CMUA") has agreed to communicate the availability of data consistent with GO 165 and GO 174 annual reporting requirements provided by the California Public Utilities Commission ("CPUC"); and

WHEREAS, the Banning Electric Utility currently complies with extensive federal and state open record requirements; and

WHEREAS, CMUA, which protects the interest of municipal utilities, has requested that the governing body of each member utility make available to consumers the data consistent with the GO 165 and GO 174 Annual Report;

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

SECTION 1. Adopt Resolution No. 2014-75, accepting the General Order 165 and 174 Annual Reports.

SECTION 2. Authorize the Electric Utility Director, or his designee, to disseminate the GO 165 and GO 174 Annual Reports for public information attached herewith as Exhibit "A".

PASSED, ADOPTED AND APPROVED this 9th day of December 2014.

Deborah Franklin, Mayor
City of Banning

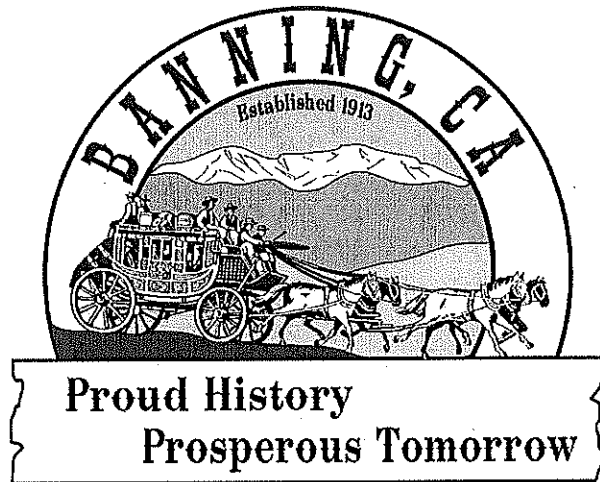
ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

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

Exhibit “A”



CITY OF BANNING ELECTRIC UTILITY

GENERAL ORDER NO. 165 & NO. 174

2013 ANNUAL REPORTS

CITY OF BANNING ELECTRIC UTILITY 2013 GENERAL ORDER 165 PROGRAM

In 2013, City of Banning Electric Utility completed 10 circuit patrols, 162 detailed inspections, 0 intrusive wood pole inspections, and 22 corrective actions on facilities that are subject to General Order (G.O.) 165. Please see the table below detailing City of Banning Electric's compliance activities.

2013 G.O. 165 Maintenance Summary

Type	Inspected	% of system
Patrol	10 Circuits	58%*
Overhead Detailed	150	12%*
Underground Detailed	59	14%*
Wood Pole Intrusive	None	0%

*Patrols/Inspections are ongoing and scheduled to be completed within the 3-5 year condition cycle. Items which are below the 20% requirement for 5-yr cycle and 33% for 3 year cycle will have additional resources applied to such activity in order to satisfy completion.

City of Banning plans to revamp its Wood Pole Intrusive Testing program during the 2014-15 fiscal year. Many of the City's poles which are over 10 years in age have received their first intrusive inspection, and City of Banning will have planned intrusive inspections completed through contract services on remaining poles over 10 years of age during the next few years.

CITY OF BANNING ELECTRIC UTILITY 2013 GENERAL ORDER 174 PROGRAM

In 2013, City of Banning Electric Utility has followed a program consistent with General Order (G.O.) 174. The City has six (6) substations that undergo regular inspection and maintenance on a monthly basis. The areas for inspection/maintenance included switch maintenance, transformer/LTC maintenance, bus maintenance, battery testing, relay testing, circuit breaker maintenance, Oil Testing, IR imaging, and voltage regulators. Please see the table below detailing City of Banning Electric's substation inspection activities.

2013 G.O. 174 Maintenance Summary

Equipment	Inspected	Repaired/Replaced
Switches	22	4
Transformers/LTCs	34	4
Buses	21	3
Batteries	9	5
Relays	33	2
Circuit Breakers	20	7
Transformer Oil Testing	14	2
IR Imaging for Components	45	N/A
Voltage Regulators	13	0

Since the G.O. 174 Inspection Program is fairly new, City of Banning plans to adopt a formal Substation Inspection Form that will detail all inspection and maintenance activities for equipment at each substation which includes a condition assessment and rating system for all components that are inspected. There were no facilities in 2013 that required emergency repair upon inspection.

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: December 9, 2014

TO: City Council

FROM: Phil Holder, Lieutenant

SUBJECT: Resolution No. 2014-83, "Accepting the 2015 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000 and authorizing the Banning Police Department to use the funds towards the purchase of law enforcement related equipment, services, and supplies."

RECOMMENDATION: Resolution No. 2014-83, "Accepting the 2015 Supplemental Law Enforcement Services Allocation (SLESA) in the amount of \$100,000 and authorizing the Banning Police Department to apply the funds towards the purchase of law enforcement related equipment, services, and supplies."

JUSTIFICATION: Funds obtained through the Supplemental Law Enforcement Services Allocation must be used to supplement frontline municipal police services and can't be used to supplant already allocated expenditures in the police department's budget. Additionally, all purchases with these funds must follow the purchasing practices for the City of Banning.

BACKGROUND: The Banning Police Department anticipates using the 2015 SLESA funds, along with remaining funds in the 2014 SLESA account, to assist in paying for necessary upgrades to several of the police department's key technology based systems as identified below:

- On April 8, 2014, Microsoft ended its support for Windows XP, which is the operating system for the department's in-car-computers, which were originally purchased in 2006-2007. As a result, the computers no longer are able to obtain security patches and are susceptible to viruses, which over time will make the computers' operating systems unstable and unusable for department use. The department is currently evaluating new in-car-computer systems with the most up-to-date Windows operating system available.
- In May 2014, the department upgraded the last of its nine (9) old patrol car cameras. Presently, every patrol car is utilizing the new Kustom Signal G3 Vision camera system. However, the data storage system in use with the cameras has not been upgraded since its installation in 2008. The department is in the process of evaluating the amount of storage spaced needed for the next five to ten years to determine the upgrade cost.
- The department is presently testing and evaluating body cameras for police officers to wear on their person, while on duty. The selection process of the cameras will take into consideration the cost, reliability, system support, and functionality of the camera while being worn by the officers.
- The department is in the process of determining the cost to increase its video storage capacity for the cameras monitoring the police facilities. The current system covers 30 days.
- The department is exploring the cost to purchase and install two (2) additional hard drives for the main data server storage system. The additional hard drives will give the

department the capability to automatically switch between drives, without any down time to the operations of the department, should one of the drives stop operating.

In addition to the previously identified projects, the police department uses these funds to resolve unanticipated problems requiring the replacement or repair of equipment related to technology and software based systems, evidence collection materials, camera surveillance systems, communication related parts, and tactical/safety equipment.

In January 2014, the City Council approved the 2014 SLESA, also in the amount of \$100,000. Since that time, the police department has used some of those funds to purchase two (2) replacement laptop computers, five (5) replacement monitors in the Dispatch Center, and a replacement printer in the detective bureau.

Legislation requires the City Council to officially accept the Supplemental Law Enforcement Services Funds and approve the police department's anticipated use of the funds.

STRATEGIC PLAN INTEGRATION: Council approval of this resolution will meet the city's goal to protect the citizens of this community with updated technology, equipment, and well trained police officers.


FISCAL DATA: The Supplemental Law Enforcement Services Allocation (SLESA) for 2015 is \$100,000. There is no city match required for this grant. The appropriation is requested in the resolution.

RECOMMENDED BY:



Alex Diaz
Chief of Police

REVIEWED AND APPROVED BY:


June Overholt
Administrative Services Director
Acting City Manager

RESOLUTION NO. 2014-83

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING ACCEPTING THE 2015 SUPPLEMENTAL LAW ENFORCEMENT SERVICES ALLOCATION IN THE AMOUNT OF \$100,000 AND AUTHORIZING THE BANNING POLICE DEPARTMENT TO USE THE FUNDS TOWARDS THE PURCHASE OF LAW ENFORCEMENT RELATED EQUIPMENT, SERVICES, AND SUPPLIES.

WHEREAS, the City of Banning Police Department is responsible for the security and safety of the Citizens of the City; and

WHEREAS, grants provided by State and Federal monies assist in supplementing these services; and

WHEREAS, the City Council is required to accept and appropriate the allocation of anticipated funds from this grant; and

WHEREAS, the grant funds will provide the Banning Police Department with updated technology, equipment, and services;

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning hereby accepts the 2015 Supplemental Law Enforcement Services Fund Allocation (SLESA), appropriates funds in the amount of \$100,000, and authorizes the Finance Department to make necessary budget adjustments related to these funds.

PASSED, APPROVED, AND ADOPTED this 9th day of December 2014.

_____, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT

ATTEST

Aleshire & Wynder, LLP
City Attorney

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2014-83 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of December 2014, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT CALENDAR**

DATE: December 9, 2014

TO: City Council

FROM: June Overholt, Interim City Manager

SUBJECT: International Brotherhood of Electrical Workers - Extension of Memoranda of Understanding for the Utility Unit and the General Employees Unit

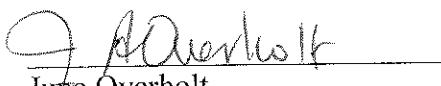
RECOMMENDATION: Adopt Resolution No. 2014-86 approving the second amendment to the Memoranda of Understanding between the City of Banning (the "City") and the International Brotherhood of Electrical Workers - Local 47 ("IBEW") representing the Utility Unit and the General Employees Unit which currently expire on December 31, 2014 ("IBEW MOUs") providing an extension, on a month-to-month basis, starting January 1, 2015 and expiring on the earlier of June 30, 2015, or the date the City and the IBEW negotiate and the City Council adopts successor Memoranda of Understanding.

JUSTIFICATION: The Meyers-Milius-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) provides that a written memorandum of understanding or any amendment thereto are not be binding until approved by the governing body of the local agency. The parties desire to maintain status quo while the attempt to negotiate a successor MOU. *Therefore, City Council approval of the proposed month-to-month extensions of the IBEW MOUs is required by the MMBA in order to be binding on the parties.*

BACKGROUND: The previous Memorandums of Understanding between the City and IBEW Local 47 for both the General Employees Unit and the Utility Unit expire by their own terms on December 31, 2014. The City negotiation team and the IBEW representatives are currently negotiating the next Memoranda of Understanding. The IBEW representatives have asked for extensions to the IBEW MOUs for the period of time that it will take to negotiate new Memoranda of Understanding for both Units, and the City negotiation team is not opposed to the extension. To that end the parties have agreed to an extension of the IBEW MOUs on a month-to-month basis, starting January 1, 2015 and expiring on the earlier of June 30, 2015, or the date the City and the IBEW negotiate and the City Council approves successor MOUs.

FISCAL DATA The month-to-month extensions result in no fiscal impact to the General Fund.

APPROVED BY:


June Overholt
Interim City Manager

Attachments: Resolution No. 2014-86

RESOLUTION NO. 2014-86

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING APPROVING EXTENSIONS TO THE MEMORANDA
OF UNDERSTANDING BETWEEN THE CITY AND THE
INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS - LOCAL 47, REPRESENTING THE GENERAL
EMPLOYEES UNIT AND THE UTILITY EMPLOYEES UNIT**

WHEREAS, the City of Banning ("City") has formally recognized the International Brotherhood Of Electrical Workers - Local 47 ("IBEW"), as the exclusive employee organization for both the General Employees Unit and the Utility Unit; and

WHEREAS, on July 8, 2014 the City Council approved a first amendment extending the Memorandum of Understanding between the City and IBEW representing the General Employees Unit ("General Employees Unit MOU 2014") and a first amendment extending the Memorandum of Understanding between the City and IBEW representing the Utility Unit ("Utility Unit MOU 2014") on a month-to-month basis, not to exceed six months; and

WHEREAS, the General Employees Unit MOU 2014 and the Utility Unit MOU 2014 will expire on December 31, 2014; and

WHEREAS, IBEW has requested a second extension of both the General Employees Unit MOU 2014 (Exhibit "A") and the Utility Unit MOU 2014 (Exhibit "B") as the parties continue to negotiate successor Memoranda of Understanding; and

WHEREAS, the City and IBEW have agreed to extend the General Employees Unit MOU 2014 on a month-to-month basis, not to exceed six months, until a successor Memorandum of Understanding is negotiated and approved by the City Council; and

WHEREAS, the City and IBEW have agreed to extend the Utility Unit MOU 2014 on a month-to-month basis, not to exceed six months, until a successor Memorandum of Understanding is negotiated and approved by the City Council; and

WHEREAS, it is therefore necessary to amend the General Employees Unit MOU 2014 at Article I, Section 1.3 "Term" to accomplish the above goals; and

WHEREAS, it is therefore necessary to amend the Utility Unit MOU 2014 at Article I, Section 1.3 "Term" to accomplish the above goals; and

WHEREAS the City and IBEW and met-and-conferred and agreed to these extensions pursuant to the Meyers-Milias-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 2010-45; and

WHEREAS, once approved by the governing body of a local agency, a memorandum of understanding or any amendment thereto becomes a binding agreement between the employee organization and the local agency.

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

SECTION 1: The foregoing Recitals are true and correct and incorporated herein by this reference.

SECTION 2. The City Council approves an extension of the term of the Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the General Employees Unit for a period starting January 1, 2015, a signed copy of which is attached hereto and by this reference made a part hereof. Said extension shall terminate at the earlier of June 30, 2015 or the date on which the City Council approves the successor Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the General Employees Unit.

SECTION 3. The City Council approves an extension of the term of the Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the Utility Unit for a period starting January 1, 2015, a signed copy of which is attached hereto and by this reference made a part hereof. Said extension shall terminate at the earlier of June 30, 2015 or the date on which the City Council approves the successor Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the Utility Unit.

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2014 at Banning, California.

Debbie Franklin, Mayor
City of Banning, California

ATTEST:

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

APPROVED AS TO FORM AND
LEGAL CONTENT

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-86 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of December, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

“EXHIBIT A”

**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF BANNING AND THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS -- LOCAL 47 GENERAL EMPLOYEES UNIT THROUGH
DECEMBER 31, 2014**

This Second Amendment to the Memorandum of Understanding between the City of Banning and the International Brotherhood of Electrical Workers -- Local 47 through December 31, 2014 ("General Employees Unit MOU 2014") is made and entered into by and between the City of Banning, a Municipal Corporation, (the "City") and the International Brotherhood of Electrical Workers -- Local 47 ("IBEW"), as the recognized employee organization for the General Employees Unit of representation (hereinafter the "Unit").

RECITALS

WHEREAS, the City and IBEW entered into the General Employees Unit MOU 2014 which was approved by the City Council on or about May 28, 2013; and

WHEREAS, the IBEW labor representatives requested to commence negotiations for a successor Memorandum of Understanding ("MOU") and City labor representatives and IBEW labor representatives met and conferred to commence negotiations on June 4, 2014 for a successor MOU; and

WHEREAS, the IBEW labor representatives requested an extension of the General Employees Unit MOU 2014 while the City labor representatives and the IBEW labor representatives negotiate a successor MOU; and

WHEREAS, the City and IBEW entered into the First Amendment to the General Employees Unit MOU 2013 which extended the term of the MOU on a month to month basis, not to exceed six months; and

WHEREAS, the General Employees Unit MOU 2014 will now expire on December 31, 2014; and

WHEREAS, the IBEW labor representatives requested a further extension of the General Employees Unit MOU 2014 while the City labor representatives and the IBEW labor representatives continue to negotiate a successor MOU; and

WHEREAS, the City labor representatives and IBEW labor representatives have agreed to extend the term of the General Employees Unit MOU 2014 on a month-to-month basis, not to exceed six additional months beyond December 31, 2014, until a successor MOU is negotiated; and

WHEREAS, it is therefore necessary to amend the General Employees Unit MOU 2014 at Article I, Section 1.3 "Term" to accomplish the above goals as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Article 1, Section 1.3 of the General Employees Unit MOU 2014 titled "Term" is hereby stricken and replaced in its entirety with the language as follows:
2. "1.3 Term. Except as otherwise provided herein, this MOU between the City and IBEW relative to wages, hours, and other terms and conditions of employment shall become effective upon approval by the City Council and thereafter shall remain in full force on a month-to-month basis, until the City and IBEW negotiate a successor Memorandum of Understanding or until June 30, 2015, whichever occurs earlier."

The representatives of the City and the IBEW have jointly prepared this Second Amendment to the General Employees Unit MOU 2014, which has been ratified by the IBEW on December 9, 2014 and is jointly presented to the City Council of the City of Banning for determination pursuant to Government Code section 3505.1. Except as expressly provided for in this Second Amendment, all other provisions of the General Employees Unit MOU 2014 shall remain in full force and effect. The parties also acknowledge that this Second Amendment shall not be in full force and effect until adopted by resolution by the City Council of the City of Banning. Subject to the foregoing and in witness whereof, this First Amendment is hereby executed by the authorized representatives of the City and IBEW and entered into as of this 9th day of December, 2014.

For the City of Banning:

For IBEW:

June Overholt,
Interim City Manager

Patrick Lavin, Business Agent
IBEW Local 47

Colin Tanner,
Lead Negotiator

John Baca, Business Agent
IBEW Local 47

Rita Chapparosa,
Deputy Human Resources Director

Patrick Stephens
Representative

“EXHIBIT B”

SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BANNING AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS – LOCAL 47 UTILITY UNIT THROUGH DECEMBER 31, 2014

This Second Amendment to the Memorandum of Understanding between the City of Banning and the International Brotherhood of Electrical Workers – Local 47 through December 31, 2014 (“Utility Unit MOU 2014”) is made and entered into by and between the City of Banning, a Municipal Corporation, (the “City”) and the International Brotherhood of Electrical Workers – Local 47 (“IBEW”), as the recognized employee organization for the Utility Unit of representation (hereinafter the “Unit”).

RECITALS

WHEREAS, the City and IBEW entered into the Utility Unit MOU 2014 which was approved and adopted by the City Council on or about May 28, 2013; and

WHEREAS, the IBEW labor representatives requested to commence negotiations for a successor Memorandum of Understanding (“MOU”) and City labor representatives and IBEW labor representatives met and conferred to commence negotiations on June 4, 2014 for a successor MOU; and

WHEREAS, the IBEW labor representatives requested an extension of the Utility Unit MOU 2014 while the City labor representatives and the IBEW labor representatives negotiate a successor MOU; and

WHEREAS, the City and IBEW entered into the First Amendment to the Utility Unit MOU 2013 which extended the term of the MOU on a month to month basis, not to exceed six months; and

WHEREAS, the Utility Unit MOU 2014 will now expire on December 31, 2014; and

WHEREAS, the IBEW labor representatives requested a further extension of the Utility Unit MOU 2014 while the City labor representatives and the IBEW labor representatives negotiate a successor MOU; and

WHEREAS, the City labor representatives and IBEW labor representatives have agreed to extend the term of the Utility Unit MOU 2014 on a month-to-month basis, not to exceed six additional months beyond December 31, 2014, until a successor MOU is negotiated; and

WHEREAS, it is therefore necessary to amend the Utility Unit MOU 2014 at Article I, Section 1.3 “Term” to accomplish the above goals as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Article 1, Section 1.3 of the Utility Unit MOU 2014 titled "Term" is hereby stricken and replaced in its entirety with the language as follows:

"1.3 Term. Except as otherwise provided herein, this MOU between the City and IBEW relative to wages, hours, and other terms and conditions of employment shall become effective upon approval by the City Council and thereafter shall remain in full force on a month-to-month basis, until the City and IBEW negotiate a successor Memorandum of Understanding or until June 31, 2015, whichever occurs earlier."

The representatives of the City and the IBEW have jointly prepared this Second Amendment to the Utility Unit MOU 2014, which has been ratified by the IBEW on December 9, 2014 and is jointly presented to the City Council of the City of Banning for determination pursuant to Government Code section 3505.1. Except as expressly provided for in this Second Amendment, all other provisions of the Utility Unit MOU 2014 shall remain in full force and effect. The parties also acknowledge that this Second Amendment shall not be in full force and effect until adopted by resolution by the City Council of the City of Banning. Subject to the foregoing and in witness whereof, this First Amendment is hereby executed by the authorized representatives of the City and IBEW and entered into as of this 9th day of December, 2014.

For the City of Banning:

For IBEW:

June Overholt,
Interim City Manager

Patrick Lavin, Business Agent
IBEW Local 47

Colin Tanner,
Lead Negotiator

John Baca, Business Agent
IBEW Local 47

Rita Chapparosa,
Deputy Human Resources Director

Representative

**CITY COUNCIL AGENDA
CONSENT CALENDAR**

DATE: December 9, 2014

TO: City Council

FROM: June Overholt, Interim City Manager

SUBJECT: Consideration of Adoption of Resolution No. 2014-87 to Amend the Memoranda of Understanding Between the City of Banning and the International Brotherhood of Electrical Workers representing the General Employees Unit and the Utility Unit to Add Y-Rating Provision

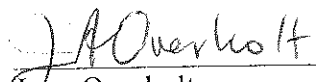
RECOMMENDATION: Adopt Resolution No. 2014-87 approving the Amendments to the Memoranda of Understanding between the City of Banning (the "City") and the International Brotherhood of Electrical Workers - Local 47 ("IBEW") representing the General Employees Unit and the Utility Unit to add a Y-Rating Provision to the Memoranda of Understanding.

JUSTIFICATION: The parties desire to create a Y-Rating which shall hold a unit member at his or her current salary if he or she is reclassified to a new or existing class with a lower minimum salary rate. Unit members with Y-Ratings will be frozen at their current prevailing pay rate and will not participate in a salary range adjustment until salary schedules related to their new classification exceed the Y-rated pay rate. Establishment of a Y-Rate salary for a unit member is an administrative determination and requires approval of the unit member's department head, the Human Resources Director, and the City Manager. The Y-Rating procedure is not to be confused with involuntary demotion, salary range adjustments (ie. compensation study), or other normal personnel procedures such as recruitments or reductions in the workforce that result in bumping rights. The Meyers-Milius-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) provides that a written memorandum of understanding or any amendment thereto are not binding until approved by the governing body of the local agency. *Therefore, City Council approval of the proposed amendments to add a Y-Rating Provision to the IBEW MOUs is required by the MMBA in order to be binding on the parties.*

BACKGROUND: The Memoranda of Understanding between the General and Utility Unit of IBEW and the City do not currently include a provision which allows the City to preserve a unit member's salary in the event that he or she is reclassified to a new or existing class with a lower maximum salary rate. City staff and the City Attorney's Office have jointly prepared the attached Y-Rating provision to be added to the IBEW MOU for the General and Utility Unit Employees Unit.

FISCAL DATA The proposed resolution has no fiscal impact at this time.

APPROVED BY:


June Overholt
Interim City Manager

Attachments: Resolution No. 2014-87

RESOLUTION NO. 2014-87

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING APPROVING AMENDMENTS TO THE
MEMORANDA OF UNDERSTANDING BETWEEN THE CITY
AND THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS - LOCAL 47, REPRESENTING THE
GENERAL EMPLOYEES UNIT AND THE UTILITY UNIT TO
ADD A Y-RATING PROVISION**

WHEREAS, the City of Banning ("City") has formally recognized the International Brotherhood Of Electrical Workers - Local 47 ("IBEW"), as the exclusive employee organization for the General Employees Unit and the Utility Unit; and

WHEREAS, the current Memorandum of Understanding between the City and IBEW representing the General Employees Unit, which would expire on June 30, 2014, has been extended on a month-to-month basis not to exceed six months ("General Employees Unit MOU 2014"); and

WHEREAS, the current Memorandum of Understanding between the City and IBEW representing the Utility Unit, which would expire on June 30, 2014, has been extended on a month-to-month basis not to exceed six months ("Utility Unit MOU 2014"); and

WHEREAS, the City and IBEW have requested a second extension of both the General Employees Unit MOU 2014 and the Utility Unit MOU 2014 as the parties continue to negotiate successor Memoranda of Understanding; and

WHEREAS, the City and IBEW have agreed that a unit member maintain his or her salary rate when he or she is reclassified to a class with a lower maximum salary rate; and

WHEREAS, the City and IBEW have agreed a Y-Rating provision which, with the approval of the unit member's department head, the Human Resources Director, and the City Manager, would hold a reclassified unit member at his or her current salary, referred to as the Y-Rate, until the salary range in the new classification is the same as or exceeds the amount of the Y-Rate salary; and

WHEREAS, it is therefore necessary to amend the General Employees Unit MOU 2014 to add Article 14, Section 14.6 "Y-Rating" and to amend the Utility Unit MOU 2014 to add Article 14, Section 14.5 "Y-Rating" to accomplish the above goals; and

WHEREAS the City and IBEW met-and-conferred and agreed to the addition of a Y-Rating Provision to the General Employees Unit MOU 2014 (Exhibit "A") and the Utility Unit MOU 2014 (Exhibit "B") pursuant to the Meyers-Milias-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 2010-45; and

WHEREAS, once approved by the governing body of a local agency, a memorandum of understanding or any amendment thereto becomes a binding agreement between the employee organization and the local agency.

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

SECTION 1: The foregoing Recitals are true and correct and incorporated herein by this reference.

SECTION 2. The City Council approves an amendment to the Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the General Employees Unit to add Article 14, Section 14.6 titled "Y-Rating" to state as follows: "When a unit member is reclassified to a new or existing class with a lower maximum salary rate, he or she may be assigned a "Y-Rate" designation under which the unit member will remain at his or her current salary. Unit members with "Y-Ratings" will be frozen at their current prevailing pay rate and will not participate in salary range adjustment until salary schedules related to their new assignment exceed the Y-rated pay rate. Establishment of a "Y-Rate" salary for a unit member is an administrative determination and requires the approval of the unit member's department head, the Human Resources Director, and the City Manager. The practice is not to be confused with involuntary demotion, salary range adjustments, or other normal personnel procedures including administrative actions that result in bumping rights."

SECTION 3. The City Council approves an amendment to the Memorandum of Understanding between the City and the International Brotherhood of Electrical Worker-Local 47, representing the Utility Unit to add Article 14, Section 14.65 titled "Y-Rating" to state as follows: "When a unit member is reclassified to a new or existing class with a lower maximum salary rate, he or she may be assigned a "Y-Rate" designation under which the unit member will remain at his or her current salary. Unit members with "Y-Ratings" will be frozen at their current prevailing pay rate and will not participate in salary range adjustment until salary schedules related to their new assignment exceed the Y-rated pay rate. Establishment of a "Y-Rate" salary for a unit member is an administrative determination and requires the approval of the unit member's department head, the Human Resources Director, and the City Manager. The practice is not to be confused with involuntary demotion, salary range adjustments, or other normal personnel procedures including administrative actions that result in bumping rights."

SECTION 3 The City Clerk shall certify to the passage and adoption of this resolution, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2014 at Banning, California.

Debbie Franklin, Mayor
City of Banning, California

ATTEST:

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

APPROVED AS TO FORM AND
LEGAL CONTENT

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-87 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of December, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT “A”

THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BANNING AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS – LOCAL 47 GENERAL EMPLOYEES UNIT TO ADD Y-RATING PROVISION

This Third Amendment to the Memorandum of Understanding between the City of Banning and the International Brotherhood of Electrical Workers – Local 47 through June 30, 2014 as extended on a month-to-month basis, not to exceed six months (“General Employees Unit MOU 2014”) is made and entered into by and between the City of Banning, a Municipal Corporation, (the “City”) and the International Brotherhood of Electrical Workers – Local 47 (“IBEW”), as the recognized employee organization for the General Employees Unit of representation (hereinafter the “Unit”).

RECITALS

WHEREAS, the City and IBEW entered into the General Employees Unit MOU 2014 which was approved by the City Council on or about May 28, 2013; and

WHEREAS, the City and IBEW entered into an extension of the General Employees Unit MOU 2014 which was approved by the City Council on or about July 8, 2014; and

WHEREAS, IBEW has requested a second extension of both the General Employees Unit MOU 2014 (Exhibit “A”) and the Utility Unit MOU 2014 (Exhibit “B”) as the parties continue to negotiate successor Memoranda of Understanding; and

WHEREAS, the City and IBEW have requested that an a unit member maintain his or her salary rate when he or she is reclassified to a class with a lower maximum salary rate; and

WHEREAS, the City and IBEW have agreed to a Y-Rating provision which, with the approval of the reclassified unit member’s department head, the Human Resources Director, and the City Manager, would hold a reclassified unit member at his or her current salary, referred to as the Y-Rate, until the salary range in the new classification is the same as or exceeds the amount of the Y-Rate salary; and

WHEREAS, it is therefore necessary to amend the General Employees Unit MOU 2014 to add Article 14, Section 14.6 “Y-Rating” to accomplish the above goals as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Article 14, Section 14.6 of the General Employees Unit MOU 2014 titled “Y-Rating” is hereby added to state follows:
2. “14.6 Y-Rating. When a unit member is reclassified to a new or existing class with a lower maximum salary rate, he or she may be assigned a “Y-Rate” designation under which the unit member will remain at his or her current salary. Unit members with “Y-Ratings” will be frozen at their current prevailing pay rate and will not participate

in salary range adjustment until salary schedules related to their new assignment exceed the Y-rated pay rate. Establishment of a "Y-Rate" salary for a unit member is an administrative determination and requires the approval of the unit member's department head, the Human Resources Director, and the City Manager. The practice is not to be confused with involuntary demotion, salary range adjustments, or other normal personnel procedures including administrative actions that result in bumping rights."

The representatives of the City and the IBEW have jointly prepared this Third Amendment to the General Employees Unit MOU 2014, which has been ratified by the IBEW on December 9, 2014 and is jointly presented to the City Council of the City of Banning for determination pursuant to Government Code section 3505.1. Except as expressly provided for in this Third Amendment, all other provisions of the General Employees Unit MOU 2014 and any amendments thereto shall remain in full force and effect. The parties also acknowledge that this Third Amendment shall not be in full force and effect until adopted by resolution by the City Council of the City of Banning. Subject to the foregoing and in witness whereof, this Third Amendment is hereby executed by the authorized representatives of the City and IBEW and entered into as of this 9th day of December, 2014.

For the City of Banning:

For IBEW:

June Overholt,
Interim City Manager

Patrick Lavin, Business Agent
IBEW Local 47

Colin Tanner,
Lead Negotiator

John Baca, Business Agent
IBEW Local 47

Rita Chapparosa,
Deputy Human Resources Director

Patrick Stephens
Representative

EXHIBIT “B”

THIRD AMENDMENT TO MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BANNING AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS – LOCAL 47 UTILITY UNIT TO ADD Y-RATING PROVISION

This Third Amendment to the Memorandum of Understanding between the City of Banning and the International Brotherhood of Electrical Workers – Local 47 through June 30, 2014 as extended on a month-to-month basis, not to exceed six months (“Utility Unit MOU 2014”) is made and entered into by and between the City of Banning, a Municipal Corporation, (the “City”) and the International Brotherhood of Electrical Workers – Local 47 (“IBEW”), as the recognized employee organization for the Utility Unit of representation (hereinafter the “Unit”).

RECITALS

WHEREAS, the City and IBEW entered into the Utility Unit MOU 2014 which was approved by the City Council on or about May 28, 2013; and

WHEREAS, the City and IBEW entered into an extension of the Utility Unit MOU 2014 which was approved by the City Council on or about July 8, 2014; and

WHEREAS, IBEW has requested a second extension of both the General Employees Unit MOU 2014 and the Utility Unit MOU 2014 as the parties continue to negotiate successor Memoranda of Understanding; and

WHEREAS, the City and IBEW have requested that an a unit member maintain his or her salary rate when he or she is reclassified to a class with a lower maximum salary rate; and

WHEREAS, the City and IBEW have agreed to a Y-Rating provision which, with the approval of the reclassified unit member’s department head, the Human Resources Director, and the City Manager, would hold a reclassified unit member at his or her current salary, referred to as the Y-Rate, until the salary range in the new classification is the same as or exceeds the amount of the Y-Rate salary; and

WHEREAS, it is therefore necessary to amend the Utility Unit MOU 2014 to add Article 14, Section 14.5 “Y-Rating” to accomplish the above goals as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Article 14, Section 14.5 of the Utility Unit MOU 2014 titled “Y-Rating” is hereby added to state follows:
2. “14.5 Y-Rating. When a unit member is reclassified to a new or existing class with a lower maximum salary rate, he or she may be assigned a “Y-Rate” designation under which the unit member will remain at his or her current salary. Unit members with “Y-Ratings” will be frozen at their current prevailing pay rate and will not participate in salary range adjustment until salary schedules related to their new assignment exceed the Y-rated pay rate. Establishment of a “Y-Rate” salary for a unit member is an

administrative determination and requires the approval of the unit member's department head, the Human Resources Director, and the City Manager. The practice is not to be confused with involuntary demotion, salary range adjustments, or other normal personnel procedures including administrative actions that result in bumping rights."

The representatives of the City and the IBEW have jointly prepared this Third Amendment to the Utility Unit MOU 2014, which has been ratified by the IBEW on December 9, 2014 and is jointly presented to the City Council of the City of Banning for determination pursuant to Government Code section 3505.1. Except as expressly provided for in this Third Amendment, all other provisions of the Utility Unit MOU 2014 and any amendment thereto shall remain in full force and effect. The parties also acknowledge that this Third Amendment shall not be in full force and effect until adopted by resolution by the City Council of the City of Banning. Subject to the foregoing and in witness whereof, this Third Amendment is hereby executed by the authorized representatives of the City and IBEW and entered into as of this 9th day of December, 2014.

For the City of Banning:

For IBEW:

June Overholt,
Interim City Manager

Patrick Lavin, Business Agent
IBEW Local 47

Colin Tanner,
Lead Negotiator

John Baca, Business Agent
IBEW Local 47

Rita Chapparosa,
Deputy Human Resources Director

Rick D. Diaz
Representative

CITY COUNCIL

DATE: December 9, 2014

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2014-01, "Street Rehabilitation and Sidewalk Improvements at Various Locations"

RECOMMENDATION: That the City Council accepts Project No. 2014-01, "Street Rehabilitation and Sidewalk Improvements at Various Locations" as complete and directs the City Clerk to record the Notice of Completion and gives the Administrative Services Director the authorization to make all necessary budget adjustments and appropriations related to the project.

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

BACKGROUND: On March 11, 2014, the City Council adopted Resolution No. 2014-15, "Awarding the Construction Contract for Project No. 2014-01, 'Street Rehabilitation and Sidewalk Improvements at Various Locations' and Rejecting All Other Bids." The project was awarded to All American Asphalt ("AAA") of Corona, California.

The scope of work under the project included an asphalt concrete overlay at various locations throughout the city, construction of a new street section along the south side of Ramsey Street from Highland Springs Avenue to Apex Avenue, construction of curb and gutter, sidewalks, adjusting manholes and water valve covers to grade and related striping. The street improvements were funded by Prop 1B Local Street and Roads Program funds and Measure 'A' funds.

The project also consisted of the construction of sidewalk and curb ramp improvements partially funded by a Riverside County Transportation Commission ("RCTC") SB-821 Program Grant at the following locations: (1) San Geronio Avenue (west side) from Wilson Street to Roosevelt Road and (2) Roberge Avenue (west side) from Ramsey Street to Nicolet Street.

During construction Public Works staff directed the contractor to complete additional work in order to eliminate an unsafe sight distance issue at the intersection of Apex Avenue and Ramsey Street. The additional work consisted of grading, paving and the construction of a cross gutter and curb and gutter. AAA was also directed to complete additional work related to the elimination of a drainage issue on Hoffer Street between San Geronio Avenue and Alessandro Road, additional asphalt grinding to eliminate block cracking prior to receiving the asphalt overlay and additional striping along Alessandro Road.

Resolution No. 2014-15 also awarded a Professional Services Agreement for Surveying and Construction Staking to Cozad and Fox, Inc. of Hemet, California in the amount of \$26,684.00. A balance of \$13,586.50 remained on the purchase order at the end of the project.

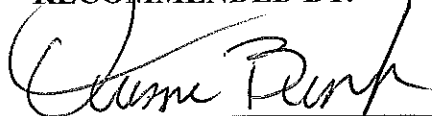
FISCAL DATA: The original contract amount for this project was \$1,233,000.00. The final contract amount is equal to \$1,352,775.11 approximately 9.71% over the original contract amount and within the approved 10% contingency.

The following table lists the budgeted and final funding amounts for Project No. 2014-01, "Street Rehabilitation and Sidewalk Improvements at Various Locations" including the contingency amounts:

Fund	Budgeted Amounts	Final Amounts	Difference
Prop 1B:	\$ 426,957.00	\$ 426,957.00	\$ 0.00
Measure A:	\$ 780,902.00	\$ 783,869.23	(\$ 2,967.23)
SB-821:	\$ 175,125.00	\$ 155,046.38	\$ 20,078.62
Total	\$1,382,984.00	\$1,365,872.61	\$ 17,111.39

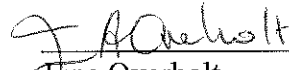
The project expenses exceeded the Measure A budget by \$2,967.23. Funds are available to the cover the shortfall in the 2014/2015 Measure A Fund, Account No. 101-4900-431-93.16.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED AND APPROVED BY:



June Overholt
Administrative Services Director/
Acting City Manager

1 WHEN RECORDED MAIL TO:

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

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

12
13 NOTICE OF COMPLETION

14 PROJECT NO. 2014-01

15 STREET REHABILITATION AND SIDEWALK IMPROVEMENTS AT VARIOUS
16 LOCATIONS

17
18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
19 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
20 the Civil Code of the State of California, and is hereby accepted by the City of Banning,
21 pursuant to authority conferred by the City Council this December 9, 2014, and the
22 grantees consent to recordation thereof by its duly authorized agent.
23

24 That the OWNER, the City of Banning, and All American Asphalt of Corona, California,
25 the vendee, entered into an agreement dated March 11, 2014, for Construction of Project
26 No. 2014-01, "Street Rehabilitation and Sidewalk Improvements at Various Locations."
27

28 The scope of work under this project included an asphalt concrete overlay at various
29 locations throughout the city, construction of a new street section, construction of curb
30 and gutter, sidewalks, adjusting manholes and water valve covers to grade and striping,
31 and the construction of sidewalk and handicap ramp improvements all in accordance with
32 the City of Banning Standard Specifications.
33

34 (1) That the work of improvement was completed on November 17, 2014, for
35 Project No. 2014-01, "Street Rehabilitation and Sidewalk Improvements at Various
36 Locations."

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

4 (3) That said work of improvement was performed at various locations in
5 Banning, California 92220.

6 (4) That the original contractor for said improvement was All American
7 Asphalt, State Contractor's License No. 267073.

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

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

10
11 Dated: December 9, 2014

12 CITY OF BANNING
13 A Municipal Corporation
14

15
16
17 By _____
18 June Overholt,
19 Administrative Services
20 Director/ Interim City Manager
21

22 APPROVED AS TO FORM:
23
24
25

26 _____
27 David J. Aleshire, City Attorney
28 Aleshire & Wynder, LLP
29
30
31
32
33
34
35
36

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 2014 by _____ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

Notary Public in and for said County
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

Executed on _____, 2014 at Banning, California.

City Clerk of the City of Banning

CITY COUNCIL

DATE: December 9, 2014

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2014-01WW, "Hargrave Street Sewer Main Repair"

RECOMMENDATION: That the City Council accepts Project No. 2014-01WW "Hargrave Street Sewer Main Repair" as complete and direct the City Clerk to record the Notice of Completion.

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

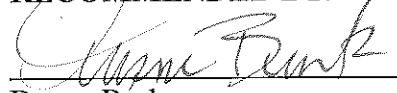
BACKGROUND: On August 12, 2014, the City Council/Banning Utility Authority adopted Resolution No. 2014-19UA, "Awarding the Construction Contract for Project No. 2014-01WW 'Hargrave Street Sewer Main Repair' and Rejecting All Other Bids." The project was awarded to SND Construction, Inc., of Arcadia, California.

The scope of work included saw cutting and excavation to expose the existing 15 inch sewer main; removal and replacement of approximately 15 feet of damaged pipe; backfill under, around and over the sewer main; and placement of 2 sack sand slurry from the top of pipe zone to the spring line of an existing storm drain pipe and final trench repair.

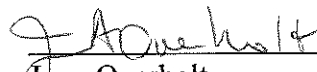
There was one approved change order on the project for the removal of an existing metal casing around the existing sewer main. It was unknown that the casing existed during the bidding process. The change order amounted to \$2,053.24.

FISCAL DATA: The original contract amount for this project was \$39,500.00. The final contract amount is equal to \$41,553.24 approximately 5.2% over the original contract amount and within the approved 10% contingency.

RECOMMENDED BY:


Duane Burk
Director of Public Works

APPROVED BY:


June Overholt
Administrative Services Director/
Interim City Manager

1 WHEN RECORDED MAIL TO:

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

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

12
13 NOTICE OF COMPLETION

14 PROJECT NO. 2014-01 WW

15 HARGRAVE STREET SEWER MAIN REPAIR

16
17 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
18 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
19 the Civil Code of the State of California, and is hereby accepted by the City of Banning,
20 pursuant to authority conferred by the City Council this December 9, 2014, and the
21 grantees consent to recordation thereof by its duly authorized agent.
22

23 That the OWNER, the City of Banning, and SND Construction, Inc., of Arcadia,
24 California, the vendee, entered into an agreement dated August 28, 2014, for
25 Construction of Project No. 2014-01 WW, "Hargrave Street Sewer Main Repair."
26

27 The scope of work under this project included saw cutting and excavation to expose the
28 existing 15 inch sewer main; removal and replacement of approximately 15 feet of
29 damaged pipe; backfill under, around and over the sewer main; and placement of 2 sack
30 sand slurry from the top of pipe zone to the spring line of an existing storm drain pipe and
31 final trench repair all in accordance with the City of Banning Standard Specifications.
32 The limits of the project were the intersection of Hargrave Street and John Street.
33

34 That the work of improvement was completed on October 29, 2014, for Project No.
35 2014-01 WW, "Hargrave Street Sewer Main Repair."

- 1 (1) The Nature of Interest was to provide sewer infrastructure repairs.
- 2 (2) That the City of Banning, a municipal corporation, whose address is
- 3 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work
- 4 of improvement.
- 5 (3) That said work of improvement was performed at the intersection of
- 6 Hargrave Street and John Street in Banning, California 92220.
- 7 (4) That the original contractor for said improvement was SND Construction,
- 8 Inc., State Contractor's License No. 941149.
- 9 (5) That Performance and Payment bonds were required for this project.
- 10 (6) The nature of interest is in fee.

11

12 Dated: December 9, 2014

13 CITY OF BANNING

14 A Municipal Corporation

15

16

17

18 By _____

19 June Overholt,

20 Administrative Services

21 Director/ Interim City Manager

22

23 APPROVED AS TO FORM:

24

25

26

27 _____

28 David J. Aleshire, City Attorney

29 Aleshire & Wynder, LLP

30

31

32

33

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35

36

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _____ day of
_____, 2014 by _____ proved to me on this basis of
satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

Notary Public in and for said County
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

Executed on _____, 2014 at Banning, California.

City Clerk of the City of Banning

CITY COUNCIL AGENDA

Date: December 9, 2014
TO: Honorable Mayor and City Council
FROM: June Overholt, Interim City Manager
SUBJECT: Declare Emergency regarding the Matthewson Building

Recommendation: Approve the Resolution 2014-88 declaring the Matthewson building fire a local emergency requiring immediate fire remediation services.

Discussion: On Saturday November 8, 2014 a fire occurred at the building located at 260 W. Ramsey Street known as the Matthewson Building. The fire caused extensive property damage resulting in a total loss of the building. Shortly after the fire, staff contacted the City's insurer, Lexington Insurance Company ("Lexington"), and Lexington dispatched BelFor Property Restoration ("BelFor") to assist the City in its fire remediation efforts. The fire left the Matthewson Building in a state of disrepair with the building structure on the verge of collapse. Due to the immediate threat to the public health and safety, staff and Lexington authorized BelFor to put up temporary fencing and secure the building. In addition, asbestos testing was done on the site and the test results show asbestos contamination on the property. This fire remediation work by BelFor is estimated to cost less than twenty five thousand dollars (\$25,000).

The second phase of the fire remediation work is for the complete demolition of the Matthewson Building and the removal of all debris and asbestos to an authorized landfill. The estimated cost of this second phase of work is less than thirty nine thousand dollars (\$39,000). However, this cost may increase if additional hazardous conditions are identified on the site.

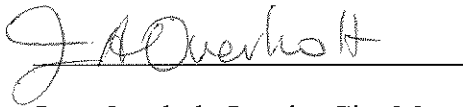
The City's insurer, Lexington, has determined that fire damage is covered by the City's insurance and the costs of the demolition and fire remediation work will be paid for by insurance proceeds (except for the City's deductible). Therefore, the City will only be responsible for a deductible of five thousand dollars (\$5,000) that will be applied towards the fire remediation that includes work for the temporary fencing, securing the structure and asbestos testing. Since the City's insurer has accepted responsibility for this claim, all of the invoices for the demolition and fire remediation work will be paid directly by Lexington.

Staff believes that the current condition of the Matthewson Building creates an immediate threat to the public health and safety and is an "emergency" as defined under Public Contract Code §1102 and the Banning Municipal Code §3.24.130. The City Council may, by four-fifths vote, determine that a local emergency exists, and authorize immediate action to address the emergency situation without complying with formal bidding procedures and requirements.

If the Council determines that an emergency exists, the City staff, the PERMA claims manager, and the City Attorney will negotiate agreements with BelFor, or another qualified contractor approved by the insurer, for the required fire remediation and demolition work.

Fiscal Impact: The City is responsible for a deductible of \$5,000 that will be applied towards the initial containment phase and the cost of the fire remediation work. Costs for the project may exceed those identified in this staff report. In the event, the City desires additional work not covered by insurance, the City Manager will provide Council with a written update on what additional actions have been taken or those that need additional Council approval.

RECOMMENDED BY:

A handwritten signature in cursive script, appearing to read "J. Overholt", is written over a horizontal line.

June Overholt, Interim City Manager

RESOLUTION NO. 2014-88

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
DECLARING THE MATTHEWSON BUILDING FIRE A LOCAL
EMERGENCY REQUIRING IMMEDIATE FIRE REMEDIATION
SERVICES**

WHEREAS, on November 8, 2014 a fire occurred in the City of Banning ("City") at the building located at 260 W. Ramsey Street (the "Matthewson Building") causing extensive property damage resulting in a total loss of the building; and

WHEREAS, the fire left the Matthewson Building in a state of disrepair with the building structure on the verge of collapse; and a site inspection found asbestos contamination on the property; and

WHEREAS, the City's insurance carrier, Lexington Insurance Company ("Lexington"), determined that the fire damage is covered by the City's insurance and coordinated with BelFor Property Restoration to put up temporary fencing, secure the building, and conduct asbestos testing; and

WHEREAS, the City is responsible for a deductible of \$5,000 that will be applied towards the initial phase of the fire remediation work and the remaining work will be paid for by insurance proceeds; and

WHEREAS, the current condition of the Matthewson Building is an immediate threat to the public health and safety and is an "emergency" as defined in the Public Contract Code §1102 and the Banning Municipal Code §3.24.130; and

WHEREAS, pursuant to the Public Contract Code §§20168 and 22050, and Banning Municipal Code §3.24.130, the City Council of the City Banning ("City Council") may, upon adopting a resolution by four-fifths vote, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes without complying with the competitive bidding requirements; and

WHEREAS, the City desires to use the process authorized under the Public Contract Code and the Banning Municipal Code to enter into agreements with BelFor Property Restoration and BelFor Environmental ("BelFor"), or another qualified contractor, for immediate demolition and fire remediation work on the Matthewson Building without delay of going through the formal bidding process; and

WHEREAS, pursuant to Public Contract Code §22050, this item must be reviewed at every regularly scheduled City Council meeting hereafter until the demolition and fire remediation work on the Matthewson Building is complete to ensure that the need to continue the emergency action still exists.

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

SECTION 1. The Recitals above are hereby incorporated by reference as if fully set forth herein.

SECTION 2. The City Council finds that the facts set forth above demonstrates that an emergency exist and that such emergency does not permit the delay resulting from a competitive bidding process. The City Council further finds that the required demolition and fire remediation work on the Matthewson Building is necessary to respond to the emergency conditions.

SECTION 3. The City Manager or her or his designee is hereby directed to work with the PERMA claims manager and the City Attorney to negotiate and enter into contracts with BelFor or another qualified contractor for the necessary demolition and fire remediation work.

SECTION 4. The City Manager or her or his designee shall cause a report on the status of the emergency circumstances to be agenized until the completion of the demolition and fire remediation work on the Matthewson Building is complete or this City Council finds the emergency conditions have ceased to be present.

SECTION 5. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 9th day of December, 2014.

Mayor

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, do hereby certify that the forgoing Resolution No. 2014-88, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of December, 2014, by the following vote, to wit:

AYES: Councilmembers Franklin, Welch, Peterson, Miller, Moyer

NOES: None

ABSENT: None

ABSTAIN: None

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

**CITY COUNCIL
PUBLIC HEARING**

DATE: December 9, 2014

TO: City Council

FROM:

SUBJECT: Amendments to the General Plan and Zoning Code in Response to the State Housing and Community Development (HCD) Comments on the 2013-2021 Housing Element

RECOMMENDATION:

That the City Council:

1. Conduct a public hearing on the Addendum to the Initial Study/Mitigated Negative Declaration; General Plan Amendment No. 14-2502, Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502 (Ordinance No. 1482); and
2. Adopt Resolution No. 2014-85 (Attachment 1) approving:
 - a. Addendum to the Initial Study/Mitigated Negative Declaration that was adopted by the City Council on July 23, 2013 (Attachment 9); and
 - b. General Plan Amendment No. 14-2502 – An amendment to the Land Use and Housing Element text and maps to create an Affordable Housing Opportunity (AHO) Overlay Zone;
3. Introduce Ordinance No. 1482 (Attachment 2) to approve:
 - a. Zone Text Amendment No. 14-97501 - An amendment to the Zoning Code text to provide standards to implement the Affordable Housing Opportunity (AHO) Overlay Zone; and
 - b. Zone Change No. 14-3502 – An amendment to the Zoning Map to apply the AHO Zoning designation to eight parcels in the HDR-20 zone

BACKGROUND:

On January 28, 2014 the City Council adopted the 2013-2021 Housing Element update. As required by state law, the adopted Housing Element was transmitted to the California Department of Housing and Community Development (HCD) for review. On May 1, 2014 HCD issued a letter (Attachment 4) finding that revisions are needed in order for the Housing Element to fully comply with state law.

The revisions described by HCD would require amendments to the Housing and Land Use Elements of the City's General Plan as well as amendments to the Zoning Ordinance and Map.

On June 10, 2014 the City Council adopted Resolution No. 2014-41 initiating the proposed General Plan and Zoning amendments.

Staff conducted a public workshop on July 24, 2014 to provide an opportunity for interested persons to learn more about this proposal. Approximately 20 persons participated in the workshop.

On September 3, 2014 the Planning Commission conducted a public hearing and adopted a resolution (Attachment 3) recommending City Council approval of the proposed amendments. The staff report to the Planning Commission is provided as Attachment 7. If approved by the City Council, these amendments would address all of HCD's remaining concerns regarding certification of the Housing Element.

On November 13, 2014 the Riverside County Airport Land Use Commission (ALUC) reviewed the proposed amendments and found them consistent with the Airport Land Use compatibility plan for Banning Municipal Airport.

DISCUSSION:

In its May 1st review letter, HCD stated that adoption of an Affordable Housing Opportunity (AHO) overlay on parcels in the High Density Residential-20 (HDR-20) zone as described in the City's letter of April 30, 2014 (Attachment 5) would address HCD's concerns related to certification of the Housing Element. The AHO Overlay would allow a density of 20-24 units/acre only for projects that reserve 20% of units for lower-income households. Market-rate projects would not be eligible for a density increase, nor would projects within the AHO Overlay area be required to include affordable units. The overlay would provide an alternative development option for property owners if they choose to provide affordable housing.

The proposed amendments to the General Plan and Zoning Code would establish an AHO designation on the parcels that were previously rezoned to HDR-20 in July 2013 (see table below). Maps showing the locations of these parcels are provided in Attachment 6.

HDR-20 Sites	
Assessor Parcel No.	
537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009

Housing Element Amendment

The proposed Housing Element Amendment would add the following language to Program 5 of the Housing Plan (refer to page 11 of the Housing Element [Attachment 8]):

- “Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing needs by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of “in-lieu” housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.”

Land Use Element Amendment

The proposed Land Use Element Amendment would amend the High Density Residential land use category on p. III-7 as follows:

“High Density Residential (HDR) (11-18 du/acre)

Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. Duplex and multi-plex development is the most prevalent type of development in this designation. The clustering of condominiums and townhomes may be appropriate with the provision of common area amenities and open space. Allowable base density for parcels within the HDR-20 Affordable Housing Opportunity (AHO) overlay zone is ~~may be increased to 20 to 24~~ du/acre for developments that reserve at least 2050% of units for lower-income households in conformance with Program 5 of the Housing Element. Mobile home parks and subdivisions may also be appropriate, with the approval of a conditional use permit. Home occupations are permitted.”

Zone Text Amendment

The proposed zoning amendment would make the following changes to Chapter 17 of the Code.

1. Zoning Code §17.08.010.B.10 would be amended as follows:

“10. High Density Residential-20/Affordable Housing Opportunity (HDR-20/AHO) (20-24 du/acre). Allows condominiums and townhomes, as well as, apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre and a maximum density of 24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

2. Zoning Code Table 17.08.020 would be amended to revise the HDR footnote as follows:

“*Housing developments in the HDR-20/AHO district are permitted at a density of 20-24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

CEQA COMPLIANCE:

An Initial Study/Mitigated Negative Declaration (IS/MND) was adopted by the City Council in July 2013 for the 2008-2013 Housing Element and related land use and zoning amendments including the creation of the HDR-20 zone. The proposed AHO amendments represent a minor change to the Housing Element and related land use regulations. CEQA provides that when minor changes occur to a previously-adopted project, no new environmental impact report or negative declaration is required if no new significant impacts not previously analyzed would occur. Pursuant to CEQA Guidelines Section 15164, an Addendum to the 2008-2013 Housing Element Mitigated Negative Declaration has been prepared (Attachment 9).

The HDR-20 zone currently allows residential development at a density of 20 units/acre when projects provide 50% of units for lower-income households. Under state Density Bonus Law, cities must allow a density increase of up to 35% when a project provides at least 11% very-low-income units or 20% low-income units. Therefore, any project meeting the current HDR-20 affordability requirements would qualify for a 35% density bonus, allowing a maximum density of 27 units/acre.

The proposed AHO would increase the allowable “base” density (excluding density bonus) in the HDR-20 zone from 20 to 24 units/acre when at least 20% of units are reserved for lower-income households. With the 35% state-mandated density bonus, this would result in a maximum density of 32.4 units/acre for a qualifying affordable housing development.

An increase in allowable residential density could be expected to result in a corresponding increase in potential impacts such as traffic, noise and air quality since more housing units could be built on a given parcel. However, the actual density of housing projects depends on many factors including zoning standards, market preferences and development economics. Most of the recent affordable housing developments in the Inland Empire have been built at densities in the range of 15 to 25 units/acre. Non-profit developers in this area indicate that higher densities are usually not desirable due to market conditions and development economics. A recent economic analysis¹ prepared by Keyser-Marston Associates, Inc. (KMA) supports this assessment (Attachment 10). The study compared the financial feasibility of three hypothetical apartment projects at densities of 20, 24 and 30 units/acre in the northern San Diego County market area. The study concluded that of the three scenarios, the highest-density project was the *least* financially feasible primarily due to the higher cost of parking structures compared to surface parking. While real estate market conditions in Banning are not identical to the northern San Diego County area studied by KMA (Escondido, Poway, San Marcos, Santee and adjacent unincorporated areas) it seems reasonable that the fundamental conclusions of that report are also relevant for the Banning market area.

Based on information such as the KMA study, recent development projects, and opinions of affordable housing developers, it is reasonable to conclude that an increase in the maximum allowable density (including density bonus) in the HDR-20 zone from 27 to 32 units/acre would have a negligible effect on actual development density because projects at 30+ units/acre are less feasible than projects in the 20-24 units/acre range in the inland market area. Anecdotal evidence from other cities indicates that in many cases, affordable housing developers do not request any density bonus but may request incentives such as a modification to development standards (e.g., parking) or reduced permit fees.

On the basis of this information, it has been determined that the proposed AHO amendments would not have a significant effect on the environment and therefore an Addendum to the previous IS/MND is the appropriate CEQA document.

PUBLIC REVIEW:

A public workshop was conducted on July 24, 2014 to provide an opportunity for interested parties to learn more about this proposal. Approximately 20 persons attended the workshop. The September 3rd Planning Commission report (Attachment 7) includes a summary of questions raised at the workshop.

The Planning Commission conducted a public hearing regarding this item on September 3, 2014. At the conclusion of the hearing the Commission adopted a resolution (Attachment 3) recommending City Council approval of the proposed amendments (3 ayes, 1 no, 1 absent). Comments from the Commission and members of the public included the following:

¹ County of San Diego Housing Element Update: Housing Resources, Keyser Marston Associates, Inc., 2012 (http://www.hcd.ca.gov/hpd/housing_element2/examples/san_diego_county_kma.pdf)

- The City should encourage more agricultural activity rather than affordable housing
- The KMA financial study may not accurately reflect conditions in Banning
- The City has the right to modify zoning in the future
- Aquifer levels are far below normal and water supply is a critical issue for future development – it may get worse due to climate change
- Housing doesn't "pay its way" in tax revenues
- It would be better to spread high density development around the city on smaller parcels
- Developers are likely to build the maximum number of units zoning allows

PUBLIC HEARING NOTICE:

The public hearing notice for this item was published in the Record Gazette on November 28, 2014 and mailed to the list of interested parties (Attachment 11). As of the writing of this staff report, City staff has not received any new comments from the public other than those submitted prior to the Planning Commission hearing.

STRATEGIC PLAN INTEGRATION:

The City Council adopted the current strategic plan in September 2011. The 7 Goals of the plan were approved by City Council on March 22, 2011, and include: (1) Fiscal Stability, (2) Public Safety, (3) Infrastructure and City Facilities, (4) Economic Development, (5) Quality of Life, (6) Community Relations, and (7) Regional Cooperation and Partnerships. The Housing Element is one of the state-mandated elements of the City's General Plan, and periodic updates are required by state law. HCD certification of the Housing Element supports the legal adequacy of the City's General Plan. Having an adequate and complete General Plan allows the City to implement a strategic plan and financing plan for various capital improvement programs to maintain and improve the quality of life for its residents. In addition, having a certified Housing Element expands the City's eligibility for various grant funds. Listed under Goal #3, Quality of Life - Action Step "E-5" Encourage residential development will be stimulated by increased opportunity for housing development in the City by having additional housing that would stimulate new businesses to establish in Banning and thereby increasing future revenue and property tax generation.

FISCAL DATA:

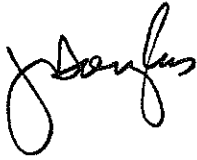
The processing of the proposed amendments to the General Plan and Zoning Code have required staff time and consultant cost, which are included within the current budget. Failure to obtain certification of the Housing Element could expose the City to potential expenditures resulting from litigation.

STAFF RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 2014-85 (Attachment 1) approving the proposed amendments to the Housing and Land Use Elements of the General Plan and introduce Ordinance No. 1482 (Attachment 2) to establish an affordable housing overlay on parcels in the HDR-20 district. Adoption of these amendments would enable the City to obtain

HCD certification of the Housing Element.

PREPARED BY:



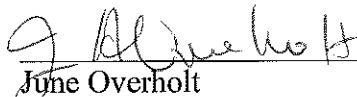
John Douglas,
Consultant

RECOMMENDED BY:



Brian Guillot,
Acting Community Development Director

REVEIWED/APPRVOED BY:



June Overholt
Administrative Services Director/
Deputy City Manager

Attachments:

1. Resolution No. 2014-85 (General Plan Amendment 14-2502)
2. Ordinance No. 1482
3. Planning Commission Resolution No. 2014-10
4. HCD review letter of May 1, 2014
5. April 30, 2014 letter from Mayor Franklin to HCD
6. Maps of Existing HDR-20 sites recommended for Affordable Housing Overlay Zone
7. September 3, 2014 Planning Commission Report (w/o attachments)
8. 2013-2021 Housing Element with proposed revisions
9. CEQA Addendum
10. Keyser Marston report
11. Affidavit of Mailing and Mailing Labels for Public Hearing Notice of City Council meeting of December 9, 2014

Attachment 1
Resolution No. 2014-85 (General Plan Amendment 14-2502)

RESOLUTION NO. 2014-85

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING GENERAL PLAN AMENDMENT NO. 14-2502 TO ESTABLISH AN AFFORDABLE HOUSING OPPORTUNITY OVERLAY

WHEREAS, California Government Code Section 65302(c) mandates that each city shall include a Housing Element in its General Plan. The Housing Element is required to identify and analyze existing and projected housing needs and include statements of the City's goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The City in adopting its Housing Element, must consider economic, environmental, and fiscal factors, as well as community goals as set forth in the General Plan.

WHEREAS, under state law each jurisdiction is required to demonstrate that local land use plans and zoning regulations provide development opportunities to accommodate the jurisdiction's assigned fair share of the region's new housing needs. The process by which fair share housing needs are determined is called the "Regional Housing Needs Assessment" ("RHNA"). The RHNA is prepared by the Southern California Association of Governments ("SCAG"). Once the RHNA allocations are adopted by SCAG and accepted by HCD, they become final and no changes or judicial review are permitted under state law; and

WHEREAS, the RHNA identifies Banning's share of the regional housing need for the 2014-2021 projection period as 3,792 units. This total includes 872 very-low-income units, 593 low-income units, 685 moderate-income units, and 1,642 above-moderate-income units. State law requires the City to demonstrate the availability of adequate sites with appropriate zoning to accommodate the need for various types of housing units commensurate with the RHNA; and

WHEREAS, at a public hearing on January 28, 2014 the Banning City Council adopted the Banning Housing Element update for the 2013-2021 planning period and submitted the adopted element to the California Department of Housing and Community Development ("HCD") as required by state law; and

WHEREAS, in its review letter of May 1, 2014 HCD found that the establishment of an Affordable Housing Opportunity ("AHO") overlay zone allowing a density of 24 units/acre for projects with units affordable to lower-income households on parcels in the HDR-20 zone would address the requirements of state law; and

WHEREAS, on the 10th day of June 2014, the City Council held a noticed public hearing and adopted Resolution No. 2014-41 initiating amendments to the General Plan and Zoning Ordinance to establish an Affordable Housing Opportunity overlay on the HDR-20 district; and

WHEREAS, on the 3rd day of September 2014, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or

opposition to, the proposed amendment, and at which time the Planning Commission considered General Plan Amendment No. 14-2502. At the conclusion of that hearing the Planning Commission voted to recommend City Council adoption of GPA 14-2502; and

WHEREAS, in accordance with Government Code §65854, on the 28 day of November 2014, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of the holding of a public hearing regarding General Plan Amendment No. 14-2502; and

WHEREAS, on the 9th day of December 2014, the City Council held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed General Plan Amendment; and

WHEREAS, the City Council has analyzed the proposed project together with an Addendum to a previous Initial Study/Mitigated Negative Declaration in compliance with California Environmental Quality Act (CEQA) Section 15164.

NOW THEREFORE, the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

An Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared and certified by the City Council in connection with the 2008-2013 Housing Element, along with supporting findings set forth and adopted in City Council Resolution No. 2013-75. In compliance with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*, "CEQA") and the CEQA Guidelines (14 California Code of Regulations § 15000, *et seq.*) an Addendum to that IS/MND has been prepared pursuant to CEQA Guidelines § 15164, which is incorporated herein by reference. The Addendum demonstrates that adoption of the AHO and related amendments to the Housing and Land Use Elements of the General Plan would not result in any new significant environmental impacts that were not evaluated in the prior IS/MND prepared for the 2008-2013 Housing Element, and only minor technical changes or additions are required to the previous IS/MND to satisfy the requirements of CEQA for the proposed AHO amendments. Further, none of the conditions set forth in CEQA § 21166 require the preparation of a subsequent or supplemental environmental impact report or negative declaration. Therefore, pursuant to CEQA Guidelines § 15164, on the basis of all of the evidence in the record, the City Council finds that the Addendum satisfies the requirements of CEQA. The Addendum reflects the independent judgment of the City Council.

SECTION 2. REQUIRED FINDINGS FOR GENERAL PLAN AMENDMENT NO. 14-2502:

Finding No. 1: That the proposed amendment is internally consistent with the General Plan.

Facts in Support of Finding: The Housing Element is required to demonstrate the availability of adequate sites for residential development commensurate with the Regional Housing Needs Assessment ("RHNA") for the 2013-2021 planning period.

The proposed amendment to the General Plan Housing and Land Use Elements would maintain consistency between these elements by ensuring that sufficient sites with appropriate zoning are available for housing development commensurate with the projected needs of households of all income levels in Banning.

Finding No. 2: That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Facts in Support of Finding: The proposed amendments to the Housing and Land Use Elements of the General Plan would encourage and facilitate the maintenance, improvement and development of housing needed to serve the City's current and projected population during the 2013-2021 planning period, as required by state law. Further, the CEQA Addendum prepared for the proposed amendments concluded that the proposed amendments would not result in any new significant environmental impacts.

Finding No. 3: That the proposed amendment would maintain the appropriate balance of land uses within the City.

Facts in Support of Finding: State law requires each city to identify adequate sites for housing development commensurate with the RHNA. The proposed amendments to the Housing and Land Use Elements would ensure an appropriate balance of land uses by designating sufficient sites for housing consistent with the RHNA for the 2013-2021 planning period.

Finding No. 4: That the proposed parcels that are subject to the amendment are physically suitable including but not limited to access, provisions of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designations and the anticipated land use development.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to a previous IS/MND has been prepared for the proposed Housing and Land Use Element amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO would not result in new significant impacts regarding access, utilities, land use compatibility or other potential environmental effects.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby approves the following actions:

1. Adopt General Plan Amendment No. 14-2502 making the following changes to the Housing and Land Use Elements of the General Plan:

a. Housing Element Amendment.

1. Amend Housing Element Program 5 to add the following:

- Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing need by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.

2. Amend the Housing Element Technical Report to reference the Affordable Housing Opportunity overlay zone on pages TR-24 and TR-28.

b. Land Use Element Amendment

Amend the High Density Residential land use category on p. III-7 as follows:

High Density Residential (HDR) (11-18 du/acre)

Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. Duplex and multi-plex development is the most prevalent type of development in this designation. The clustering of condominiums and townhomes may be appropriate with the provision of common area amenities and open space. Allowable base density for parcels within the HDR-20 Affordable Housing Opportunity (AHO) overlay zone is may be increased to 20 to 24 du/acre for developments that reserve at least 2050% of units for lower-income

households in conformance with Program 5 of the Housing Element. Mobile home parks and subdivisions may also be appropriate, with the approval of a conditional use permit. Home occupations are permitted.

PASSED, APPROVED AND ADOPTED this ____ day of _____ 2014.

Deborah Franklin, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2014-85 was duly adopted at a regular meeting of the City Council of the City of Banning, held on the ____ day of _____, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

Attachment 2
Ordinance No. 1482

ORDINANCE NO. 1482

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING ZONE TEXT AMENDMENT NO. 14-97501 AND ZONE CHANGE NO. 14-3502 TO ESTABLISH AN AFFORDABLE HOUSING OPPORTUNITY (AHO) OVERLAY ZONE IN CONFORMANCE WITH THE GENERAL PLAN HOUSING ELEMENT

WHEREAS, California Government Code §65302(c) mandates that each city shall include a Housing Element in its General Plan. The Housing Element is required to identify and analyze existing and projected housing needs and include statements of the City's goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The City in adopting its Housing Element, must consider economic, environmental, and fiscal factors, as well as community goals as set forth in the General Plan.

WHEREAS, on January 28, 2014 the City Council adopted the 2013-2021 Housing Element; and

WHEREAS, on May 1, 2014 the California Department of Housing and Community Development ("HCD") issued a letter finding that changes to the Housing Element and zoning regulations would be necessary to fully satisfy the requirements of state law. HCD also stated that the adoption of an Affordable Housing Opportunity (AHO) overlay in the HDR-20 zone would address this finding; and

WHEREAS, a finding of substantial compliance from HCD is important to maximize the City's eligibility for grant funds and preserve local land use authority; and

WHEREAS, in accordance with Government Code §65854, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of a public hearing to be held by the Planning Commission regarding the proposed zoning amendments; and

WHEREAS, on the 3rd day of September 2014, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed zoning amendments, and at which time the Planning Commission considered Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502; and

WHEREAS, at this public hearing, the Planning Commission analyzed this proposed project together with an Addendum to a previous Initial Study/Mitigated Negative Declaration in compliance with California Environmental Quality Act §15162 and §15164 and recommended adoption of the Addendum by the City Council; and

WHEREAS, On November 28, 2014 notice of the City Council public hearing regarding Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502 was published in the Record Gazette newspaper; and

WHEREAS, on December 9, 2014 the City Council conducted a duly noticed public hearing to consider Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502, at which time all interested persons were invited to provide comments in opposition to or support for the proposed amendment.

NOW THEREFORE, the City Council of the City of Banning does make the following findings and based thereon and the administrative record does ordain as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

An Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program were adopted for the 2008-2013 Banning Housing Element and Zone Change No. 13-3502 in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines §15000 through 15387, and the City of Banning Environmental Review Guidelines. City Council Resolution No. 2013-75, incorporated herein by this reference, provides environmental findings in support of that IS/MND.

When an EIR or negative declaration has been prepared for a project and changes are subsequently proposed to that project, the City is required to determine whether the environmental effects of such actions are within the scope of previous environmental documentation, and whether additional environmental analysis is required. If the agency finds that pursuant to §15162, §15164, and §15183 of the CEQA Guidelines no new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur, then no supplemental or subsequent EIR or MND is required.

Pursuant to CEQA Guidelines §15164, an Addendum to the 2008-2013 Housing Element IS/MND has been prepared to evaluate the potential environmental effects of Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502. Through the analysis described in that Addendum, the City of Banning has determined that changes associated with the proposed zoning amendments are not substantial. No new significant impacts would result from these changes, nor would there be a substantial increase in the severity of previously identified environmental impacts. In addition, the changes with respect to the circumstances under which the project will be undertaken would not result in new or more severe significant environmental impacts.

The City Council finds that the Addendum together with the previous IS/MND reflect its independent judgment further finds that these documents satisfy the requirements of CEQA for Zone Text Amendment No. 14-97501 and Zone Change No. 14-3502.

SECTION 2. REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO 14-97501 AND ZONE CHANGE NO. 14-3502:

Finding No. 1: The proposed zoning amendments are consistent with the General Plan.

Facts in Support of Finding: The proposed zoning amendments would demonstrate the availability of adequate sites for residential development commensurate with the Regional Housing Needs Assessment (RHNA) for the 2013-2021 planning period. The proposed amendments to the Zoning Ordinance and Map are not only consistent with the General Plan, they are required to ensure consistency with the Housing and Land Use Elements of the General Plan and the RHNA by establishing zoning regulations on sufficient sites to accommodate housing development at densities necessary to meet the projected needs of lower-income households in Banning.

Finding No. 2: The proposed zoning amendments would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare of the City.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that adoption of the Affordable Housing Opportunity (AHO) Overlay would not result in new significant environmental effects that were not previously analyzed. Further, any future development on AHO sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference.

Finding No. 3: The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s).

Facts in Support of Finding: Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO Overlay would not result in new significant impacts regarding access, utilities, land use compatibility or other potential environmental effects that were not previously analyzed and disclosed in the IS/MND and General Plan EIR. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference.

Finding No. 4: The proposed zoning amendments shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to the 2008-2013 Housing Element Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO Overlay would not result in new significant impacts to the surrounding properties or the community in general that were not previously analyzed and disclosed in the IS/MND and General Plan EIR. Further facts and evidence in support of this finding are contained in the Addendum and the accompanying staff report, all of which are incorporated herein by this reference. Moreover, adoption of the AHO Overlay is required by state law to ensure consistency with the Regional Housing Needs Assessment.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Zoning Code §17.08.010.B.10 is hereby amended as follows:

“10. High Density Residential-20/Affordable Housing Opportunity (HDR-20/AHO) (20-24 du/acre). Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre and a maximum density of 24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Projects requesting a density increase above 20 units/acre shall execute a Density Bonus Housing Agreement in conformance with Section 15.60.130 of this code. Affordable units shall be distributed throughout the development and shall be comparable to market rate units in design and quality. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

2. Zoning Code Table 17.08.020 is amended to revise the HDR footnote as follows:

“*Housing developments in the HDR-20/AHO district are permitted at a density of 20-24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

3. The Zoning Map is hereby amended to change the designations for the following parcels from HDR-20 to HDR-20/AHO:

"537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009"

SECTION 4. PUBLICATION

The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon, this Ordinance shall take effect thirty (30) days after the adoption and be in effect according to the law.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2014.

Deborah Franklin, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire
Aleshire & Wynder, LLP
City Attorney
City of Banning, California

ATTEST:

Marie Calderon, City Clerk
City of Banning, California

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1482 was duly introduced at a regular meeting of the City Council of

the City of Banning, held on the ____ day of _____, 2014 and was duly adopted at a regular meeting of said City Council held on the ____ day of _____ 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning, California

Attachment 3
Planning Commission Resolution No. 2014-10

RESOLUTION NO. 2014-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF ADDENDUM TO THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION; GENERAL PLAN AMENDMENT NO. 14-2502; ZONE CHANGE NO. 14-3502; AND ZONE TEXT AMENDMENT NO. 14-97501 (ORDINANCE NO. 1482) ESTABLISHING AN AFFORDABLE HOUSING OPPORTUNITY OVERLAY ON HDR-20 PARCELS

WHEREAS, California Government Code Section 65302(c) mandates that each city shall include a Housing Element in its General Plan. The Housing Element is required to identify and analyze existing and projected housing needs and include statements of the City's goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. - The City in adopting its Housing Element, must consider economic, environmental, and fiscal factors, as well as community goals as set forth in the General Plan; and

WHEREAS, under state law each jurisdiction is required to demonstrate that local land use plans and zoning regulations provide development opportunities to accommodate the jurisdiction's assigned fair share of the region's new housing needs. The process by which fair share housing needs are determined is called the "Regional Housing Needs Assessment" ("RHNA"). The RHNA is prepared by the Southern California Association of Governments ("SCAG"). Once the RHNA allocations are adopted by SCAG and accepted by HCD, they become final and no changes or judicial review are permitted under state law; and

WHEREAS, the RHNA identifies Banning's share of the regional housing need for the 2014 - 2021 projection period as 3,792 units. This total includes 872 very-low-income units, 593 low-income units, 685 moderate-income units, and 1,642 above-moderate-income units. State law requires the City to demonstrate the availability of adequate sites with appropriate zoning to accommodate the need for various types of housing units commensurate with the RHNA; and

WHEREAS, at a public hearing on January 28, 2014 the Banning City Council adopted the Banning Housing Element update for the 2013-2021 planning period and submitted the adopted element to the California Department of Housing and Community Development ("HCD") as required by state law; and

WHEREAS, in its review letter of May 1, 2014 HCD found that the establishment of an Affordable Housing Opportunity ("AHO") overlay zone allowing a density of 24 units/acre for projects with units affordable to lower-income households on parcels in the HDR-20 zone would address the requirements of state law; and

WHEREAS, in accordance with Government Code §65854, on the 22nd day of August 2014, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of the holding of a public hearing regarding Addendum to the Initial Study/Mitigated Negative Declaration that was adopted by the City Council on July 23, 2013; General Plan Amendment No. 14-2502; Zone Change No. 14-3502; and Zone Text Amendment No. 14-97501 (Ordinance No. 1482) an amendment to the text of the Zoning Code to provide standards to implement the Affordable Housing Opportunity (AHO) Zone; and

WHEREAS, on the 3rd day of September 2014, the Planning Commission held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed amendment, and at which time the Planning Commission considered the Initial Study/Mitigated Negative Declaration that was adopted by the City Council on July 23, 2013; General Plan Amendment No. 14-2502; Zone Change No. 14-3502; and Zone Text Amendment No. 14-97501 (Ordinance No. 1482); and

WHEREAS, at this public hearing the Planning Commission analyzed the proposed project together with an Addendum to a previous Initial Study/Mitigated Negative Declaration in compliance with California Environmental Quality Act (CEQA) Section 15164.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

An Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared and certified by the City Council in connection with the 2008-2013 Housing Element, along with supporting findings set forth and adopted in City Council Resolution No. 2013-75. In compliance with the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*, "CEQA") and the CEQA Guidelines (14 California Code of Regulations § 15000, *et seq.*) an Addendum to that IS/MND has been prepared pursuant to CEQA Guidelines § 15164, which is incorporated herein by reference. The Addendum demonstrates that adoption of the AHO and related amendments to the Housing and Land Use Elements of the General Plan would not result in any new significant environmental impacts that were not evaluated in the prior IS/MND prepared for the 2008-2013 Housing Element, and only minor technical changes or additions are required to the previous IS/MND to satisfy the requirements of CEQA for the proposed AHO amendments. Further, none of the conditions set forth in CEQA § 21166 require the preparation of a subsequent or supplemental environmental impact report or negative declaration. Therefore, pursuant to CEQA Guidelines § 15164, on the basis of all of the evidence in the record, the Planning Commission finds that the Addendum satisfies the requirements of CEQA and hereby recommends its approval by the City Council. The Addendum reflects the independent judgment of the Planning Commission.

SECTION 2. REQUIRED FINDINGS FOR GENERAL PLAN AMENDMENT NO. 14-2502.

Finding No. 1: That the proposed amendment is internally consistent with the General Plan.

Facts in Support of Finding: The Housing Element is required to demonstrate the availability of adequate sites for residential development commensurate with the Regional Housing Needs Assessment ("RHNA") for the 2013-2021 planning period. The proposed amendment to the General Plan Housing and Land Use Elements would maintain consistency between these elements by ensuring that sufficient sites with appropriate zoning are available for housing development commensurate with the projected needs of households of all income levels in Banning.

Finding No. 2: That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Facts in Support of Finding: The proposed amendments to the Housing and Land Use Elements of the General Plan would encourage and facilitate the maintenance, improvement and development of housing needed to serve the City's current and projected population during the 2013-2021 planning period, as required by state law. Further, the CEQA Addendum prepared for the proposed amendments concluded that the proposed amendments would not result in any new significant environmental impacts.

Finding No. 3: That the proposed amendment would maintain the appropriate balance of land uses within the City.

Facts in Support of Finding: State law requires each city to identify adequate sites for housing development commensurate with the RHNA. The proposed amendments to the Housing and Land Use Elements would ensure an appropriate balance of land uses by designating sufficient sites for housing consistent with the RHNA for the 2013-2021 planning period.

Finding No. 4: That the proposed parcels that are subject to the amendment are physically suitable including but not limited to access, provisions of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designations and the anticipated land use development.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to a previous IS/MND has been prepared for the proposed Housing and Land Use Element amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO would not result in new significant impacts regarding access, utilities, land use compatibility or other potential environmental effects.

SECTION 3. REQUIRED FINDINGS FOR ZONE CHANGE 14-3502 AND ZONE TEXT AMENDMENT NO. 14-97501:

Finding No. 1: The proposed Zone Change and Zone Text Amendment is consistent with the General Plan, as amended.

Facts in Support of Finding: The proposed amendments to the Housing and Land Use Elements would demonstrate the availability of adequate sites for residential development commensurate with the RHNA for the 2013-2021 planning period. The proposed amendment to the Zoning Ordinance and Map would ensure consistency with the Housing and Land Use Elements by designating sufficient sites with appropriate zoning for housing development at densities necessary to accommodate the projected needs of households of all income levels in Banning.

Finding No. 2: The proposed Zone Change and Zone Text Amendment would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare of the City.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to a previous IS/MND has been prepared for the proposed AHO amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, adoption of the AHO would not result in new significant environmental effects. Further, future development on AHO sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents.

Finding No. 3: The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s).

Facts in Support of Finding: Pursuant to CEQA, an Addendum to a previous IS/MND has been prepared for the proposed AHO amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, development in the AHO would not result in new significant environmental effects. Further, future development on AHO sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents.

Finding No. 4: The proposed Zone Change and Zone Text Amendment shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

Facts in Support of Finding: Pursuant to CEQA, an Addendum to a previous IS/MND has been prepared for the proposed AHO amendments. The Addendum concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, development in the AHO would not result in new significant impacts to the surrounding neighborhood or the community in general. Future

development on AHO sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents. Further, the proposed AHO amendment is required by state law to ensure consistency with the RHNA.

SECTION 4. PLANNING COMMISSION ACTIONS.

The Planning Commission recommends that City Council takes the following actions:

1. Approve General Plan Amendment No. 14-2502 making the following changes to the Housing and Land Use Elements of the General Plan:

a. Housing Element Amendment.

i. Amend Housing Element Program 5 to add the following:

o Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing needs by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.

CERTIFICATION:

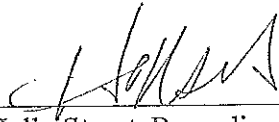
I, Holly Stuart, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-10, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of September 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:



Holly Stuart, Recording Secretary
City of Banning, California

2. Amend the Housing Element Technical Report to reference the Affordable Housing Opportunity overlay zone on pages TR-24 and TR-28.

b. Land Use Element Amendment

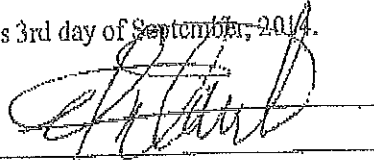
Amend the High Density Residential land use category on p. H1-7 as follows:

High Density Residential (HDR) (11-18 du/acre)

Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. Duplex and multi-plex development is the most prevalent type of development in this designation. The clustering of condominiums and townhomes may be appropriate with the provision of common area amenities and open space. Allowable base density for parcels within the HDR-20 Affordable Housing Opportunity (AHO) overlay zone is ~~may be increased to 20 to 24~~ du/acre for developments that reserve at least 2050% of units for lower-income households in conformance with Program 5 of the Housing Element. Mobile home parks and subdivisions may also be appropriate, with the approval of a conditional use permit. Home occupations are permitted.

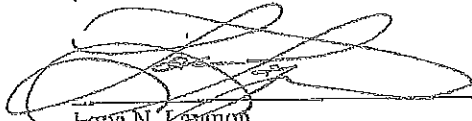
3. Adopt Ordinance No. 1482 (Exhibit A) approving Zone Text Amendment No. 14-97301 and Zone Change No. 14-3502 based on the findings as referenced herein.

PASSED, APPROVED AND ADOPTED this 3rd day of September, 2014.



David Ellis, Vice-Chairman
Banning Planning Commission

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



Lona N. Laymon
Alcshre & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:



Holly Stuart, Recording Secretary
City of Banning, California

Attachment 4
HCD review letter of May 1, 2014

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 600
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



May 1, 2014

Ms. Debbie Franklin, Mayor
City of Banning
P.O. Box 998
Banning, CA 92220

Dear Ms. Franklin:

RE: Review of City of Banning's 5th Cycle (2013-2021) Adopted Housing Element

Thank you for submitting City of Banning's housing element adopted January 28, 2014 that was received for review on February 3, 2014. Pursuant to Government Code Section 65585(h), the Department is reporting its review of the adopted housing element. The Department is also taking the opportunity to comment on draft program actions described in a April 30, 2014 letter from Ms. Debbie Franklin, Mayor of the City of Banning, that will be presented to the City Council for discussion and action.

The adopted element addresses many statutory requirements described in the Department's December 23, 2013 review. Revisions to address the two findings detailed below are necessary to comply with State housing element law (Article 10.6 of the Government Code).

1. *Identify the zones and densities appropriate to encourage and facilitate the development of housing for lower income households based on factors such as market demand, financial feasibility, and development experience within zones. (Government Code Section 65583.2(c)(3)(A) and (B)).*

The adopted element did not fully address this finding. While the element includes an analysis demonstrating the appropriateness of the 24 du/acre density within the VHDR zone, it does not include analysis to support the appropriateness of 20 du/acre in the HDR zone. Please see the Department's previous review.

The draft actions described in the Mayor's April 30, 2014 communication would address this finding were the City to adopt an affordable housing overlay which would increase the allowable density in the HDR zone to 24 du/acre for projects with units affordable to lower-income households.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Revisions are needed to identify and analyze all relevant land use controls and impacts as potential constraints on the cost and supply of housing. The adopted element did not analyze the impact of having the same minimum and maximum density of 20 du/acre in the HDR zone. The element must analyze whether the absence of a density range poses a governmental constraint on development including potential impacts resulting from site constraints, financial considerations, and other development factors.

The draft actions described in the City's April 30, 2014 letter would address this finding, if the City adopts an affordable housing overlay that expands the range of allowable density in the HDR zone.

Once the element has been revised to include the April 30, 2014 draft program actions to address the above two findings and the City adopts and submits the element without substantive changes, it will comply with State housing element law. The Department appreciates the cooperation provided by City officials, staff, and the City's consultant, Mr. John Douglas. If you have any questions or need additional technical assistance, please contact Melinda Coy, of our staff, at (916) 263-7425.

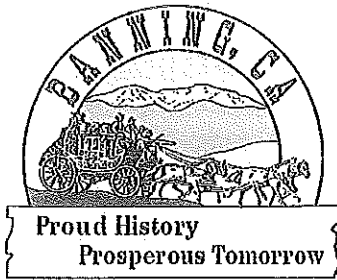
Sincerely,



Glen A. Campora
Assistant Deputy Director

Cc: Ms. Zai Abu Bakar, Community Development Director

Attachment 5
April 30, 2014 letter from Mayor Franklin to HCD



City of Banning Office of the Mayor

April 30, 2014

Glen Campora, Assistant Deputy Director
Department of Housing and Community Development
Division of Housing Policy Development
2020 W. El Camino, Suite 500
Sacramento, CA 95833

Subject: City of Banning 2013-2021 Housing Element (5th cycle)

Dear Mr. Campora,

In recent discussions between your staff and City staff regarding our adopted Housing Element, questions have been raised regarding the appropriateness of the development standards in the HDR-20 zone, particularly the minimum and maximum base density of 20 units/acre (excluding density bonus). Your staff has provided examples of programs adopted in other cities to encourage affordable housing development.

It is my understanding based on discussions with City staff that a program to establish an affordable housing opportunity (AHO) overlay zone in the HDR-20 district as described below would address this issue.

Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

- a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).*
- b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.*
- c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.*

The City will work with developers, other agencies and the community to address lower-income housing need by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.

Your staff has also raised a concern regarding the City's commitment to comply with the *no net loss* provisions of Government Code Sec. 65863. It is my understanding that the following revision to Program 5 would adequately address this issue:

- To ensure sufficient residential capacity for units affordable to lower-income households is maintained within the planning period to accommodate the identified regional need for lower-income households, the City will develop and implement a formal ongoing (project by project) monitoring procedure, pursuant to Government Code Section 65863 by September 2014.

I would appreciate your opinion regarding whether the program revisions described above, if adopted in our Housing Element, would satisfy the requirements of state law.

Yours truly,

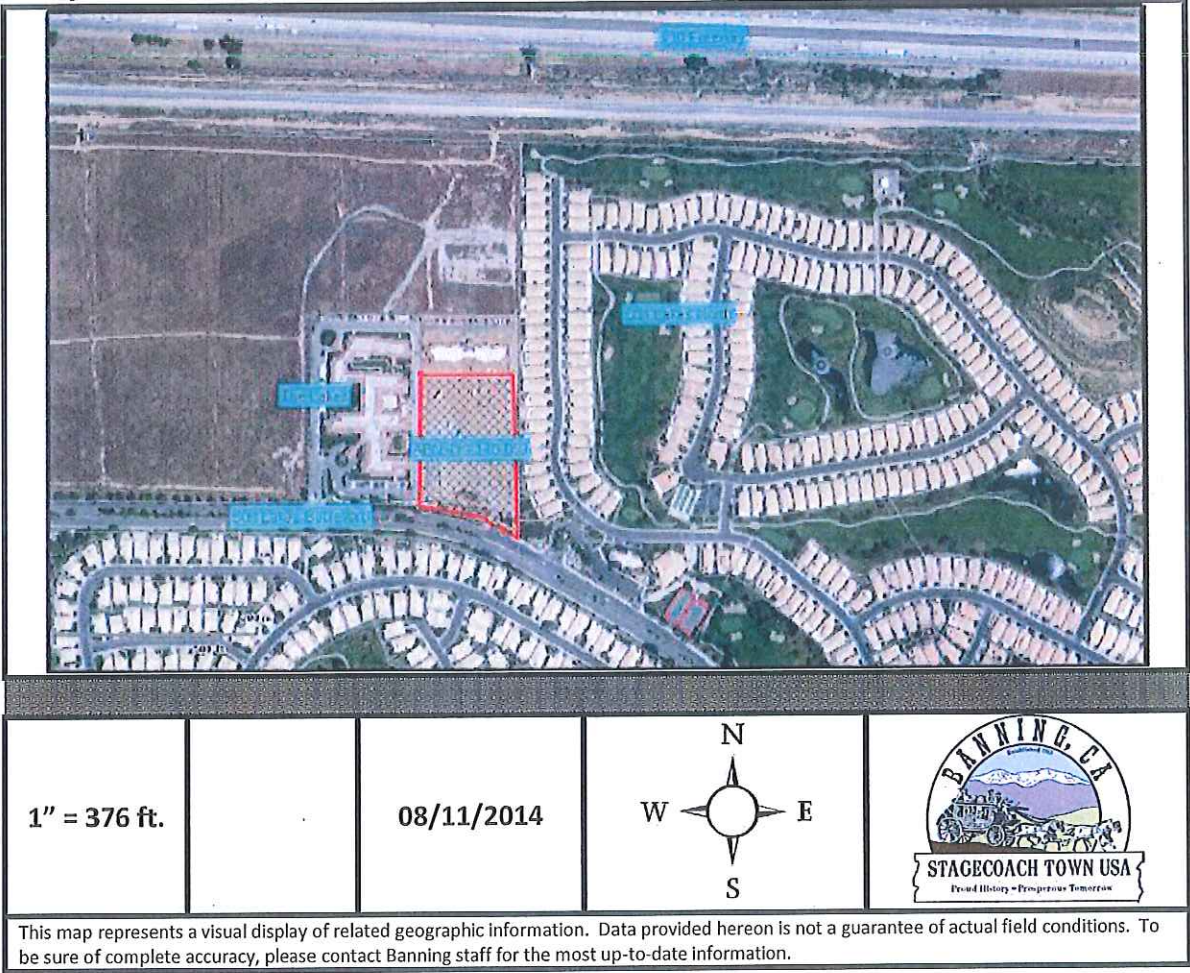


Debbie Franklin, Mayor
City of Banning

cc: City Council Members
Homer Croy, Interim City Manager
Zai Abu Bakar, Community Development Director

Attachment 6
Maps of Existing HDR-20 sites recommended for Affordable
Housing Overlay Zone

Proposed Affordable Housing Opportunity Overlay Site (APN 419-140-059)



Proposed Affordable Housing Opportunity Overlay Site (APN 532-080-004)



1" = 1,505 ft.		08/11/2014		
This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.				

Proposed Affordable Housing Opportunity Overlay Site (APN 534-161-010)



1" = 188 ft.		08/11/2014		
This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.				

Proposed Affordable Housing Opportunity Overlay Site (APN 537-110-008)



1" = 752 ft.	08/11/2014		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

Proposed Affordable Housing Opportunity Overlay Site (APN 537-120-034)



1" = 752 ft.	08/11/2014		
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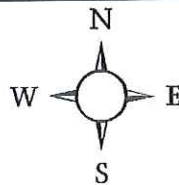
This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

Proposed Affordable Housing Opportunity Overlay Site (APN 540-083-002)



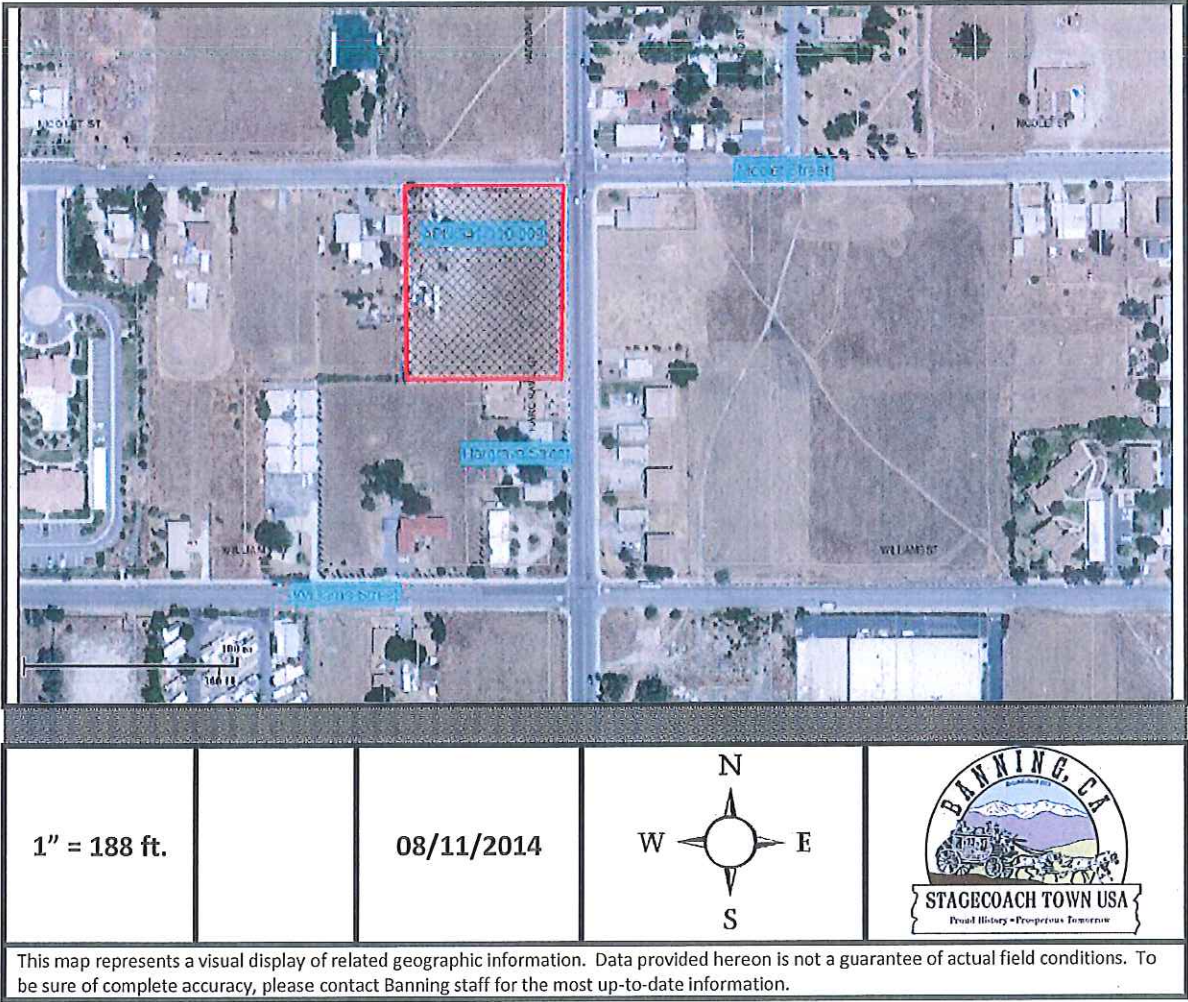
1" = 376 ft.

08/11/2014



This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

Proposed Affordable Housing Opportunity Overlay Site (APN 541-110-009)



Proposed Affordable Housing Opportunity Overlay Site (APN 541-110-013)



1" = 376 ft.	08/11/2014		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

Attachment 7
September 3, 2014 Planning Commission Report (w/o
attachments)

CITY OF BANNING

Planning Commission Report

DATE: September 3, 2014

TO: Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Addendum to the Initial Study/Mitigated Negative Declaration; General Plan Amendment No. 14-2502, Zone Change No. 14-3502, Zone Text Amendment No. 14-97501 (Ordinance No. 1482) – Establishment of an Affordable Housing Opportunity Overlay Zone on HDR-20 Parcels

STAFF RECOMMENDATION:

That the Planning Commission:

1. Conduct a public hearing on the Addendum to the Initial Study/Mitigated Negative Declaration; General Plan Amendment No. 14-2502, Zone Change No. 14-3502, Zone Text Amendment No. 14-97501 (Ordinance No. 1482); and,
2. Adopt Resolution No. PC 2014-10 (Attachment 1) recommending City Council:
 - a. Approval of an Addendum to the Initial Study/Mitigated Negative Declaration that was adopted by the City Council on July 23, 2013 (Attachment 6);
 - b. Approval of General Plan Amendment No. 14-2502 – An amendment to the Land Use and Housing Element text and map(s) to create an Affordable Housing Opportunity (AHO) Zone;
 - c. Approval of Zone Change No. 14-3502 – An amendment to the General Plan Land Use and Zoning Map to create an Affordable Housing Opportunity (AHO) Zone;
 - d. Approval of Zone Text Amendment No. 14-97501 (Ordinance No. 1482) an amendment to the text of the Zoning Code to provide standards to implement the Affordable Housing Opportunity (AHO) Zone.

BACKGROUND:

The Housing Element is one of the state-mandated elements of the City's General Plan. State law requires all jurisdictions within the Southern California Association of Governments (SCAG) region (which includes Riverside County) to update their Housing Elements for the "5th cycle" 2013-2021 planning period. During 2013-2014 the City conducted several public workshops and

hearings to consider the draft Housing Element update and on January 28, 2014 the City Council adopted the 2013-2021 Housing Element.

State law requires that cities submit Housing Elements to the California Department of Housing and Community Development (HCD) for review. A finding of compliance by HCD is referred to as "certification" of the Housing Element. Certification is desirable in order to enhance the City's eligibility for grant funds and to support the City's local land use control.

On May 1, 2014 HCD issued a letter (Attachment 2) finding that revisions to the City's land use plans and regulations are needed in order for the Housing Element to fully comply with state law. The required revisions include amendments to the Housing and Land Use Elements of the General Plan, as well as, a Zoning Code amendment and amendment to the General Plan/Zoning Map. On June 10, 2014 the City Council conducted a public hearing and directed staff to initiate processing of the proposed AHO amendments.

DISCUSSION:

In its May 1st review letter, HCD stated that adoption of an Affordable Housing Opportunity (AHO) overlay on parcels in the High Density Residential-20 (HDR-20) zone as described in the City's letter of April 30, 2014 (Attachment 3) would address HCD's concerns. The AHO Overlay would allow a density of 20-24 units/acre only for projects that reserve 20% of units for lower-income households. Market-rate projects would not be eligible for a density increase, nor would projects within the AHO Overlay area be required to include affordable units. The overlay would provide an alternative development option for property owners if they choose to provide affordable housing.

The proposed amendments to the General Plan and Zoning Code would establish an AHO designation on the parcels that were previously rezoned to HDR-20 in July 2013 (see table below). Maps showing the locations of these parcels are provided in Attachment 4.

HDR-20 Sites	
Assessor Parcel No.	
537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009

Housing Element Amendment

The proposed Housing Element Amendment would add the following language to Program 5 of the Housing Plan (refer to page 11 of the Housing Element [Attachment 5]):

▪ **"Affordable Housing Opportunity (AHO) Overlay Zone**

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing needs by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing."

Land Use Element Amendment

The proposed Land Use Element Amendment would amend the High Density Residential land use category on p. III-7 as follows:

"High Density Residential (HDR) (11-18 du/acre)

Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. Duplex and multi-plex development is the most prevalent type of development in this designation. The clustering of condominiums and townhomes may be appropriate with the provision of common area amenities and open space. Allowable base density for parcels within the HDR-20 Affordable Housing Opportunity (AHO) overlay zone is ~~may be increased to 20~~ to 24 du/acre for developments that reserve at least 2050% of units for lower-income households in conformance with Program 5 of the Housing Element. Mobile home parks and subdivisions may also be appropriate, with the approval of a conditional use permit. Home occupations are permitted."

Zone Text Amendment

The proposed zoning amendment would make the following changes to Chapter 17 of the Code.

1. Zoning Code §17.08.010.B.10 would be amended as follows:

"10. High Density Residential-20/Affordable Housing Opportunity (HDR-20/AHO) (20-24 du/acre). Allows condominiums and townhomes, as well as, apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre and a maximum density of 24 dwelling units per acre when at least 2050% of the units are reserved for lower-

income households in conformance with Program 5 of the Housing Element. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

2. Zoning Code Table 17.08.020 would be amended to revise the HDR footnote as follows:

“*Housing developments in the HDR-20/AHO district are permitted at a density of 20-24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

CEQA COMPLIANCE:

An Initial Study/Mitigated Negative Declaration (IS/MND) was adopted by the City Council in July 2013 for the 2008-2013 Housing Element and related land use and zoning amendments including the creation of the HDR-20 zone. The proposed AHO amendments represent a minor change to the Housing Element and related land use regulations. CEQA provides that when minor changes occur to a previously-adopted project, no new environmental impact report or negative declaration is required if no new significant impacts not previously analyzed would occur. Pursuant to CEQA Guidelines Section 15164, an Addendum to the 2008-2013 Housing Element Mitigated Negative Declaration has been prepared (Attachment 6).

The HDR-20 zone currently allows residential development at a density of 20 units/acre when projects provide 50% of units for lower-income households. Under state Density Bonus Law, cities must allow a density increase of 35% when a project provides at least 11% very-low-income units or 20% low-income units. Therefore, any project meeting the current HDR-20 affordability requirements would qualify for a 35% density bonus, allowing a maximum density of 27 units/acre.

The proposed AHO would increase the allowable “base” density (excluding density bonus) in the HDR-20 zone from 20 to 24 units/acre when at least 20% of units are reserved for lower-income households. With the 35% state-mandated density bonus, this would result in a maximum density of 32.4 units/acre for a qualifying affordable housing development.

An increase in allowable residential density could be expected to result in a corresponding increase in potential impacts such as traffic, noise and air quality since more housing units could be built on a given parcel. However, the actual density of housing projects depends on many factors including zoning standards, market preferences and development economics. Most of the recent affordable housing developments in the Inland Empire have been built at densities in the range of 15 to 25 units/acre. Non-profit developers in this area indicate that higher densities are usually not desirable due to market conditions and development economics. A recent economic analysis¹ prepared by Keyser-Marston Associates, Inc. supports this assessment (Attachment 7).

¹ County of San Diego Housing Element Update: Housing Resources, Keyser Marston Associates, Inc., 2012 (http://www.hcd.ca.gov/hpd/housing_element2/examples/san_diego_county_kma.pdf)

The study compared the financial feasibility of three hypothetical apartment projects at densities of 20, 24 and 30 units/acre in the northern San Diego County market area. The study concluded that of the three scenarios, the highest-density project was the least financially feasible primarily due to the higher cost of parking structures compared to surface parking.

Based on information such as the Keyser-Marston study and opinions of affordable housing developers, it is reasonable to conclude that an increase in the maximum allowable density (including density bonus) in the HDR-20 zone from 27 to 32 units/acre would have a negligible effect on actual development density because projects at 30+ units/acre are less feasible than projects in the 20-24 units/acre range in the inland market area. Anecdotal evidence from other cities indicates that in many cases, affordable housing developers do not request any density bonus but may request incentives such as a modification to development standards (e.g., parking) or reduced permit fees.

On the basis of this information, it has been determined that the proposed AHO amendments would not have a significant effect on the environment and therefore an Addendum to the previous IS/MND is the appropriate CEQA document.

PUBLIC REVIEW:

On July 24, 2014 a public workshop was conducted to provide an opportunity for interested parties to review and discuss the proposed amendments. Notice of the workshop was provided by direct mail to those persons who have previously participated in meetings related to the Housing Element, owners of property within 300' radius of the proposed AHO site; and was also published in the Record Gazette on July 11, 2014 and posted at City Hall (Attachment 8).

Approximately 20 people attended the workshop. Questions raised included the following.

- *Who would build housing on the AHO sites?*

Development of AHO sites would occur in the same way as any other property in the City. If the property owner wishes to build, a development application would be submitted to the City for review and all of the zoning and building code requirements would need to be satisfied. The AHO regulations would create the option for the property owner to build at a density of 24 units/acre rather than 20 units/acre if 20% of the units were reserved for lower-income families. Under state density bonus law, the City would also be required to allow a density increase of up to 35% if affordable units were provided.

- *Who would live in new AHO developments?*

If a new development did not include affordable units, then there would be no City restrictions on new buyers or tenants. If a development included affordable units, the developer would be required to screen buyers or tenants to confirm that their incomes were within the affordable range as defined by state law.

- *Could the AHO sites be changed to other parcels?*

Yes. The City Council has the authority to change the zoning on property within the City. However under state housing law, the City is required to maintain zoning for high density housing on enough property to accommodate its assigned share of the region's need for lower-income families. Therefore, if any property with high-density zoning were rezoned to a lower density, the City may be required to "up zone" some other property to maintain a sufficient supply of land zoned for high density.

- *Doesn't state density bonus law already allow the density proposed in the AHO?*

Yes. State density bonus law requires cities to allow a density increase of up to 35% when affordable units are provided. However, state HCD is requiring the City to allow a "base" density of 24 units/acre (excluding density bonus) in the AHO in order to receive certification of the Housing Element.

- *Would new developments in the AHO be required to be low-income apartments? Could they be condos? Could senior affordable housing be built in the AHO?*

New developments in the AHO could be either condos or apartments, and could also be senior housing. Also, the AHO would not require developments to include affordable units, but would provide the option of increasing the allowable density if at least 20% of the units were reserved for lower-income families. While fair housing law does not allow cities to establish "senior only" zoning, cities may offer additional incentives to encourage senior housing developments such as modified development standards or reduced development fees.

- *What is the state deadline for rezoning and certification of the Housing Element?*

The due date for adoption of the 2013-2021 Housing Element was October 2013, and the City will remain "out of compliance" until the AHO zoning is adopted.

- *When was the City's Housing Element last certified by the state?*

The City's Housing Element that was last certified was in 1993.

- *How many other cities do not have a state-certified Housing Element?*

According to HCD's "Housing Element Compliance Report" posted on its website, (<http://www.hcd.ca.gov/hpd/hrc/plan/he/status.pdf>) 80% of jurisdictions in California were "in compliance" as of July 29, 2014. Of the 28 jurisdictions in Riverside County, three were "out of compliance" (Banning, Cathedral City, Palm Springs) and two were overdue (Canyon Lake and Desert Hot Springs)

- *Are cities required to have a particular percentage of housing at different income levels?*

State law establishes a process known as the Regional Housing Needs Assessment ("RHNA") by which each jurisdiction is assigned a share of the state's new housing needs for families at all income levels. Cities are not required to achieve their assigned share of new housing need, but must demonstrate through their Housing Element that they have sufficient sites with appropriate zoning designations to accommodate their assigned need. The state legislature has determined that "appropriate zoning" for low-income housing is based on the allowable density, and for jurisdictions in Riverside County a density of at least 24 to 30 units/acre is necessary to make lower-income housing feasible. HCD has determined that 24 units/acre is sufficient for lower-income housing in Banning.

- *What environmental review is required for the AHO?*

Please refer to the discussion regarding CEQA Compliance in this report.

Comment Letter Received as part of the Community Meeting

In addition to the comments received at the meeting, staff also received a comment letter from Mr. Hank M. Lefler who owns properties in Banning (Attachment 9). In his letter, Mr. Lefler referenced, "many proposals made by the development in concert with the proposed adoption of the AHO Overlay only on parcels in High Density Residential-20 (HDR-20)". As of the writing of this staff report, no development application was filed for the development of affordable housing in Banning. The last affordable housing development project that the City reviewed was submitted in 2006 and although the project was approved by the City, its entitlement expired.

Mr. Lefler's letter also referenced Dysart Park proposal. The Dysart Park proposal was not a subject of discussion at the July 24, 2014 community meeting. There was a separate meeting that was held by the Parks and Recreation Commission on July 9, 2014 to receive input on the new Dysart Park that was proposed as part of the Community Park in the proposed Rancho San Geronio (RSG) development. The RSG development is a separate project and is going through its own approval process, which at this point has not been scheduled for any public hearings before the Planning Commission or the City Council. The RSG project would have to undergo the environmental impact report process which could take somewhere between six months to a year to address all of the impacts to the physical environment before the project can be scheduled for the Planning Commission and City Council hearing.

PUBLIC HEARING NOTICE:

The public hearing notice (Attachment 10) for this item was published in the Record Gazette on August 22, 2014 and mailed to the City's list of interested parties and to owners of property within 300' of the proposed AHO sites. As of the writing of this staff report, City staff has not received any comments from the public.

NEXT STEPS:

Following the Planning Commission hearing, the proposed amendments will be scheduled for consideration by the City Council. If adopted by the Council, the revised Housing Element and

related amendments will be submitted to HCD for final review. Within 90 days HCD must issue its written findings as to whether the adopted element is in substantial compliance with state law. An HCD letter indicating substantial compliance is referred to as "certification".

PREPARED BY:



John Douglas
Consultant

RECOMMENDED BY:



Zai Abu Bakar
Community Development Director

ATTACHMENTS:

- Attachment 1 – Draft Planning Commission Resolution (with draft Ordinance No. 1482 as exhibit)
- Attachment 2 – HCD letter dated May 1, 2014
- Attachment 3 – Letter from Mayor Franklin to HCD dated April 30, 2014
- Attachment 4 – HDR-20/AHO maps
- Attachment 5 – Proposed Amended Housing Element and Technical Reports
- Attachment 6 – Addendum to Initial Study/Mitigated Negative Declaration
- Attachment 7 – County of San Diego Housing Element Update: Housing Resources, Keyser Marston Associates, 2012
- Attachment 8 – July 24, 2014 Public Workshop Notice and Mailing List
- Attachment 9 – Comment letter from Mr. Hank M. Lefler, who owns properties in Banning responding to the Notice of the Community Meeting on July 24, 2014
- Attachment 10 – Public Meeting Notice and mailing list

Attachment 8
2013-2021 Housing Element with proposed revisions

2013 - 2021 HOUSING ELEMENT

CITY OF BANNING

DECEMBER 9~~JANUARY 28~~, 2014

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A. Introduction

The Housing Element is the City's primary policy guide for the maintenance, improvement and development of housing within the City of Banning. The Element provides an indication of the need for housing in the community in terms of affordability, availability, adequacy, and accessibility. It provides a strategy to address housing needs and identifies a series of specific housing program actions to meet community needs. A detailed Housing Needs Assessment, Constraints Analysis, and Resources Summary was prepared as part of the Housing Element update and serves as the technical background document to the Housing Element. Together, the two documents comprise the complete Housing Element.

PURPOSE OF THE HOUSING ELEMENT

The Housing Element is the City's official response to the need to provide housing for all economic segments of the community, as well as a legal requirement that housing policy be included as a part of the planning process. The Housing Element provides City officials, residents and other stakeholders the opportunity to plan for the existing and future housing needs in the community. This Housing Element has been prepared in compliance with the 2013-2021 planning cycle for cities in the Southern California Association of Governments (SCAG) region, and identifies strategies and programs that focus on: 1) conserving and improving existing affordable housing; 2) providing adequate housing sites; 3) assisting in the development of affordable housing; 4) removing governmental and other constraints to housing development; 5) promoting equal housing opportunities; and promoting energy conservation.

SCOPE AND CONTENT OF THE HOUSING ELEMENT

The Housing Element consists of two documents: 1) the Housing Policy Plan, which contains goals, policies, programs and quantified objectives; and 2) the Housing Element Technical Report, which contains the Needs Assessment, Constraints, and Resources chapters. Appendix A of the Technical Report provides an Evaluation of the previous Housing Element and Appendix B includes the detailed Residential Land Inventory for evaluating the City's ability to accommodate its assigned share of regional growth needs for this planning period.

The State Legislature recognizes the role of local general plans, and particularly the Housing Element, in implementing statewide housing goals to provide decent housing and a suitable living environment for all persons. Furthermore, the Legislature stresses continuing efforts toward providing affordable housing for all income groups.

The major concerns of the Legislature with regards to the preparation of Housing Elements are:

- Recognition by local governments of their responsibility in contributing to the attainment of State housing goals;

- Preparation and implementation of City and County Housing Elements that are coordinated with State and federal efforts to achieve State housing goals;
- Participation by local jurisdictions in implementation efforts to attain State housing goals; and
- Cooperation between local, regional and state agencies to address housing needs.

The State Department of Housing and Community Development (HCD) sets forth specific guidelines regarding the scope and content of housing elements.

A number of local and regional plans and programs relate to the Housing Element. A brief description of these plans and programs follows.

RELATED PLANS AND PROGRAMS

REGIONAL HOUSING NEEDS ASSESSMENT (RHNA)

State Housing Element Law requires SCAG to prepare a Regional Housing Needs Assessment (RHNA) every eight years to identify existing and future housing needs. For the projection period of January 1, 2014 through October 31, 2021, the RHNA allocation for Banning is 3,792 units. The RHNA process and how the City intends to address this requirement is discussed further in the Resources section of the Technical Report.

RELATIONSHIP TO OTHER GENERAL PLAN ELEMENTS

The Banning General Plan was comprehensively updated in 2006 and is comprised of 21 elements grouped in four major components:

- *Community Development*
- *Environmental Resources*
- *Environmental Hazards*
- *Public Services and Facilities*

The Housing Element is part of the *Community Development* component of the General Plan, which also includes the Land Use, Economic Development, Circulation, and Parks and Recreation Elements.

As required by state law, internal consistency is maintained among the various elements of the General Plan. For example, the framework for residential development established in the Land Use Element is reflected in the land inventory analysis of the Housing Element. The Land Use Element identifies residential land use designations at various densities that will facilitate the provision of a wide range of housing types for all income groups. The Circulation Element supports the Land Use and Housing Elements by identifying roadways, transit, pedestrian, and bicycle facilities that are needed to provide access and mobility for residents. Other elements that address public safety or

infrastructure issues help to ensure that adequate public services and facilities will be available to support residential developments. Whenever one element of the General Plan is amended, the other elements are reviewed and modified, as necessary, to ensure consistency.

Government Code Sec. 65302 requires amendments to the Safety and Conservation elements to include analysis and policies regarding flood hazard and management information upon each revision of the Housing Element. If necessary, amendments to the Housing Element will be processed concurrently in order to maintain consistency between elements.

State law also requires that water and sewer providers grant service priority to new developments with units that are affordable to lower-income households. The Housing Element will be transmitted to these providers upon adoption of the element to ensure that they have up-to-date information regarding the housing needs and objectives in Banning.

Senate Bill 244 of 2011 amended the *Government Code* and *Water Code* to require cities and counties to analyze unincorporated island, fringe and legacy communities and amend the Land Use Element of the General Plan prior to or concurrent with the next update of the Housing Element. This bill also imposes requirements on Local Agency Formation Commissions (LAFCOs) regarding annexations and the analysis of municipal services in disadvantaged unincorporated communities (DUCs). According to Riverside County LAFCO, there are no DUCs within the Banning area.

COMMUNITY PARTICIPATION

Section 65583(c)(5) of the Government Code states that "the local government shall make diligent efforts to achieve public participation of all the economic segments of the community in the development of the Housing Element, and the program shall describe this effort."

The City's efforts to encourage public participation along with a summary of the comments received during the update process are presented in **Appendix C** of the Technical Report.

During the required HCD review period, copies off the Draft Housing Element were made available to interested parties on the City's website, at City Hall, the Banning Library and the Community Center. In addition, a public meetings and hearings to review the draft Housing Element were held by the Planning Commission and City Council. Notification was published in the local newspaper in advance of each hearing, and direct notices were mailed to interested individuals.

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Housing Plan

The purpose of the Housing Plan is to formulate a set of Housing Element Action Programs that will guide the City of Banning and all of its housing stakeholders toward the preservation, improvement and development of housing. The City intends to create a municipal climate that encourages a variety of housing types and affordability levels to meet the needs of residents at all income levels.

The programs described below establish specific actions, time frames and objectives consistent with the City's housing goals. Department/agency responsibilities and funding sources are also indicated.

A. GOALS AND POLICIES

CONSERVE AND IMPROVE AFFORDABLE HOUSING

Substandard and deteriorating housing units, in addition to the obvious problems of blight and appearance, can expose occupants to a variety of hazards ranging from electrical fire to toxic substances and materials used in construction. A number of factors affect the life expectancy of a housing unit, such as quality of workmanship, age of structure, location, type of construction, and degree of maintenance. As a city with a large number of older housing units, it is important that on-going maintenance programs are implemented in Banning. In addition to rehabilitation efforts, conservation of the existing stock of affordable housing is also important, as the cost to preserve existing affordable housing is often lower than replacing the units.

Housing Goal 1: Conserve, improve, and rehabilitate existing housing.

- Policy 1.1:** Develop and foster activities to increase the health, safety, and property values of the City's existing housing stock.
- Policy 1.2:** Preserve existing single-family neighborhoods.
- Policy 1.3:** Encourage continued and new investments in established communities.
- Policy 1.4:** Monitor the status of at-risk multifamily rental housing units, work with potential nonprofit purchasers/managers as appropriate, and explore funding sources available to preserve the at-risk units.

ADEQUATE HOUSING SITES FOR NEW HOUSING DEVELOPMENT

Economic forces are driving jobs and housing development eastward in Riverside County, which will result in increased pressure in Banning for new housing opportunities. Although the recent housing market downturn has interrupted this pattern of rapid growth, history suggests that the pause will be temporary and the long-term prospect for the Inland Empire is continued economic expansion.

To keep pace with future growth, the Southern California Association of Governments (SCAG) has identified a need for 3,792 new housing units in Banning during the January 1, 2014 through October 31, 2021 planning period. New housing developments should provide a range of housing types and price levels to allow for the upward mobility of Banning residents, as well as affordable housing opportunities for households of modest means.

Housing Goal 2: *Provide adequate sites for new residential construction to meet the needs of all segments of the community without compromising the character of the City.*

Policy 2.1: Provide adequate sites for a range of new housing construction to meet the Regional Housing Need Assessment (RHNA) for Banning of 3,792 units during the 2014-2021 planning period.

FACILITATE DEVELOPMENT OF AFFORDABLE HOUSING AND HOUSING FOR PERSONS WITH SPECIAL NEEDS

New construction is a major source of housing for prospective homeowners and renters. However, the cost of new construction can be high in comparison to housing preservation programs. In addition, market-rate new construction may not provide housing that is affordable, or adequate, for special needs populations such as the elderly, persons with disabilities, and homeless. Incentive programs such as density bonuses offer a cost-effective means of promoting affordable housing development. Public sector assistance can also promote the construction of affordable housing that meets the needs of all segments of the community. Banning is fortunate in that the cost of land is relatively low in comparison to much of Southern California, which increases the feasibility of affordable housing development.

Housing Goal 3: *Assist in the development of housing that is affordable to all segments of the community.*

Policy 3.1: Support the development of housing affordable to all income groups by utilizing a variety of public and private efforts.

Policy 3.2: Assist the development of housing that targets the needs of special populations, including the elderly, persons with disabilities, and homeless.

Policy 3.3: Promote the development of attractive and safe housing to meet community needs.

REMOVE GOVERNMENTAL CONSTRAINTS TO HOUSING PRODUCTION AND AFFORDABILITY

Under current State law, the Housing Element must address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

Housing Goal 4: Remove governmental constraints to the provision of housing to the greatest extent feasible and legally permissible.

Policy 4.1: Promote efficient and creative alternatives to help reduce governmental constraints.

Policy 4.2: Provide incentives and regulatory concessions for affordable and senior housing.

Policy 4.3: Streamline the City's development review and approval process to facilitate housing construction while also ensuring that new development meets all applicable standards.

EQUAL HOUSING OPPORTUNITIES

Housing should be made available to all persons regardless of race, religion, sex, family size, marital status, national origin, color, age, disability, or income. To make adequate provisions for the housing needs of all segments of the community, the City should promote equal and fair housing opportunities for all residents.

Housing Goal 5: Promote equal opportunity for housing throughout the City of Banning.

Policy 5.1: Support efforts to eliminate discrimination in the sale or rental of housing with regard to race, religion, disability, gender, family size, marital status, national origin, or income.

Policy 5.2: Continue to further fair housing choices by actively expanding housing opportunities and removing impediments to fair housing.

Policy 5.3: Encourage the development or renovation of residential units that are accessible to disabled persons or are adaptable for conversion to residential use by disabled persons.

Policy 5.4: Accommodate housing for persons with special needs, including emergency shelters and transitional housing, in compliance with applicable State law.

ENERGY CONSERVATION AND SUSTAINABLE RESIDENTIAL DEVELOPMENT

Energy conservation can reduce development cost as well as ongoing utility bills for residents. City housing policies can also promote long-term sustainability through efficient land use and transportation planning to reduce fuel usage and travel cost.

Housing Goal 6: Promote residential energy conservation and sustainable development.

Policy 6.1 Support energy conservation and sustainable residential development through construction technology and land use planning.

B. HOUSING PROGRAMS

This section describes the programs that will implement Housing Element goals and policies. The housing programs define the specific actions the City will undertake in order to achieve the goals for the current planning period.

1. Code Enforcement

The City will identify potential code violations, utilize property maintenance inspections and work with property owners to resolve code and property maintenance issues to maintain the quality of housing units in the City. The City has brought Code Enforcement and Building Inspection staff under one department, and engaged in a cross-training effort to more actively and efficiently address code violations and improve communication with owners of properties in need of improvement.

Program Objectives:	Decrease the number of unresolved code violations within the City and increase the number of improved properties.
Responsible Agency:	Community Development Department
Funding Source:	Community Development Department budget.
Schedule:	Continuous throughout the planning period.

2. Housing Rehabilitation Program

The City will continue to pursue grant programs such as the Riverside County Home Improvement Program to provide loans to eligible lower-income families for necessary home repair and rehabilitation work, including room additions to alleviate overcrowding. The City will continue to publicize assistance offered by the County, including flyers available at the City Planning counter and information posted on the City's website. The City will prioritize funding as it becomes available to target projects benefitting extremely-low-income households. To the extent feasible, projects may also be eligible for deferral or waiver of City application and processing fees.

Program Objectives:	Reduced number of substandard properties.
Responsible Agency:	Community Development Department.
Funding Source:	Grant funds
Schedule:	Continuous throughout the planning period.

3. Conservation of Existing and Future Affordable Units

Banning has several assisted affordable housing developments, although none is at risk of conversion to market rate during the current planning period. The City will monitor the status of these projects and take steps to preserve affordability should any become at-risk of conversion in the future.

Program Objectives:	Monitor the status of assisted projects.
Responsible Agency:	Community Development Department, U.S. Department of Housing and Urban Development (HUD), the California Department of Housing and Community Development (HCD), and the Housing Authority of Riverside County (HARIVCO)
Funding Source:	HUD Section 8 vouchers, other funding sources as available.
Schedule:	Throughout the planning period

4. Section 8 Rental Assistance

The Section 8 Rental Assistance Program provides rental subsidies to very-low-income (up to 50 percent of areawide median income – [AMI]) family and elderly households who spend more than 30 percent of their income on rent. The subsidy represents the difference between 30 percent of monthly income and the actual rent. Section 8 assistance is issued to the recipients as vouchers, which permit tenants to choose their own housing and rent units beyond the federally determined fair market rent in an area, provided the tenants pay the extra rent increment.

Program Objectives:	Continue to support the HARIVCO's applications for additional Section 8 allocations and efforts to provide vouchers for lower-income residents.
Responsible Agency:	Housing Authority of Riverside County
Funding Source:	Federal HUD Section 8 program
Schedule:	Throughout the planning period

5. Adequate Sites for Residential Development

The General Plan Land Use Element and the Zoning Code establish the regulatory framework for residential development. The Land Use Element provides for a variety of residential types, ranging from lower-density single-family houses to higher-density apartments and condominiums and mixed-use development.

A significant portion of the inventory of sites for higher-density housing is located in large parcels, planned developments or areas where approval of a specific plan may be required. In some cases, large parcels must be subdivided to create suitable building sites prior to construction. When large sites must be divided into smaller parcels or a specific plan is required prior to development, the City facilitates this process through pre-application meetings to clarify procedures, concurrent priority processing of subdivision maps with specific plans or any other required approvals, and incentives such as density bonus and modified development standards when the project includes affordable housing. The City has a successful track record of facilitating development applications, and will continue to work cooperatively with developers to streamline the permit process for large parcels requiring subdivision or approval of a specific plan.

The City will monitor future development approvals and continue to ensure that adequate sites are available throughout the planning period to accommodate the City's share of regional housing need identified in the Regional Housing Needs Assessment, as required by the *no net loss* provisions of Government Code Sec. 65863.

Program Objectives:

- The City will continue to annually update an inventory that details the amount, type, and size of vacant and underutilized parcels sufficient to accommodate the City's remaining need, by income, to assist developers in identifying land suitable for residential development. As part of the City's Annual Progress Report (APR), required pursuant to GC 64000, the City must report on the number of extremely low-, very low-, low-, and moderate-income units constructed annually.
- To ensure sufficient residential capacity for units affordable to lower-income households is maintained within the planning period to accommodate the identified regional need for lower-income households, the City will develop and implement a formal ongoing (project by project) monitoring procedure, pursuant to Government Code Section 65863 by September 2014.
- Should an approval of development (residential, commercial or mixed-use) result in a reduction of capacity below the residential capacity assumed on sites needed to accommodate the remaining need for lower-income households, as assumed in Tables B-2, B-4 and B-5, the City will immediately identify and zone sufficient sites to accommodate the shortfall.
- The City will offer the following incentives for the development of affordable housing including but not limited to priority processing of subdivision maps and specific plans that include affordable housing units, expedited review for the

subdivision of larger sites into buildable lots, financial assistance (based on availability of federal, state, local foundations, and private housing funds) and modification of development requirements, such as reduced parking standards for seniors, assisted care, and special needs housing on a case-by-case basis.

▪ Affordable Housing Opportunity (AHO) Overlay Zone

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with all of the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing need by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.

Responsible Agency: Community Development Department

Funding Source: Community Development Department budget

Schedule: Throughout the planning period; No Net Loss monitoring procedure by September 2014; AHO amendment within one year of Housing Element adoption

6. Facilitate Development of Affordable and Special Needs Housing

In order to facilitate the development of housing for low- and moderate-income households and persons with disabilities (including developmental disabilities), the City will implement the following actions:

- Provide administrative assistance to developers seeking available state and federal funding and/or tax credits for the construction of low- and moderate-income housing
- Facilitate projects that incorporate affordable units and accessible units by granting modifications to development standards, expedited processing, or financial incentives consistent with state law.
- Affordable housing developers will be contacted each year to solicit interest and apprise them of available assistance programs.
- Targeted assistance will be prioritized for special needs housing and extremely-low-income (ELI) units through density bonuses and/or regulatory incentives, modified development standards and fee deferrals, when feasible.
- Coordinate with the Inland Regional Center regarding the needs and assistance programs targeted for persons with developmental disabilities, and make information available on the City website.
- Clarify development standards in the VHDR zone as necessary to facilitate affordable housing development.
- Continue to monitor residential development to evaluate whether the required design amenities are acting as an unreasonable constraint on development. If the requirements are found to be an unreasonable constraint, a Code amendment will be initiated to modify the design requirements.

Program Objectives:	Facilitate affordable housing development commensurate with the RHNA and the production of accessible and supportive housing for persons with disabilities.
Responsible Agency:	Community Development Department
Funding Source:	Community Development Department budget
Schedule:	Contact affordable housing developers and the Inland Regional Center annually; assist developers with applications for funding assistance upon request; initiate a Zoning Code amendment in 2014 to clarify development standards in the VHDR zone.

7. Infill and Mixed-Use Housing Development

Infill housing and mixed-use development helps to promote investment in older neighborhoods while also contributing to meeting the community's housing needs. The City has targeted the Downtown Commercial (DC) area for special incentives for multi-family, SRO and mixed-use development to stimulate revitalization. The downtown area is particularly well-suited to affordable and special needs housing due to the availability of employment, services and transit.

Since many parcels in the downtown are relatively small, the City will encourage consolidation of adjacent parcels to enhance development feasibility by providing a lot consolidation density incentive of 5% when two or more parcels totaling at least 0.5 acre are consolidated, and 10% when two or more parcels totaling at least 1.0 acre are consolidated. This density incentive will be in addition to the density bonus currently allowed. City incentives will also include consolidated permit processing, reduced fees for parcel mergers or lot line adjustments, density bonus and modified development standards.

The DC district zoning regulations will also be amended to increase allowable base densities to 24 units/acre for any project that meets the minimum affordability standards under state Density Bonus law (e.g., 5% very-low- or 10% low-income units). The City will also provide administrative and technical assistance with grant applications for affordable or special needs housing developments in the downtown area.

In recent years the City has facilitated infrastructure upgrades such as water lines and electrical service in the downtown. In order to incentivize development in the downtown area, the City will prioritize future Capital Improvement Program funds for downtown infrastructure improvements, if feasible.

The City will also review development standards for the General Commercial (GC) zone and consider appropriate revisions to facilitate revitalization and mixed-use development in this area. The GC zone is located to the west of downtown along Ramsey Street in the area known as "The Midway" and also along the south side of the I-10 freeway.

Program Objectives: Facilitate development of multi-family and mixed-use development in the downtown and nearby areas, with special emphasis on housing affordable to low- and moderate-income households or persons with special needs.

Responsible Agency: Community Development Department

Funding Source: Grant funds; CIP Budget

Schedule: Zoning amendment by June 2014.

Publicize development opportunities by contacting affordable housing developers annually.

10. Mortgage Credit Certificate Program

A Mortgage Credit Certificate (MCC) entitles qualified home buyers to reduce the amount of their federal income tax liability by an amount equal to a portion of the interest paid during the year on a home mortgage. This tax credit allows the buyer to qualify more easily for a loan by increasing the effective income of the buyer. The Riverside County MCC Program provides for a 15% rate which can be applied to the interest paid on the mortgage loan. The borrower can claim a tax credit equal to 15% of the interest paid during the year. Since the borrowers taxes are being reduced by the amount of the credit, this increases the take-home pay by the amount of the credit.

The buyer takes the remaining 85% interest as a deduction. When underwriting the loan, a lender takes this into consideration and the borrower is able to qualify for a larger loan than would otherwise be possible. The City will provide referral information regarding the MCC program on the City website, at City Hall and other public locations.

Program Objectives: Provide information regarding the MCC Program to eligible home buyers.

Responsible Agency: Riverside County Economic Development Agency (EDA) and participating lenders

Funding Source: Federal tax credits and EDA

Schedule: Throughout the planning period

11. Fair Housing Services

Banning is not an "entitlement city" and works cooperatively with the County of Riverside, which provides fair housing services to all unincorporated areas of the county and non-entitlement cities. Fair housing services offered through the County include counseling and information on potential discrimination and landlord/tenant problems; special assistance for ethnic minorities and single-parent households; and bilingual housing literature. Information regarding available services from the County will be provided at City Hall, on the City website, and at other governmental offices within the city. In addition, the City will work cooperatively with the County of Riverside to distribute fair housing information annually.

Program Objectives: Continue to work with the County of Riverside to provide fair housing services to residents of Banning.

Responsible Agency: Riverside County

Funding Source: Riverside County; Community Development Department budget

Schedule: Throughout the planning period

12. Reasonable Accommodation in Housing for Persons with Disabilities

Both the Federal Fair Housing Act and the California Fair Employment and Housing Act require local governments to make reasonable accommodations (i.e. modifications or exceptions) in their zoning laws and other land use regulations to allow disabled persons an equal opportunity to use and enjoy a dwelling. The Zoning Code establishes administrative procedures for reviewing and approving such requests in conformance with state law. The City will continue to implement this ordinance.

Program Objectives: Continue to process requests for reasonable accommodation in conformance with state law and the Development Code.

Responsible Agency: Community Development Department
Funding Source: Community Development Department budget
Schedule: Throughout the planning period

13. Residential Energy Conservation

With the adoption of AB 32, California's greenhouse gas legislation, energy conservation is a growing concern. In addition to helping to mitigate greenhouse gas emissions, residential energy efficiency can reduce home heating and cooling costs.

- a. Support the use of innovative building techniques and construction materials for residential development, such as energy efficient buildings that utilize solar panels and sustainable building materials that are recyclable.
- b. Encourage maximum utilization of Federal, State, and local government programs, such as the County of Riverside Home Weatherization Program and the Western Riverside Council of Governments (WRCOG) HERO Program, that assist homeowners in providing energy conservation measures.
- c. Maintain and distribute literature on energy conservation, including solar power, additional insulation, and subsidies available from utility companies, and encourage homeowners and landlords to incorporate these features into construction and remodeling projects.
- d. Encourage energy conservation devices including but not limited to lighting, water heater treatments, solar energy systems for all residential projects.

Program Objectives: Work cooperatively with property owners, utility companies and other government agencies to reduce energy use in residential developments.

Responsible Agency: Community Development Department

Funding Source: Community Development Department budget; grant programs, as available

Timeline: Throughout the planning period

C. QUANTIFIED OBJECTIVES

The City's quantified objectives for the development, rehabilitation and conservation of housing during the 2013-2021 planning period are summarized in the following table. The accomplishment of these objectives will depend on general economic conditions and the availability of funding assistance.

Income Category	New Construction	Rehabilitation	Conservation/ Preservation**
Extremely-Low	436	*	-
Very Low	436	*	-
Low	593	*	-
Moderate	685	*	-
Above Moderate	1,642	-	-
Totals	3,792	*	-

Notes:

*depending on available funding to replace lost redevelopment revenues

**No assisted units at risk (see Technical Report Table 18)

2013-2021 HOUSING ELEMENT TECHNICAL REPORT

CITY OF BANNING

| **DECEMBER 9~~JANUARY 28~~, 2014**

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I. Introduction

A successful strategy for improving housing conditions and expanding housing opportunities must be preceded by an assessment of the housing needs of the community and region. This Housing Element Technical Report for the City of Banning discusses the major components of assessing housing needs, including trends in population, households, and types of housing available in Banning.

The technical report examines the following topics:

- Population, employment, household, and housing characteristics;
- Constraints on housing production; and
- Available housing resources.

This Housing Element Technical Report serves as a foundation for the policies and programs presented in the Housing Plan for the 2013-2021 planning period.

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II. Housing Needs Assessment

This section of the Housing Element Technical Report examines general population and household characteristics and trends, such as age, race and ethnicity, employment, household composition and size, household income, and special needs. Characteristics of the existing housing stock (e.g., number of units and type, tenure, age and condition, costs) are also addressed. Finally, the City's projected housing growth needs based on the 2014-2021 Regional Housing Needs Assessment (RHNA) are examined. This analysis provides the basis for developing a successful housing strategy that meets the needs of the community.

The Housing Needs Assessment utilizes the most recent data from the U.S. Census, the California Department of Finance (DOF), the California Employment Development Department (EDD), the Southern California Association of Governments (SCAG) and other relevant sources. Supplemental data were obtained through field surveys and from private vendors.

Community Profile

The City of Banning is located in the San Geronio Pass area adjacent to US Interstate 10 in west-central Riverside County. The City was incorporated in 1913, and encompasses approximately 23.2 square miles. During the 2013-2021 planning period residential growth is expected to occur on land within the existing City limits as well as on adjacent areas within the Sphere of Influence as it is annexed.

Riverside County is part of the "Inland Empire," which provides less expensive housing options for many people who work in Los Angeles and Orange counties and are unable to afford the higher housing costs in those coastal counties.

To avoid serving simply as "bedroom" communities for adjacent counties, Riverside County jurisdictions, including Banning, are working to attract new businesses to provide employment opportunities for local residents. This also helps promote a more balanced jobs/housing ratio, reduces the need for long commutes, and improves the local air quality and quality of life in general.

Population Characteristics

Population Growth Trends

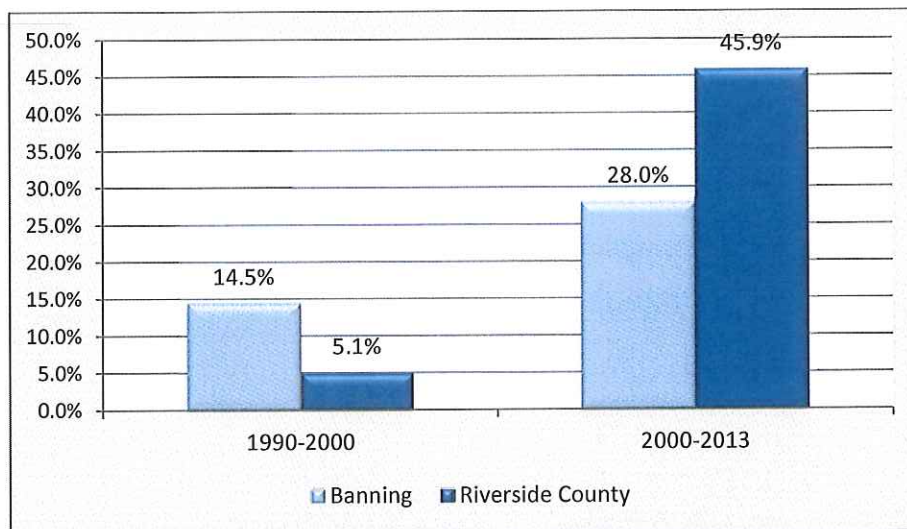
According to the Census Bureau, Banning's population increased from 20,572 in 1990 to over 30,000 in 2013 (see Table 1 and Figure 1). Although the City has continued to experience strong growth in the past decade, its rate of growth has been significantly lower than for Riverside County as a whole since 2000. The city's 2013 population of 30,170 represented only 1.3% of the county's total population of 2,255,059.

Table 1
Population Trends, 1990-2013 –
Banning vs. Riverside County

	1990	2000	2013	Growth 1990-2000	Growth 2000-2013
Banning	20,572	23,562	30,170	14.5%	28.0%
Riverside County	1,470,413	1,545,387	2,255,059	5.1%	45.9%

Source: U.S. Census, California Dept. of Finance Table E-5 (2012)

Figure 1
Population Growth 1990-2013 –
Banning vs. Riverside County



Age Characteristics

Housing needs are influenced by the age characteristics of the population. Different age groups require different accommodations based on lifestyle, family type, income level, and housing preference. Traditionally, both the young adult population (20-34) and the elderly population (65+) tend to require low to moderate cost, smaller units. Persons between 35 to 54 years old usually reside in more expensive, larger units because they typically have higher incomes and larger households.

Table 2 provides a comparison of the city's and county's population by age group in 2010. This table shows that Banning has a substantially larger proportion of senior citizens than Riverside County as a whole. Persons age 65 and older comprise about 26% of the city's population while these groups represent less than 12% countywide. The median age of the city's population is 42.3 years compared to 32.7 years for the county as a whole. This age profile is influenced by the

large senior communities of Sun Lakes (3,327 homes) and Serrano del Vista (246 homes), along with four senior mobile home parks with 648 homes. Together these developments represent 39% of all housing units in the city. However, nation-wide demographic trends suggest an increasing need for senior housing as the “Baby Boom” generation (persons born between 1946 and 1964) enter their retirement years. The oldest “Boomers” turned 65 in 2011, and the 65+ age group is expected to be the fastest growing segment of the population over the next 50 years¹.

Table 2
Age Distribution –
Banning vs. Riverside County

Age Group	Banning		Riverside County	
	Persons	%	Persons	%
Under 5 years	1,840	6.2%	162,438	7.4%
5 to 9 years	1,839	6.2%	167,065	7.6%
10 to 14 years	1,942	6.6%	177,644	8.1%
15 to 19 years	2,009	6.8%	187,125	8.5%
20 to 24 years	1,877	6.3%	154,572	7.1%
25 to 29 years	1,784	6.0%	143,992	6.6%
30 to 34 years	1,514	5.1%	138,437	6.3%
35 to 39 years	1,397	4.7%	143,926	6.6%
40 to 44 years	1,353	4.6%	149,379	6.8%
45 to 49 years	1,621	5.5%	152,722	7.0%
50 to 54 years	1,603	5.4%	140,016	6.4%
55 to 59 years	1,559	5.3%	114,765	5.2%
60 to 64 years	1,604	5.4%	98,974	4.5%
65 to 69 years	1,713	5.8%	78,495	3.6%
70 to 74 years	1,710	5.8%	62,103	2.8%
75 to 79 years	1,747	5.9%	49,003	2.2%
80 to 84 years	1,346	4.5%	36,793	1.7%
85 years and over	1,145	3.9%	32,192	1.5%
Total	29,603	100%	2,189,641	100%
Median age	42.3		32.7	

Source: 2010 Census, Table DP-1

Race/Ethnicity Characteristics

The racial and ethnic composition of the city differs from the county in that a slightly lower percentage of city residents are Hispanic/Latino, and a higher percentage of city residents are non-Hispanic white (Table 3). Approximately 41% of city residents are Hispanic/Latino contrasted with 46% for the county as a whole. Non-Hispanic white residents comprise 43% of the city's population compared with 40% of the county's residents.

¹ Source: California Department of Finance, Report P-1, January 2013

Table 3
Race/Ethnicity –
Banning vs. Riverside County

Racial/Ethnic Group	Banning		Riverside County	
	Persons	%	Persons	%
Not Hispanic or Latino	17,422	58.9%	1,194,384	54.5%
-White	12,858	43.4%	869,068	39.7%
-Black or African American	2,023	6.8%	130,823	6.0%
-American Indian/Alaska Native	365	1.2%	10,931	0.5%
-Asian	1,510	5.1%	125,921	5.8%
-Native Hawaiian/Pacific Islander	34	0.1%	5,849	0.3%
-Other races or 2+ races	632	2.1%	51,792	2.4%
Hispanic or Latino (any race)	12,181	41.1%	995,257	45.5%
Total	29,603	100%	2,189,641	100%

Source: 2010 Census, Table DP-1

Employment Characteristics

Occupation and Labor Participation

According to recent Census estimates, approximately 44% of Banning residents were in the civilian labor force compared to 62% for the county as a whole (Table 4). (The labor force includes employed and unemployed persons aged 16 years and above.) This smaller labor force percentage reflects the larger proportion of retirement-age residents in Banning.

Table 4
Labor Force –
Banning vs. Riverside County

Labor Force Status	Banning		Riverside County	
	Persons	%	Persons	%
Population 16 years and over	23,289	100%	1,571,629	100%
In labor force	10,279	44%	978,372	62%
Civilian labor force	10,279	44%	974,178	62%
Employed	9,299	40%	865,088	55%
Unemployed	980	4%	109,090	7%
Armed Forces	0	0%	4,194	0%
Not in labor force	13,010	56%	593,257	38%

Source: Census 2006-2010 ACS, Table DP3

As shown in Table 5, occupations of Banning residents were fairly evenly distributed among occupation categories, with sales/office representing the largest group with 28% of residents and management/business with 25% of residents.

Table 5
Employment by Occupation

Occupation	Banning	
	Persons	%
Civilian employed population 16 years and over	9,299	100%
Management, business, science, and arts occupations	2,314	25%
Service occupations	1,845	20%
Sales and office occupations	2,559	28%
Natural resources, construction, and maintenance occupations	1,149	12%
Production, transportation, and material moving occupations	1,432	15%

Source: U.S. Census 2006-2010 ACS, Table DP3

Job Location

According to recent Census data, approximately 81 percent of employed Banning residents worked in Riverside County, and approximately 31 percent were employed within the city limits (Table 6).

Table 6
Job Location for Banning Residents

Workplace Location	%
Worked in state of residence	99.9%
Worked in county of residence	80.9%
Worked in place of residence	31.0%
Worked outside county of residence	19.0%
Worked outside state of residence	0.1%

Source: Census 2006-2010 ACS, Table S0801

Household Characteristics

Household Composition and Size

Household characteristics are important indicators of the type of housing needed in a community. The Census defines a household as all persons who occupy a housing unit, which may include families related through marriage or blood, unrelated individuals living together, or individuals living alone. People living in retirement or convalescent homes, dormitories, or other group living situations are not considered households.

According to the 2010 Census, husband/wife families represented 47% of Banning households compared to 55% for the County as a whole. About 29% of Banning households were persons living alone – a much larger proportion than the entire County with just 19%. Nearly half of all households in the city included someone 65 years of age and older, compared to just 27% for Riverside County. The average household size was 2.61 persons compared to 3.14 for the County as a whole.

Table 7
Housing by Type –
Banning vs. Riverside County

Household Type	Banning		Riverside County	
	Households	%	Households	%
Family households:	7,186	66.3%	510,241	74.4%
Husband-wife family	5,106	47.1%	376,381	54.8%
With own children under 18 years	1,517	14.0%	185,194	27.0%
Male householder, no wife present	592	5.5%	42,845	6.2%
With own children under 18 years	294	2.7%	22,059	3.2%
Female householder, no husband present	1,488	13.7%	91,015	13.3%
With own children under 18 years	737	6.8%	49,824	7.3%
Nonfamily households:	3,652	33.7%	176,019	25.6%
Householder living alone	3,092	28.5%	132,494	19.3%
Households with individuals under 18 years	3,083	28.4%	294,200	42.9%
Households with individuals 65 years and over	5,268	48.6%	187,484	27.3%
Total households	10,838	100%	686,260	100%
Average household size	2.61		3.14	

Source: 2010 Census, Table DP-1

Household Income and Overpayment

Household income is a primary factor affecting housing needs in a community – the ability of residents to afford housing is directly related to household income. According to recent Census data, the median household income in Banning was \$37,373, which was less than two-thirds the Riverside County median income of \$58,365 (Table 8). This large difference may be at least partly explained by the higher proportion of senior citizens in Banning.

Table 8
Median Household Income –
Banning vs. Riverside County

Jurisdiction	Median Income	% of County Median Income
Banning	\$37,373	64%
Riverside County	\$58,365	100%

Source: U.S. Census, 2007-2011 ACS

The income earned by a household is an important indicator of the household's ability to acquire adequate housing. While upper income households have more discretionary income to spend on housing, lower- and moderate-income households are more limited in the range of housing that they can afford. Typically, as household income decreases, the incidence of overpayment and overcrowding increases.

The following income categories are used in Housing Element analyses:

- **Extremely-low-income households** earn 30% or less of the Area (county) Median Income (AMI), adjusted for household size;
- **Very-low-income households** earn between 31% and 50% of the AMI, adjusted for household size;
- **Low-income households** earn between 51% and 80% of the AMI, adjusted for household size;
- **Moderate-income households** earn between 81% and 120% of the AMI, adjusted for household size; and,
- **Above-moderate-income households** earn over 120% of the AMI, adjusted for household size.

State and federal standards consider a household as overpaying for housing if it spends more than 30% of its gross income on housing. A household spending more than it can afford for housing has less money available for other necessities and emergency expenditures. Very-low-income households overpaying for housing are more likely to be at risk of becoming homeless than other households. Renter households overpay more often than owner households because of their typically lower incomes. Compared to renters, overpayment by owners is less of a concern because homeowners have the option to refinance the mortgage, or to sell the house and move into rentals or buy a less expensive home.

Recent Census data reported that about 52% of lower-income owners and 88% of lower-income renters in Banning overpaid for housing (Table 9). Overpayment was most prevalent among extremely-low-income households.

Table 9
Overpayment by Income and Tenure

Income Category	Owners		Renters	
	Households	Percent	Households	Percent
Extremely low households	370		405	
Households overpaying	350	94.6%	405	100.0%
Very low households	1,355		1,215	
Households overpaying	730	53.9%	1,055	86.8%
Low households	1,985		545	
Households overpaying	830	41.8%	445	81.7%
Subtotal: All lower-income households	3,710		2,165	
Subtotal: Households overpaying	1,910	51.5%	1,905	88.0%
Moderate households	1,900		265	
Households overpaying	450	23.7%	80	30.2%
Above moderate households	2,240		595	
Households overpaying	355	15.8%	0	0.0%

Source: U.S. Department of Housing and Urban Development, CHAS, based on the 2006-2008 ACS. Table 15.

Extremely Low Income Households

Following the passage of AB 2634 in 2006, state law requires quantification and analysis of existing and projected housing needs of extremely low-income (ELI) households. Extremely-low-income is defined as less than 30% of area median income, adjusted for household size. As of 2013 the area median income in Riverside County is \$65,000². For extremely-low-income households, this results in an income of \$19,500 or less. Households with extremely low-incomes have a variety of housing problems and needs.

Existing Needs

As noted in Table 9, recent Census data estimated that there are 370 ELI owner households and 405 ELI renter households in Banning. Of these, 95% of owners and 100% of renters were reported as overpaying for housing.

Projected Needs

The projected housing need for extremely-low-income households is assumed to be 50% of the very-low-income regional housing need of 872 units. As a result, the City has a projected need for 436 new extremely-low-income units during the 2014-2021 planning period. The resources and programs to address this need are the same as for other lower-income housing in general, and are discussed elsewhere in the Housing Element and Technical Report. Because the needs of extremely-low-income households overlap extensively with other special needs groups, further analysis and resources for these households can be found in the Housing Needs Assessment/

² California Department of Housing and Community Development, [State Income Limits for 2013](#), 2/25/2013

Special Needs Populations and Housing Constraints/Provision for a Variety of Housing discussions in this Technical Report.

Overcrowding

An overcrowded household is defined by the Census Bureau as more than one person per room, excluding bathrooms, kitchens, hallways, and porches. A severely overcrowded household is defined as more than 1.5 persons per room. Overcrowding results from a lack of affordable housing and/or a lack of available housing units of adequate size. Table 10 summarizes overcrowding for the City of Banning and Riverside County.

Table 10
Overcrowding –
Banning vs. Riverside County

Occupants per Room	Banning		Riverside County	
	Units	%	Units	%
Owner occupied units	8,623	100%	467,086	100%
1.01 to 1.50	185	2%	15,586	3%
1.51 to 2.00	89	1%	3,952	1%
2.01 or more	21	0.2%	1,021	0.2%
Renter occupied units	3,248	100%	199,820	100%
1.01 to 1.50	220	7%	18,488	9%
1.51 to 2.00	85	3%	5,685	3%
2.01 or more	0	0%	1,852	1%

Source: Census 2006-2010 ACS, Table B25014

According to recent Census data, overcrowding was more prevalent among renters than owners. Approximately 10% of the City's renter-occupied households were overcrowded compared to 3% of owner-occupied households. Overcrowding is slightly less prevalent in Banning than the County as a whole.

Special Needs Populations

Certain segments of the population may have more difficulty in finding decent, affordable housing due to their special circumstances or needs. These "special needs" populations include elderly persons, agricultural workers, single-parent households, persons with disabilities, large households, and the homeless. Many of these households also fall under the category of extremely-low-income.

A variety of City policies and programs described in the Housing Element address the needs of extremely-low-income households, including those in need of residential care facilities and persons with disabilities. However, it must be recognized that the development of new housing for the lowest income groups typically requires large public subsidies, and the level of need is

greater than can be met due to funding limitations, especially during these times of declining public revenues.

Elderly

The special needs of the elderly are often a function of lower fixed incomes and/or disabilities. Housing for the elderly often requires special attention in design to allow greater access and mobility. Housing located within vicinity of community facilities and public transportation also facilitates mobility of the elderly in the community.

As seen previously in Table 2, Banning's population is older than Riverside County as a whole. According to recent Census estimates, well over half of owner households but only 12% of renter households in Banning were headed by someone age 65 or older (Table 11). Elderly residents are more likely to have a disability, which may require special housing design.

Table 11
Elderly Households by Tenure

Householder Age	Owner		Renter	
	Households	%	Households	%
Under 65 years	3,912	45%	2,866	88%
65 to 74 years	2,106	24%	206	6%
75 to 84 years	2,083	24%	117	4%
85 years and over	522	6%	59	2%
Total Households	8,623	100%	3,248	100%

Source: U.S. Census 2006-2010 ACS, Table B25007

Finally, many elderly live on fixed incomes and occupy older homes. These factors may make paying for needed home repairs and maintenance difficult. The City's programs to increase senior affordable housing opportunities help to address this issue.

Agricultural Workers

Agriculture is a major industry in Riverside County although large-scale farming is not prevalent in the Pass area. Recent Census estimates reported 48 Banning residents employed in farming, forestry, fishing and mining occupations³. Agricultural workers face various housing issues due to their typically lower incomes and the seasonal nature of their work.

The City's zoning regulations allow agricultural employee housing with up to 12 units or 36 beds as an agricultural use, consistent with state law.

³ 2006-2010 ACS, Table DP-3

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Single-Parent Families

Single-parent families with children often require special attention due to their needs for affordable childcare, health care, and housing assistance. Female-headed families with children tend to have lower incomes, thus limiting housing availability for this group. According to recent Census data, about 9% of owner households and 28% of renter households in Banning were headed by single-parents (Table 12). Banning's housing programs aimed at increasing the supply of affordable housing help to assist single-parent families.

Table 12
Household Type by Tenure

Household Type	Owner		Renter	
	Households	%	Households	%
Married couple family	4,556	53%	1,143	35%
Male householder, no wife present	182	2%	227	7%
Female householder, no husband present	645	7%	671	21%
Non-family households	3,240	38%	1,207	37%
Total Households	8,623	100%	3,248	100%

Source: U.S. Census 2006-2010 ACS, Table B11012

Persons with Disabilities

According to recent Census estimates, approximately 18% of Banning residents reported having a disability. Among the elderly population (65+) 36% reported some type of disability.

Physical and mental disabilities can hinder a person's access to traditionally designed housing units (and other facilities) as well as potentially limit the ability to earn income. Housing that satisfies the design and locational requirements of disabled persons are limited in supply and often costly to provide.

Housing opportunities for disabled persons can be addressed through the provision of affordable, barrier-free housing. In addition to the development of new units, housing rehabilitation assistance programs can also be provided to disabled residents to make necessary improvements to remove architectural barriers of existing units. As noted in the Constraints section, the City has procedures in place for reviewing and approving requests for reasonable accommodation in housing for persons with disabilities in accordance with state law.

Developmentally Disabled

Section 4512 of the California Welfare and Institutions Code defines a "Developmental disability" as a disability that originates before an individual attains age 18 years, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual which includes mental retardation, cerebral palsy, epilepsy, and autism. This term also includes disabling conditions found to be closely related to mental retardation or to require

treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.

Many developmentally disabled persons can live and work independently within a conventional housing environment. More severely disabled individuals require a group living environment where supervision is provided. The most severely affected individuals may require an institutional environment where medical attention and physical therapy are provided. Because developmental disabilities exist before adulthood, the first issue in supportive housing for the developmentally disabled is the transition from the person's living situation as a child to an appropriate level of independence as an adult. The State Department of Developmental Services (DDS) currently provides community based services to approximately 243,000 persons with developmental disabilities and their families through a statewide system of 21 regional centers, four developmental centers, and two community-based facilities. The Inland Regional Center is one of 21 regional centers in the State of California that provides point of entry to services for people with developmental disabilities. The center is a private, non-profit community agency that contracts with local businesses to offer a wide range of services to individuals with developmental disabilities and their families.

Currently, nearly 600 Inland Regional Center staff members provide services to more than 25,000 people with developmental disabilities and their families in San Bernardino and Riverside counties. Once a consumer is found eligible, he/she is paired with a Consumer Services Coordinator (CSC) who becomes their primary contact at the center. They will meet on an ongoing basis to develop an annual Individual Program Plan (IPP) that lists specific, agreed upon goals and objectives that will enhance opportunities to live more closely in line with the core values of the agency. To better meet the needs of consumers, Inland Regional Center designed programs according to age, specialization, and geographic location. Categories include Early Start/Prevention 0-3; School Age 3-15; Transition 16-22; Adult 23-59; and Senior 60+.

Large Households

Large households are defined as those with five or more persons. Recent Census data estimated that 7% of owner households and 10% of renter households in Banning had five or more members (Table 13). Typically, the availability of adequately-sized and affordable housing units is an obstacle facing large households. The issue for large households is often related to affordability, particularly among renters. However, since the vast majority of Banning households are comprised of three or fewer persons, the need for large units is less than in many communities.

Table 13
Household Size by Tenure

Household Size	Owner		Renter	
	Households	%	Households	%
1 person	2,813	33%	911	28%
2 persons	3,802	44%	1,031	32%
3 persons	621	7%	624	19%
4 persons	685	8%	334	10%
5 persons	295	3%	240	7%
6 persons	212	2%	70	2%
7 persons or more	195	2%	38	1%
Total Households	8,623	100%	3,248	100%

Source: U.S. Census 2006-2010 ACS, Table B25009

Homeless

The homeless population refers to persons lacking consistent and adequate shelter. Homelessness is a continuing problem throughout California and urban areas nationwide. During the past two decades, an increasing number of single persons have remained homeless year after year and have become the most visible of all homeless persons. Other persons (particularly families) have experienced shorter periods of homelessness. However, they are often replaced by other families and individuals in a seemingly endless cycle of homelessness.

The 2013 Riverside County Point-in-Time Homeless Survey estimated that there were a total of 2,978 sheltered or unsheltered homeless persons countywide at the time of the survey. This represented a 31% decrease compared to the 2011 homeless count. The 2013 count identified 42 homeless persons in Banning, all of whom were unsheltered and 40% were considered chronically homeless.

Inventory of Homeless Facilities

In response to the growing needs of the homeless population in Riverside County, a Continuum of Care (COC) process began in 1994 in order to provide the delivery of facilities and services to the homeless population at each step of the transition from living on the street, to permanent and sustained, independent living. The COC consists of four components:

1. Outreach and Assessment;
2. Emergency Shelters with Supportive Services;
3. Transitional Housing with Supportive Services; and
4. Permanent and Affordable Housing.

There are 19 emergency shelters, 19 transitional housing facilities, and 11 permanent supportive housing facilities in Riverside County. There are currently no homeless shelters in Banning.

HELP Services, the primary homeless service provider in Banning, provides meals to homeless persons.

Senate Bill (SB) 2 of 2007 strengthened local planning requirements for emergency shelters and transitional housing. In compliance with SB 2, the City's zoning regulations allows emergency shelters by-right in the Airport Industrial zone.

Housing Stock Characteristics

Table 14 shows the change in Banning's housing stock from 2000 to 2013 compared to Riverside County. The City's housing stock increased by approximately 24% during this period compared to 39% for the County as a whole. The majority (80%) of the existing housing stock in Banning consisted of single-family detached and attached homes. The remaining 20% of units were almost equally divided between multi-family units and mobile homes.

Table 14
Housing by Type –
Banning vs. Riverside County

Structure Type	2000		2013		Growth	
	Units	%	Units	%	Units	%
Banning						
Single-family	7,575	77.6%	9,670	79.6%	2,095	87.7%
Multi-family	1,030	10.6%	1,336	11.0%	306	12.8%
Mobile homes	1,156	11.8%	1,143	9.4%	-13	-0.5%
Total units	9,761	100%	12,149	100%	2,388	100%
Riverside County						
Single-family	398,752	68.2%	602,898	74.2%	204,146	89.7%
Multi-family	103,034	17.6%	130,314	16.0%	27,280	12.0%
Mobile homes	82,888	14.2%	79,022	9.7%	-3,866	-1.7%
Total units	584,674	100%	812,234	100%	227,560	100%

Source: Cal. Dept. of Finance, Tables E-5 & E-8

Tenure and Vacancy Rates

Table 15 illustrates the tenure (owner vs. renter) of occupied housing in Banning and the County as a whole. The table shows that Banning has a homeownership rate of 61% compared to 58% for the County as a whole. It is noteworthy that 3% of units were vacant but not for sale, for rent or held for occasional use. It is assumed that many of those units were foreclosures held by lending institutions.

Table 15
Housing Tenure – Banning vs. Riverside County

Housing Type	Banning		Riverside County	
	Units	%	Units	%
Occupied housing units	10,838	89%	686,260	86%
Owner-occupied housing units	7,412	61%	462,212	58%
Average household size of owner-occupied units	2.37		3.10	
Renter-occupied housing units	3,426	28%	224,048	28%
Average household size of renter-occupied units	3.12		3.22	
Vacant housing units	1,306	11%	114,447	14%
For rent	424	3%	23,547	3%
Rented, not occupied	26	0.2%	1,107	0.1%
For sale only	320	3%	18,417	2%
Sold, not occupied	54	0.4%	3,255	0.4%
For seasonal, recreational, or occasional use	134	1%	50,538	6%
All other vacants	348	3%	17,583	2%
Homeowner vacancy rate (%)	4.1		3.8	
Rental vacancy rate (%)	10.9		9.5	
Total housing units	12,144	100%	800,707	100%

Source: 2010 Census, Table DP-1

Vacancy rate is a measure of housing availability in a community. A vacancy rate of 2% for ownership housing and 5% for rental housing generally indicates an adequate supply of vacant housing to allow mobility. According to recent Census data, both owner and renter vacancy rates were 3%, very similar to Riverside County as a whole.

Housing Stock Age and Condition

The age of housing is commonly used as an indicator of need for major repairs. In general, housing units over 30 years old are likely to exhibit signs of rehabilitation needs, such as new roofing, foundation work, or plumbing.

As depicted in Table 16, about 58% of the housing units in Banning were built after 1979 and most are likely to be in good condition. Approximately 42% of units are over 30 years of age and may be in need of major repairs or even replacement.

Table 16
Age of Housing Stock –
Banning vs. Riverside County

Year Built	Banning		Riverside County	
	Units	%	Units	%
Built 2005 or later	285	2%	69,098	9%
Built 2000 to 2004	1,848	14%	130,497	17%
Built 1990 to 1999	2,802	21%	131,438	17%
Built 1980 to 1989	2,761	21%	179,429	23%
Built 1970 to 1979	1,332	10%	123,182	16%
Built 1960 to 1969	1,112	9%	65,589	8%
Built 1950 to 1959	1558	12%	51,864	7%
Built 1940 to 1949	863	7%	16,139	2%
Built 1939 or earlier	511	4%	15,880	2%
Total units	13,072	100%	783,116	100%

Source: Census 2006-2010 ACS, Table DP-4

Based on discussions with the City's code enforcement and Building Department staff, it is estimated that approximately 500 units may be in need of substantial repair or replacement. Other code enforcement issues in Banning include weed abatement, which is concentrated on rental properties with absentee landlords, as well as vehicle abandonment.

Housing Costs and Affordability

This section discusses current real estate market trends in Banning, both for-sale and rental. It must be emphasized that real estate markets are cyclical, and in recent years a sharp downturn in sales volumes and property values has occurred in the Inland Empire (Riverside and San Bernardino Counties), in large part due to the "sub-prime" mortgage crisis. While such downturns result in lower prices and more affordable housing opportunities, the corresponding increase in foreclosure rates and softening job market, combined with the rapid escalation in gasoline prices, has hit Banning and other Riverside County communities particularly hard. The following discussion should be viewed in recognition of recent events, and with the understanding that market conditions will change over time.

Housing Affordability

Housing affordability is determined by the ratio of income to housing costs. According to the HCD guidelines for 2013, the area median income (AMI) for a family of four in Riverside County is \$65,000. Based on state guidelines, income limits for a four-person family along with rents and estimated sales prices generally considered to be "affordable" are shown in Table 17.

An affordable housing payment is considered to be no more than 30% of a household's gross income. For rental units, this includes rent plus utilities. Assuming that a potential homebuyer

within each income group has acceptable credit, a typical down payment (5% to 10%), and other housing expenses (taxes and insurance), the maximum affordable home price can be estimated for each income group, as seen in Table 17. Based on the current home prices described below, both low- and moderate-income households would generally be able to purchase a home with a sufficient number of bedrooms to avoid overcrowding. Very-low-income households may be able to purchase a home, but it would most likely be a smaller, older unit or a condominium or mobile home.

Table 17
Income Categories and Affordable Housing Costs – Riverside County

2013 Areawide Median Income = \$65,000	Income Limits	Affordable Rent	Affordable Price (est.)
Extremely Low (<30% AMI)	\$20,100	\$503	--
Very Low (31-50% AMI)	\$33,500	\$838	\$150,000
Low (51-80% AMI)	\$53,600	\$1,340	\$250,000
Moderate (81-120% AMI)	\$78,000	\$1,950	\$350,000
Above moderate (120%+ AMI)	\$78,000+	\$1,950+	\$350,000+

Assumptions: --Based on a family of 4
 -30% of gross income for rent or PITI
 -10% down payment, 4.5% interest, 1.25% taxes & insurance
 Source: Cal. HCD; J.H. Douglas & Associates

Ownership Housing

According to DataQuick Information Systems, the calendar year 2012 median resale single-family home price for Banning was \$129,000, which was significantly lower than the median price of \$205,000 for Riverside County as a whole (Table 18). The median resale price for condos in Banning was \$116,000, well below the county median of \$157,000.

Table 18
House and Condo Median Sales Prices, 2012

Jurisdiction	SFD	Condo
Banning	\$129,000	\$116,000
Riverside County	\$205,000	\$157,000

Source: DataQuick Information Systems, 2013

A 2013 market survey found no new home developments currently active in Banning. However, in the City of Beaumont, which is immediately adjacent to the west, one new development (K. Hovnanian's Four Seasons⁴) was selling single-family detached homes at prices ranging from \$220,159 to \$367,550.

⁴ <http://www.newhomesource.com/yahoorealestate/homedetail/specid-985337> (accessed 9/2/2013)

Based on the estimated affordable prices (Table 17) and home prices presented above, housing affordability is currently considered excellent in Banning. Sales prices for new single-family housing are within the affordability range for moderate-income households, and even some lower-income households. The current recession, while creating severe hardship for many, has resulted in much improved affordability in the housing market.

Rental Housing

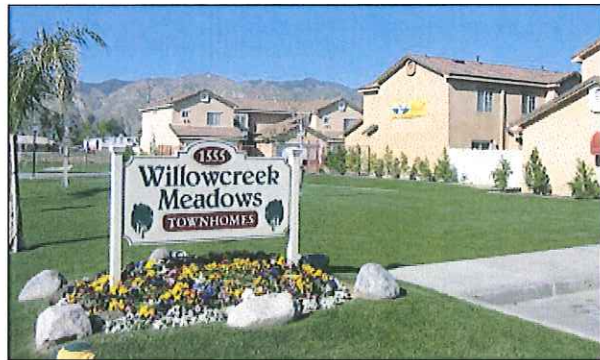
The rental housing market in Banning includes apartments, townhomes, and single-family homes. The results of a recent internet rental survey are shown in Table 19.

Table 19
Rental Market Data –
Banning

Unit Size	Rent
1-bedroom apartment	\$655
2-bedroom apartment	\$810
3-bedroom SF house	\$1,250

Source: Forrent.com⁵

Since no apartment complexes have been built in Banning in recent years, a review of newer apartments in the nearby city of San Jacinto was conducted. Willowcreek Meadows at 1555 S. Santa Fe Street, a gated 52-unit market-rate townhome apartment project with 2-car attached garages, is built at a density of 13.7 units/ acre and offers 2-bedroom units for \$1,050-1,150/month and 3-bedroom units for \$1,200-1,300/month⁶. Based on the affordability levels shown in Table 17 (page 19), all of these units are affordable to lower-income households. It should be noted that this project is less than 10 years old and represents the “high end” of the rental market in San Jacinto, and most (if not all) other apartment projects in the vicinity are expected to have lower rents.



Based on Riverside County income limits and current rental rates, most very-low-, low-, and moderate-income households can afford market rents in Banning. However, households with extremely-low incomes face an “affordability gap.” Programs to facilitate development of new assisted rental housing and Section 8 vouchers can help to address this gap, and are discussed in the Resources section and the Housing Plan.

⁵ www.forrent.com (accessed 9/1/2013)

⁶ <http://www.rent.com/california/san-jacinto-apartments/willowcreek-meadows-4-664903> (accessed 9/1/2013)

Assisted Housing At-Risk of Conversion

State Housing Element law requires cities to prepare an inventory of assisted multi-family rental units that are eligible to convert to market rate due to termination of subsidy contract, mortgage prepayment, or expiring use restrictions. Under Housing Element law, this inventory is required to cover the ten-year period from 2013 to 2023.

Table 20 summarizes the inventory of assisted rental housing projects in Banning. Three assisted developments are located in the City. None of these projects is at-risk of conversion during the current planning period.

Table 20
Inventory of Assisted Rental Housing

Development Name	Total Units	Funding Source	Expiration of Affordability Covenants
Cherry Valley Healthcare	132	223(a)(7)/223(f)	2039
Westview Terrace	75	HFDA/8 NC	2066
Windscape Village Apartments	128	207/223(f)	2040

Sources: SCAG, CHPC, City of Banning, 2013.

Growth Needs 2014-2021

Overview of the Regional Housing Needs Assessment

The Regional Housing Needs Assessment (RHNA) is a key tool for local governments to plan for anticipated growth. The RHNA quantifies anticipated need for housing within each jurisdiction for the period from January 2014 through October 2021. Communities then determine how they will address this need through the process of updating the Housing Elements of their General Plans.

The current RHNA was adopted by the Southern California Association of Governments (SCAG) in October 2012. The future need for housing is determined primarily by the forecasted growth in households in a community. Each new household, created by a child moving out of the parent's home, by a family moving to a community for employment, and so forth, creates the need for a housing unit. The housing need for new households is then adjusted to maintain a desirable level of vacancy to promote housing choice and mobility. An adjustment is also made to account for units expected to be lost due to demolition, natural disaster, or conversion to non-housing uses. The sum of these factors – household growth, vacancy need, and replacement need – determines the construction need for a community. Total housing need is then distributed among four income categories on the basis of the county's income distribution, with adjustments to avoid an over-concentration of lower-income households in any community.

2014-2021 Banning Growth Needs

The total housing growth need for the City of Banning during the 2014-2021 period is 3,792 units. This total is distributed by income category as shown in Table 21. While the RHNA did not address the needs of the extremely-low-income category, state law requires jurisdictions to analyze this segment. As allowed by state law, the extremely-low category is assumed to be one-half of the very-low-income need.

Table 21
Regional Housing Growth Needs 2014-2021

Very Low	Low	Moderate	Above Moderate	Total
872*	593	685	1,642	3,792
23.0%	15.6%	18.1%	43.3%	100%

*50% of the Very Low category is assumed to be in the Extremely Low Income category
Source: SCAG 2012

How the City's growth needs will be accommodated is discussed in Section 4 – Housing Resources.

III. Housing Constraints

Governmental, infrastructure, environmental and market factors can pose constraints to the provision of housing. These constraints may result in housing that is not affordable to low- and moderate-income households, persons with special needs, or may render residential construction economically infeasible for developers. This chapter analyzes these potential constraints and where necessary, identifies steps the City can take to alleviate them.

Governmental Constraints

Governmental regulations, while intentionally controlling the characteristics of development in the community can also have the unintended effect of increasing the cost of housing. Potential governmental constraints include land use plans and regulations, building codes and their enforcement, site improvement standards, fees and other exactions required of developers, and local development processing and permit procedures.

Land use regulations limit the amount or density of development, potentially increasing the cost per unit. On-site and off-site improvements such as roads, traffic signals, water or wastewater systems may increase an individual project's costs of development. Processing and permit requirements may delay construction, increasing financing and/or overhead costs of a development. The following describes potential governmental constraints and analyzes the extent to which they may affect the cost and supply of housing in Banning.

General Plan

The Banning General Plan was adopted in 2006. The state-mandated Land Use Element of the General Plan is contained in Chapter III - Community Development⁷. The General Plan describes a range of residential types dispersed throughout the City in the following land use categories and densities:

- Ranch/Agriculture Residential (RAR) – 1 unit/10 acres
- Ranch/Agriculture Residential - Hillside (RAR-H) – 1 unit/10 acres
- Rural Residential (RR) – Up to 1 unit/ acre
- Rural Residential - Hillside (RR-H) – Up to 1 unit/ acre
- Very Low Density Residential (VLDR) – Up to 2 units/acre
- Low Density Residential (LDR) – Up to 5 units/acre
- Medium Density Residential (MDR) – Up to 10 units/acre
- High Density Residential (HDR) – 11 to 18 units/acre
- Very High Density Residential (VHDR) – 19 to 24 units/acre
- Mobile Home Park (MHP)

In addition to these residential land use categories, mixed-use or exclusive residential development is allowed in the Downtown Commercial (DC) land use category at densities up to

⁷ <http://www.ci.banning.ca.us/DocumentCenter/Home/View/663>

18 units/acre. In the previous planning period, some of the larger sites in the Downtown Commercial area were designated affordable housing candidate sites with allowable densities of up to 20 units/acre.

In 2014 the General Plan Land Use Element was amended to reflect the Affordable Housing Opportunity overlay, which allows qualifying projects in the HDR-20 zone at a base density of 20 to 24 units per acre.

Zoning Regulations and Residential Development Standards

The City of Banning regulates the type, location, density, and scale of residential development primarily through the Zoning Code. Development regulations are designed to protect and promote the health, safety, and general welfare of residents as well as implement the policies of the General Plan. The residential land use districts set forth in the Zoning Code are the same as those described in the General Plan Land Use Element. The City's residential development standards, which include density, lot area, coverage, height, and setbacks, are shown in Table 22. These development standards are similar to those of other jurisdictions in the same market area and do not create an unreasonable constraint to the cost and supply of housing.

In addition to "conventional" zoning designations, Specific Plan districts allow customized development standards and design criteria. Such techniques may include clustering of units, density transfer within the project, or variations in lot orientation, layouts, and development standards. Specific plans are normally used for large-scale master planned developments and involve a high level of public review.

Table 22
Development Standards for RM, RMH, RH, and RVH Zones

Zone District	Maximum Building Height	Minimum Lot Width	Minimum Yard Setback			Minimum lot size (sq. ft.)	Allowable Density (units/acre)	Floor Area Ratio		Maximum Building Coverage (%)
			Front	Side	Rear			One Story	Multi Story	
RIA	35' or 2-story	600	50	25	50	10 acres	1/10 acre	0.10	0.20	10
RAR-H	35' or 2-story	600	50	25	50	10 acres	1/10 acre	0.10	0.20	10
RR	35' or 2-story	150	50	25	35	40,000	0-1	0.15	0.30	15
RR-H	35' or 2-story	150	50	25	35	40,000	0-1	0.15	0.30	15
VLDR	35' or 2-story	100	35	15	35	20,000	0-2	0.15	0.30	15
LDR	35' or 2-story	70	20	10	15	7,000	0-5	0.35	0.60	40
MDR	45' or 3-story ¹	50	15	5	10	5,000	0-10	0.40	0.70	40
HDR/HDR-20	60' or 4-story	150	15	5	10	7,000	11-18 ²	0.40	0.70	40
VHDR	60' or 4-story	150	15	5	10	7,000	19-24 ³	0.40	0.70	40
MHP	25' or 1-story	150	10	5	10	N/A	9-18	0.50	N/A	50

Source: City of Banning Municipal Code, Chapter 17.08

1. Maximum height only permitted if Fire Department provides written verification that they can serve

2. Allowable density is 20 units/acre for HDR-20 sites

3. Allowable base density is 20 units/acre for qualifying affordable housing developments

Standards for Multi-Family Housing

Chapter 17.08 of the Zoning Code establishes standards for multi-family housing and PUD-type developments. All developments with more than ten units must provide 30% useable open space for active and passive recreational uses, excluding: rights of way; parking areas; areas adjacent to or between any structures less than 15 feet apart; setbacks; detention basins or any use whose primary purpose is not intended for recreation; patio or private yards; or areas with a slope greater than eight percent. Every dwelling unit must also have a patio or balcony not less than 300 square feet in area or 25% of the dwelling unit size, whichever is less. All multi-family developments must provide recreational amenities within the site, such as swimming pool, clubhouse, tot lot with play equipment, or day care facilities, according to the following schedule:

Number of Units	Number of Amenities
Up to 10	1
11 - 50	2
51 - 100	3
101 - 200	4
201 - 300	5
More than 300	One additional amenity for each additional 100 units

These standards are typical of most higher-density developments in Southern California, and do not pose an unreasonable constraint to housing supply or affordability.

Density Bonus

Under current law, applicants are eligible for a range of density bonuses up to 35 percent based on the percentage of affordable units in a development. Applicants are also eligible for a land donation density bonus. The City is required to offer one to three regulatory incentives based on the percentage of affordable units in a development. Reduced, waived, or partially paid fees are possible incentives associated with applications for density bonuses. The law also limits parking requirements that localities may impose. The City's density bonus regulations are in conformance with current state law.

Off-Street Parking Requirements

Table 23 depicts the off-street parking requirements for residential uses in Banning, as required by Chapter 17.28 of the Zoning Code. These requirements are typical for Southern California cities and are not considered an unreasonable constraint to the production of housing. The City offers reduced parking requirements as an incentive associated with applications for density bonuses in compliance with state law.

Table 23
Off-Street Parking Requirements

Residential Unit Type	Number of Required Parking Spaces
Single family dwellings	Two covered spaces within an enclosed garage.
Multi-family residential:	
Studio and one bedroom	One covered parking space per unit, plus one uncovered guest parking space for every 4 units.
Two bedrooms	Two covered parking spaces per unit, plus one uncovered guest parking space for every 4 units.
Three or more bedrooms	Three covered parking spaces per unit, plus one uncovered guest parking space for every 4 units.
Planned unit developments including single family dwellings and condominiums	Two covered spaces within an enclosed garage per unit, and one uncovered off street guest parking space for every five units.
Residential day care	Two spaces in addition to those required for the primary residence.
Senior citizen apartments	One covered space for each unit, plus one uncovered space, and one space for each three units for guest parking.
Senior congregate care	One covered space for each unit.
Mobile home parks	Two covered parking spaces within an enclosed Garage, which may be tandem, and one uncovered guest space for each unit.

Provisions for a Variety of Housing Types

Housing Element law specifies that jurisdictions must identify adequate sites to be made available through appropriate zoning and development standards to encourage the development of a variety of types of housing for all income levels and for persons with special needs, including mobile homes, congregate care facilities, senior housing, emergency shelters, and transitional housing. Table 24 summarizes the various housing types that are permitted within Banning's residential zone districts.

Table 24
Permitted Residential Uses by Zoning District

Housing Types Permitted	Zoning District							
	RA	RR	VLDR	LDR	MDR	HDR*	VHDR	MHP
Single Family Dwelling	P	P	P	P	C	C	C	X
Condo/Townhouse	X	X	C	C	P	P	P	X
Multi-Family Dwellings	X	X	X	C	P	P	P	X
Mobilehome Park/Subdivision	X	X	X	X	C	C	C	P
Agricultural Employee Housing	P	X	X	X	X	X	X	X
Second Dwelling Unit	P	P	P	P	X	X	X	X
Single Room Occupancy facilities	X	X	X	X	X	C	C	X
Transitional & Supportive Housing	P	P	P	P	P	P	P	P
Congregate Care Facilities	X	X	X	P	P	P	P	X
Residential Care Facility (licensed/6 or less residents)	P	P	P	P	P	P	P	P
Residential Care Facility (unlicensed/6 or less residents)	X	X	X	X	C	C	C	X
Residential Care Facility (7 or more residents)	X	X	X	X	C	C	C	X

Source: City of Banning Zoning Code, 2013.

P= Permitted, C=Conditionally Permitted, X=Not Permitted

*Includes HDR-20

Housing Affordable to Lower-Income Persons: As noted previously in the Needs Assessment, housing in Banning is much more affordable than many metropolitan areas of Southern California. While the current recession has caused increased unemployment and financial strain for some families, it has also brought about a significant decline in home prices and rents. The City's General Plan and zoning regulations facilitate development of affordable housing by providing a balance of land use designations with allowable densities up to 24 units/acre (excluding density bonus) in the High Density Residential-20 and Very High Density Residential districts. Typical multi-family housing developments (both market-rate and affordable) in the Banning market area have been at densities in the range of 16-20 units/acre. This density can be accommodated in both the HDR and VHDR districts even without density bonus. When state-mandated density bonus incentives are included, allowable-a densityies of 24—32 units/acre may be achieved in the HDR-20 and VHDR zones. Discussions with affordable housing developers have indicated that the densities and development standards currently allowed by the City's zoning regulations are appropriate for this market area and facilitate the construction of lower-income housing. ~~In the previous planning period, several parcels were rezoned to a new HDR-20 district, with a minimum and maximum base density of 20 units/acre. The purpose of this zone is to facilitate development of affordable housing, and the minimum density of 20 units/acre is required by state law. With the state mandated density bonus of 35%, the allowable density range in the HDR-20 district is 20—27 units/acre. Since most affordable housing projects in the Banning market area have been built at densities less than 20 units/acre, the minimum required density of 20 units/acre could pose a constraint to development of affordable housing in this zone. However, this minimum density is required by state law and therefore the City has no ability to reduce it.~~

Mixed Use: Mixed-use development (residential and non-residential combined on the same parcel) is permitted in the Downtown Commercial (DC) and General Commercial (GC) zones, and is conditionally permitted in the Highway Serving Commercial (HSC), Professional Office (PO) and Business Park (BP) zones. A primary policy objective for the 2013-2021 planning period is to encourage higher-density affordable housing in the Downtown Commercial area as a means of stimulating economic investment in underutilized properties while also accommodating a substantial portion of the City's assigned share of lower-income regional housing need. Zoning regulations currently allow residential densities of up to 18 units/acre on smaller sites and 20 units/acre on larger sites of at least 0.8 acre. In order to provide an incentive for affordable multi-family and mixed-use development, Program 7 in the Housing Plan includes a proposal to amend the DC zoning regulations to increase the allowable base density to 24 units/acre for projects that meet the minimum affordability standards under state Density Bonus law (e.g., 5% very-low- or 10% low-income units). Development standards in the DC zone currently allow a height limit of 60 feet and 4 stories. The DC regulations currently allow properties fronting on Ramsey Street and San Gorgonio to have multi-family residential use only above the ground floor. Since a height limit of 60 feet and 4 stories is allowed, this does not preclude mixed-use projects achieving a density of more than 20 units/acre in 3- or 4-story buildings. However, all of the other parcels in the DC zone that are not fronting Ramsey Street and San Gorgonio Avenue allow exclusive residential use with no required commercial component.

Second Units: Second units can provide additional opportunities for affordable housing while also providing a source of income for homeowners. As shown in Table 24, second units are

permitted uses in all single-family zones. Standards for second units are provided in Section 17.08.100 of the Zoning Code pursuant to California *Government Code* Section 65852.2 and include the following requirements:

- The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.
- The floor area of attached second unit shall not exceed 30% of the existing living area.
- The total area for a detached second unit shall not exceed 1,200 square feet.
- A residential second unit shall comply with all development standards for the applicable zoning district, including, but not limited to, standards for front, rear and side yard setback requirements for a primary unit under the regulations of the applicable zoning district.
- The owner of the lot shall reside on the lot, either in the primary unit or in the residential second unit, and the residential second unit shall not be sold, or title thereto transferred separate from that of the property.
- A minimum of one off-street parking space shall be provided per bedroom of the residential second unit.
- The minimum gross floor area of an attached residential second unit shall be 400 square feet.
- An attached residential second unit may have a separate entrance; provided, however, in no event shall any external stairwell be placed within the side yard setback.
- A residential second unit shall contain separate kitchen and bathroom facilities, and shall be metered separately from the primary dwelling for gas, electricity, communications, water, and sewer services.
- A residential second unit shall have no more than two bedrooms.
- The design of second unit shall be architecturally compatible with the primary unit on the same parcel with the predominant architecture of the area.

These standards ensure that new second units will not adversely impact the surrounding community and do not unreasonably constrain the development of second units.

Mobilehomes and Manufactured Housing: Mobilehome subdivisions and parks provide an important affordable housing source for residents of Banning, with mobile homes comprising nearly 10% of the housing stock. The Zoning Code allows mobilehome parks and subdivisions as a permitted use in the MHP zones. Manufactured housing units on permanent foundations are permitted in the same manner as single-family homes consistent with building code requirements.

Housing for Persons with Disabilities: The Zoning Code allows licensed Residential Care Facilities for six persons or less in all residential zones by-right. Small unlicensed care facilities and large care facilities (7+ residents) are permitted subject to a conditional use permit in the MDR, HDR and VHDR residential zones, as well as the Highway Serving Commercial zone.

Definition of "Family"

Zoning Code §17.04.070 defines "family" as a "single housekeeping unit", as follows: "Single Housekeeping Unit is one or more individuals, whether related by blood, marriage, legal adoption or not, jointly occupying a dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager." This definition is consistent with state law.

Separation Requirements

There is no City requirement for minimum separation distance between small licensed care facilities other than as may be provided in state law. Unlicensed care facilities must maintain a minimum separation of 1,000 feet from any other unlicensed care facility, boarding house, SRO, elementary or secondary school or day care center (Zoning Code §17.08.201).

Parking Standards

For boarding house type uses, one parking space is required for each room or two beds, whichever is greater. For senior congregate care facilities, two parking spaces per three units is required.

Supportive Services

There are no limitations on supportive services in group homes or care facilities.

Reasonable Accommodation for Persons with Disabilities

Reasonable accommodation refers to the City's procedures for reviewing and approving requests from disabled and special needs residents to alter their homes to allow for mobility and use. Chapter 17.42 describes City procedures for processing requests for reasonable accommodation for persons with disabilities and special housing needs in conformance with state law.

Emergency Shelters: State law (Senate Bill 2 of 2007) requires that emergency shelters be allowed by-right (i.e., without discretionary review such as a conditional use permit) in at least one zoning district. Emergency shelters are permitted by-right in the Airport Industrial (AI) zone.

Approximately 135.8 acres of land is within the AI zone, of which approximately 94 acres is vacant. This area has ample capacity to accommodate the development of at least one homeless shelter. Portions of the AI zone are within one-quarter mile from the downtown core and nearby central business district, within easy walking distance from services available in the downtown.

Transitional and Supportive Housing: “Transitional and supportive housing” means a residential facility that provides temporary accommodations, typically for six months to two years, to low- and moderate-income persons and families or persons with special needs, and which also may provide meals, counseling, and other services, as well as common areas for residents of the facility. SB 2 of 2007 requires that transitional and supportive housing be considered a residential use that is permitted under the same procedures and requirements as for other residential uses of the same type in the same zone. The Zoning Code allows transitional and supportive housing subject to the same standards and procedures as for other residential uses of the same type in the same zone in conformance with SB 2.

Farmworker Housing: State law⁸ provides that employee housing for six or fewer workers shall be considered a single-family use and no conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six or fewer employees that is not required of a family dwelling of the same type in the same zone. State law further provides that any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use designation, and no conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The Zoning Code allows agricultural employee housing by-right in zones where agriculture is a permitted use consistent with state law.

Single Room Occupancy: Single room occupancy (SRO) facilities are small studio-type apartment units, typically intended for very-low- or extremely-low-income persons. SRO facilities are allowed with a Conditional Use Permit in the High Density Residential (HDR) and Very High Density Residential (VHDR) districts, as well as in the Downtown Commercial (DC) and Highway Serving Commercial (HSC) Districts.

Development and Planning Fees

After the passage of Proposition 13 and its limitation on local governments’ property tax revenues, cities and counties have faced increasing difficulty in providing public services and facilities to serve their residents. One of the main consequences of Proposition 13 has been the shift in funding of new infrastructure from general tax revenues to development impact fees and improvement requirements on land developers. In order to ensure public health and safety, the City requires developers to provide on-site and off-site improvements necessary to serve their projects. Such improvements may include water, sewer and other utility extensions, street construction and traffic control device installation that are reasonably related to the project. Dedication of land or in-lieu fees may also be required of a project for rights-of-way, transit facilities, recreational facilities, and school sites, consistent with the Subdivision Map Act.

⁸ *Health and Safety Code §17021.5 and §17021.6.*

State law limits fees charged for development permit processing to the reasonable cost of providing the service for which the fee is charged. Various fees and assessments are charged by the City and other public agencies to cover the costs of processing permit applications and providing services and facilities such as schools, parks, and infrastructure. These fees are typically assessed through a pro rata share system, based on the magnitude of the project's impact or on the extent of the benefit that will be derived.

While the cost of planning and development impact fees may be viewed as a constraint to housing supply and affordability, local governments and service providers have little discretion in this matter due to the state's legal and budgetary framework established under Proposition 13 and other related laws.

Banning charges various fees and assessments to cover the cost of processing permits and providing certain services and utilities. Under state law, these fees are limited to the actual cost of providing these services. Table 25 depicts current development fees for residential development. The City derives its building permit fees based on building valuation and fee data established by International Congress of Building Officials (ICBO).

Table 25
Development Fees

Fee Type	Single Family Unit	Multi-Family Unit
Permit processing	\$660* (1,500 sq ft unit)	\$316 (1 unit or 1,000 sq ft.)
Fire	\$1,335	\$1,335
Police	\$823	\$913
Traffic Control	\$250	\$172
General Plan	\$75	\$75
Parks	\$1,955	\$1,187
General City	\$478	\$530
Energy Conservation	\$45	\$45
New Electrical Service	\$1,400	\$1,400
Water Connection (per d.u.)	\$7,232	\$7,232
Sewer/Wastewater (per d.u.)	\$2,786	\$2,786
School Fees	\$2.97 or \$3.69** per sq ft.	\$2.97 or \$3.69** per sq ft.
T.U.M.F	\$10,046	\$7,054
M.S.H.C.P.	\$1,008-\$1,938***	\$1,008-\$1,938***
Total (per unit)	\$34,558	\$28,673

Notes: T.U.M.F refers to the Transportation Uniform Mitigation Fee

MSHCP refers to the Multi-Species Habitat Conservation Plan

* Permit cost for production phase 1,500 sq ft. dwelling unit as per City Fee table.

**Cost varies on school district jurisdiction, Banning District used to estimate total fees.

*** Cost varies based on dwelling units per acre.

Source: City of Banning, 2013

Building Codes and Enforcement

Banning has adopted the 2010 version of the California Building Codes. The California Building Code is considered to be the minimum necessary to protect the public health, safety, and welfare, and is used by most jurisdictions in the state. Code violations are investigated on both a

complaint basis and on a proactive basis as code enforcement officers patrol the city. Code enforcement officers work cooperatively with property owners to expedite remedial actions and advise them about any assistance programs that may be available to help bring properties into compliance. The City currently (2013) has one Code Enforcement staff. Prior to the recession that began in 2008, there were three Code Enforcement personnel.

Local Processing and Permitting

The City of Banning encourages the ongoing construction, maintenance, and improvement of housing by decreasing, to the extent possible, the time and uncertainty involved in gaining approvals for various development permits. This section outlines the City's development permit procedures. The Community Development Department currently (2013) has one staff planner assigned to processing planning applications.

Concurrent Processing

State law requires that all communities work toward improving the efficiency of their building permit and review processes by providing concurrent processing, thereby eliminating the unnecessary duplication of effort. Moreover, Assembly Bill 884 (passed in 1978) helped reduce governmental delays by 1) limiting processing time in most cases to one year, and 2) by requiring agencies to specify the information needed to complete an acceptable application. The following summarizes the existing approximate time frame and review procedures for single-family and multi-family projects.

Single-Family and Multi-Family Projects of Four Units or Less

Single-family or multi-family residential developments on legally established lots are permitted by-right and are approved by the Community Development Director. If a subdivision is proposed, review and approval by the Planning Commission and City Council is required pursuant to the state Subdivision Map Act.

Single-Family and Multi-Family Projects of Five or More Units

Developments with 5 or more units are subject to the Development Review process. Development review entails review by the Land Development Task Force (LDTF) that includes representatives from the Engineering, Community Services, Planning, Electric, Fire, and Police Departments. The purpose of the LDTF is to identify issues early in the planning process so that applicants can avoid costly revisions and project delays. At the conclusion of the LDTF meeting, the applicant is provided with preliminary conditions of approval, an estimate of processing costs associated with each development application/entitlement for each department, as well as an anticipated total development "package" cost. Applicants are also given an estimated processing time to a final decision, including Planning Commission and City Council hearings, if applicable. Every attempt is made on the part of the City to provide applicants with early feedback in order to minimize processing time and cost.

Design Review

Design review requirements are established in Chapter 17.56 of the Zoning Code. Prior to making a determination, the review authority shall determine that the project adequately meets adopted City performance standards and design guidelines, based upon the following findings:

- A. The proposed project is consistent with the General Plan.
- B. The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.
- C. The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.
- D. The design of the proposed project is compatible with the character of the surrounding neighborhood.

Design review for residential developments with four or fewer units is approved administratively by the Community Development Director. Projects with five or more units are approved by the Planning Commission or City Council, depending on whether other approvals are also required (e.g., specific plan).

Planned Unit Developments

Chapter 17.92 of the Zoning Code establishes procedures and criteria for Planned Unit Developments (PUD). PUDs provide flexibility in the application of the development standards for the underlying zoning district in order to encourage more efficient use of land. For example, a PUD can allow lot sizes that are smaller than the minimum for the zoning district in order to provide additional open space or preserve valuable environmental features of the site such as creeks, rock outcroppings, etc. PUDs may include exclusive residential or mixed uses. PUDs are approved by the Planning Commission unless it is part of an application package that requires City Council approval (e.g., zone change or development agreement).

Specific Plans

Government Code Sections 65451 and 65452 establish the legal framework for Specific Plans. Chapter 17.96 of the Zoning Code establishes the City's procedures for the adoption of Specific Plans. A Specific Plan application must include a text and a diagram(s) containing all of the required components outlined in state law. A Specific Plan is an alternative to conventional zoning regulations that establishes detailed standards and procedures governing development for a particular property. Like PUDs, Specific Plans may establish alternate development standards that are tailored to the characteristics of the property. Specific Plan districts allow for the use of special design criteria for maximum utility of the site and also allow for maximum design flexibility within density limitations. Techniques include clustering of units, or other unique lot orientation, layouts, and varying development standards. Specific Plans often include an infrastructure component that establishes a framework for the installation of utilities and other

improvements needed to serve the development. Adoption of a Specific Plan is a legislative act subject to approval by the City Council, and is typically processed concurrently with other approvals, such as subdivision maps, that may be required as part of the project.

Affordable Housing Projects in the HDR-20 and VHDR Zones

In the 4th planning cycle several properties were rezoned to HDR-20 and VHDR to provide adequate sites for affordable housing pursuant to Government Code Sections 65583.2(h) and (i). Review of project applications on those sites is ministerial (“by-right”), which is a staff-level administrative review process that does not required a public hearing or constitute a “project” as defined by CEQA.

The following table summarizes the approval process for different types of residential developments.

Table 26
Development Review Summary

Development Type	Review and Approval Process		
	CD Director	Planning Commission	City Council
Single-family detached			
Individual house	D		
Subdivision (2 - 4 lots)	R	R	D
Subdivision (5 lots or more)	R	R	D
Multi-family apartments			
2 – 4 units	D		
5 or more	R	D	
Affordable housing in the HDR-20 and VHDR zones	D		
PUD or Specific Plan	R	R	D

R=recommendation D=decision

Environmental Protection

The California Environmental Quality Act requires environmental review of proposed discretionary projects (e.g., subdivision maps, use permits). Costs resulting from fees charged by local government and private consultants needed to complete the environmental analysis, and from delays caused by the mandated public review periods, are also added to the cost of housing and passed on to the consumer. However, environmental review is required by state (and in some cases federal) law and these regulations help to preserve the environment and ensure environmental safety for the City’s residents.

Infrastructure and Environmental Constraints

Water Supply. The City of Banning provides water service to all residential areas within the City. In addition, the City owns and operates wells, reservoirs, and a distribution line system to

deliver domestic water. Projected capacity is sufficient to accommodate the level of growth anticipated in the General Plan.

Wastewater Treatment. The City provides sewage treatment at the Banning Water Reclamation Plant located at 2242 East Charles Street. The City sewer system contains 15-inch and 24-inch trunk lines, which are located within major City public right-of-ways. The present plant has a design flow capacity of 3.6 million gallons per day (MGD) and is currently (2013) operating at approximately 2.1 MGD.

Drainage and Flood Control Facilities. The Banning Canyon is located in several drainage basins and floodplains on the valley floor, subjecting the area to floods. The San Bernardino and San Jacinto Mountains within the Banning Canyon area are very steep and consists of rock that is fairly impermeable. Consequently, little infiltration of rainwater results in flows across the surface as runoffs and down the slopes as overland flows. These overland flows feed in fluvial streams in the drainage basins of the San Gorgonio Valley. Most of the 100-year flood plain is located in Banning Canyon area, which is not anticipated for residential development. This area has been designated as open space, due in part to its location in a flood plain, and in part to the natural habitat of the area. The potential sites for residential development shown in the land inventory (Appendix B) are not within this flood plain. All new developments are required to install drainage improvements to serve the property consistent with applicable engineering standards.

Street Improvements. The City requires a minimum public right-of-way width of 60 feet for residential streets and 66 feet for collector streets (including sidewalks and landscaped areas). The minimum curb-to-curb pavement width is 40 feet, with a 10-foot parkway on residential streets and a 13-foot parkway on collector streets. A 5-foot sidewalk is required. Lesser street widths could be approved through the City's planned unit development or specific plan processes.

Pedestrian ways or bridges are required if the City deems them necessary for access to schools, recreation areas, other public areas, or for the safety or convenience of pedestrians. The subdivider is required to install local streets or street segments serving the development, including curbs, gutters, sidewalks, pavement, traffic signs, street trees, mailbox inserts, and street lights.

The City's requirements for street improvements are consistent with most other suburban communities in the region and are not a significant constraint to the cost or availability of housing in Banning.

Market Constraints

Development and Financing Costs

Banning is fortunate in that the cost of vacant land for residential development is relatively affordable, especially when compared to the adjacent counties of Orange, Los Angeles, and San Diego. Land prices are highly variable and depend on the density of development allowed, whether the site has environmental constraints, and whether an existing use must be removed. Recent asking prices for vacant land range from approximately \$150,000 per acre for single-family land to \$300,000 per acre for multi-family land. Construction costs vary according to the

type of development, with multi-family housing generally less expensive to construct than single-family homes. However, there is wide variation within each construction type, depending on the size of unit and the number and quality of amenities provided, such as fireplaces, swimming pools, and interior fixtures among others. Recent building cost estimates published by the International Code Council range from approximately \$125/square foot for single-family to \$128/square foot for multi-family, although assisted affordable housing cost can be higher due to the prevailing wage requirements of state law. The City has no influence over materials and labor costs, and the building codes and development standards in Banning are not substantially different than most other cities in Riverside County.

A reduction in amenities and the quality of building materials (above a minimum acceptability for health, safety, and adequate performance) could result in lower sales prices. In addition, prefabricated factory-built housing may provide a lower-priced alternative by reducing construction and labor costs. Another factor related to construction costs is the number of units built at one time. As the number increases, overall costs generally decrease as builders can benefit from economies of scale.

Cost and Availability of Financing. Housing affordability is also largely determined by interest rates. First-time homebuyers are most impacted by financing requirements. Currently (2013) mortgage interest rates for new home purchases are at historically low levels of approximately 4-1/2% for a 30-year fixed-rate mortgage, which increases housing affordability. Although rates are currently low, they can change significantly and impact the affordability of the housing stock. The recent economic crisis has also resulted in a tightening of lending standards, as compared to the “easy credit” practices in recent years. Thus, a critical factor in homeownership involves credit worthiness. Lenders consider a person’s debt-to-income ratio, cash available for down payment, and credit history when determining a loan amount. Many financial institutions are willing to significantly decrease down payment requirements and increase loan amounts to persons with good credit rating. Persons with poor credit ratings may be forced to accept a higher interest rate or a loan amount insufficient to purchase a house.

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IV. Housing Resources

Land Resources

In accordance with *Government Code* §65584, projected housing needs for each city and county in the Southern California region are prepared by the Southern California Association of Governments (SCAG) under a process known as the Regional Housing Needs Assessment (RHNA). SCAG's Regional Council adopted the final Regional Housing Need Allocation in 2012. The RHNA allocation for Banning was discussed previously in the Housing Needs Assessment section of this Technical Report.

An important component of the Housing Element is the identification of sites for future housing development, and evaluation of the adequacy of this site inventory in accommodating the City's share of regional housing growth need. A parcel-specific vacant residential site analysis has been completed (see Appendix B) and Table 27 summarizes potential housing development that could be accommodated on the City's vacant and underutilized land.

Table 27
Residential Land Inventory Summary vs. RHNA

	Income Category			
	Lower	Mod	Above Mod	Total
♦ Approved Projects (Table B-3)				
♦ Approved projects – R-A			30	30
♦ Approved projects – Very Low Density Residential			1,036	1,036
♦ Approved projects – Low Density Residential			3,032	3,032
♦ Approved projects – Medium Density Residential		2,607		2,607
♦ Approved projects – High Density Residential		1,213		
♦ Subtotal – Approved Projects	0	3,820	4,098	6,705
♦ Vacant parcels (Table B-4)				
♦ Vacant parcels – Low Density Residential			513	513
♦ Vacant parcels – Medium Density Residential		1,088		1,088
♦ Vacant parcels – High Density Residential		395		395
♦ Vacant parcels – High Density Residential-20	1,942			
♦ Vacant parcels – Very High Density Residential	520			
♦ Subtotal – Vacant Parcels	2,462	1,483	513	1,996
♦ Underutilized Parcels (Table B-5)				
♦ Downtown Commercial parcels	86			
♦ Potential second units	5			5
♦ Total land inventory	2,553	5,303	4,611	8,706
♦ RHNA 2014 - 2021	1,465	685	1,642	3,792
♦ Adequate Sites?	Yes	Yes	Yes	Yes

Source: City of Banning, 6/2013

As shown in Table 27 and Appendix B, there are adequate sites in all income categories to accommodate the City's share of regional housing need during this planning period. However, some parcels are large and require subdivision or approval of a specific plan prior to development. In order to facilitate development of large sites, Program 5 includes actions such as expedited processing and incentives for subdivisions and specific plans to create sites for affordable multi-family housing.

Financial Resources

State and Federal Resources

Section 8 - The Housing Choice (Section 8) voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to rent decent, safe, and sanitary housing in the private market. Since the rental assistance is provided on behalf of the family or individual, participants are able to find and lease privately owned housing, including single-family homes, townhouses and apartments from landlords who accept vouchers. Eligible households pay 30% of their income toward rent with the balance paid by HUD. The Housing Authority of Riverside County (HARIVCO) coordinates and administers Section 8 rental assistance on behalf of the City of Banning.

Community Development Block Grant (CDBG) Program - Federal funding for housing programs is available through the Department of Housing and Urban Development (HUD). The CDBG program is very flexible in that the funds can be used for a wide range of activities. The eligible activities include, but are not limited to, acquisition and/or disposition of real estate property, public facilities and improvements, relocation, rehabilitation, and construction (under certain limitations) of housing, homeownership assistance, and clearance activities. Banning receives its CDBG funding through the County of Riverside.

HOME Investment Partnership Program - The HOME Program is designed to improve and/or expand a jurisdiction's affordable housing stock. Unlike the CDBG program, HOME funds can only be used for affordable housing activities. Specifically, HOME funds can be used for the following activities which promote affordable rental housing and lower-income homeownership: building acquisition, new construction, reconstruction, moderate or substantial rehabilitation, homebuyer assistance, and tenant-based assistance.

There are fairly strict requirements governing the use of the funds. Two major requirements are that the HOME funds must be: 1) used for activities that target certain income groups (lower-income families in particular) and 2) matched 25% by non-federal sources.

The City of Banning is eligible to receive HOME funds as a participating city in the Riverside County program as applicants apply for HOME-qualified projects.

Low-Income Housing Tax Credit Program - The Low-Income Housing Tax Credit Program was created by the Tax Reform Act of 1986 to provide an alternate method of funding low-and moderate-income housing. Each state receives a tax credit, based upon population, toward

funding housing that meets program guidelines. The tax credits are then used to leverage private capital into new construction or acquisition and rehabilitation of affordable housing. Limitations on projects funded under the Tax Credit programs include minimum requirements that a certain percentage of units remain rent-restricted, based upon median income, for a term of 15 years.

Local Resources

Redevelopment Housing Set-Aside Fund – In 2012 the state abolished all redevelopment agencies in California, therefore this tool for community revitalization and affordable housing assistance is no longer available.

Non-Profit Housing Providers

The following are housing providers that have been involved with development of affordable housing in the Banning area and may be interested in developing and/or preserving additional affordable housing in the future.

- Coachella Valley Housing Coalition
45-701 Monroe Street, Suite G
Indio, CA 92201
(760) 347-3157
- Habitat for Humanity – San Geronio Pass Area
P.O. Box 269
Banning, CA 92220
951-769-7600
- Jamboree Housing Corporation
2081 Business Center Drive, Suite 216
Irvine, CA 92612
(949) 263-8676
- Affirmed Housing
200 East Washington Avenue, Suite 208
Escondido, CA 92025
(619) 738-8401
- The Olson Company
30200 Old Ranch Pkwy, #250
Seal Beach, CA 90740
(562) 596-4770
- Southern California Housing Development Corporation
8265 Aspen Street, Suite 100
Rancho Cucamonga, CA 91730
(909) 481-0172

- RC Hobbs Company
1110 E. Chapman Ave., Suite 206
Orange, CA 92866
(888) 633-4622
- LINC Housing Corporation
110 Pine Avenue, Suite 500
Long Beach, CA 90802
(562) 684-1100
- Palm Desert Development Company
P.O. Box 3958
Palm Desert, CA 92261
(760) 568-1048
- Riverside Housing Development Corporation
4250 Brockton Avenue
Riverside, CA 92501

Energy Conservation Opportunities

As residential energy costs rise, the subsequent increasing utility costs reduce the affordability of housing. As new development and infill development and rehabilitation activities occur, the City will have an opportunity to directly affect energy use within its jurisdiction.

State of California Energy Efficiency Standards for Residential and Nonresidential Buildings were established in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are codified in Title 24 of the California Code of Regulations and are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. California's building efficiency standards (along with those for energy efficient appliances) have saved more than \$56 billion in electricity and natural gas costs since 1978. It is estimated the standards will save an additional \$23 billion by 2013⁹.

Title 24 sets forth mandatory energy standards and requires the adoption of an "energy budget" for all new residential buildings and additions to residential buildings. Separate requirements are adopted for "low-rise" residential construction (i.e., no more than 3 stories) and non-residential buildings, which includes hotels, motels, and multi-family residential buildings with four or more habitable stories. The standards specify energy saving design for lighting, walls, ceilings and floor installations, as well as heating and cooling equipment and systems, gas cooling devices, conservation standards and the use of nondepleting energy sources, such as solar energy or wind power. The home building industry must comply with these standards while localities are responsible for enforcing the energy conservation regulations through the plan check and building inspection processes.

⁹ California Energy Commission (<http://www.energy.ca.gov/title24>).

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Examples of techniques for reducing residential energy use include the following:

- **Glazing** – Glazing on south facing exterior walls allows for winter sunrays to warm the structure. Reducing glazing and regulating sunlight penetration on the west side of the unit prevents afternoon sunrays from overheating the unit.
- **Landscaping** – Strategically placed vegetation reduces the amount of direct sunlight on the windows. The incorporation of deciduous trees in the landscaping plans along the southern exposure of units reduces summer sunrays, while allowing penetration of winter sunrays to warm the units.
- **Building Design** – The implementation of roof overhangs above southerly facing windows shield the structure from solar rays during the summer months.
- **Cooling/Heating Systems** – The use of attic ventilation systems reduces attic temperatures during the summer months. Solar heating systems for swimming pool facilities saves on energy costs. Natural gas is conserved with the use of flow restrictors on all hot water faucets and showerheads.
- **Weatherizing Techniques** – Weatherization techniques such as insulation, caulking, and weather stripping can reduce energy use for air-conditioning up to 55% and for heating as much as 40%. Weatherization measures seal a dwelling unit to guard against heat gain in the summer and prevent heat loss in the winter.
- **Efficient Use of Appliances** – Appliances can be used in ways that increase their energy efficiency. Unnecessary appliances can be eliminated. Proper maintenance and use of stove, oven, clothes dryer, washer, dishwasher, and refrigerator can also reduce energy consumption. New appliance purchases can be made on the basis of efficiency ratings.

The Western Riverside Council of Governments (WRCOG) also sponsors a program called “HERO” intended to help reduce residential energy consumption. The HERO Program is offered through a partnership between WRCOG and Renovate America, Inc. The Program’s purpose is to provide relatively low interest rate financing to spark the local economy by creating jobs and reducing utility costs, and to reduce greenhouse gas emissions. The Program provides HERO Financing for permanently affixed energy efficiency, water efficiency, and renewable energy products (Eligible Products). HERO Financing is repaid through an assessment on the owner’s property tax bill over 5 to 20 years, based on the useful life of the products, and upon sale of the property, the balance generally stays with the property.

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Attachment 9
CEQA Addendum



CITY OF BANNING
Addendum to
Initial Study/Mitigated Negative Declaration

**General Plan and Zoning Code Amendments Related to Adoption of the
Affordable Housing Opportunity (AHO) Overlay**

General Plan Amendment No. 14-2502
Zone Change No. 14-3502
Zone Text Amendment No. 14-97501 (Ordinance No. 1482)

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

September 2014

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**Addendum to Initial Study/Mitigated Negative Declaration
for
General Plan Amendment No. 14-2502
Zone Change No. 14-14-3502
Zone Text Amendment No. 14-97501 (Ordinance No. 1482)**

1. **Project Title:** General Plan and Zoning Code Amendments Related to Adoption of the Affordable Housing Opportunity (AHO) Overlay.
2. **Lead Agency Name and Address:** City of Banning, 99 E. Ramsey Street , Banning, CA 92220
3. **Contact Person and Phone Number:** Zai Abu Bakar, Community Development Director, (951) 922-3131
4. **Applicant Name and Address:** City of Banning, 99 E. Ramsey Street, Banning, CA 92220
5. **Project Location:** See Exhibit 1 – Project Location Map
6. **General Plan Designation:** High Density Residential – 20 units/acre (HDR-20)
7. **Project Description (describe the whole action involved, including, but not limited to, later phases of the project, and any secondary, support, or off-site features that are necessary for its implementation).**

The Project evaluated in this Addendum is the adoption of text amendments to the Housing and Land Use Elements of the General Plan and amendments to the Zoning Code Text and Map to establish an Affordable Housing Opportunity (AHO) Overlay on the following eight parcels in the HDR-20 zone (hereinafter the “AHO Amendments”). Maps showing the locations of the affected parcels are provided in Exhibits 2a through 2h.

Proposed HDR-20/AHO Sites	
Assessor Parcel No.	
537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009

In its May 1, 2014 review letter regarding Banning’s adopted 2013-2021 Housing Element, the California Department of Housing and Community Development (HCD) stated that adoption of an Affordable Housing Opportunity (AHO) overlay on parcels in the HDR-20 zone is necessary to provide adequate sites for lower-income housing in conformance with

state law. The AHO Amendments would allow a density of 20-24 units/acre only for projects that reserve 20% of units for lower-income households. Market-rate projects would not be eligible for a density increase, nor would projects within the AHO Overlay area be required to include affordable units. The overlay would provide an alternative development option for property owners if they choose to provide affordable housing.

The proposed AHO Amendments are described below in underline/~~strikeout~~ notation.

Housing Element Amendment

The proposed Housing Element Amendment would add the following language to Program 5 of the Housing Plan:

▪ **Affordable Housing Opportunity (AHO) Overlay Zone**

Within one year of Housing Element adoption, the City will process an amendment to the General Plan Land Use Element and Zoning Ordinance to establish an Affordable Housing Opportunity (AHO) Overlay Zone on HDR-20 sites to allow an increase in base density (excluding density bonus) to 24 dwelling units/acre when a project complies with the following:

a. The developer agrees to provide a minimum of 10% very-low-income units and 10% low-income units (or a proportionate increase in very-low-income units and a decrease in low-income units, e.g. 15% very-low and 5% low).

b. Affordable units are deed restricted for a period of not less than 55 years, or in perpetuity, if possible.

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discretionary permit, provided, however, that multi-family development proposals will be subject to design review.

The City will work with developers, other agencies and the community to address lower-income housing need by offering incentives such as density bonuses, options for clustering units, mix of unit types, second units, use of "in-lieu" housing funds, fast-track processing, and reduced fees, as appropriate for proposed lower-income housing.

Land Use Element Amendment

The proposed Land Use Element Amendment would amend the High Density Residential land use category on p. III-7 as follows:

High Density Residential (HDR) (11-18 du/acre)

Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. Duplex and multi-plex development is the most prevalent type of development in this designation. The clustering of

condominiums and townhomes may be appropriate with the provision of common area amenities and open space. Allowable base density for parcels within the HDR-20 Affordable Housing Opportunity (AHO) overlay zone is may be increased to 20 to 24 du/acre for developments that reserve at least 2050% of units for lower-income households in conformance with Program 5 of the Housing Element. Mobile home parks and subdivisions may also be appropriate, with the approval of a conditional use permit. Home occupations are permitted.

Zoning Code Amendment

The proposed Zoning Code amendment would make the following changes to Chapter 17 of the Code.

1. Zoning Code §17.08.010.B.9 would be amended as follows:

“9. High Density Residential-20/Affordable Housing Opportunity (HDR-20/AHO) (20-24 du/acre). Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre and a maximum density of 24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

2. Zoning Code Table 17.08.020 would be amended to revise the HDR footnote as follows:

“*Housing developments in the HDR-20/AHO district are permitted at a density of 20-24 dwelling units per acre when at least 2050% of the units are reserved for lower-income households in conformance with Program 5 of the Housing Element. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

8. Surrounding Land Uses and Environmental Setting (describe the project's surroundings):

The City of Banning is located in the San Geronio Pass area of Riverside County. The Interstate-10 corridor includes a significant portion of the City's developed area with vacant lands and lower density development generally located towards the northern and southern portions of the City. The City of Banning corporate limits encompass about 23.2 square miles. The City is situated across a variety of geographic and geologic conditions, including the San Bernardino Mountains to the north and the San Jacinto Mountains to the south. The adjacent mountain canyons form the alluvial plains on which portions of the City have developed. The mountains provide dramatic and valuable viewsheds. The City is located in a

transitional zone where coastal climates transition to desert, resulting in significantly differing landscape and geology.

The surrounding land uses of the eight sites that would be affected by the AHO Amendments include a variety of urban uses and vacant land (see Exhibits 2a through 2h).

9. Public Agencies whose approval or Participation is Required (i.e., for permits, financing approval, or participation agreements):

State law requires that the City submit the Housing Element to the California Department of Housing and Community Development (HCD) for review following adoption.

Review of specific development proposals by other governmental agencies may be required prior to development of new housing anticipated in the Housing Element. Appropriate public agency review will be determined at the time specific housing development applications are submitted to the City.

10. Previous Environmental Documentation

A Final Environmental Impact Report (FEIR) for the Banning General Plan was prepared by the City of Banning in accordance with the California Environmental Quality Act (CEQA). The FEIR analyzed the environmental consequences of the development of the city according to the General Plan. The General Plan and FEIR were adopted by the Banning City Council on January 31, 2006 (Resolution No. 2006-13).

On July 23, 2013 the City Council adopted the 2008-2013 Housing Element and related implementation actions, which included amendments to the Land Use Element and zoning regulations necessary to provide adequate sites to accommodate the City's RHNA allocation. An Initial Study/Mitigated Negative Declaration (IS/MND) was adopted in compliance with CEQA for those actions.

On January 28, 2014 the City Council adopted the 2013-2021 Housing Element along with an Addendum to the 2008-2013 Housing Element IS/MND.

PURPOSE OF THIS ADDENDUM

When an EIR or negative declaration has been prepared for a project and changes are subsequently proposed to that project, the City is required to determine whether the environmental effects of such actions are within the scope of previous environmental documentation, and whether additional environmental analysis is required. If the agency finds that pursuant to Sections 15162, 15164, and 15183 of the CEQA Guidelines no new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur, then no supplemental or subsequent EIR or MND is required.

The adoption of amendments to the General Plan and Zoning Code constitutes a "project" under CEQA. This Addendum provides an analysis of whether the adoption of the proposed AHO Amendments would result in any new or more substantial adverse environmental effects that were not previously analyzed in the Mitigated Negative Declaration for the 2008-2013 Housing Element pursuant to CEQA Guidelines Sections 15162, 15164 and 15183. No specific development projects are currently proposed in connection with the AHO Amendments; therefore, the analysis is based on the policies, programs and regulations contained in the proposed amendments.

BASIS FOR AN ADDENDUM

CEQA Guidelines Section 15164 states that: *"An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."* Section 15162 of the State CEQA Guidelines states:

(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but project proponents decline to adopt the mitigation measure or alternative.

Through the analysis described in this Addendum, the City of Banning has determined that changes associated with the proposed AHO Amendments are not substantial. No new significant impacts would result from these changes, nor would there be a substantial increase in the severity of previously identified environmental impacts. In addition, the changes with respect to the circumstances under which the project will be undertaken would not result in new or more severe significant environmental impacts.

FINDINGS AND CONCLUSIONS

Pursuant to Sections 15162 and 15164 of the CEQA Guidelines, the City of Banning has determined, on the basis of substantial evidence in the light of the whole record, that:

(a) The proposed AHO Amendments do not propose substantial changes to the project which would require major revisions to the previous MND prepared for the 2008-2013 Housing Element due to new or substantially more severe significant environmental effects than previously analyzed in the MND;

(b) There have been no substantial changes in circumstances under which the project will be undertaken that will require major revisions to the previous MND prepared for the 2008-2013 Housing Element due to new or substantially more severe significant environmental effects than previously analyzed in the MND; and

(c) No new information of substantial importance as described in subsection (a)(3) of Section 15164 has been revealed that would require major revisions to the previous MND prepared for the 2008-2013 Housing Element or its conclusions.

Facts in Support of Findings

1. The proposed AHO Amendments are consistent with existing City housing policy, and only minor changes to zoning regulations are proposed to create additional incentives for affordable housing development in the HDR-20 zone. The eight sites proposed for redesignation to "AHO" are currently zoned for high-density residential development, therefore the proposed amendments would not substantially change the physical location or characteristics of future development that were previously evaluated in the MND prepared for the 2008-2013 Housing Element and approved by the City Council on July 23, 2013. There have been no new environmental effects or material passage of time since the adoption of the MND on July 23,

2013. Therefore, there are no substantial changes in circumstances that would require changes to the previously adopted MND.

The HDR-20 zone currently allows residential development at a density of 20 units/acre when projects provide 50% of units for lower-income households. Under state Density Bonus Law, cities must allow a density increase of 35% when a project provides at least 11% very-low-income units or 20% low-income units. Therefore, any project meeting the HDR-20 affordability requirements would qualify for a 35% density bonus, allowing a maximum density of 27 units/acre.

The proposed AHO Amendments would increase the allowable density (excluding density bonus) in the HDR-20 zone from 20 to 24 units/acre. With the 35% state-mandated density bonus, this would result in a maximum density of 32.4 units/acre for a qualifying affordable housing development.

An increase in allowable residential density could be expected to result in a corresponding increase in potential impacts such as traffic, noise and air quality since more housing units could be built on a given parcel. However, the actual density of housing projects depends on many factors including zoning standards, market preferences and development economics. Most recent affordable housing developments in the Inland Empire have been built at densities in the range of 15 to 25 units/acre. Non-profit developers in this area indicate that higher densities are usually not desirable due to market conditions and development economics. A recent economic analysis¹ prepared by Keyser-Marston Associates, Inc. confirmed this assessment. The study compared the financial feasibility of three hypothetical apartment projects at 20, 24 and 30 units/acre in the northern San Diego County market area. The study concluded that of the three scenarios, the highest-density project was the least financially feasible primarily due to the high cost of parking structures compared to surface parking.

Based on information such as the Keyser-Marston study and opinions of affordable housing developers, it is reasonable to conclude that an increase in the maximum density (including density bonus) in the HDR-20 zone from 27 to 32 units/acre would have a negligible effect on actual development density because projects at 30+ units/acre are less feasible than projects in the 20-24 units/acre range in the inland market area. Anecdotal evidence from other cities indicates that in many cases, affordable housing developers do not request any density bonus but do often request incentives such as a modification to a development standard or reduced permit fees.

2. In accordance with CEQA Guidelines Section 15164, this Addendum to the previously certified MND is the appropriate environmental documentation for the proposed AHO Amendments. The potential environmental impacts that could result from the adoption of the AHO amendments have been evaluated and there is no substantial evidence in the record that any new significant environmental impacts would occur that were not previously evaluated in the previous MND prepared for the 2008-2013 Housing Element.

¹ County of San Diego Housing Element Update: Housing Resources, Keyser Marston Associates, Inc., 2012 (http://www.hcd.ca.gov/hpd/housing_element2/examples/san_diego_county_kma.pdf)

REFERENCES

California Environmental Quality Act (Public Resources Code Sec. 21000 et seq.)

CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sec. 15000 et seq.)

City of Banning, 2013-2021 Housing Element, January 2014

City of Banning, General Plan Final EIR, 2006

City of Banning, Mitigated Negative Declaration: 2008-2013 Housing Element, July 2013

Keyser Marston Associates, Inc., County of San Diego Housing Element Update, December 2012 (http://www.hcd.ca.gov/hpd/housing_element2/examples/san_diego_county_kma.pdf)

EXHIBIT 1 – PROJECT LOCATION MAP

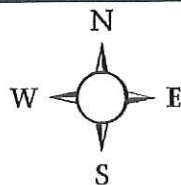
**Exhibit 2a – ASSESSORS PARCEL
NUMBER 537-120-034**

Proposed Affordable Housing Opportunity Overlay Site (APN 537-120-034)



1" = 752 ft.

08/11/2014



This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

**EXHIBIT 2b – ASSESSORS PARCEL
NUMBER 540-083-002**

Proposed Affordable Housing Opportunity Overlay Site (APN 540-083-002)



1" = 376 ft.	08/11/2014		
<p>This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.</p>			

**EXHIBIT 2c – ASSESSORS PARCEL
NUMBER 541-110-013**



This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

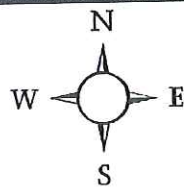
**EXHIBIT 2D – ASSESSORS PARCEL
NUMBER 532-080-004**

Proposed Affordable Housing Opportunity Overlay Site (APN 532-080-004)



1" = 1,505 ft.

08/11/2014



This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

**EXHIBIT 2e – ASSESSORS PARCEL
NUMBER 419-140-059**

Proposed Affordable Housing Opportunity Overlay Site (APN 419-140-059)



1" = 376 ft.	08/11/2014		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

**EXHIBIT 2f – ASSESSORS PARCEL
NUMBER 534-161-010**

Proposed Affordable Housing Opportunity Overlay Site (APN 534-161-010)

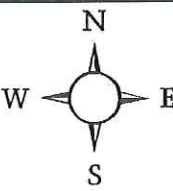



1" = 188 ft.		08/11/2014	<div data-bbox="852 1039 1031 1228"> </div>	<div data-bbox="1128 1039 1356 1228"> </div>
<p>This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.</p>				

**EXHIBIT 2g – ASSESSORS PARCEL
NUMBER 537-110-008**

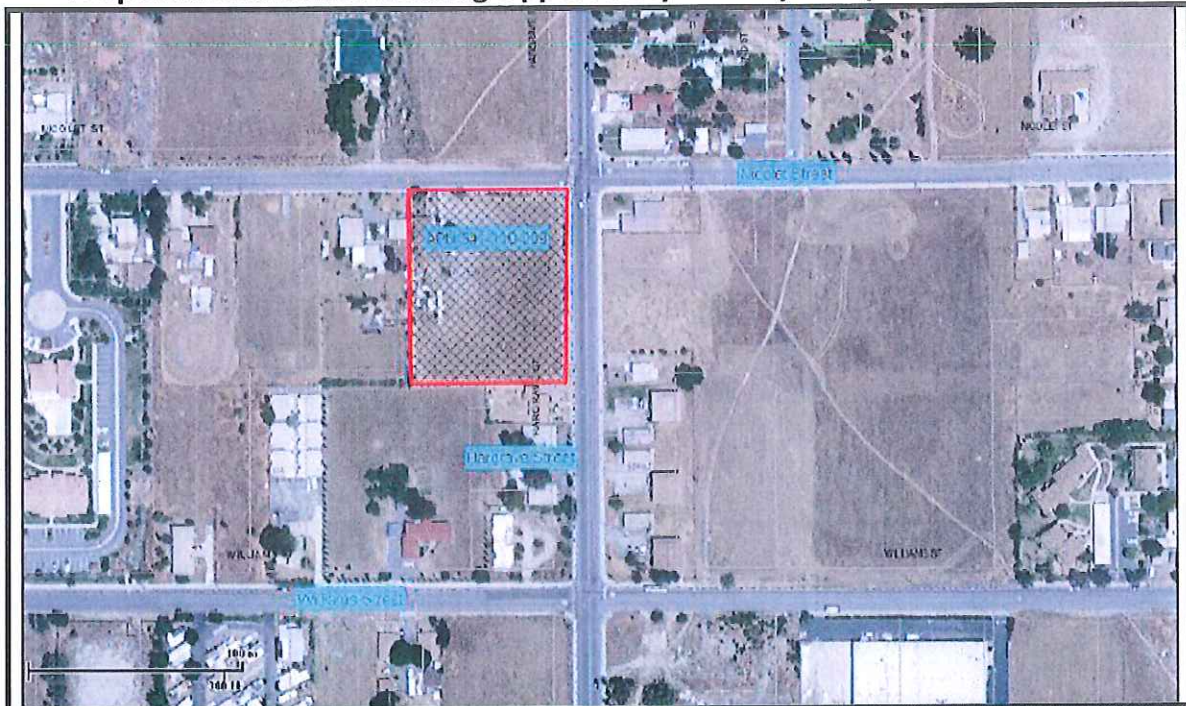
Proposed Affordable Housing Opportunity Overlay Site (APN 537-110-008)



1" = 752 ft.		08/11/2014		
This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.				

**EXHIBIT 2h – ASSESSORS PARCEL
NUMBER 541-110-009**

Proposed Affordable Housing Opportunity Overlay Site (APN 541-110-009)



1" = 188 ft.		08/11/2014		
This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.				

Attachment 10
Keyser Marston report

COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
HOUSING RESOURCES

County of San Diego, California

Prepared for:

Project Design Consultants

Prepared by:

Keyser Marston Associates, Inc.

December 7, 2012

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KEYSER MARSTON ASSOCIATES

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I. INTRODUCTION

A. Objective

Per your request, Keyser Marston Associates, Inc. (KMA) has undertaken an assessment of the appropriate densities for feasible affordable housing development as they relate to the allocation of housing for very low, low, and moderate income households.

In 2011, the County of San Diego (County) adopted the County of San Diego General Plan to guide future land use decisions for the County's unincorporated communities. The General Plan included the County's Housing Element which identified sites with appropriate zoning and development standards to accommodate the County's Regional Housing Needs Allocation (RHNA) and policies to assist in the development of adequate housing to meet the needs of lower and moderate income households.

The Housing Element, which covered the period of July 1, 2005 through June 30, 2010, is currently being updated by the County to reflect new statutory requirements.

Throughout this study, KMA's use of the term "affordable housing" is meant to reflect housing affordable to persons and families of very low, lower, and moderate income as defined in California Health and Safety Code Sections 50105, 50079.5, and 50093. Historically, affordable housing practitioners have typically used the following shorthand methodology to define the various income groups occupying affordable housing:

Table I-1: Affordability Levels	
Income Group	% of Area Median Income (AMI)
Very Low	0.0% - 50.0%
Lower	50.1% - 80.0%
Moderate	80.1% - 120.0%

According to the California Department of Housing and Community Development (HCD), the 2012 median income for a household of four in San Diego County is \$75,900.

B. Methodology

In accordance with our contract, KMA has undertaken the following work tasks:

- Identified recently completed affordable residential developments in the unincorporated area of the County and adjacent cities.
- Assessed the relationship of specific density ranges and the product type likely to be developed in the County's unincorporated areas, including preparation of illustrative financial pro formas for three multi-family prototypes.
- Estimated the maximum rent and sales prices affordable to extremely low, very low, low, and moderate income households, based on 2012 household income statistics distributed by HCD.
- Researched current development trends occurring in the unincorporated areas of the County including:
 - Costs for residential land
 - Rental rates for market-rate apartments
 - Prevailing market values for residential units sold in various communities
 - Cost of buying and installing manufactured homes on vacant lots
- Participated in discussions with County staff and the Housing Element consultant team to review preliminary findings.

C. Report Organization

This report is organized as follows:

- Section II presents KMA's key findings.
- Section III reviews the distribution of affordable housing recently developed or under construction in the County's unincorporated area (and adjacent cities) by density.

- Section IV reviews the product type likely to be developed in the County's unincorporated areas, including an analysis of three multi-family prototypes to illustrate the relationship between density and financial feasibility for affordable housing development.
- Section V reviews the housing costs for market-rate for-sale and rental housing in the unincorporated area, compared to housing (prices/rents) affordable to extremely low, very low, low, and moderate income households.
- Section VI reviews development costs, values, and affordability for manufactured homes.
- Section VII details limiting conditions pertaining to this report.
- Data tables and technical analyses are presented in Appendices A through F.

II. KEY FINDINGS

A. Residential Land Use Designation

Housing Element Law requires jurisdictions to identify adequate sites to accommodate their share of the region's lower income housing needs and allows the use of sites for residential development of at least 30 dwelling units per acre.

The Village Residential land use designation in the County's General Plan will allow development densities ranging from 2.0 to 30.0 units per acre.

Due to the lack of vacant sites at 30 dwelling units per acre, limited infrastructure serving the unincorporated areas of the County, and the high cost associated with higher density developments, County staff intends that affordable housing for low income households can be accommodated on land designated between 20 and 23 dwelling units per acre, and affordable housing for very low income households can be accommodated on land designated between 24 and 29 units per acre.

In view of the County's residential land use designations, this KMA study addresses the relative financial feasibility of three affordable housing development prototypes built at 20, 24, and 30 dwelling units per acre.

B. Distribution of Affordable Housing by Density

As shown in Table II-1, affordable family housing developed in the unincorporated County and adjacent cities since 2009 has occurred primarily at densities of 29.0 units per acre or less.

	Table II-1: Family Developments (2009 to present)(1)					
	Density Category (Units per Acre)					Total
	Below 15	15 – 19	20 – 23	24-29	Over 30.0	
Percent of Total Projects	0%	25.0%	37.5%	25.0%	12.5%	100%
Percent of Total Units	0%	21.9%	41.2%	17.0%	19.6%	100%
(1) Includes the communities of Fallbrook and Lakeside and the cities of Escondido, Poway, San Marcos, and Santee.						

C. Affordable Housing Development Feasibility

- In order to assess the impact of density on the feasibility of affordable housing, KMA formulated three development prototypes. These prototypes are representative of the type of affordable housing development that is most likely to occur within the County's unincorporated areas in the near term:
 - o Scenario #1: Townhomes @ 20 Units/Acre
 - o Scenario #2: Garden Apartments @ 24 Units/Acre
 - o Scenario #3: Stacked Flats @ 30 Units/Acre
- As shown in Tables II-2 and II-3 below, of the three prototypes analyzed by KMA, Scenario #2 – Garden Style Apartments at a density of 24 units per acre was found to be the most feasible scenario and Scenario #3 – Stacked Flats at a density of 30 units per acre was found to be the least feasible scenario.

Table II-2: Affordable to Households @ 80% AMI

Prototype Analyzed		Density	Financing Surplus/(Gap) Per Unit	Rank (Lowest to Highest Gap)
Scenario #1	Townhomes	20 Units/Acre	(\$11,000)	2
Scenario #2	Garden Style	24 Units/Acre	\$4,000	1
Scenario #3	Stacked Flats	30 Units/Acre	(\$24,000)	3

Table II-3: Affordable to Households @ 50% AMI

Prototype Analyzed		Density	Financing Surplus/(Gap) Per Unit	Rank (Lowest to Highest Gap)
Scenario #1	Townhomes	20 Units/Acre	(\$114,000)	2
Scenario #2	Garden Style	24 Units/Acre	(\$92,000)	1
Scenario #3	Stacked Flats	30 Units/Acre	(\$118,000)	3

D. Housing Cost and Affordability

- A comparison of average market rental rates to maximum affordable rents indicates that low and moderate income households can afford to pay prevailing market rents in the unincorporated County.

Table II-4: Comparison of Average Market Rental Rates and Maximum Affordable Rents				
	Studio	One Bedroom	Two Bedroom	Three Bedroom
Average Market Rental Rates – Unincorporated Area (1)	\$650 - \$675	\$695 - \$1,007	\$795 - \$1,296	\$1,225 - \$1,900
Maximum Affordable Rent (2)				
Extremely Low (30% AMI)	\$395	\$445	\$495	\$546
Very Low (50% AMI)	\$676	\$766	\$856	\$947
Low (80% AMI)	\$1,097	\$1,247	\$1,398	\$1,549
Moderate (120% AMI)	\$1,566	\$1,785	\$2,002	\$2,221
(1) Source: San Diego County Apartment Association (SDCAA) Spring 2012 Vacancy and Rental Rate Survey. (2) Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.				

- A comparison of median home values and maximum affordable sales prices indicates that low and moderate income households can also afford to pay prevailing market sales prices within the unincorporated County.

Table II-5: Comparison of Median Home Values and Maximum Affordable Sales Price					
Median Home Values - Unincorporated Area (1)	Condominium		\$87,500 - \$271,000		
	Single-Family		\$79,000 - \$1,912,500		
Maximum Affordable Sales Price (2)	Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
Extremely Low (30% AMI)	\$31,000	\$31,000	\$32,000	\$32,000	\$29,000
Very Low (50% AMI)	\$67,000	\$72,000	\$79,000	\$84,000	\$85,000
Low (80% AMI)	\$121,000	\$134,000	\$148,000	\$161,000	\$168,000
Moderate (120% AMI)	\$215,000	\$242,000	\$269,000	\$296,000	\$314,000
(1) Source: DQNews. Reflects homes sales in San Diego County recorded in September 2012. (2) Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.					

E. Manufactured Homes

- A comparison of market sales prices and affordable sales prices indicates that moderate income households can afford to purchase a market-rate manufactured home in the unincorporated County.

Table II-6: Comparison of Manufactured Home Market Values and Maximum Affordable Sales Price			
	Two Bedroom	Three Bedroom	Four Bedrooms
Manufactured Home Market Values - Unincorporated Area (1)	\$39,900 - \$199,000	\$64,000 - \$328,605	\$74,901 - \$304,900
Maximum Affordable Sales Price @ Moderate (120% AMI) (2)	\$281,000	\$311,000	\$333,000
(1) Source: MLS.com, manufactured home sales, January 2012 to present. (2) Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.			

- The cost of purchasing and installing a three bedroom manufactured home in the unincorporated County is estimated at \$282,000. The maximum affordable sales price for a moderate income household to buy a three bedroom manufactured home is estimated at \$311,000, or \$29,000 higher than the estimated cost of purchasing and installing a manufactured home on a vacant lot in the unincorporated County.

III. DISTRIBUTION OF AFFORDABLE HOUSING BY DENSITY – HISTORICAL TRENDS

The General Plan identifies nine land use designations applicable to residential uses as follows:

Table III-1: Land Use Designations – Residential Uses	
	<u>Density Range</u>
Village Residential	2.0 – 30.0 units per acre
Semi-Rural	1.0 unit per 0.5- 20.0 acres
Rural Lands	1.0 unit per 20 – 80.0 acres
General Commercial (C-1)	____(1)
Office Professional (C-2)	____(1)
Neighborhood Commercial (C-3)	____(1)
Rural Commercial	2.0 units per acre
Village Core Mixed Use	30.0 units per acre
Limited Impact Industrial (I-1)	____(1)
(1) Maximum residential densities are applied per the Zoning Ordinance.	

It is KMA's understanding that the County proposes to allocate very low and low income housing to areas designated to range between 20 and 29 units per acre and moderate income housing to areas designated below 20 units per acre. The following table describes the types of residential developments typically developed at various density ranges.

Table III-2: Density and Residential Product Type	
Density Range	Type of Residential Development
Below 15 units per acre	Zero lot line or small lot single family development with attached garages.
Between 15 and 19 units per acre	Attached townhomes and/or garden-style flats (exterior walkways and stairwells), up to two (2) stories, surface parked or with attached indoor private garages.
Between 20 and 23 units per acre	Attached townhomes and/or garden-style flats (exterior walkways and stairwells), up to two (2) or three (3) stories, surface parked or with attached indoor private garages.
Between 24 and 29 units per acre	Stacked flats, garden-style (exterior walkways and stairwells), up to three (3) stories with surface parking
Over 30 units per acre	Stacked flats, double-loaded corridor, wood-frame construction up to four (4) stories with structured or tuck-under parking.

Appendix A identifies affordable housing developed or under construction in the unincorporated County and selected cities since 2009. The selected cities surveyed were included by KMA due to their close proximity to the County's unincorporated communities. Note that the KMA study has focused on density characteristics for family housing.

The KMA findings for affordable family developments are summarized as follows:

Table III-3: Family Units since 2009						
	Density Category (Units/Acre)					Total
	Below 15	15-19	20-23	24-29	Over 30	
<u>Number of Projects</u>						
Unincorporated Areas (1)	0	0	1	1	0	2
Incorporated Areas (2)	0	2	2	1	1	6
Total	0	2	3	2	1	8
Percent of Total	0.0%	25.0%	37.5%	25.0%	12.5%	100.0%
<u>Number of Units</u>						
Unincorporated Areas (1)	0	0	80	44	0	124
Incorporated Areas (2)	0	113	133	44	103	393
Total	0	113	213	88	103	517
Percent of Total	0.0%	21.9%	41.2%	17.0%	19.9%	100.0%
<u>Median Density</u>						
Unincorporated Areas (1)	N/A	N/A	21.6	24.9	N/A	23.2
Incorporated Areas (2)	N/A	17.6	21.6	27.3	31.2	21.6
Overall Median	N/A	17.6	21.6	26.1	31.2	22.1
(1) Includes the communities of Fallbrook and Lakeside. (2) Includes the cities of Escondido, Poway, San Marcos, and Santee.						

- *Unincorporated Areas* - Since 2009, a total of two (2) affordable family developments have been developed in the County's unincorporated area. One development was built at a density of between 20 and 23 units per acre; and one (1) development was built at a density between 24 and 29 units per acre. The two developments comprise a total of 124 units. No affordable family developments were built at densities below 19 units per acre or in excess of 30 units per acre.
- *Incorporated Areas* - In the selected adjacent cities, six (6) affordable family developments have been developed since 2009. Of these six affordable housing developments, no affordable family developments were built at densities lower than 15 units per acre; two (2) developments were built at densities between 15 and 19 units per acre; two (2)

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developments were built at a density between at 20 and 23 units per area; one (1) development was built at a density between 24 and 29 units per acre; and one (1) development was built at a density over 30 units per acre. These six developments in the selected adjacent cities comprise a total of 393 units.

- Overall, the highest concentration (62.5%) of the affordable family developments identified was built at densities between 20.0 and 29.0 units per acre.
- Overall, the median density for the eight (8) affordable family developments surveyed is estimated at 22.1 units per acre.

IV. IMPACT OF DENSITY ON AFFORDABLE HOUSING DEVELOPMENT FEASIBILITY

A. Affordable Housing Product Types

To determine the impact of density on the feasibility of affordable rental housing, KMA formulated three development prototypes based on the density ranges discussed in Section III. The density criteria reflect the types of affordable housing residential development projected to occur in the near-term. The table also presents an illustrative example of a comparable product type existing in the San Diego marketplace. The last column describes the residential development prototype identified by KMA for purposes of the financial feasibility evaluation (discussed below).




Table IV-1: Affordable Housing Product Types		
Probable Product Type by Density Range	Example	Prototype Analyzed
Between 15 and 23 units/acre		
Two story wood-frame townhome. Each unit is attached by common walls. Developments are served by surface parking.	 <i>Trolley Terrace Townhomes Chula Vista, CA</i>	<u>Scenario #1:</u> Townhomes at 20 units/acre
Between 24 and 29 units/acre		
Two or three story wood-frame construction with access to units from external walkways or corridors. Developments typically feature landscaped common areas as well as surface parking.	 <i>Fallbrook View Fallbrook, CA</i>	<u>Scenario #2:</u> Garden style residential at 24 units/acre

Table IV-1 (cont'd): Affordable Housing Product Types		
Probable Product Type by Density Range	Example	Prototype Analyzed
Over 30 units/acre		
Wood-frame construction of up to four stories. Dwelling units are typically single floor residences accessed by double-sided interior corridors or open walkways. Often developed over tuck-under ¹ , podium ² , or below-grade parking ³ .	 <p>Centre Street Lofts San Diego, CA</p>	<u>Scenario #3:</u> Stacked Flats at 30 units/acre with surface and tuck-under parking
<p>¹ Parking located under a residential building accessed by surface driveways. ² Reinforced concrete parking structure at ground level with residential development constructed above. ³ Below-grade concrete parking structure with ramping access below grade and between parking levels.</p>		

B. Financing Gap Analysis

The KMA financial pro formas for the above prototypes are presented in Appendices B, C, and D. Each pro forma contains:

- (i) A project description (Table 1)
- (ii) Estimates of development costs (Table 2)
- (iii) Estimates of net operating income based on two affordability scenarios: (a) all units affordable to households at 50% AMI; and (b) all units affordable to households at 80% AMI (Table 3)
- (iv) The resulting residual land value and financing surplus/(gap) (Table 4)

The inputs and assumptions used in the KMA pro formas are based on KMA's experience with comparable developments throughout San Diego County. In particular, KMA notes the following:

- The cost estimates do not assume a prevailing wage requirement.
- KMA has made a nominal cost allowance for off-site improvements or extraordinary site preparation, as specific sites have not been defined for this study.
- The unincorporated area of the County is substantial in size and diverse in terms of real estate market factors. A review of residential land sales in the County's unincorporated areas from January 2011 to the present indicates values ranging between \$0.82 and \$35.50 per square foot (SF) of site area, with most sales falling between \$1.50 and \$7.00 per SF. For the purposes of the KMA financing gap analysis, KMA assumed a land acquisition cost of \$5 per SF.
- KMA pro forma analyses indicate that of the three prototypes analyzed, Scenario #2 – Garden Style Apartments at a density of 24 units per acre is the most feasible scenario and Scenario #3 – Stacked Flats at a density of 30 units per acre is the least feasible scenario.
- It is therefore the KMA conclusion that the optimal density for affordable housing development in the unincorporated area of the County is in the range of 20 to 24 units per area.

The estimates of financing gap are discussed below for each of the three prototypes.

Scenario #1 – Townhomes – 20 Units/Acre

- Townhomes developed as rental housing in both the County's suburban and rural subareas are projected to generate a higher need for gap financing when compared to garden style apartments. This finding is not surprising, as affordable rental rates are set based on the number of bedrooms in each unit without regard to unit size (townhome units are typically larger than garden apartments). Additionally, the land cost burden cannot be distributed across as many units as a product type developed at a higher density.

- As shown below, financing gaps for townhomes were estimated at \$11,000 per unit for units affordable to households at 80% AMI, and \$114,000 per unit for units affordable to households at 50% AMI.

Table IV-2: Scenario #1		
Townhomes		
I.	Density	20 units/acre
II.	Number of Stories	2 stories
III.	Number of Units	20 units
IV.	Average Unit Size	1,250 SF
V.	Parking Type Number of Spaces Parking Ratio	2-car attached garage 40 spaces 2.0 spaces/unit
VI.	Per Unit Financing Gap	Affordable Rent @
		80% AMI 50% AMI
		(\$11,000) (\$114,000)

Scenario #2 – Garden Style – 20 Units/Acre

- Surface parked garden style apartments were found to generate the lowest financing gap of the three prototypes analyzed. Garden-style apartments were estimated to yield a financing surplus of \$4,000 per unit for units at 80% AMI; and a financing gap of \$92,000 per unit for units at 50% AMI.

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Table IV-3: Scenario #2	
Garden Apartments	
I. Density	24 units/acre
II. Number of Stories	2 stories
III. Number of Units	24 units
IV. Average Unit Size	804 SF
V. Parking Type Number of Spaces Parking Ratio	Surface parking 48 spaces 2.0 spaces/unit
VI. Per Unit Financing Gap	Affordable Rent @
	80% AMI 50% AMI
	\$4,000 (\$92,000)

Scenario #3 – Stacked Flats – 30 Units/Acre

- The feasibility of affordable rental developments is a challenge for higher-density projects which carry higher construction costs for structured parking, internal circulation, and a stacked-flat configuration. As such, KMA finds that the stacked flat rentals are estimated to generate the highest financing gap of the three scenarios studied.
- As shown, financing gaps for stacked flats were estimated at \$24,000 per unit for units at 80% AMI; and \$118,000 per unit for units at 50% AMI.

Table IV-4: Scenario #3		
Stacked Flats		
I. Density	20 units/acre	
II. Number of Stories	3 stories	
III. Number of Units	30 units	
IV. Average Unit Size	770 SF	
V. Parking Type Number of Spaces Parking Ratio	Tuck-under and surface parking 45 spaces 1.5 spaces/unit	
VI. Per Unit Financing Gap	Affordable Rent @	
	80% AMI	50% AMI
	(\$24,000)	(\$118,000)

C. Comparative Subsidy Amounts

KMA compared the conclusions of the financing gap analysis with the financing gaps experienced by actual affordable housing developments. KMA surveyed recent subsidy amounts committed to affordable rental housing developments within San Diego County. As detailed in Appendix E and summarized below, the KMA survey found per-unit subsidies ranging between \$217,000 and \$471,000, inclusive of acquisition costs.

Table IV-5: Comparative Subsidy Amounts		
	Low	High
Total Public Assistance Per Unit (including Land Costs) ⁽¹⁾	(\$217,000)	(\$471,000)
(1) Reflects local jurisdiction financial contribution and equity investment from Low Income Housing Tax Credits, based on survey of recent San Diego County affordable housing developments.		

The affordable housing developments included in the KMA survey included higher density Type V wood-frame developments with structured parking as well as garden-style apartments with surface parking. As shown, the lowest subsidy in the KMA survey of actual affordable housing developments exceeds the KMA financing gap estimates for the development prototypes.

V. HOUSING COST AND AFFORDABILITY

A. Market-Rate Rents and Sales Prices

Market Rents

KMA reviewed data on apartment rental rates throughout the unincorporated County to determine current market rents by area. As shown in Table V-1 below, during Spring 2012 market rents within the unincorporated County ranged from \$650 to \$675 for a studio; \$695 to \$1,007 for a one bedroom unit; \$795 to \$1,296 for a two bedroom unit; and \$1,225 to \$1,900 for a three-bedroom unit. With the exception of the average rent for a three bedroom unit in Bonita at \$1,900, all rents in the unincorporated areas were found to be lower than the corresponding average rent for the entire County of San Diego.

Table V-1: Average Rental Rates by Unit Type				
Community Plan Area	Studio	One Bedroom	Two Bedroom	Three Bedroom
Alpine	--	--	\$1,100	--
Bonita	--	\$945	\$1,245	\$1,900
Fallbrook/Rainbow	\$650	\$750	\$850	\$1,500
Lakeside	\$675	\$800	\$1,000	\$1,364
Ramona	--	\$695	\$795	\$1,225
Spring Valley	--	\$1,007	\$1,296	\$1,592
County of San Diego (1)	\$910	\$1,068	\$1,309	\$1,677
Source: San Diego County Apartment Association (SDCAA) Spring 2012 Vacancy and Rental Rate Survey				
(1) Average rental rate for entire County of San Diego, inclusive of all incorporated and unincorporated areas.				

Market Sales Prices

KMA also compiled resale data on market-rate home prices in the unincorporated County. As shown in Table V-2 and Table V-3, according to DQNews, in September 2012 a total of 269 single-family home sales and 44 condominium sales occurred within the unincorporated County. During this same period, Community Planning Areas (CPAs) ranged in median price for a market-rate single-family home between \$79,000 and \$1,912,500. The CPAs also ranged in median market price for a condominium between \$87,500 and \$271,000.

KMA also compared median home values in September 2012 to median home values in October 2006. As shown, for those CPAs where sales were recorded in both September 2012 and October 2006, median values decreased between 20.2% and 66.5% for single family homes and between 14.2% and 70.5% for condominiums.

Table V-2: Single Family Median Home Values – September 2012 vs. October 2006				
Community Planning Area	September 2012 (1)		October 2006 (2)	% Change (2006-2012)
	Number of Sales	Median Price	Median Price	
Alpine	24	\$417,500	\$522,500	(20.2%)
Bonsall	5	\$607,500	\$975,000	(37.7%)
Bonita	9	\$460,000	--	--
Borrego Springs	2	\$220,000	--	--
Boulevard	4	\$79,000	--	--
Campo	5	\$175,000	--	--
Fallbrook	59	\$359,500	\$600,000	(40.1%)
Jacumba	0	--	--	--
Jamul	13	\$434,500	\$1,297,000	(66.5%)
Julian	8	\$210,000	\$350,000	(40.0%)
Lakeside	27	\$325,000	\$480,000	(32.3%)
Palomar Mountain	0	--	--	--
Pauma Valley	2	\$126,000	--	--
Pine Valley	2	\$217,500	--	--
Ramona	31	\$280,000	\$550,000	(49.1%)
Rancho San Diego	3	\$380,000	--	--
Rancho Santa Fe	13	\$1,912,500	--	--
Rancho Santa Fe Post Office	1	\$670,000	--	--
Santa Ysabel	0	--	--	--
Spring Valley	45	\$289,500	\$455,000	(36.4%)
Valley Center	16	\$356,000	\$595,000	(40.2%)
Warner Springs	0	--	--	--
<p>Source: DQNews.</p> <p>(1) Reflects single-family home resales in San Diego recorded in September 2012.</p> <p>(2) Reflects single-family home resales in San Diego County recorded in October 2006.</p>				

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Table V-3: Condominium Median Home Values – September 2012 vs. October 2006

Community Planning Area	September 2012 (1)		October 2006 (2)	% Change (2006-2012)
	Number of Sales	Median Price	Median Price	
Alpine	1	\$87,500	--	--
Bonsall	6	\$157,000	\$294,500	(46.7%)
Bonita	0	--	--	--
Borrego Springs	2	\$122,500	--	--
Boulevard	0	--	--	--
Campo	0	--	--	--
Descanso	0	--	--	--
Fallbrook	1	\$271,000	\$316,000	(14.2%)
Jacumba	0	--	--	--
Jamul	0	--	--	--
Julian	0	--	--	--
Lakeside	6	\$110,500	\$211,500	(47.8%)
Palomar Mountain	0	--	--	--
Pauma Valley	0	--	--	--
Pine Valley	0	--	--	--
Ramona	2	\$161,000	\$370,000	(56.5%)
Rancho San Diego	2	\$146,250	--	--
Rancho Santa Fe	0	--	--	--
Rancho Santa Fe Post Office	0	--	--	--
Santa Ysabel	0	--	--	--
Spring Valley	4	\$103,000	\$349,000	(70.5%)
Valley Center	0	--	\$100,000	--
Warner Springs	0	--	--	--

Source: DQNews.

(1) Reflects condominium resales in San Diego County recorded in September 2012

(2) Reflects condominium resales in San Diego County recorded in October 2006.

A. Affordable Rents and Sales Prices

KMA also estimated the maximum rent and sales prices affordable to extremely low, very low, low, and moderate income households, based on 2012 household income statistics distributed by the California Department of Housing and Community Development (HCD).

Affordable Rents

Calculation of affordable rents was based on the following key assumptions.

- (1) Assignment of family size, household size, and unit size was based on the number of persons exceeding the number of bedrooms by one, as follows:

Table V-4: Household and Unit Sizes		
Family Size	Household Size	Unit Size
One Person	1.0 Persons	Studio
Two Person	2.0 Person	One Bedroom
Small Family	3.0 Persons	Two Bedroom
Four Person	4.0 Persons	Three Bedroom
Large Family	5.0 Persons	Four Bedroom

- (2) Calculation of affordable rents was based on the formulas shown below.

Table V-5: Income Allocation to Housing Costs	
Extremely Low Income	30% of 30% AMI
Very Low Income	30% of 50% AMI
Lower Income	30% of 80% AMI
Moderate Income	30% of 120% AMI

- (3) Estimate of utility costs was based on the County of San Diego Department of Housing and Community Development 2012 Utility Allowance Schedule and an assumed utility profile consisting of electric heat, gas cooking, gas water heater, and other electric.

Affordable Sales Prices

Calculation of affordable sales prices was based on the following key assumptions.

- (1) Assignment of family size, household size, and unit size was based on the number of persons exceeding the number of bedrooms by one, as follows:

Table V-6: Household and Unit Sizes		
Family Size	Household Size	Unit Size
One Person	1.0 Persons	Studio
Two Person	2.0 Persons	One Bedroom
Small Family	3.0 Persons	Two Bedroom
Four Person	4.0 Persons	Three Bedroom
Large Family	5.0 Persons	Four Bedroom

- (2) Calculation of affordable sales prices was based on the formulas shown below.

Table V-7: Income Allocation to Housing Costs	
Extremely Low Income	30% of 30% AMI
Very Low Income	30% of 50% AMI
Lower Income	30% of 80% AMI
Moderate Income	35% of 120% AMI

- (3) Housing costs reflecting specifics of a particular project, including:

- Utility profile consisting of: electric heat, gas cooking, gas water heater, and other electric, water, and sewer.
- HOA dues/insurance ranging between \$100 and \$200 per month, depending on assumed bedroom size (reflects allowance for structure insurance, maintenance, and reserves).
- Private mortgage insurance of 1.10% of the loan amount
- Property taxes assuming a 1.10% tax rate.
- Supportable mortgage assuming a 30-year loan; 6.5% interest; and a 5% down payment.

Table V-8: Housing Affordability Matrix, 2012 (1)

Income Group / Household Size	Annual Income	Maximum Affordable Rent			Maximum Affordable Sales Price		
		Monthly Housing Cost (2)	Utilities (3)	Rent	Annual Housing Cost (4)	Utilities, HOA, Taxes, Insurance (3)(5)	Home Price (6)
Extremely Low (30% AMI)							
One Person	\$16,900	\$423	(\$28)	\$395	\$5,070	(\$2,861)	\$31,000
Two Person	\$19,300	\$483	(\$38)	\$445	\$5,790	(\$3,564)	\$31,000
Small Family (7)	\$21,700	\$543	(\$48)	\$495	\$6,510	(\$4,189)	\$32,000
Four Person	\$24,100	\$603	(\$57)	\$546	\$7,230	(\$4,891)	\$32,000
Large Family (8)	\$26,050	\$651	(\$74)	\$577	\$7,815	(\$5,722)	\$29,000
Very Low (50% AMI)							
One Person	\$28,150	\$704	(\$28)	\$676	\$8,445	(\$3,635)	\$67,000
Two Person	\$32,150	\$804	(\$38)	\$766	\$9,645	(\$4,446)	\$72,000
Small Family (7)	\$36,150	\$904	(\$48)	\$856	\$10,845	(\$5,178)	\$79,000
Four Person	\$40,150	\$1,004	(\$57)	\$947	\$12,045	(\$6,001)	\$84,000
Large Family (8)	\$43,400	\$1,085	(\$74)	\$1,011	\$13,020	(\$6,920)	\$85,000
Low (80% AMI)							
One Person	\$45,000	\$1,125	(\$28)	\$1,097	\$13,500	(\$4,794)	\$121,000
Two Person	\$51,400	\$1,285	(\$38)	\$1,247	\$15,420	(\$5,773)	\$134,000
Small Family (7)	\$57,850	\$1,446	(\$48)	\$1,398	\$17,355	(\$6,677)	\$148,000
Four Person	\$64,250	\$1,606	(\$57)	\$1,549	\$19,275	(\$7,656)	\$161,000
Large Family (8)	\$69,400	\$1,735	(\$74)	\$1,661	\$20,820	(\$8,705)	\$168,000
Moderate (120% AMI)							
One Person	\$63,750	\$1,594	(\$28)	\$1,566	\$22,313	(\$6,813)	\$215,000
Two Person	\$72,900	\$1,823	(\$38)	\$1,785	\$25,515	(\$8,089)	\$242,000
Small Family (7)	\$82,000	\$2,050	(\$48)	\$2,002	\$28,700	(\$9,287)	\$269,000
Four Person	\$91,100	\$2,278	(\$57)	\$2,221	\$31,885	(\$10,550)	\$296,000
Large Family (8)	\$98,400	\$2,460	(\$74)	\$2,386	\$34,440	(\$11,833)	\$314,000

Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.

(1) 2012 Area Median Income (AMI) = \$75,900.

(2) Assumes 30% of annual gross income allocated toward housing costs.

(3) Source: San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule.

(4) Assumes 30% of annual gross income allocated toward housing costs for extremely low, very low, and low income households. Assumes 35% of annual gross income allocated toward housing costs for moderate income households.

(5) Assumes annual HOA/insurance ranging between \$100-\$200/month, private mortgage insurance at 1.10% of loan amount, and 1.10% property tax rate.

(6) Home price based on a 5.0% down payment and a 30-year fixed-rate mortgage at 6.5%.

(7) Small Family = 3 person household.

(8) Large Family = 5 person household.

A. Market Rents/Prices vs. Affordable Rents/Prices

Rental Housing

A comparison of average market rental rates to maximum affordable rents appears to indicate that low and moderate income households can afford to pay market rents within the unincorporated County.

Table V-9: Comparison of Average Market Rental Rates and Maximum Affordable Rents				
	Studio	One-Bedroom	Two-Bedroom	Three Bedrooms
Average Market Rental Rates – Unincorporated Area (1)	\$650 - \$675	\$695 - \$1,007	\$795 - \$1,296	\$1,225 - \$1,900
Maximum Affordable Rent (2)				
Extremely Low (30% AMI)	\$395	\$445	\$546	\$577
Very Low (50% AMI)	\$676	\$766	\$856	\$947
Low (80% AMI)	\$1,097	\$1,247	\$1,398	\$1,549
Moderate (120% AMI)	\$1,566	\$1,785	\$2,002	\$2,221
(1) Source: San Diego County Apartment Association (SDCAA) Spring 2012 Vacancy and Rental Rate Survey				
(2) Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.				

For-Sale Housing

A comparison of median home values and maximum affordable sales prices also appears to indicate that low and moderate income households can afford to purchase both market-rate single-family and condominium homes within the unincorporated County.

Table V-10: Comparison of Median Home Values and Maximum Affordable Sales Price					
Median Home Values - Unincorporated Area (1)	Condominium Single-Family <div> \$87,500 - \$271,000 \$79,000 - \$1,912,500 </div>				
Maximum Affordable Sales Price (2)	Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
Extremely Low (30% AMI)	\$31,000	\$31,000	\$32,000	\$32,000	\$29,000
Very Low (50% AMI)	\$67,000	\$72,000	\$79,000	\$84,000	\$85,000
Low (80% AMI)	\$121,000	\$134,000	\$148,000	\$161,000	\$168,000
Moderate (120% AMI)	\$215,000	\$242,000	\$269,000	\$296,000	\$314,000
(1) Source: DQNews. Reflects homes sales in San Diego County recorded in September 2012. (2) Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.					

VI. HOUSING COST AND AFFORDABILITY – MANUFACTURED HOMES

As indicated above, County staff proposes that housing for low income households can be accommodated on land designated between 20 and 23 dwelling units per acre, and affordable housing for very low income households can be accommodated on land designated between 24 and 29 units per acre.

To accommodate the County's Regional Housing Needs Allocation for moderate income households, County staff proposes that moderate income housing be accommodated in manufactured homes on land designated at a density of one dwelling unit per acre or less in order to accommodate septic systems that typically need at least one acre for percolation.

To that end, KMA reviewed market sales prices and development costs for manufactured homes to determine if manufactured homes can provide a viable housing resource for moderate income households by:

- comparing market-rate sales prices for manufactured homes vs. the maximum affordable sale prices for moderate income households; and
- comparing the maximum affordable sales price for moderate income households and the cost of purchasing and installing a manufactured home on a vacant lot in San Diego County's unincorporated areas.

A. Market- Rate Sales Price vs. Affordable Sales Price

Market-Rate Sales Price

As shown in Table VI-1, from January 2012 to the present a total of 15 sales of manufactured homes occurred within the unincorporated area. These homes consisted of two-, three-, and four-bedroom units with sales prices ranging between \$39,900 and \$328,605. The median price for all manufactured home sales in the unincorporated County during this period was estimated at \$185,000.



Table VI-1: Manufactured Home Values: January 2012 to Present			
Community Planning Area	Number of Sales	Median	Range
Alpine	1	\$268,000	\$268,000
Bonsall	1	\$304,900	\$304,900
Borrego Springs	1	\$74,901	\$74,901
Boulevard	2	\$82,000	\$64,000 - \$100,000
Campo	1	\$227,750	\$227,750
Dulzura	1	\$155,000	\$155,000
East El Cajon	1	\$185,000	\$185,000
Guatay	1	\$39,900	\$39,900
Jacumba	1	\$140,000	\$140,000
Ramona	1	\$199,000	\$199,000
Valley Center	2	\$302,803	\$277,000 - \$328,605
Warner Springs	1	\$197,500	\$197,500
Winter Gardens	1	\$155,000	\$155,000
Overall	15	\$185,000	\$39,900 - \$328,605
Source: MLS.com			

Affordable Sales Price

Calculation of the maximum affordable sales prices for a manufactured home was based on the same key assumptions described in Section V for for-sale housing. KMA's estimate of affordable sales prices for a moderate income manufactured home is estimated as follows:

Table VI -2: Manufactured Homes – Maximum Affordable Price @ 120% AMI					
Unit Size	Annual Housing Cost (1)	Utilities, HOA, Taxes, Insurance (2)(3)	Supportable Mortgage	Down Payment	Home Price (4)
Two Bedroom	\$28,700	(\$8,431)	\$267,000	\$14,000	\$281,000
Three Bedroom	\$31,885	(\$9,472)	\$295,000	\$16,000	\$311,000
Four Bedroom	\$34,440	(\$10,443)	\$316,000	\$17,000	\$333,000
Source: Income limits from State of California Department of Housing and Community Development; affordable housing cost calculations from Keyser Marston Associates, Inc.					
(1) Assumes 35% of annual gross income allocated toward housing costs.					
(2) Utilities Source: San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule.					
(3) Assumes annual HOA/insurance ranging between \$100-\$200/month, private mortgage insurance at 1.10% of loan amount, and 1.10% property tax rate					
(4) Home price based on a 5.0% down payment and a 30-year fixed-rate mortgage at 6.5%.					

Market Price vs. Affordable Price

A comparison of market sales prices and affordable sales prices indicates that moderate income households can afford to purchase a market-rate manufactured home in the unincorporated County.

Table VI-3: Comparison of Manufactured Homes Market Values and Maximum Affordable Sales Price			
	Two-Bedroom	Three-Bedroom	Four Bedrooms
Manufactured Homes Market Values - Unincorporated Area	\$39,900 - \$199,000	\$64,000 - \$328,605	\$74,901 - \$304,900
Maximum Affordable Sales Price @ Moderate (120% AMI)	\$281,000	\$311,000	\$333,000

B. Development Costs vs. Affordable Sales Price

KMA also compared the maximum affordable sales price to the cost of installing a new manufactured home on a vacant lot.

The inputs and assumptions used by KMA to determine the cost of purchasing and installing a manufactured home on a vacant lot in the unincorporated area of the County were based on interviews with representatives of the manufactured home industry active in San Diego County.

KMA also conducted a review of vacant lots sales of up to 4.0 acres since January 2012 to estimate the cost of purchasing a vacant lot in the County's unincorporated area. KMA found lot sizes ranging between 1.0 and 3.7 acres, with most lot sizes falling between 2.0 and 3.0 acres. KMA also found the value of vacant lots ranging between \$0.09 and \$4.17 per SF, with most sales falling between \$0.75 and \$1.75 per SF.

Based on the above, the total per-unit cost for installing a manufactured home on a vacant lot was estimated to total \$282,000 inclusive of land costs, the cost of a new manufactured home, delivery and set-up, and site preparation/utility costs (i.e., the installation of well water and septic systems, drawings, consultants, permits and fees, grading, etc.).

Table VI-4: Manufactured Home Purchase & Installation Costs – Per Unit		
Land Costs (rounded)	2.0 acres @ \$1.50/SF	\$130,000
Manufactured Home (1)	1,100 SF @ \$70/SF	\$77,000
Site Utility Preparation / Utility Systems		<u>\$75,000</u>
Total Development Costs (rounded)		\$282,000
(1) Assumes purchase of a three bedroom home. Includes delivery and set-up.		

As noted above, the maximum affordable sales price for a three-bedroom moderate income unit is estimated at \$311,000, or \$29,000 higher than the estimated costs of installing a new manufactured home on a vacant lot.

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VII. LIMITING CONDITIONS

1. The analysis contained in this document is based, in part, on data from secondary sources such as state and local government, planning agencies, real estate brokers, and other third parties. While KMA believes that these sources are reliable, we cannot guarantee their accuracy.
2. The analysis assumes that neither the local nor national economy will experience a major recession. If an unforeseen change occurs in the economy, the conclusions contained herein may no longer be valid.
3. The findings are based on economic rather than political considerations. Therefore, they should be construed neither as a representation nor opinion that government approvals for development can be secured.
4. Development opportunities are assumed to be achievable during the specified time frame. A change in development schedule requires that the conclusions contained herein be reviewed for validity.
5. The analysis, opinions, recommendations and conclusions of this document are KMA's informed judgment based on market and economic conditions as of the date of this report. Due to the volatility of market conditions and complex dynamics influencing the economic conditions of the building and development industry, conclusions and recommended actions contained herein should not be relied upon as sole input for final business decisions regarding current and future development and planning.
6. Any estimates of development costs, capitalization rates, income and/or expense projections are based on the best available project-specific data as well as the experiences of similar projects. They are not intended to be projections of the future for the specific project. No warranty or representation is made that any of the estimates or projections will actually materialize.

APPENDIX A

Affordable Housing Developments by Density

Housing Allocation for Low and Very Low Income Households

Housing Element Update

TABLE A-1

**AFFORDABLE HOUSING DEVELOPMENTS BY DENSITY - BUILT SINCE 2009 OR UNDER CONSTRUCTION
UNINCORPORATED AREA AND ADJACENT CITIES
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO**

Development	Product Type	Address	City	Site Area (acres)	Total Units	Density (units per acre)	Affordability Level	Year Built	Developer
Autumn Terrace	Garden Style Apartments	251 Autumn Drive	San Marcos	3.30	103	31.2	11 @ 30% AMI 11 @ 40% AMI 51 @ 50% AMI 29 @ 60% AMI	2010	Hitzke Development
Forester Square	Garden Style Apartments	9560 Via Zapador	Santee	1.61 gross	44	27.3	7 @ 50% AMI 36 @ 60% AMI	under construction	Wakeland Housing
Springbrook Grove	Stacked Flats Over Parking	435 Altura Road	Fallbrook	1.77	44	24.9	22 @ 35% AMI 21 @ 45% AMI	2010	SADI LLC
Westlake Village	Garden Style Apartments	405 & 415 Autumn Drive	San Marcos	2.17	49	22.6	5 @ 35% AMI 15 @ 45% AMI 15 @ 50% AMI 13 @ 60% AMI	under construction	National CORE
Silversage Apartments	Garden Style Apartments	11719 Woodside Avenue	Lakeside	3.70	80	21.6	16 @ 50% AMI 63 @ 60% AMI	2010	Chelsea Investment Corporation
Parkview Apartments	Garden Style Apartments	Chinaberry @ Autumn Drive	San Marcos	4.06	84	20.7	9 @ 30% AMI 17 @ 40% AMI 33 @ 50% AMI 23 @ 60% AMI	under construction	C&C Development Hitzke Development
Brighton Place	Garden Style Apartments	Brighton Way between Edgemoor and Adrian	Poway	4.07	77	18.9	8 @ 30% AMI 8 @ 35% AMI 8 @ 40% AMI 22 @ 50% AMI 30 @ 60% AMI	2012	S.D. Interfaith Housing Foundation
Avocado Court	Garden Style Apartments	141 E. El Norte Parkway	Escondido	2.22	36	16.2	11 @ 30% AMI 4 @ 40% AMI 12 @ 50% AMI 8 @ 60% AMI	under construction	Community Housing Works

APPENDIX B

Scenario #1

Townhomes

20 Units/Acre

Housing Allocation for Low and Very Low Income Households

Housing Element Update

SCENARIO #1

TABLE B-1

TOWNHOMES

PROJECT DESCRIPTION
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

I. Site Area	1.00 Acre		
II. Number of Stories	2 Stories		
III. Density	20.0 Units/Acre		
IV. Construction Type	Type V		
V. Gross Building Area			
Residential Area	25,000 SF	100%	
Common Area	0 SF	0%	
Total Gross Building Area (GBA)	25,000 SF	100%	
FAR	0.57		
VI. Unit Mix	<u># of Units</u>		<u>Unit Size</u>
Two Bedroom	10 Units	50%	1,200 SF
Three Bedroom	<u>10</u> Units	<u>50%</u>	<u>1,300</u> SF
Total/Average	20 Units	100%	1,250 SF
VII. Parking			
Parking Type	Attached Garage		
Parking Ratio	2.0 Spaces/Unit		
Number of Spaces	40 Spaces		

TABLE B-2

TOWNHOMES

ESTIMATED DEVELOPMENT COSTS
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	<u>Totals</u>	<u>Per Unit</u>	<u>Comments</u>
I. Direct Costs (1)			
Off-Site Improvements	\$87,000	\$4,400	\$2 Per SF Site
On-Sites/Landscaping	\$261,000	\$13,100	\$6 Per SF Site
Parking - Attached Garage	\$0	\$0	Included below
Shell Construction	\$2,250,000	\$112,500	\$90 Per SF GBA
FF&E/Amenities	\$20,000	\$1,000	Allowance
Contingency	<u>\$131,000</u>	<u>\$6,600</u>	5.0% of Directs
Total Direct Costs	\$2,749,000	\$137,500	\$110 Per SF GBA
II. Indirect Costs			
Architecture & Engineering	\$137,000	\$6,900	5.0% of Directs
Permits & Fees (2)	\$375,000	\$18,800	\$15 Per SF GBA
Legal & Accounting	\$27,000	\$1,400	1.0% of Directs
Taxes & Insurance	\$41,000	\$2,100	1.5% of Directs
Developer Fee	\$110,000	\$5,500	4.0% of Directs
Marketing/Lease-Up	\$50,000	\$2,500	Allowance
Contingency	<u>\$37,000</u>	<u>\$1,900</u>	5.0% of Indirects
Total Indirect Costs	\$777,000	\$38,900	28.3% of Directs
III. Financing Costs			
Total Financing Costs	\$275,000	\$13,750	10.0% of Directs
IV. Total Development Costs Excluding Land	\$3,801,000	\$190,100	\$152 Per SF GBA

(1) Does not assume payment of prevailing wages.

(2) Estimate; not verified by KMA or the County of San Diego.

SCENARIO #1

TOWNHOMES

TABLE B-3

NET OPERATING INCOME
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	Affordable Rent		
	50% AMI		80% AMI
	Units	\$/Month (1)	Annual
I. Gross Scheduled Income (GSI)			
Two Bedroom	10	\$856	\$103,000
Three Bedroom	10	\$947	\$114,000
Total / Average	20	\$904	\$217,000
Add: Other Income	\$15 /Unit/Month		\$3,600
Gross Scheduled Income (GSI)			\$220,600
II. Effective Gross Income (EGI)			
(Less) Vacancy	5.0% of GSI		(\$11,000)
Effective Gross Income			\$209,600
III. Operating Expenses			
	\$5,000 /Unit/Year		(\$100,000)
	47.7% of EGI		
IV. Net Operating Income (NOI)			\$109,600
			\$239,700

(1) See Table B-5.

Prepared by: Keyser Marston Associates, Inc.
Filename: i: County_Housing Element_Pro formas;12/7/2012;rls

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SCENARIO #1

TOWNHOMES

TABLE B-4

RESIDUAL LAND VALUE AND FINANCING DEFICIT
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	Affordable Rent		
	50% AMI		80% AMI
I. Residual Land Value			
Net Operating Income	\$109,600		\$239,700
Capitalized Value of Income	\$1,993,000	5.5% Cap Rate	\$4,358,000
(Less) Cost of Sale	(\$60,000)	3.0% of Value	(\$131,000)
(Less) Target Developer Profit	<u>(\$199,000)</u>	10.0% of Value	<u>(\$436,000)</u>
Warranted Investment	\$1,734,000		\$3,791,000
(Less) Total Development Costs	<u>(\$3,801,000)</u>		<u>(\$3,801,000)</u>
Residual Land Value Per Unit	(\$2,067,000) (\$103,000)		(\$10,000) (\$1,000)
II. Financing Deficit			
Residual Land Value	(\$2,067,000)		(\$10,000)
(Less) Acquisition Costs	<u>(\$218,000)</u>	\$5 /SF	<u>(\$218,000)</u>
Financing Deficit Per Unit	(\$2,285,000) (\$114,000)		(\$228,000) (\$11,000)

SCENARIO #1

TABLE B-5

TOWNHOMES

AFFORDABLE RENTS, 2012
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

Number of Bedrooms	Two	Three
I. Households up to 50% AMI		
Family Size	3	4
Household Income (Rounded) (1)	\$36,150	\$40,150
Income Allocation to Housing	30%	30%
Monthly Housing Cost	\$904	\$1,004
(Less) Utility Allowance (2)	(\$48)	(\$57)
Maximum Monthly Rent @ 50% AMI	\$856	\$947

II. Households up to 80% AMI		
Family Size	3	4
Household Income (Rounded) (1)	\$57,850	\$64,250
Income Allocation to Housing	30%	30%
Monthly Housing Cost	\$1,446	\$1,606
(Less) Utility Allowance (2)	(\$48)	(\$57)
Maximum Monthly Rent @ 80% AMI	\$1,398	\$1,549

- (1) State of California Department of Housing and Community Development (HCD) 2012 income limits.
(2) Per the San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule, July 1, 2012.

	<u>Two</u>	<u>Three</u>
Electric Heat	\$8	\$10
Gas Cooking	\$3	\$3
Gas Water Heater	\$10	\$12
Other Electric	\$27	\$32
Total Utilities	\$48	\$57

APPENDIX C

Scenario #2

Garden Style Apartments

24 Units/Acre

Housing Allocation for Low and Very Low Income Households

Housing Element Update

TABLE C-1

GARDEN STYLE APARTMENTS

PROJECT DESCRIPTION
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

I. Site Area	1.00 Acre		
II. Number of Stories	3 Stories		
III. Density	24.0 Units/Acre		
IV. Construction Type	Type V		
V. Gross Building Area			
Residential Area	19,300 SF	95%	
Common Area	<u>1,000</u> SF	<u>5%</u>	
Total Gross Building Area (GBA)	20,300 SF	100%	
FAR	0.47		
VI. Unit Mix	<u># of Units</u>		<u>Unit Size</u>
One Bedroom	7 Units	29%	650 SF
Two Bedroom	15 Units	63%	850 SF
Three Bedroom	<u>2</u> Units	<u>8%</u>	<u>1,000</u> SF
Total	24 Units	100%	804 SF
VII. Parking			
Parking Type	Surface		
Parking Ratio	2.0 Spaces/Unit		
Number of Spaces	48 Spaces		

TABLE C-2

GARDEN STYLE APARTMENTS

ESTIMATED DEVELOPMENT COSTS
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	<u>Totals</u>	<u>Per Unit</u>	<u>Comments</u>
I. Direct Costs (1)			
Off-Site Improvements	\$87,000	\$3,600	\$2 Per SF Site
On-Sites/Landscaping	\$348,000	\$14,500	\$8 Per SF Site
Parking - Surface	\$0	\$0	Included above
Shell Construction	\$2,030,000	\$84,600	\$100 Per SF GBA
FF&E/Amenities	\$120,000	\$5,000	Allowance
Contingency	<u>\$129,000</u>	<u>\$5,400</u>	5.0% of Directs
Total Direct Costs	\$2,714,000	\$113,100	\$134 Per SF GBA
II. Indirect Costs			
Architecture & Engineering	\$136,000	\$5,700	5.0% of Directs
Permits & Fees (2)	\$305,000	\$12,700	\$15 Per SF GBA
Legal & Accounting	\$27,000	\$1,100	1.0% of Directs
Taxes & Insurance	\$41,000	\$1,700	1.5% of Directs
Developer Fee	\$109,000	\$4,500	4.0% of Directs
Marketing/Lease-Up	\$60,000	\$2,500	Allowance
Contingency	<u>\$34,000</u>	<u>\$1,400</u>	5.0% of Indirects
Total Indirect Costs	\$712,000	\$29,700	26.2% of Directs
III. Financing Costs			
Total Financing Costs	\$271,000	\$11,292	10.0% of Directs
IV. Total Development Costs	\$3,697,000	\$154,000	\$182 Per SF GBA
Excluding Land			

(1) Does not assume payment of prevailing wages.

(2) KMA gross estimate. Not verified by KMA or the County of San Diego.

SCENARIO #2

GARDEN STYLE APARTMENTS

TABLE C-3

NET OPERATING INCOME
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	Affordable Rent		
	50% AMI		80% AMI
	Units	\$/Month (1)	Annual
I. Gross Scheduled Income (GSI)			
One Bedroom	7	\$766	\$64,300
Two Bedroom	15	\$856	\$154,000
Three Bedroom	2	\$947	\$22,700
Total/Average	24	\$837	\$241,000
Add: Other Income	\$25 /Unit/Month		\$7,200
Gross Scheduled Income (GSI)			\$248,200
II. Effective Gross Income (EGI)			
(Less) Vacancy	5.0% of GSI		(\$12,400)
Effective Gross Income			\$235,800
III. Operating Expenses			
	\$5,300 /Unit/Year		(\$127,200)
	53.9% of EGI		
IV. Net Operating Income (NOI)			\$108,600
			\$253,600

(1) See Table C-5.

SCENARIO #2

GARDEN STYLE APARTMENTS

TABLE C-4

RESIDUAL LAND VALUE AND FINANCING SURPLUS/(DEFICIT)
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	Affordable Rent	
	50% AMI	80% AMI
I. Residual Land Value		
Net Operating Income	\$108,600	\$253,600
Capitalized Value of Income	\$1,975,000	\$4,611,000
(Less) Cost of Sale	(\$59,000)	(\$138,000)
(Less) Target Developer Profit	(\$198,000)	(\$461,000)
Warranted Investment	\$1,718,000	\$4,012,000
(Less) Total Development Costs	(\$3,697,000)	(\$3,697,000)
Residual Land Value Per Unit	(\$1,979,000) (\$82,000)	\$315,000 \$13,000
II. Financing Surplus/(Deficit)		
Residual Land Value	(\$1,979,000)	\$315,000
(Less) Acquisition Costs	(\$218,000)	(\$218,000)
Financing Surplus/(Deficit) Per Unit	(\$2,197,000) (\$92,000)	\$97,000 \$4,000

SCENARIO #2

TABLE C-5

GARDEN STYLE APARTMENTS

AFFORDABLE RENTS, 2012

COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE

COUNTY OF SAN DIEGO

Number of Bedrooms	One	Two	Three
I. Households up to 50% AMI			
Family Size	2	3	4
Household Income (Rounded) (1)	\$32,150	\$36,150	\$40,150
Income Allocation to Housing	30%	30%	30%
Monthly Housing Cost	\$804	\$904	\$1,004
(Less) Utility Allowance (2)	<u>(\$38)</u>	<u>(\$48)</u>	<u>(\$57)</u>
Maximum Monthly Rent @ 50% AMI	\$766	\$856	\$947

II. Households up to 80% AMI

Family Size	2	3	4
Household Income (Rounded) (1)	\$51,400	\$57,850	\$64,250
Income Allocation to Housing	30%	30%	30%
Monthly Housing Cost	\$1,285	\$1,446	\$1,606
(Less) Utility Allowance (2)	<u>(\$38)</u>	<u>(\$48)</u>	<u>(\$57)</u>
Maximum Monthly Rent @ 80% AMI	\$1,247	\$1,398	\$1,549

(1) State of California Department of Housing and Community Development (HCD) 2012 income limits.

(2) Per the San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule, July 1, 2012.

	<u>One</u>	<u>Two</u>	<u>Three</u>
Electric Heat	\$7	\$8	\$10
Gas Cooking	\$2	\$3	\$3
Gas Water Heater	\$8	\$10	\$12
Other Electric	<u>\$21</u>	<u>\$27</u>	<u>\$32</u>
Total Utilities	\$38	\$48	\$57

APPENDIX D

Scenario #3

Stacked-Flat Apartments

30 Units/Acre

Housing Allocation for Low and Very Low Income Households

Housing Element Update

SCENARIO #3

TABLE D-1

STACKED-FLAT APARTMENTS

PROJECT DESCRIPTION
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

I. Site Area	1.00 Acre		
II. Number of Stories	3 Stories		
III. Density	30.0 Units/Acre		
IV. Construction Type	Type V		
V. Gross Building Area			
Residential Area	23,100 SF	95%	
Common Area	<u>1,200</u> SF	<u>5%</u>	
Total Gross Building Area (GBA)	24,300 SF	100%	
FAR	0.56		
VI. Unit Mix	<u># of Units</u>		<u>Unit Size</u>
One Bedroom	12 Units 40%		650 SF
Two Bedroom	18 Units 60%		850 SF
Three Bedroom	<u>0</u> Units <u>0%</u>		<u>1,000</u> SF
Total	30 Units 100%		770 SF
VII. Parking			
Surface Spaces	15 Spaces		
Tuck-Under	<u>30</u> Spaces		
Total Number of Spaces	45 Spaces		
Parking Ratio	1.5 Spaces/Unit		

TABLE D-2

STACKED-FLAT APARTMENTS

ESTIMATED DEVELOPMENT COSTS
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	<u>Totals</u>	<u>Per Unit</u>	<u>Comments</u>
I. Direct Costs (1)			
Off-Site Improvements	\$87,000	\$2,900	\$2 Per SF Site
On-Sites/Landscaping	\$348,000	\$11,600	\$8 Per SF Site
Parking - Tuck-Under	\$375,000	\$12,500	\$12,500 Per Space - Tuck-Under
Shell Construction	\$2,795,000	\$93,200	\$115 Per SF GBA
FF&E/Amenities	\$150,000	\$5,000	Allowance
Contingency	<u>\$188,000</u>	<u>\$6,300</u>	5.0% of Directs
Total Direct Costs	\$3,943,000	\$131,400	\$162 Per SF GBA
II. Indirect Costs			
Architecture & Engineering	\$197,000	\$6,600	5.0% of Directs
Permits & Fees (2)	\$365,000	\$12,200	\$15 Per SF GBA
Legal & Accounting	\$39,000	\$1,300	1.0% of Directs
Taxes & Insurance	\$59,000	\$2,000	1.5% of Directs
Developer Fee	\$158,000	\$5,300	4.0% of Directs
Marketing/Lease-Up	\$75,000	\$2,500	Allowance
Contingency	<u>\$45,000</u>	<u>\$1,500</u>	5.0% of Indirects
Total Indirect Costs	\$938,000	\$31,300	23.8% of Directs
III. Financing Costs			
Total Financing Costs	\$394,000	\$13,133	10.0% of Directs
IV. Total Development Costs Excluding Land	\$5,275,000	\$175,800	\$217 Per SF GBA

(1) Does not assume payment of prevailing wages.

(2) KMA gross estimate. Not verified by KMA or the County of San Diego.

SCENARIO #3

STACKED-FLAT APARTMENTS

TABLE D-3

NET OPERATING INCOME
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

	Affordable Rent		
	50% AMI		80% AMI
	Units	\$/Month (1)	Annual
I. Gross Scheduled Income (GSI)			
One Bedroom	12	\$766	\$110,300
Two Bedroom	18	\$856	\$184,800
Total/Average	30	\$820	\$295,100
Add: Other Income	\$25 /Unit/Month		\$9,000
Gross Scheduled Income (GSI)			\$304,100
II. Effective Gross Income (EGI)			
(Less) Vacancy	5.0% of GSI		(\$15,200)
Effective Gross Income			\$288,900
III. Operating Expenses			
	\$5,500 /Unit/Year		(\$165,000)
	57.1% of EGI		
IV. Net Operating Income (NOI)			\$123,900
			\$301,100

(1) See Table D-5.

TABLE D-4

**RESIDUAL LAND VALUE AND FINANCING SURPLUS/(DEFICIT)
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO**

	Affordable Rent		
	50% AMI		80% AMI
I. Residual Land Value			
Net Operating Income	\$123,900		\$301,100
Capitalized Value of Income	\$2,253,000	5.5% Cap Rate	\$5,475,000
(Less) Cost of Sale	(\$68,000)	3.0% of Value	(\$164,000)
(Less) Target Developer Profit	<u>(\$225,000)</u>	10.0% of Value	<u>(\$548,000)</u>
Warranted Investment	\$1,960,000		\$4,763,000
(Less) Total Development Costs	<u>(\$5,275,000)</u>		<u>(\$5,275,000)</u>
Residual Land Value Per Unit	(\$3,315,000) (\$111,000)		(\$512,000) (\$17,000)
II. Financing Surplus/(Deficit)			
Residual Land Value	(\$3,315,000)		(\$512,000)
(Less) Acquisition Costs	<u>(\$218,000)</u>	\$5 /SF	<u>(\$218,000)</u>
Financing Surplus/(Deficit) Per Unit	(\$3,533,000) (\$118,000)		(\$730,000) (\$24,000)

TABLE D-5

STACKED-FLAT APARTMENTS

AFFORDABLE RENTS, 2012
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

Number of Bedrooms	One	Two	Three
I. Households up to 50% AMI			
Family Size	2	3	4
Household Income (Rounded) (1)	\$32,150	\$36,150	\$40,150
Income Allocation to Housing	30%	30%	30%
Monthly Housing Cost	\$804	\$904	\$1,004
(Less) Utility Allowance (2)	(\$38)	(\$48)	(\$57)
Maximum Monthly Rent @ 50% AMI	\$766	\$856	\$947
II. Households up to 80% AMI			
Family Size	2	3	4
Household Income (Rounded) (1)	\$51,400	\$57,850	\$64,250
Income Allocation to Housing	30%	30%	30%
Monthly Housing Cost	\$1,285	\$1,446	\$1,606
(Less) Utility Allowance (2)	(\$38)	(\$48)	(\$57)
Maximum Monthly Rent @ 80% AMI	\$1,247	\$1,398	\$1,549

- (1) State of California Department of Housing and Community Development (HCD) 2012 income limits.
(2) Per the San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule, July 1, 2012.

	One	Two	Three
Electric Heat	\$7	\$8	\$10
Gas Cooking	\$2	\$3	\$3
Gas Water Heater	\$8	\$10	\$12
Other Electric	\$21	\$27	\$32
Total Utilities	\$38	\$48	\$57

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APPENDIX E

Comparative Subsidy Amounts **Recent Affordable Housing Developments**

Housing Allocation for Low and Very Low Income Households

Housing Element Update

TABLE E-1

COMPARATIVE SUBSIDY AMOUNTS, RECENT AFFORDABLE HOUSING DEVELOPMENTS, SAN DIEGO COUNTY
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

I. Project Description	Mission Apartments North Bay (4% LIHTC)	The Post Imperial Beach (4% LIHTC)	COMM22 Logan Heights (4% LIHTC)	Westside TOD		Autumn Terrace San Marcos (9% LIHTC)
				Phase I National City (4% LIHTC)	Phase II National City (4% LIHTC)	
A. Product Type	Family	Senior	Family	Family	Family	Family
B. Construction Type	Type V Podium Parking	Type V Surface Parking	Type V Below-grade Parking	Type V Podium Parking	Type V Podium Parking	Type V Surface Parking
C. Density	57 Units/Acre	54 Units/Acre	53 Units/Acre	32 Units/Acre	25 Units/Acre	31 Units/Acre
II. Total Public Assistance - Per Affordable Unit (1)						
A. Before Acquisition Costs	\$159,000	\$199,000	\$218,000	\$321,000	\$291,000	\$175,000
B. After Acquisition Costs	\$246,000	\$224,000	\$220,000	N/A	N/A	\$250,000

I. Project Description	Estrella del Mercado Logan Heights (9% LIHTC)	Forester Square Santee (4% LIHTC)	Westlake Village San Marcos (9% LIHTC)	Rivervalk Apartments Nestor (9% LIHTC)	Brighton Place Poway (9% LIHTC)	Residences at Creekside San Marcos (9% LIHTC)
A. Product Type	Family	Family	Family	Family	Family	Family
B. Construction Type	Type V Above-Grade/Wrap Parking	Type V Surface Parking	Type V Surface Parking	Type V Surface Parking	Type V Surface Parking	Type V Surface Parking
C. Density	28 Units/Acre (est.)	35 Units/Acre	23 Units/Acre	20 Units/Acre	19 Units/Acre	14 Units/Acre
II. Total Public Assistance - Per Affordable Unit (1)						
A. Before Acquisition Costs	\$337,000	\$94,000	\$319,000	\$190,000	\$217,000	\$392,000
B. After Acquisition Costs	\$376,000	\$217,000	\$471,000	\$235,000	\$217,000	\$469,000

(1) Reflects local jurisdiction subsidy and equity investment from Low Income Housing Tax Credits.

APPENDIX F

Manufactured Homes

Housing Allocation for Low and Very Low Income Households

Housing Element Update

TABLE F-1

MANUFACTURED HOME SALES, JANUARY 2012 TO PRESENT (1)
COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE
COUNTY OF SAN DIEGO

<u>Date</u>	<u>Address</u>	<u>Community</u>	<u>Sales Price</u>	<u>Unit Description</u>			<u>\$/SF</u>	<u>Year Built</u>	<u>Complex Name</u>
				<u>Bed</u>	<u>Bath</u>	<u>SF</u>			
03/02/12	29494 Paso Robles Rd.	Valley Center	\$328,605	3.0	2.0	2,596	\$127	2005	n/a
01/27/12	28919 Twin Oaks Valley Rd.	Bonsall	\$304,900	4.0	2.0	2,329	\$131	2003	Twin Oaks
01/27/12	28659 Via Piedra	Valley Center	\$277,000	3.0	2.0	1,344	\$206	2002	On private land
08/03/12	3675 Carveacre Rd.	Alpine	\$268,000	4.0	2.0	1,848	\$145	1987	n/a
10/09/12	2378 Buckman Springs Rd.	Campo	\$227,750	3.0	2.0	1,704	\$134	1991	n/a
06/08/12	19314 Laurel Lane	Ramona	\$199,000	2.0	2.0	940	\$212	2004	n/a
05/21/12	27027 Chihuahua Valley Rd.	Warner Springs	\$197,500	3.0	2.0	2,366	\$83	2002	n/a
06/29/12	705 Rosalie Way	East El Cajon	\$185,000	2.0	2.0	1,344	\$138	1979	n/a
09/21/12	12506 Royal Rd., #4	Winter Gardens	\$155,000	3.0	2.0	1,620	\$96	1985	Vista Royal
09/21/12	1114 Community Bldg. Rd.	Dulzura	\$155,000	3.0	2.0	1,488	\$104	1980	n/a
05/12/12	1509 Starship St.	Jacumba	\$140,000	4.0	2.0	1,344	\$104	1987	n/a
10/18/12	2508 Alta Viva Ln	Boulevard	\$100,000	4.0	3.0	2,488	\$40	2004	n/a
01/30/12	3019 Broken Arrow Rd.	Borrego Springs	\$74,901	4.0	2.0	1,492	\$50	2006	n/a
03/15/12	40112 Old Hwy 80	Boulevard	\$64,000	3.0	2.0	988	\$65	1978	n/a
01/23/12	26385 Old Hwy 80, #41	Guatay	\$39,900	2.0	2.0	865	\$46	1999	Heavenly Oaks
		Minimum	\$39,900	2.0	2.0	865	\$40	1978	
		Maximum	\$328,605	4.0	3.0	2,596	\$212	2006	
		Median	\$185,000	3.0	2.0	1,492	\$104	1999	
		Average	\$181,104	3.1	2.1	1,650	\$112	1994	

(1) Reflects sales of manufactured homes in the unincorporated area of San Diego.

Source: MLS.com

Prepared by: Keyser Marston Associates, Inc.

Filename: i:\County_Housing Element_Pro formas;12/7/2012;rks

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MANUFACTURED HOMES

TABLE F-2

CALCULATION OF AFFORDABLE SALES - MODERATE INCOME COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE COUNTY OF SAN DIEGO

I. Moderate Income Affordable Sales Price

	Two Bedroom	Three Bedroom	Four Bedroom
Family Size	3	4	5
Household Income (1)	\$82,000	\$91,100	\$98,400
Income Allocation to Housing	35.0%	35.0%	35.0%
Amount Available for Housing	\$28,700	\$31,885	\$34,440
Annual HOA/Insurance	\$150 /Mo.	\$175 /Mo.	\$200 /Mo.
Annual Utilities (2)	\$50 /Mo.	\$58 /Mo.	\$75 /Mo.
Private Mortgage Insurance (PMI)	1.10% of Loan	1.10% of Loan	1.10% of Loan
Property Tax Rate	1.10%	1.10%	1.10%
Annual Property Taxes/Insurance	\$3,091	\$3,421	\$3,663
Available for Mortgage	\$20,269	\$22,413	\$23,997
Interest Rate	6.50%	6.50%	6.50%
Down Payment	5.00%	5.00%	5.00%
Supportable Mortgage	\$267,231	\$295,498	\$316,382
Add: Down Payment	\$14,050	\$15,550	\$16,650
Maximum Purchase Price	\$281,000	\$311,000	\$333,000

(1) State of California Department of Housing and Community Development (HCD) 2012 income limits.

(2) See Table F-2.

Prepared by: Keyser Marston Associates, Inc.

Filename: i: County-Housing Element_Moderate Sales Price_Manufactured Home:12/7/2012:lag

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MANUFACTURED HOMES

TABLE F-3

ANNUAL FOR-SALE UTILITY ALLOWANCES COUNTY OF SAN DIEGO HOUSING ELEMENT UPDATE COUNTY OF SAN DIEGO

A. Utilities (Annual) (1)

	2	3	4
Number of Bedrooms			
Electric Heat	\$96	\$120	\$156
Gas Cooking	\$36	\$36	\$48
Gas Water Heater	\$120	\$144	\$192
Other Electric	\$324	\$384	\$492
Water	\$0	\$0	\$0
Sewer	\$0	\$0	\$0
Total Utilities	\$576	\$684	\$888
Total Annual Utilities (rounded)	\$600	\$700	\$900

(1) Source: San Diego County Department of Housing and Community Development 2012 Utility Allowance Schedule, July 1, 2012.

Attachment 11
Affidavit of Mailing and Mailing Labels for Public Hearing
Notice of City Council meeting of December 9, 2014

Affidavit

I, Sandra Calderon, certify that the Public Hearing regarding the proposed Amendments to the Banning General Plan and Zoning Code to Establish an Affordable Housing Overlay (AHO) zone, to be held on Tuesday, December 9, 2014 at 5:00 p.m., was mailed on Wednesday, November 26, 2014 as shown in the attached to interested parties and property owners within a 300' radius.


Sandra Calderon

Sandra Calderon
Acting Development Project Coordinator

11-26-14

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419300003
HUNTER JOHNSON
2828 LA CIMA RD
CORONA CA 92879

419140063
MLD BANNING INV
18818 TELLER AVE STE 277
IRVINE CA 92612

419400031
JANET GIORDANO
566 NORTHWOOD AVENUE
BANNING, CA 92220

RW
0

419320071
LOLA PARCHMENT
5561 RIVIERA AVENUE
BANNING, CA 92220

419400022
HENDRIK VANVLIET
5016 ROLLING HILLS AVE
BANNING CA 92220

419400044
RUTH PHILLIPS
495 NORTHWOOD AVENUE
BANNING, CA 92220

419400028
LEON NOEL
530 NORTHWOOD AVENUE
BANNING, CA 92220

419400048
SHARLENE BELANGER
447 NORTHWOOD AVENUE
BANNING, CA 92220

419400040
DAWN GOSS
543 NORTHWOOD AVE
BANNING, CA 92220

419140059
RCCI
4411 POINT FOSDICK NO 203
GIG HARBOR WA 98335

419400036
MICHAEL JORDAN
591 NORTHWOOD AVE
BANNING, CA 92220

419400049
CLIFFORD ALLEN
435 NORTHWOOD AVE
BANNING CA 92220

419140062
MLD BANNING INV
18818 TELLER AVE STE 277
IRVINE CA 92612

419400089
SUN LAKES COUNTRY CLUB HOMEOWN
5062 ROLLING HILLS AVE
BANNING CA 92220

419320070
JOHN RANDEL
5575 RIVIERA AVENUE
BANNING, CA 92220

419370034
PRESLEY OF SOUTHERN CALIFORNIA
4490 VON KARMAN AVE
NEWPORT BEACH CA 92660

419320075
ARTHUR LINE
5505 RIVIERA AVENUE
BANNING, CA 92220

419400034
HANNSJUERGEN NEUGEBAUER
602 NORTHWOOD AVE
BANNING CA 92220

419400038
CAROLYN PEDERSEN
567 NORTHWOOD AVENUE
BANNING, CA 92220

419140054
SUN LAKES COUNTRY CLUB HOMEOWN
850 S COUNTRY CLUB DR
BANNING CA 92220

419300005
ROBERT HEINS
5659 RIVIERA AVE
BANNING CA 92220

419400050
ROBERT BOMAR
423 NORTHWOOD AVENUE
BANNING, CA 92220

419320072
SIGNE JACKSON
5547 RIVIERA AVENUE
BANNING, CA 92220

419320069
ROGER FORD
5589 RIVIERA AVENUE
BANNING, CA 92220

419400042
JANICE CAVE
519 NORTHWOOD AVENUE
BANNING, CA 92220

419320076
BONNIE MELTVEDT
5491 RIVIERA AVENUE
BANNING, CA 92220

419320077
LAWRENCE FOY
5477 RIVIERA AVENUE
BANNING, CA 92220

419400051
PATRICIA MOORE
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419300001
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5609 RIVIERA AVENUE
BANNING, CA 92220

419400047
ELPIDIO GABRIEL
459 NORTHWOOD AVENUE
BANNING, CA 92220

419400033
RICHARD PECK
590 NORTHWOOD AVE
BANNING CA 92220

419400023
CELIA PERKINS
470 NORTHWOOD AVENUE
BANNING, CA 92220

419400043
CHARLES RULE
507 NORTHWOOD AVENUE
BANNING, CA 92220

419400046
CLARA BEASLEY
471 NORTHWOOD AVENUE
BANNING, CA 92220

419400024
MYRNA TREACY
482 NORTHWOOD AVENUE
BANNING, CA 92220

419400045
DAVID CONTRERAS
P O BOX 579
PALM SPRINGS CA 92263

419370037
SUN LAKES COUNTRY CLUB HOMEOWN
19 CORPORATE PLZ
NEWPORT BEACH CA 92660

419400041
WILLIAM FORNATARO
531 NORTHWOOD AVENUE
BANNING, CA 92220

419400039
ROBERT PAWLIN
P O BOX 576
BANNING CA 92220

419400029
DENISE SAX
542 NORTHWOOD AVENUE
BANNING, CA 92220

419400025
CLIFFORD JONES
494 NORTHWOOD AVENUE
BANNING, CA 92220

419300002
LARRY CRAWFORD
5621 RIVIERA AVENUE
BANNING, CA 92220

419320073
QUIMBY DAVIDE
5533 RIVIERA AVENUE
BANNING, CA 92220

419320023
DAVID MORA
436 S. MAIDSTONE STREET
BANNING, CA 92220

419300052
SUN LAKES COUNTRY CLUB HOMEOWN
23726 BIRTCHER DR
EL TORO CA 92630

419140057
BANNING 47
8800 N GAINES CTR NO 255
SCOTTSDALE AZ 85258

419400037
CARMEN BURKE
579 NORTHWOOD AVENUE
BANNING, CA 92220

419320074
ROBERT HARTMAN
5519 RIVIERA AVENUE
BANNING, CA 92220

419400026
WENDELL BANTER
506 NORTHWOOD AVENUE
BANNING, CA 92220

419400030
GERDA BAUERSFELD
554 NORTHWOOD AVENUE
BANNING, CA 92220

419300004
HORST MATTEGIT
5647 RIVIERA AVENUE
BANNING, CA 92220

419400027
MILDRED HUNTER
518 NORTHWOOD AVENUE
BANNING, CA 92220

419320089
SUN LAKES COUNTRY CLUB HOMEOWN
P O BOX 19672
IRVINE CA 92713

419400035
JOHN RAWLE
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1" = 376 ft.		08/11/2014	<div data-bbox="867 1024 1036 1203"> </div>	
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.

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49750 SEMINOLE DRIVE
CABAZON, CA 92230

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CHEVRON USA INC.
P.O. BOX 1392
BAKERSFEILD, CA 93302

532090011
CUNNINGHAM SHARON
3429 BRITTAN AVENUE
SAN CARLOS CA 94070

STATE OF CALIFORNIA
464 W. 4TH STREET #6TH
SAN BERNARDINO, 92401

532110015
VULCAN IRON & STEEL CO INC.
425 CASTLE PLACE
BEVERLY HILLS, CA 90210

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Proposed Affordable Housing Opportunity Overlay Site (APN 532-080-004)



1" = 1,505 ft.		08/11/2014	<div data-bbox="857 1045 1040 1230"> </div>	<div data-bbox="1133 1045 1372 1230"> </div>
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534290026
JOHN GALLEGOS
7 LYON RD
RANCHO MIRAGE CA 92270

534290020
KINGDY GROUP INC
505 S VILLA REAL NO 201
ANAHEIM HILLS CA 92807

534290011
SARAH FRAWLEY
505 S VILLA REAL STE 201
BANNING CA 92220

534195002
AMIN AKBARPOUR
1285 AMIN CIR
CORONA CA 92881

534290024
HEIDI MAURER
18775 UNSICKER RD
MORTON IL 61550

534290014
MYRLE PETTY
P O BOX 1528
BANNING CA 92220

534161008
MICHAEL MATHIS
P O BOX 7793
REDLANDS CA 92375

534162008
IMELDA CRANDALL
1274 N HERMOSA AVENUE
BANNING, CA 92220

534194007
LEO KRAMER
300 S HIGHLAND SPRINGS AVE
BANNING CA 92220

534162007
STACY MOHR
1290 N HERMOSA AVENUE
BANNING, CA 92220

534194003
JOSE VAQUERANO
1925 S OAKLAND AVE
ONTARIO CA 91762

534162019
DONALD RANNEY
43741 CITRUS VIEW DR
HEMET CA 92544

534290093
SERENA VISTA HOMEOWNERS ASSN
895 N PALM CANYON DR
PALM SPRINGS CA 92262

534290096
SERENA VISTA HOMEOWNERS ASSN
895 N PALM CANYON DR
PALM SPRINGS CA 92262

534162021
SPSSM INV VIII
4900 SANTA ANITA AV NO 2C
EL MONTE CA 91731

534290007
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

534162010
RAUL CHAVOLLA
1241 N HERMOSA AVENUE
BANNING, CA 92220

534194002
JAVIER CASTRELLON
1158 N FLORIDA STREET
BANNING, CA 92220

534194009
MARSHAY DANIELS
652 E. GILMAN STREET
BANNING, CA 92220

534195007
JESSICA LUONG
1161 N. HARGRAVE STREET
BANNING, CA 92220

534290006
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

534290008
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

534161006
COBRA 28 NO 6
4900 SANTA ANITA NO 2C
EL MONTE CA 91731

534161009
MICHAEL MATHIS
P O BOX 7793
REDLANDS CA 92375

534290005
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

534162022
TEDDIE WESTON
1353 N. HARGRAVE STREET
BANNING, CA 92220

534193008
RICHARD HENDERSON
1173 N. FLORIDA STREET
BANNING, CA 92220

534290028
ANONA WALKER
1213 VISTA SERENA AVENUE
BANNING, CA 92220

534162015
ALVIN WALTON
1109 N WEAVER ST
BANNING CA 92220

534162017
MOISES LOPEZ
1277 N. HARGRAVE STREET
BANNING, CA 92220

534162018
JOSE ARROYO
1293 N. HARGRAVE STREET
BANNING, CA 92220

534194001
ALFONZO LOPEZ
1174 N. FLORIDA STREET
BANNING, CA 92220

534162009
AARON ESPINOZA
1258 N. HERMOSA AVENUE
BANNING, CA 92220

534195004
INLAND EMPIRE GROUP INC
4959 PALO VERDE ST 207C
MONTCLAIR CA 91763

534290094
SERENA VISTA HOMEOWNERS ASSN
895 N PALM CANYON DR
PALM SPRINGS CA 92262

534290027
ROBERT TAYLOR
505 S VILLA REAL NO 201
ANAHEIM HILLS CA 92807

534194006
LEO KRAMER
300 S HIGHLAND SPRINGS AVE
BANNING CA 92220

534162020
ALFREDO BERMUDEZ
1323 N. HARGRAVE STREET
BANNING, CA 92220

534194008
LEO KRAMER
300 S HIGHLAND SPGS 6C258
BANNING CA 92220

534290018
LAURA GARCIA
31795 AVENIDA XIMINO
CATHEDRAL CITY CA 92234

534195003
JOSE LOPEZ
11743 BELMONTE RD
FONTANA CA 92337

534162011
PORTO MANAGEMENT INC
2450 ELDEN UNIT G
COSTA MESA CA 92627

534290025
HEIDI MAURER
18775 UNSICKER RD
MORTON IL 61550

534195001
TONY MORRA
1180 N HERMOSA AVENUE
BANNING, CA 92220

534290016
ANIL PURI
19121 BARRETT LN
SANTA ANA CA 92705

534161010
MICHAEL MATHIS
P O BOX 7793
REDLANDS CA 92375

534162005
CHAD RICHTER
1322 N. HERMOSA AVENUE
BANNING, CA 92220

534162014
THEODORE SCOTT
1233 N HARGRAVE STREET
BANNING, CA 92220

534195008
PRISTINE BUILDERS INC
671 E SUNSET DR N
REDLANDS CA 92373

534162003
ANPEE YANG
1354 N HERMOSA AVENUE
BANNING, CA 92220

534162013
DOLORES RAMIREZ
1205 N. HARGRAVE STREET
BANNING, CA 92220

534290022
JENNIFER CUNNINGHAM
3137 N HEARTHSIDE
ORANGE CA 92865

534290017
STEVEN KING
209 MOONEY AVE
SYRACUSE NY 13206

534194004
ZORAN BRANKOVIC
7806 W 79TH ST
PLAYA DEL REY CA 90293

534162002
VICTOR RAMOS
1368 N. HERMOSA AVENUE
BANNING, CA 92220

534290013
ROBERT KEHIAYAN
11 TAWNY PORT
DANA POINT CA 92629

534290019
GEETHA SIVALINGAM
1220 VISTA SERENA AVENUE
BANNING, CA 92220

534162012
SALVADOR NUNEZ
1210 N. HERMOSA AVENUE
BANNING, CA 92220

534162006
ZSUZSANNA PONGO
1306 N. HERMOSA AVENUE
BANNING, CA 92220

534162004
JUAN LEON
1338 N. HERMOSA AVENUE
BANNING, CA 92220

534290021
NAHID INC
P O BOX 1242
TUSTIN CA 92781

534161007
BENJAMIN IBARRA
686 E. THEODORE STREET
BANNING, CA 92220

534290029
ROBERT TAYLOR
505 S VILLA REAL NO 201
ANAHEIM HILLS CA 92807

534290012
TRISTA BOUCHARD
25 ANACAPA LN
ALISO VIEJO CA 92656

534290015
RICHARD FAHMY
8214 E BLACKWILLOW NO 100
ANAHEIM HILLS CA 92808

534290023
JOSE GUTIERREZ
1203 VISTA SERENA AVENUE
BANNING CA 92220

534290009
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

534290010
VISTA SERENA HOMEOWNERS ASSN
75178 GERALD FORD NO B1
PALM DESERT CA 92211

Proposed Affordable Housing Opportunity Overlay Site (APN 534-161-010)



1" = 188 ft.		08/11/2014		
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538311006
BELEN ESPINOZA
481 S SOBOBA DR
BANNING CA 92220

538321057
JAMES PRICE
3120 SUMMER SET CIRCLE
BANNING, CA 92220

538311002
ISMAEL GARCIA
2391 HAMILTON AVE
EL CENTRO CA 92243

538311011
SAUL SNYDER
6584 BONNIE VIEW DR
SAN DIEGO CA 92119

538312035
LINDA GANCI
7704 LOTUS CIR
BUENA PARK CA 90620

538312034
NELSON RINGGOLD
1047 VIA PANORAMA
BANNING CA 92220

537110012
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879

538322002
MARIE BRANCH
683 SUNSHINE STREET
BANNING, CA 92220

538313001
NELSON RINGGOLD
1047 VIA PANORAMA
BANNING CA 92220

538322003
ERNEST SCHIPPER
671 SUNSHINE STREET
BANNING, CA 92220

538313003
FELIPE MERCADO
1043 QUAIL DR
FAIRFIELD CA 94533

~~537120034
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~537110003
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

538321075
SERRANO DEL VISTA HOMEOWNERS A
P O BOX 1510
UPLAND CA 91785

538313005
ONELIA CRUZ
2596 TERESA PL
POMONA CA 91766

~~537120032
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~538323031
SERRANO DEL VISTA HOMEOWNERS A
P O BOX 1510
UPLAND CA 91785~~

538322006
WILLIAM SHESGREEN
3141 SUMMER SET CIRCLE
BANNING, CA 92220

538313002
ALEJANDRO RAMIREZ
528 S. SOBOBA DRIVE
BANNING, CA 92220

538311007
DIRK COOK
P.O. BOX 9856
SAN BERNARDINO, CA 92427

538312033
JUAN ROCHA
646 N BLANCHARD ST
BANNING CA 92220

538311009
JOSE GOMEZ
1225 DAY ST NO E301
MORENO VALLEY CA 92557

~~538322001
SERRANO DEL VISTA HOMEOWNERS A
P O BOX 1510
UPLAND CA 91785~~

538311008
DANIEL GORDON
1515 E 8TH ST
BEAUMONT CA 92223

538322007
VIRGINIA SORIA
743 S VANCOUVER AVE
LOS ANGELES CA 90022

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538322004
GARY CLIFFORD
651 SUNSHINE STREET
BANNING CA 92220

538311003
SANDRA WANG
126 BUCKEYE ST
LA PUENTE CA 91744

~~537120031
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~538321071
SERRANO DEL VISTA HOMEOWNERS A
P O BOX 1510
UPLAND CA 91785~~

~~537110007
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~537120030
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

538323029
BARBARA MONTECINOS
783 SUNSHINE STREET
BANNING, CA 92220

538323030
ANN FULBRIGHT
757 SUNSHINE ST
BANNING CA 92220

538313004
MARIA LOYOLA
498 S. SOBOBA DRIVE
BANNING, CA 92220

538311001
ENRIQUE LLANOS
305 S VICTORIA AVE
CORONA CA 92879

~~537110010
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

538323023
DANIEL MOREAU
3124 RAINBOW LANE
BANNING, CA 92220

538311005
SERGIO LIMON
1529 GILLESPIE ST
SANTA BARBARA CA 93101

538312036
LINDA GANCI
6870 ORAN CIR STE B
BUENA PARK CA 90621

~~537120024
CITY OF BANNING
P O BOX 998
BANNING CA 92220~~

~~537110008
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~537120029
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~538323028
SERRANO DEL VISTA HOMEOWNERS A
P O BOX 1510
UPLAND CA 91785~~

538323024
KENNETH KUSEN
3146 RAINBOW LANE
BANNING CA 92220

538322005
KAREN NG
631 SUNSHINE STREET
BANNING CA 92220

538190014
OAKWOOD INV
P O BOX 24066
LOS ANGELES CA 90024

~~537120023
CITY OF BANNING
P O BOX 998
BANNING CA 92220~~

538321001
ANTHONY ALVISO
3123 RAINBOW LANE
BANNING CA 92220


538311010
MANUEL ROMAN
3145 MOHAWK ROAD
BANNING CA 92220

537140001
MT SAN JACINTO COMMUNITY COLLE
1499 N STATE ST
SAN JACINTO CA 92583

~~537120033
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

538311004
ROBERT TROXEL
2732 CASTLE ROCK RD
DIAMOND BAR CA 91765

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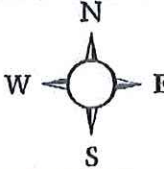

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Proposed Affordable Housing Opportunity Overlay Site (APN 537-110-008)



1" = 752 ft.		08/11/2014		
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Easy Peel® Labels 537-120-034
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537140002
MT SAN JACINTO COMMUNITY COLLE
1499 N STATE ST
SAN JACINTO CA 92583

537120034
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879

537190018
BANNING LAND FUND
10621 CIVIC CENTER DR
RANCHO CUCAMONGA CA 91730

538323029
BARBARA MONTECINOS
783 SUNSHINE STREET
BANNING, CA 92220

~~537140010
MT SAN JACINTO COMMUNITY COLLE
1499 N STATE ST
SAN JACINTO CA 92583~~

~~537120036
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~537140008
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

538323030
ANN FULBRIGHT
757 SUNSHINE ST
BANNING CA 92220

~~537120010
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

~~537140001
MT SAN JACINTO COMMUNITY COLLE
1499 N STATE ST
SAN JACINTO CA 92583~~

538323024
KENNETH KUSEN
3146 RAINBOW LANE
BANNING, CA 92220

~~537120033
LENNAR HOMES OF CALIF INC
980 MONTECITO DR STE 302
CORONA CA 92879~~

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chargement

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Proposed Affordable Housing Opportunity Overlay Site (APN 537-120-034)



1" = 752 ft.		08/11/2014		
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540082007
VICTOR ESCUDERO
3080 ROCKY LN
ONTARIO CA 91761

540082001
ANGEL TAYLOR YOUNGBLOOD
580 N 3RD STREET
BANNING, CA 92220

~~540082010
VICTOR ESCUDERO
3080 ROCKY LN
ONTARIO CA 91761~~

540082011
JOSE GOMEZ
5224 HOLLISTER AVE
SANTA BARBARA CA 93111

540152017
SOMSACK SILAVONG
7192 CEDER CREEK RD
CORONA CA 92880

540082004
MARIA RAMIREZ
552 N 3RD STREET
BANNING, CA 92220

540153001
BETHANY BIBLE CHURCH OF BANNIN
375 N SAN GORGONIO AVE
BANNING CA 92220

540083001
BLESSED KATERI TEKAKWITHA CATH
1201 E HIGHLAND AVE
SAN BERNARDINO CA 92404

540082002
HUGH RICH
7682 COLGATE AVE
WESTMINSTER CA 92683

~~540083003
BLESSED KATERI TEKAKWITHA CATH
1201 E HIGHLAND AVE
SAN BERNARDINO CA 92404~~

540082005
MARK FRANZ
542 N 3RD STREET
BANNING, CA 92220

540152018
SOMSACK SILAVONG
7192 CEDER CREEK RD
CORONA CA 92880

540153006
BANNING SCHOOL DIST
541 N. ALESSANDRO

540083009
BANNING UNION HIGH SCHOOL LIBR
UNKNOWN
BANNING CA 92220

540083008
FIRST BAPTIST CHURCH OF BANNIN
P O BOX 9
BANNING CA 92220

~~540083009
VICTOR ESCUDERO
3080 ROCKY LN
ONTARIO CA 91761~~

540082013
RICHARD NIEMI
4279 EVERGREEN LN
BANNING CA 92220

~~540083002
BLESSED KATERI TEKAKWITHA CATH
1201 E HIGHLAND AVE
SAN BERNARDINO CA 92404~~

540083004
BELETE DEMISSIE
469 N SAN GORGONIO AVE
BANNING CA 92220

~~540082008
VICTOR ESCUDERO
3080 ROCKY LN
ONTARIO CA 91761~~

540082003
JEROME SOTO
910 S DONNA BETH AVE
WEST COVINA CA 91791

540082006
SARA ARIAS
16121 VIA ALAMITOS
SAN LORENZO CA 94580

540083007
BANNING LIBRARY DIST
21 NICOLET ST
BANNING CA 92220

540082012
ROBERT LYNCH
24832 VOLGA ST
HEMET CA 92544

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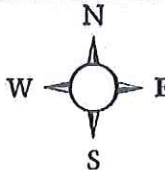

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Proposed Affordable Housing Opportunity Overlay Site (APN 540-083-002)



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541121001
ERIC KANG
378 N HARGRAVE STREET
BANNING, CA 92220

541110011
PENSCO TRUST CO
4000 MING AVE
BAKERSFIELD CA 93309

541110009
REY YSAIS
8457 SARAH ST
ROSEMEAD CA 91770

541110007
TONY DAVIS
1901 AMAR RD APT 77
WEST COVINA CA 91792

541070019
JOSEPH GUERRA
695 E NICOLET ST
BANNING CA 92220

541110016
NSM FARUQUE
13460 PRANCER LN
MORENO VALLEY CA 92555

541121046
SKYE HAULMAN
31697 OUTER HIGHWAY 10
REDLANDS CA 92373

541081009
MIGUEL GARCIA
24872 ROCKSPRINGS
MORENO VALLEY CA 92557

541081015
MARIA SERRANO
433 N ALMOND WAY
BANNING, CA 92220

541121031
RAFAEL MILIAN
22609 NEPTUNE AVE
CARSON CA 90745

541121048
PATRICIA MOORE
P O BOX 7696
SAN BERNARDINO CA 92411

541121037
ANITA KOHAVI
5919 MATILJA AVE
VALLEY GLEN CA 91401

541121032
CHARLES CHEN & ASSOC
1721 W GARVEY AVE C
ALHAMBRA CA 91803

541110012
DALE PROP GROUP
7028 CINNAMON TEAL
CARLSBAD CA 92011

541110015
ALAN HOH
813 CLEVELAND ST
LOS ANGELES CA 90012

541121047
PAUL MOORE
P O BOX 7696
SAN BERNARDINO CA 92411

~~541121036
ANITA KOHAVI
5919 MATILJA AVE
VALLEY GLEN CA 91401~~

541110013
MICHAEL OLIVERIO
11891 SAN TIMOTEO CYN RD
REDLANDS CA 92373

541081014
BOUNTEUM INTILATVONGAY
5357 MOUNTAIN VIEW
RIVERSIDE CA 92504

541121033
SIGNATURE INV
8240 MIRA MAR RD
SAN DIEGO CA 92126

541081011
ARMAND GRIJALVA
18602 E MESACALERO ST
ROWLAND HEIGHTS CA 91748

541110008
PATRICIA DAVIS
694 E. NICOLET STREET
BANNING, CA 92220

541121045
BARBARA CLARENCE
481 ALTA VISTA WAY
LAGUNA BEACH CA 92651

541110014
MAURICIO UMANA
281 N. HARGRAVE STREET
BANNING CA 92220

541081012
DONALD RANNEY
43741 CITRUS VIEW DR
HEMET CA 92544

541081010
BRUCE SMITH
13234 TWINFLOWER CT
MORENO VALLEY CA 92553

~~541121034
RAFAEL MILIAN
22609 NEPTUNE AVE
CARSON CA 90745~~

541081013
FRANCISCO AGUILAR
425 N. ALMOND WAY
BANNING CA 92220

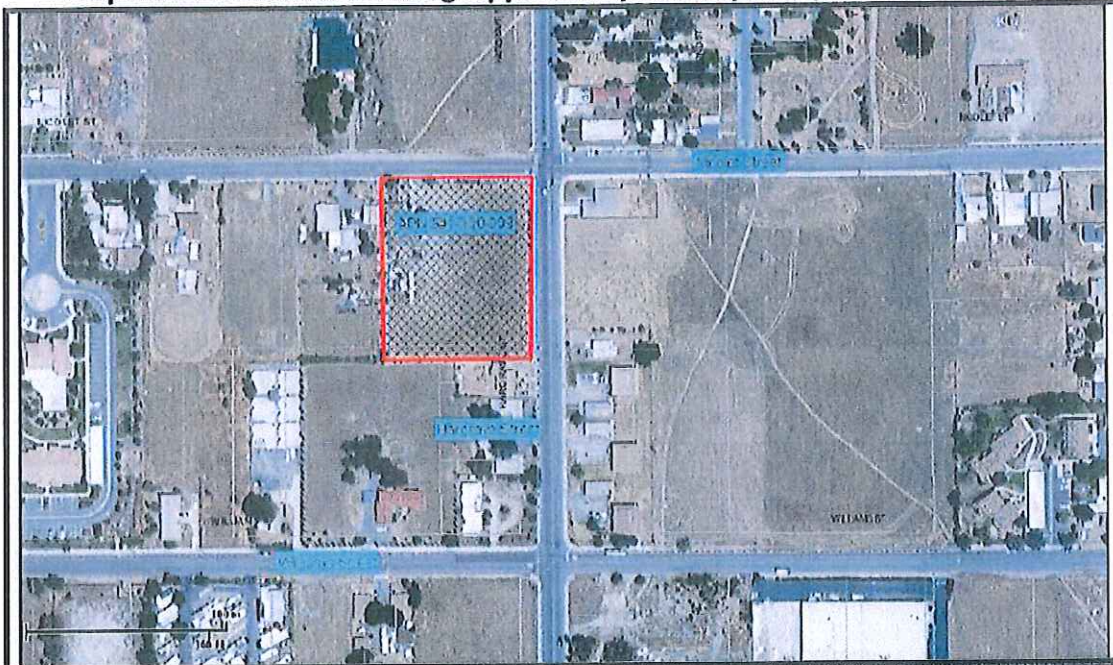
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Proposed Affordable Housing Opportunity Overlay Site (APN 541-110-009)



1" = 188 ft.		08/11/2014		
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541150017
THOMAS MAROSZ
6076 CAMINO LARGO
SAN DIEGO CA 92120

541110011
PENSCO TRUST CO
4000 MING AVE
BAKERSFIELD CA 93309

541110009
REY YSAIS
8457 SARAH ST
ROSEMEAD CA 91770

541110007
TONY DAVIS
1901 AMAR RD APT 77
WEST COVINA CA 91792

541110016
NSM FARUQUE
13460 PRANCER LN
MORENO VALLEY CA 92555

541121046
SKYE HAULMAN
2865 WATERMOUNT ST
RIVERSIDE CA 92501

541150015
DS PARTNERSHIP
2892 W WILSON
BANNING CA 92220

541121031
RAFAEL MILIAN
22609 NEPTUNE AVE
CARSON CA 90745

541150011
MARCO FRUNEAUX
1870 PAGE AVE
FULLERTON CA 92833

541121048
PATRICIA MOORE
P O BOX 7696
SAN BERNARDINO CA 92411

541110012
DALE PROP GROUP
7028 CINNAMON TEAL
CARLSBAD CA 92011

541161039
GARY CARLTON
4113 CALLE JUNO
SAN CLEMENTE CA 92673

541110015
ALAN HOH
813 CLEVELAND ST
LOS ANGELES CA 90012

541121047
PAUL MOORE
P O BOX 7696
SAN BERNARDINO CA 92411

541121036
ANITA KOHAVI
5919 MATILJA AVE
VALLEY GLEN CA 91401

541110013
MICHAEL OLIVERIO
11891 SAN TIMOTEO CYN RD
REDLANDS CA 92373

541150014
DS PARTNERSHIP
2892 W WILSON
BANNING CA 92220

541110010
UMBERTO BAGNARA
607 E. WILLIAMS STREET
BANNING, CA 92220

541121033
SIGNATURE INV
8240 MIRA MAR RD
SAN DIEGO CA 92126

541150020
BANNING INV
251 S LAKE AVE NO 920
PASADENA CA 91101

541110008
PATRICIA DAVIS
694 E. NICOLET STREET
BANNING, CA 92220

541110014
MAURICIO UMANA
281 N. HARGRAVE STREET
BANNING, CA 92220

541110006
JOSE GARCIA
630 E. NICOLET STREET
BANNING, CA 92220

541161042
GARY CARLTON
4113 CALLE JUNO
SAN CLEMENTE CA 92673

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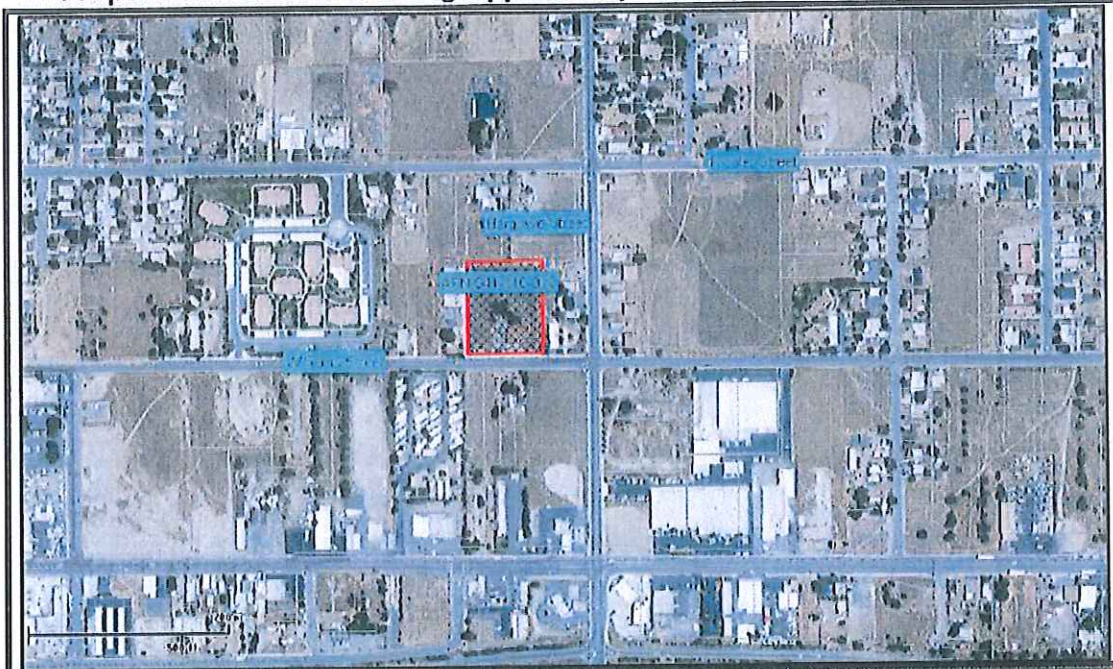
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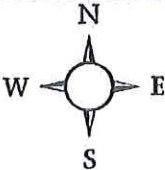

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Proposed Affordable Housing Opportunity Overlay Site (APN 541-110-013)



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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Banning staff for the most up-to-date information.				

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Morongo Band of Mission Indians
Attn: William Madrigal
49750 Seminole Drive
Cabazon, CA 92230

Riverside County
ALUC
4080 Lemon Street, 14th Floor
Riverside, CA 92501

Banning School District
161 W. Williams Street
Banning, CA 92220


City of Beaumont
550 E. 6th Street
Beaumont, CA 92223

Department of Transportation
Division of Aeronautics
MS 40 P.O. Box 942874
Sacramento, CA 94274-001

Karen Cadovona
Southern California Edison
Third Party Environmental Review
2244 Walnut Grove Avenue
Quad 4C 472A
Rosemead, CA 91770

Nena McCullough
Local Public Affairs
Southern California Edison
36100 Cathedral Canyon Drive
Cathedral City, CA 92234

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Bill Lamb
931 April Lane
Banning CA 92220

Gail Wesson
3400 Wentworth
Hemet, CA 92545

Micale K. Cashe
981 E. Charles St.
Banning CA 92220

Christy Burns
560 Alder Ct.
Banning CA 92220

Robert Weeks or
Debra Garcia
582 Alder Court
Banning, CA 92220

Steven Reeves
1020 Dysart
Banning, CA 92220

Jack C. Pryor
19024 Ruppert Street
Palm Springs, CA 92262

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2384 N. Murray Street
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531 Northwood Avenue
Banning, CA 92220

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476 Autumn Way
Banning, CA 92220

Sheila Huerta
2880 Rainbow Lane
Banning, CA 92220

Hanns Jeugebauer
602 Northwood Avenue
Banning, CA 92220

Sal Carrizal
754 Amber Sky
Banning, CA 92220

Gene Kadow
2857 Summer Set Circle
Banning, CA 92220

Kathy Faber
1366 Pine Valley Road
Banning, CA 92220

Susan Savolainen
1610 W. Barbour
Banning, CA 92220

Ray Streeter
485 S. 22nd Street
Banning, CA 92220

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1908 W. Westward
Banning, CA 92220

H & L Young
2952 Summer Set Circle
Banning, CA 92220

Heather Kinorich
461 S. Hathaway
Banning, CA 92220

Yoag Palwon
310 E. Ramsey Street
Banning, CA 92220

Jeremy Wilson
Sun Lakes Country Club
850 Country Club Drive
Banning, CA 92220

Zsuzsanna Pongo
1306 N. Hermosa Avenue
Banning, CA 92220


Anita Kohavi
5919 Matilija Avenue
Van Nuys, CA 91401

REY & MARGARET YSAIS
8457 SARAH STREET
ROSEMEAD, CA 91770

Zachary Wybert
1335 Rimrock Drive
Perris, CA 92570

Patricia Moore
411 Northwood Avenue
Banning, CA 92220


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Darleen Moxon
327 Northwood Avenue
Banning, CA 92220

Mr. & Mrs. Pippenger
2553 W. Westward
Banning, CA 92220

Jose Vazquez
1951 W. Victory Ave
Banning, CA 92220

Bonnie Vazquez
1951 W. Victory Ave
Banning, CA 92220

Bill Lamb
931 April Lane
Banning, CA 92220

Current Resident
2112 W. Westward
Banning, CA 92220

Marlar Resident
515 S. 16th Street
Banning, CA 92220

Shavon Letendre
2680 Winter Court
Banning, CA 92220

James Mildren
1811 N. San Gorgonio
Ave
Banning, CA 92220

Bob W. Goodman, Sr.
649 S. 12th Street
Banning, CA 92220

Georgia Craig
300 Wesly Street
Banning, CA 92220

Brian Morrissey
928 Bay Hill Road
Banning, CA 92220

Ralph Wright
P.O. Box 836
Banning, CA 92220

Betty McMillion
5549 W. Pinehurst Drive
Banning, CA 92220

Current Resident
1446 W. Westward
Banning, CA 92220

Trudy Wilkerson
113 N. Roberge Ave
Banning, CA 92220

Debbie Tillay
33551 Washington Drive
Yucaipa, CA 92399

Ellen Carr
471 George St
Banning, CA 92220

Edward Espinsa
839 S. Orchard Lane
Banning, CA 92220

Janet Kinzie Hawver
992 Charles Street
Banning, CA 92220

Alejandro Geronimo
962 Charles Street
Banning, CA 92220

Charles Hough
2649 Winter Court
Banning, CA 92220



NOTICE OF PUBLIC HEARING

PROPOSED AMENDMENTS TO THE BANNING GENERAL PLAN AND ZONING CODE TO ESTABLISH AN AFFORDABLE HOUSING OPPORTUNITY (AHO) OVERLAY ZONE

NOTICE IS HEREBY GIVEN of a Public Hearing before the City Council of the City of Banning, to be held on Tuesday, December 9, 2014, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

GENERAL PLAN AMENDMENT (GPA) NO. 14-2502; ZONE TEXT AMENDMENT (ZTA) NO. 14-97501 (ORDINANCE NO. 1482); AND ZONE CHANGE (ZC) NO. 14-3502: Amendments to the Banning General Plan Land Use Element and Map, 2013-2021 Housing Element, Zoning Code and Zoning Map to establish an Affordable Housing Opportunity (AHO) Overlay Zone on eight (8) parcels that are currently zoned High Density Residential (HDR) 20. The establishment of the AHO is required by the State Housing and Community Development for certification of the City's 2013-2021 Housing Element. HDR-20 parcels proposed to be included within the AHO Overlay are as follows: 537-120-034, 540-083-002, 541-110-013, 532-080-004, 419-140-059, 534-161-010, 537-110-008, and 541-110-009. Maps of these parcels along with additional background information are included in the June 10, 2014 City Council Staff Report regarding the AHO which can be downloaded at <http://www.ci.banning.ca.us/index.aspx?nid=428>.

The AHO Overlay would allow a density of 20-24 units/acre only for projects that reserve 20% of units for lower-income households. Market-rate projects would not be eligible for a density increase, nor would projects within the AHO Overlay area be required to include affordable units. The overlay would provide an alternative development option for property owners if they choose to provide affordable housing.

An Addendum to the Mitigated Negative Declaration adopted for the Banning 2008-2013 Housing Element has been prepared for this project in compliance with Section 15164 of the CEQA Guidelines and is recommended for adoption.

Information regarding the foregoing can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. The information is also on the City's website at <http://www.ci.banning.ca.us/index.aspx?nid=428>.

All parties interested in speaking either in support of or in opposition to this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk of the City Council for the City of Banning at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing (California Government Code, Section 65009).

BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF
BANNING, CALIFORNIA

Brian Guillot
Acting Community Development Director
Publish: November 28, 2014

Dated: November 24, 2014

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: December 9, 2014

TO: Mayor and Members of the Banning City Council

FROM: Dave Aleshire, City Attorney
June Ailin, Senior Litigator

SUBJECT: Butterfield Specific Plan Litigation Settlement Agreement: *Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No. RIC1206246, Consolidated with Case No. RIC 1206271)

RECOMMENDATION:

That the City Council approve the proposed Settlement Agreement in the pending litigation entitled *Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No. RIC1206246, Consolidated with Case No. RIC 1206271), and authorize the Acting City Manager to sign the Settlement Agreement on behalf of the City of Banning ("City" or "City of Banning") as resolution of the dispute among the City of Banning, Pardee Homes ("Pardee"), Highland Springs Resort ("Resort"), and Cherry Valley Pass Acres and Neighbors and Cherry Valley Environmental Planning Group ("CVEPG") (collectively, "CVAN") with regard to the City's approval of the Butterfield Specific Plan, certification of the environmental impact report ("EIR") and related approvals.

BACKGROUND:

On April 10, 2012, the City approved the Butterfield Specific Plan (along with related approvals) (the "Project"), which amended the Deutsch Specific Plan previously approved in 1993. The developer who proposed the Deutsch Specific Plan had never moved forward with development of the property, which was subsequently acquired by Pardee Homes. Pardee processed the amendment of the specific plan to better conform to the natural drainage of the property and to update the plan to reflect more recent development standards.

On April 26, 2012, two petitions for writ of mandate were filed by the Resort and CVAN challenging the City's approval of the Butterfield Specific Plan. The petitioners alleged the City had failed to comply with the California Environmental Quality Act ("CEQA") and the California Planning and Zoning Law. The CEQA issues included allegations that the EIR did not adequately address impacts on biological and cultural resources, aesthetics, land use, traffic and energy use and challenged the adequacy of the air quality and climate change analysis. Petitioners also claimed the water supply assessment for the Project was inadequate. The challenges under the Planning and Zoning Law related to the way in which land uses were depicted on the City's General Plan land use map and whether the Specific Plan was consistent with the General Plan.

The first hearing on the petition for writ of mandate took place on September 20, 2013. Although the Court's tentative ruling favored the petitioners, vigorous argument by counsel for the City and Pardee persuaded the Court it needed to take a second look. The Court ordered further briefing on the matter. The Court held a second hearing on December 13, 2013, and later issued a ruling more favorable to the City and Pardee, but still found in favor of the Resort and CVAN on certain claims that the EIR prepared for the Project did not comply with CEQA. However, on the Resort's challenge to the Project on grounds the City violated State Planning and Zoning Law, the judge found the record contained substantial evidence to support the conclusion the Butterfield Specific Plan is consistent with the General Plan's goals, policies and objectives.

After the judge issued his ruling, the parties agreed to a stay of the case in order to discuss settlement. The stay was extended several times to allow the parties to continue their negotiations. Settlement discussions have concluded and a final settlement agreement has been prepared. All of the other parties to the Settlement Agreement have signed it. With City Council approval and City execution of the agreement, the settlement will be finalized for submission to the court.

Approval of the proposed Settlement Agreement will allow the City and Pardee to avoid further litigation on appeal and allow the development to finally proceed nearly 20 years after the Project site was proposed for development. Settlement will avoid continued litigation that will delay the multitude of benefits provided by the Project to the City, such as a wide range of high quality housing opportunities for residents, additional local job opportunities, increased tax revenues and a fire station. The Project, as amended, will provide various new housing opportunities, new commercial uses, new school sites, new recreational opportunities, new infrastructure, new employment opportunities, and added economic benefits for the community.

PROCESS FOR APPROVAL OF SETTLEMENT AGREEMENT:

The changes to the Project encompassed in the proposed Settlement Agreement reflect an agreement between the Resort, CVAN and Pardee as to Pardee's implementation of the Development Agreement between the City and Pardee ("Development Agreement"). The City is a party to the Settlement Agreement because it is named as the respondent in the CEQA cases. However, the Settlement Agreement does not make any substantive changes to the Development Agreement and to the extent the terms of the Settlement Agreement affect certain aspects of the Project regulated by the Development Agreement, they are within the scope of the flexibility built into the Development Agreement.¹ Therefore, under the terms of the Development Agreement, no amendment to the Development Agreement is required.

Pursuant to the proposed Settlement Agreement, Pardee agrees to reduce the maximum number of residential units in the Project and to create a recreational area including parks and natural open space and other uses permitted by the Specific Plan and approved by City in lieu of

¹ Section 10.4.1 of the Development Agreement provides in pertinent part: "The Parties desire to retain a certain degree of flexibility with respect to those items covered in general terms under this Agreement. Therefore, non-substantive and procedural modifications of the Development Plan shall not require modification of this Agreement."

building the golf course. The area proposed for the golf course may also include areas for flood control, drainage and Project-related groundwater recharge, as permitted by the Specific Plan. Both modifications are within the scope of the Development Agreement. The reduction in the maximum number of residential units in the Project would be less than 10% (525 of 5,387 total), a “non-substantive” or “non-material” change under the terms of the Development Agreement.² Construction of the golf course was at Pardee’s sole and absolute discretion under the Development Agreement.³ Upon written notice to the City’s Planning Department, in the previously defined golf course area (Planning Area 35 and Planning Area 39), Pardee could elect to build a recreational area including parks and natural open space and other uses permitted by the Specific Plan and approved by the City.

Accordingly, approval of the Settlement Agreement requires only compliance with the Brown Act and does not require a public hearing.

DISCUSSION:

The proposed Settlement Agreement attached as Exhibit 1 sets forth the terms on which the parties to the above-referenced litigation are resolving the issues. The changes between the Deutsch Specific Plan (1993), the original Butterfield Specific Plan (2012), and the Butterfield Specific Plan as modified by the proposed Settlement Agreement (2014) are summarized in the table attached to this staff report as Exhibit 2.

The key provisions of the Settlement Agreement can be summarized as follows:

A. Land Use Terms

- Request to Delete Cherry Valley Boulevard Road Extension (Section 1): Pardee will request that the City amend its General plan to delete the extensions of Brookside Avenue and Cherry Valley Boulevard. The City retains its discretion to determine whether or not to approve the amendment after going through the necessary public process to review the amendment application.
- Planning Areas 60 and 61 and Planning Area 43B (Sections 2 and 4): Pardee agrees not to develop the northernmost part of the Specific Plan area (Planning Areas 60 and 61) except for utility infrastructure and associated access roads, water tanks, a potential fire station, landscaping, and drainage/debris detention basins and related storm drain appurtenances and agrees not to purchase or pursue development of a portion of the Specific Plan area (PA 43B) at any time.

² Section 10.4.2 of the Development Agreement provides: “A modification will be deemed non-substantive and /or procedural if it does not result in a material change in fees, maximum residential density, maximum intensity of use, permitted uses, the maximum height and size of buildings, the reservation or dedication of land for public purposes, or the improvement and construction standards and specifications for the Project, including density transfers between phases. A “material change” is generally one which does not change the standard by ten percent (10%) or more. For example, for a height limit of 20 feet, a change of less than two feet is deemed non-material.”

³ Section 8.1.3 of the Development Agreement provides in pertinent part: “The Golf Course shall be constructed at the sole and absolute discretion of the Developer.”

- Temporary Grant of Hiking Area (Section 3): Pardee will grant the Resort a temporary revocable license for hiking, walking and non-motorized bicycle use and the transport of equipment to the eastern portion of the Resort's property for security, maintenance and farming purposes over land described in Exhibit C of the Settlement Agreement. The temporary license will terminate when Pardee conveys to the Resort the 44-acre property on which the trail is located in Lot 13, described in Exhibit C of the Settlement Agreement.
- Conveyance of 44 Acres to Resort (Section 2.3): Within 120 days after the City's approval of a final map to be recorded for the project, subject to certain tolling provisions, Pardee will convey to the Resort the northerly 44 acres of the project site (described in Exhibit C of the Settlement Agreement) with a land use restriction that will preserve the land in a primarily natural state limited to passive use recreational amenities.
- Relocation of Veteran's Tree (Section 5): The Veteran's Tree will be relocated to a prominent location within the Project and near its current location.
- Elimination of Golf Course (Section 9): As permitted by the Development Agreement, the Specific Plan, and the Conditions of Approval, Pardee agrees to eliminate the golf course use from the Project. In the previously defined golf course area (PA 35 and PA 39), Pardee will create a recreational area including parks and natural open space and other uses permitted by the Specific Plan and approved by the City. This area may also include areas for flood control, drainage and Project-related groundwater recharge.
- Maximum Number of Dwelling Units (Section 11): Pardee agrees that the Project's total number of dwelling units shall not exceed 4,862 which is 525 units less than what the City approved (5,387). The phasing plan for development of the residential units will remain the same for Phases I through III. The reduction in units will affect only Phase IV. (See letter from Pardee attached as Exhibit 3.) This approach is consistent with the City's request that Pardee accelerate development of the residential units to the extent possible.

B. Water Conservation Terms

- Homeowner-Provided Landscaping (Section 6): Pardee and the City will require all residential development, through covenants, conditions, and restrictions, to comply with the City's water conservation measures by applying the xeriscape principles set forth in Banning Municipal Code section 13.16.030 (Water Conservation Using Xeriscape Principles).
- Non-Potable Project-Related Water Infrastructure (Section 7): Pardee will fund or construct all Project-related infrastructure and facilities required to allow the Project's use of non-potable water supplies when the City of Banning makes non-potable water available to the Project.

- Availability of Non-Potable Water (Section 8): Pardee agrees that issuance of building permits for any portion or phase of the Project shall be contingent upon the availability of non-potable water supplies to serve any non-potable demands within the City in an amount greater than or equal to the non-potable demands of the portion of the Project for which building permits are requested.
- Plumbing (Section 10): The Project will include ultra-low flow toilets at 1.28 gallons per flush throughout the Project.

C. Energy Conservation Terms

- Solar Photovoltaic Systems (Section 12): Solar photovoltaic systems (or the equivalent renewable energy generating technology) will be installed on multi-family residential developments of 18 units per acre or more with a common wall.
- Electric Vehicle Charging (Section 13): Electric car charging stations will be installed in at least 3% of the parking spaces in the commercial units and multi-family residential units within the Project.
- Efficiency Standards (Section 14): All developer-installed appliances within the Project will meet or exceed Energy Star efficiency standards.
- Ride Sharing Lot Request (Section 15): Pardee will request a ride sharing lot subject to the approval of the responsible transportation agencies within the Project before 1,000 units are built.
- Transportation Coordination (Section 16): Pardee will coordinate with the Banning Pass Transit Agency, the Riverside Transit Agency, and the City for service within the Specific Plan area on future bus routes and scheduled bus service, which are based upon demand.

FISCAL IMPACT:

A fiscal impact analysis for the Butterfield Specific Plan was prepared by Willdan Financial Services in 2011-2012. The purpose of the fiscal impact analysis was to determine the Project impacts on general city services. To mitigate any fiscal impacts, the Project was required to create a special services tax in the amount of \$115 per year for dwelling units greater than 1820 square feet and \$92 per year for dwelling units 1820 or less square feet.

The proposed Settlement Agreement would not change the special services tax imposed on each unit. Accordingly, the fiscal impact of the changes to the Project required by the Settlement Agreement as compared to the 2012 Specific Plan due to the reduction in the number of the Project's total dwelling units by 525 units should be less than 10%, which would be offset by the commensurate reduction in demand of city services.

APPROVED BY:

June Overholt
Acting City Manager
Administrative Services Director

RECOMMENDED BY:

David J. Aleshire
City Attorney

Attachments:

1. Exhibit 1, Settlement Agreement
2. Exhibit 2, Specific Plan Comparison
3. Exhibit 3, letter from Pardee to the City of Banning re: phasing of development of residential units

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by and between PARDEE HOMES ("Pardee"), the CITY OF BANNING ("City"), the HIGHLAND SPRINGS RESORT ("Resort"), and CHERRY VALLEY PASS ACRES AND NEIGHBORS and CHERRY VALLEY ENVIRONMENTAL PLANNING GROUP ("CVEPG") (collectively, "CVAN"). The Resort and CVAN may be referred to collectively as "Petitioners." Pardee, City, Resort, and CVAN may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

- A. Pardee filed an application with the City for: General Plan Amendment No. 11-2510; Zone Change No. 11-3501; approval of the Butterfield Specific Plan (SCH No. 2007091149), dated November 21, 2011, which amends and supersedes the Deutsch Property Specific Plan, which was approved and adopted by the City in 1993; and approval of the development agreement for the Butterfield Specific Plan, which amends and supersedes the development agreement for the Deutsche Property Specific Plan. The Butterfield Specific Plan provides for the development of a master planned community consisting of up to 5,387 dwelling units, a golf course and open space, parks and other open space, two school sites, an existing utilities substation, a fire station site, and backbone roadways, among other things.
- B. Pursuant to the California Environmental Quality Act ("CEQA"), the City prepared an Environmental Impact Report entitled "Environmental Impact Report for Butterfield Specific Plan" (SCH No. 2007091149).
- C. On March 27, 2012, the City passed, approved and adopted Resolution No. 2012-24, certifying the Final Environmental Impact Report for the Butterfield Specific Plan.
- D. On April 10, 2012, the City passed, approved and adopted Resolution No. 1450, amending the Deutsch Specific Plan and superseding it with the Butterfield Specific Plan ("Specific Plan"), as well as adopting conditions of approval ("Conditions of Approval") and making certain findings in support thereof. Also on April 10, 2012, the City passed, approved, and adopted Resolution No. 1451, adopting the development agreement for the Specific Plan ("Development Agreement").
- E. Together, the General Plan Amendment No. 11-2510, Zone Change No. 11-3501, the Development Agreement, and the Specific Plan, as approved and adopted by the City, are hereinafter referred to collectively as the "Project."
- F. On April 26, 2012, the Resort filed a Petition for Writ of Mandate in Riverside County Superior Court (Case No. 1206246) ("Resort Action"), alleging that the City had violated CEQA when it approved the Project. Pardee is named as a real party in interest in the Resort Petition. On April 26, 2012, CVAN filed a Petition for Writ of Mandate in Riverside County Superior Court (Case No. 1206271) ("CVAN Action"), alleging that the City had violated CEQA when it approved the Project. Pardee is named as a real party in interest in the CVAN Action. On May 9, 2012, the Resort and CVAN each filed a Notice of Related Cases. On June 28, 2012, the Parties agreed and stipulated to

consolidate the actions for purposes of trial into a single matter under Riverside County Superior Court Case No. 1206246, which is the lower numbered case. On July 5, 2012, the Court ordered the matters consolidated, and ordered the Resort and CVAN to prepare one administrative record for the consolidated case. The consolidated Resort Action and CVAN Action are hereinafter collectively referred to as the "Action." On September 20, 2013, and again on December 13, 2013, the Court heard oral argument in the Action and took the matter under submission. On December 23, 2013, the Court issued a Statement of Decision. On January 13, 2014, the Parties filed a Stipulation to Stay the Action and Entry of Judgment to allow the Parties adequate time to informally resolve the Action and avoid further litigation.

- G. For the purpose of compromising and settling the claims raised in the Action and avoiding the time and expense of further litigation, including but not limited to appeal, the Parties have agreed to settle the Action on the terms described below.
- H. Nothing in this Settlement is construed to require an amendment to the Specific Plan, the Development Agreement or any of the associated approvals.

NOW, THEREFORE, in consideration of the mutual covenants, promises, releases representations and warranties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Agreement

1. Request to Delete Cherry Valley Boulevard Road Extension.

1.1 Pardee agrees not to request an extension of Cherry Valley Boulevard from any agency at any time. Pardee agrees to join Petitioners in a comment letter to the County of Riverside which requests the deletion of the Cherry Valley Boulevard road extension from the County's 2014 General Plan Update (County of Riverside General Plan Amendment No. 960) and any other applicable County plans. A copy of the comment letter regarding the General Plan, which is currently being amended by the County, is attached as Exhibit "A" to this Agreement.

1.2 Pardee agrees to request that the City amend its General Plan to delete the extensions of Brookside Avenue and Cherry Valley Boulevard. Pardee shall apply for the amendment. Because however, the Resort owns some of the property, it acknowledges that it shall cooperate in the processing of the amendment, including but not limited to completing a certified letter of authorization, and any other document required by the City to complete the processing of the amendment. Pardee and Resort agree to share the costs of the application equally and each Party shall bear its own attorneys' fees associated with the development and processing of the application.

1.3 The City further agrees that the City Council will consider Pardee's request for a General Plan Amendment within 365 days of execution of this Agreement. However, the Parties acknowledge that the City's decision about whether to approve the requested General Plan Amendment must comply with all applicable notice and public hearing requirements of the City's planning and zoning laws, the outcome of which cannot be guaranteed. By approving this Agreement, the City does not prejudge the General Plan Amendment and remains free to take whatever action it deems appropriate without liability thereof. In the event the City Council does

not approve the General Plan Amendment despite the Parties' best efforts, Pardee shall not be responsible for re-submitting or taking any further action.

2. Planning Areas 60 and 61.

2.1 Pardee shall not develop Specific Plan Planning Area ("PA") 60 (which includes 205 dwelling units) and PA 61 (which includes 207 dwelling units). PA 60 and 61 shall be preserved in an open space condition, *except* for utility infrastructure (water, sewer, gas, and power) and associated access roads; water tanks; a potential fire station; landscaping, including irrigation; and drainage debris/detention basins and related storm drain appurtenances. Within 90 days of the City's approval of any final map to be recorded for the Project, Pardee shall submit for recording a land use restriction that runs with the land evidencing these development restrictions. Exhibit "B" to this Agreement includes the form of the restrictive covenant to be recorded on Lot 13 of recorded Tract No. 34330, which encompasses PA 60, 61 and 73, but excluding the north half of the proposed extension of Highland Home Road. This form has been approved by the Banning City Attorney.

2.2 The Resort and CVAN acknowledge that standard utilities, including water, sewer, gas, as well as road access, are needed to serve the water tanks and fire station, and that existing power lines may need to be relocated and new, above-ground power lines erected to serve the tanks and fire station. Pardee and the City agree to use their best efforts to locate the water tanks at the approximate latitude of 33.96 north and longitude of 116.93 west, provided that this location meets the City's engineering requirements for the adequate functioning of the water tanks, which determination is subject to confirmation by the City's engineers. In the event that either regulations, geologic features or other limiting factors prohibit placing the water tanks in the identified location, the City will locate the water tanks in the closest feasible location. If more than one alternative location is feasible, preference shall be given to the site that is the farthest north, provided that the costs for construction and operation of the tanks do not significantly exceed that of a site located elsewhere. The City retains authority to make the final decision on tank siting which may be based on factors of utility for the intended purpose and cost.

2.3 Within 120 days of the City's approval of any final map to be recorded for the Project, Pardee its successor(s) or assignee(s) shall convey to the Resort its successor(s) or assignee(s) by recorded deed the land which is the northerly 44 acres more or less of Lot 13 as described in Exhibit "C" and conceptually shown on Exhibit "D". Such conveyance shall be subject to all existing easements and a land use restriction that runs with the land to preserve the land in a primarily natural state limited to passive use recreational amenities. Exhibit "B" to this Agreement includes the form of the restrictive covenant to be recorded on the land conveyed to the Resort its successor(s) or assign(s). Upon transfer of ownership of the land described in Exhibit "C", the Revocable License Agreement set forth in paragraph 3 of this Agreement shall terminate. In the event the final map is challenged, performance is stayed with regard to the deed restriction and property transfer pending final judicial approval of the map.

(a) Within 180 days of recording the grant deed and to the extent allowed under the existing Southern California Edison easement and by the underlying easement holder, Pardee agrees to construct a wood split rail fence along the southern boundary of the land described in Exhibit "C".

3. Temporary Grant of Hiking Area. Pardee agrees to grant to the Resort, for the benefit of the Resort, a revocable license for hiking, walking and non-motorized bicycle use and the transport of equipment to the eastern portion of the Resort's property for security, maintenance and farming purposes over land described in Exhibit "C" and conceptually shown on Exhibit "D". Exhibit "E" to this Agreement includes the form of the grant of a revocable license which will be recorded within 90 days of entry of judgment dismissing this Action. The Revocable License Agreement shall terminate, if not sooner, upon the recording of a deed transferring ownership of the land described in Exhibit "C" to the Resort or its successor(s) and/or assign(s), subject to the restrictive covenant set forth in Section 2.1, above, and all existing easements. During the term of the license, trail access and use shall not be impaired by the installation of infrastructure within Lot 13 of recorded Tract No. 34330. The Resort and Pardee may agree to an alternative trail alignment if necessary to accommodate allowed infrastructure. In the event the Revocable License Agreement is revoked, Pardee shall have no obligation to provide continuing access or a tie-in trail point.

4. Planning Area 43B. Pardee agrees not to purchase or pursue development of PA 43B at any time.

5. Veteran's Tree. Pardee agrees to relocate the "Veteran's tree" to a prominent location within the Project and near its current location, subject to the City's review of, and agreement to, the proposed location, which will be done simultaneously with the submittal of plans for the road widening necessary for Highland Springs Avenue. Pardee shall utilize the services of a professional arborist for the relocation. If the Veteran's tree does not survive for at least 180 days after relocation and replanting, Pardee agrees to replace it with an oak tree contained in a minimum of a 60-inch box, using the services of a professional arborist.

6. Homeowner-Provided Landscaping. Pardee and the City agree to impose Covenants, Conditions and Restrictions ("CC&Rs") on all residential units within the Project, requiring them to comply with Banning Code section 13.16.030 (inclusive of all subsections), as it may be amended from time to time, notwithstanding the fact that section 13.16.030 does not otherwise apply to homeowner-provided landscaping at single-family and multi-family residences. As is required by the Conditions of Approval and Development Agreement, the form of the CC&Rs is subject to approval by the Banning City Attorney within 30 days of submission by Pardee, and shall be enforceable by City.

7. Non-Potable Project-Related Water Infrastructure. In conformance with the City's requirements, Pardee will fund or construct all Project-related infrastructure and facilities required to allow the Project's use of non-potable water supplies when the City makes non-potable water available to the Project.

8. Availability of Non-Potable Water. Pardee agrees that issuance of building permits for any portion or phase of the Project shall be contingent upon the availability of non-potable water supplies to serve any non-potable demands within the City in an amount greater than or equal to the non-potable demands of the portion of the Project for which building permits are requested. For example, if the portion of the Project to be constructed has a non-potable demand of 250 acre-feet per year (AFY), at least 250 AFY of non-potable supply must first be available to serve non-potable demand somewhere within the City.

9. Elimination of Golf Course. As permitted by the Development Agreement, the Specific Plan, and the Conditions of Approval, Pardee agrees to eliminate the golf course use from the Project. In the previously defined golf course area (PA 35 and PA 39), Pardee will create a recreational area including parks and natural open space and other uses permitted by the Specific Plan and approved by City. This area may also include areas for flood control, drainage and Project-related groundwater recharge.

10. Plumbing. Pardee agrees to install ultra-low flow toilets at 1.28 gallons/flush throughout the Project.

11. Maximum Number of Dwelling Units. Pardee agrees that the Project's total number of dwelling units shall not exceed 4,862.

12. Solar Voltaic Systems. Pardee agrees to install solar voltaic systems (or the equivalent renewable energy generating technology) for multi-family residential developments of 18 units per acre or more with a common wall, throughout the Project consistent with City regulations. Such installation shall occur before a certificate of occupancy is issued for any such multi-family residential development.

13. Electric Vehicle Charging. Pardee agrees to install electric car charging stations in at least 3% of the parking spaces designated for commercial units and multi-family residential units throughout the Project consistent with City regulations. Pardee also agrees to install "plug slots" suitable for electric vehicle charging in the garages of all single-family residential units consistent with City regulations. Such installation shall occur before a certificate of occupancy is issued for any such multi-family residential units and commercial units.

14. Efficiency Standards. Pardee agrees that all developer-installed appliances throughout the Project shall be rated to meet or exceed Energy Star efficiency standards.

15. Ride Sharing Lot Request. Pardee agrees to request a ride sharing lot subject to the approval of the responsible transportation agencies including City. Pardee agrees to request a ride sharing lot within the Project before 1,000 units are built. Pardee will coordinate with the responsible transportation agencies, including seeking the necessary City approvals, if any, to determine the appropriate location, size and number of parking spaces and design for the ride sharing lot.

16. Transportation Coordination. Pardee agrees to coordinate with the Banning Pass Transit Agency, the Riverside Transit Agency, and the City for service within the Specific Plan area on future bus routes and scheduled bus service, which are based upon demand.

17. Resort's and CVAN's Non-Opposition to the Project.

17.1 Both the Resort and CVAN, including their principals and officers and agents, agree to all of the following:

(a) Not to object to or oppose, or to assist any other Party to object to or oppose: (1) the Project; (2) any application or request for any further Project approval, including but not limited to: tentative and final maps, verification of an adequate water supply, substantial conformance review, any additional regulatory approval, and any further review of the Project

under CEQA ("Project Approval"); (3) any minor modification or any non-substantive change to the Project ("Minor Modification"); and (4) any amendment of the Development Agreement or Specific Plan, as long as the land uses and development standards included in the amendment substantially conform to the Development Agreement and Specific Plan. Pardee shall provide Resort and CVAN with notice of any amendment to the Development Agreement, Specific Plan or Mitigation and Monitoring Program.

(b) Not to file, participate in, cooperate in (including transmittal of any concepts, legal theories or work product) or contribute money to any legal claim or action challenging the Project, any Project Approval, or any Minor Project Amendment, or otherwise to seek any other form of judicial relief regarding the Project.

17.2 As used in this Section, "Minor Modification" shall have the same definition as used in Section 10.4 of the Development Agreement. As used in this section, "substantially conforms" means that the changes to the Project would not: include industrial uses; an increase in the height limit; allow any uses identified as prohibited in the Butterfield Specific Plan or Development Agreement; or eliminate mitigation measures included in the mitigation monitoring and reporting program.

17.3 Resort and CVAN's right to object, oppose, or challenge any amendment to the Development Agreement or Specific Plan shall be limited to objecting to, opposing, or challenging only that feature or element of the change that does not substantially conform with the Project or is not a Minor Modification. In no event shall the Project, a Project Approval or Minor Modification give Petitioners any right to object to, oppose, or challenge any element or feature of the Project that falls within the approved Project.

17.4 In the event that any person or entity, in any forum, identifies themselves as a member of, representative of, or otherwise is known to be affiliated with the Resort or CVAN, and also objects to, opposes, or files any legal claim or action challenging the Project, contrary to this section (the "objector"), the Party with whom the objector identifies themselves, or with whom the objector is known to be a member of, representative of, or otherwise affiliated with, shall, within 5 business days following a request from Pardee or the City, make their best effort to provide a written disclaimer that such objector's objection, opposition or challenge is not representative of the Party's position. Failure to provide such disclaimer within 30 days after a request from Pardee or the City, to the extent it is required, shall constitute a breach of this Agreement.

17.5 The Resort and CVAN further agree each to file a letter of non-opposition to the Project with the Riverside County Superior Court which will have continuing jurisdiction over the Action, as provided in Sections 25-26 of this Agreement. The non-opposition letters will be signed by the Authorized Representative for the Resort and CVAN, respectively, as that term is defined in Section 23 of this Agreement. A copy of the form of both non-opposition letters is attached as Exhibit "F" to this Agreement.

17.6 Resort and CVAN agree to use their best efforts to remove from their websites and any social media pages or systems established or sponsored by them any existing objections or opposition to the Project, with the exception of archived press releases and other contemporaneous communications regarding the Project. In the event material(s) cannot be readily removed, Resort and CVAN will agree to post on their websites that they are no longer

opposed to the Project. Resort and CVAN further, agree not to post or add objections to the Project, Project Approvals or Minor Project Amendments to their websites and any social media pages or systems established or sponsored by Petitioners.

17.7 Pardee shall be entitled to enforce this Section 17 by specific performance. Any claim for breach of this provision shall be reviewable in Riverside County Superior Court for a determination of liability and damages and/or reformation of the Agreement which shall include: the right of Pardee and the City to forego any further performance of the terms to this Agreement not yet accomplished, immediate rescission of the Revocable License Agreement for access to portion of Lot 13 of recorded Tract No. 34330, removing the land use restriction on Lot 13 of recorded Tract No. 34330, and such other remedies as may be necessary and appropriate, including without limitation, injunctive and equitable relief. This provision will only apply if the breach is a contributing factor in substantially delaying or preventing future Project approvals, which shall include but not be limited to federal and state approvals, tentative and final map approvals, and infrastructure plans.

17.8 The Parties further acknowledge and agree that at the time that this Agreement is being entered into, it is difficult to ascertain the actual damages in the event of a breach. Because damages related to a breach of the non-opposition provision may be extremely difficult, if not entirely impracticable, to calculate, the Parties have agreed that there should be a liquidated damages amount that they believe would act as a minimum amount of awardable damages should a breach of the non-opposition provisions of this Agreement occur. The agreed to amount of liquidated damages is \$1,000 per occurrence. For purposes of calculating an occurrence, each day that a breach of the non-opposition provision continues, after notice of a breach is given and if it is not eliminated within 7 business days, it shall be counted as a new occurrence each and every following day thereafter. The Parties agree that this minimum amount of liquidated damages represents a reasonable endeavor by the Parties to ascertain what the actual damages would be. No actual damages need to be proved in order to recover liquidated damages.

17.9 Notwithstanding the foregoing, this section shall not prohibit the Resort or CVAN from taking such action as necessary to enforce the terms of this Agreement.

18. Confidentiality.

18.1 Except as provided herein, the Resort and CVAN, including their principals and officers, agree to keep confidential all written copies of this Agreement, including all negotiations leading thereto, all term sheets, and all prior drafts and versions of this Agreement. The Resort and CVAN further agree not to disseminate this Agreement or post it on their respective websites in any manner, whether in writing, or electronically (including, but not limited to internet/social media) by or through any agent, attorney, or other representative, including any attorney work product.

18.2 If a court order compels the production of this Agreement, the Parties agree to request that the Agreement be produced to the court only for *in camera* review and that it not made a public court record of any kind.

18.3 The Resort and CVAN further agree to expressly forbid, permanently and irrevocably, their counsel from commenting on the terms and contents of this Agreement and the negotiations leading thereto. The Resort and CVAN will require their counsel to maintain this Agreement, and the terms therein, completely confidential and will not permit their counsel to publicize or disclose the conditions, terms, or contents of this Agreement in any manner, whether in writing, electronically (including, but not limited to internet/social media) or orally, to any person (other than their representatives), unless compelled to do so by law provided that (i) the Party to whom any such legal process is directed promptly (and in no event later than 10 business days after receipt of such legal process) provides written notice and a copy of such legal process to the other parties and to their counsel in accordance with Section 29.10 below; and (ii) prior to the date established by such legal process for the requested disclosure or production, none of the Parties to this Agreement obtains an order from a court or other appropriate entity of competent jurisdiction which forbids all or a portion of the disclosure or production requested by such legal process or except as necessary to effectuate the terms of this Agreement.

18.4 If any third party or media entity inquires as to the existence of this Agreement, or its terms, conditions or contents, the Resort and CVAN shall respond only that the "matters have been resolved."

18.5 Pardee shall be entitled to enforce this Section 18 by specific performance. Any claim for breach of this provision shall be reviewable in Riverside County Superior Court for a determination of liability and damages. The Parties further acknowledge and agree that at the time that this Agreement is being entered into, it is difficult to ascertain the actual damages in the event of a breach. Because damages related to a breach of the confidentiality provision may be extremely difficult to calculate, if not entirely impracticable to calculate, the Parties have agreed that there should be a liquidated damages amount that they believe would act as a minimum amount of awardable damages should a breach of the confidentiality provision of this agreement occur. The agreed to amount of liquidated damages is \$500 per occurrence. For purposes of calculating an occurrence, each day that a breach of the confidentiality provision continues, after notice of a breach is given and if it is not eliminated within 7 business days of the notice to the party alleged to be in breach, it shall be counted as a new occurrence each and every following day thereafter. The Parties agree that this minimum amount of liquidated damages represents a reasonable endeavor by the Parties to ascertain what the actual damages would be. No actual damages need to be proved in order to recover liquidated damages.

19. City Approval. The City shall approve this Agreement by way of an agenda item on a public agenda at a regularly noticed City Council meeting in accordance with the Brown Act (Gov. Code, §§ 54950 et seq.), and shall provide copies of the Agreement in accordance therewith, and to persons requesting the Agreement in accordance with the California Public Records Act (Gov. Code, §§ 6250 et seq.)

20. Mutual Release of Claims.

20.1 Each Party to this Agreement hereby now and forever expressly releases and discharges the other Parties, their agents, servants, elected and appointed officials, employees, representatives, predecessors, successors, assigns, assignors, attorneys, and independent contractors, from any and all claims, demands, disputes, controversies, causes of action, damages, rights, liabilities, obligations, costs, and expenses, if any, of whatever character and nature arising under federal, state or local laws, regulations, or ordinances, or arising in equity,

known or unknown, suspected or unsuspected, arising out of or related to the Action ("Release"). The Release set forth above in this section is a release of ALL claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are described in the Release and is intended to encompass all known and unknown, foreseen and unforeseen claims which the Parties may have as a result of the Action, except for any claims which may arise from the terms of this Agreement and any default occurring after the Effective Date (defined below). Nothing herein shall be construed as waiving or limiting any Party's right to enforce the terms of this Agreement occurring on or after the Effective Date.

20.2 Said Release does not include claims arising from Project build out for any alleged physical property damage, wrongful death or any other personal injury or harm, loss of business or business profits, or emotional distress.

21. Effect of Release; Unknown Claim. The foregoing mutual releases shall be self-executing upon execution of this Agreement and shall extend to all claims, including those that the Parties do not presently know or suspect exist related to the Action. Thus, with respect to the claims that are the subject of the mutual releases set forth in this Agreement, the Parties expressly waive their rights under California Civil Code section 1542, which provides:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

The Parties having read and understood Civil Code section 1542, expressly waive and relinquish all rights and benefits afforded by Civil Code section 1542 as it relates to the matters raised in the Action only and do so understanding and acknowledging the significance of this specific waiver.

22. Principals or Officers. To the Parties' enforcement of the terms and conditions of this Agreement, Pardee, the Resort, and CVAN each shall provide the names of each Party's principals or officers and such persons shall be listed in Exhibit "G" to this Agreement. In the event there is a change in Pardee's, the Resort's, or CVAN's principals or officers, such Party shall provide written notification of any new principal or officer to all other Parties within 30 days of a written request by a Party to do so.

23. Authorized Representative. Each Party shall designate a person who is authorized to represent that Party for all purposes under this Agreement ("Authorized Representative"), and Exhibit "H" to this Agreement shall include the name, mailing address, email address, and telephone number of each Party's Authorized Representative. The Resort's Authorized Representative may be one of the persons identified on Exhibit "G". In the event the designated person is no longer authorized to represent the Party, the Party shall provide written notification of a new designee to all other Parties within 30 days of any change pursuant to Section 29.10 of this Agreement.

24. Dispute Resolution. Any controversies, disputes or claims relating to the interpretation or enforcement of any material provision or respective rights, duties or obligations of the Parties under this Agreement shall be subject to written notification to the Party or Parties alleged to have breached this Agreement. The Party in alleged breach shall have 90 days to cure or address the alleged issue. If, at the end of the 90-day period, the Party claiming a breach does not believe the issue or issues are resolved, the Parties shall have the right to extend the cure period. Alternatively, if there is no agreement to extend this period, the aggrieved Party may seek to resolve the matter through mediation using an agreed upon mediator. If, after 120 days, the Parties are unable to resolve the dispute, only then may the aggrieved Party seek judicial relief. A waiver of a breach, failure of condition, or any right or remedy contained in or granted by the provisions of this Agreement is effective only if it is in writing and signed by the Party waiving the breach, failure, right, or remedy.

25. Stipulated Judgment (Dismissal of the Action).

25.1 The Parties agree that the terms of this Agreement, and only the terms of this Agreement, shall constitute the terms of a Stipulated Judgment to be entered in the Action. Within 10 days of the Effective Date, as defined in Section 28 below, the Parties further agree to petition the Riverside County Superior Court jointly for entry of a Stipulated Judgment that is substantially in conformity with the [Proposed] Stipulated Judgment and Order attached as Exhibit "T" to this Agreement. The Stipulated Judgment shall provide that the Action be dismissed with prejudice, and shall provide for the continuing and exclusive jurisdiction of the presiding trial court judge in the Action, Riverside Superior Court Judge Daniel A. Ottolia, with respect to the future performance of the terms of this Agreement pursuant to Code of Civil Procedure section 664.6. (*Wackeen v. Malis* (2002) 97 Cal.App.4th 429, 439-440.) In the event Judge Ottolia is unavailable, the Court shall appoint another Riverside County Superior Court judge who has been appointed to preside over CEQA cases. Counsel for Pardee will coordinate the filing of the [Proposed] Stipulated Judgment and Order and will make available conformed copies to the Resort and CVAN within 3 days of filing. If the court does not enter a stipulated judgment dismissing the Action in substantial conformity with this Agreement, this Agreement shall have no force and effect.

25.2 No Party shall be entitled to file a motion in the Resort Action or CVAN Action pursuant to Code of Civil Procedure section 664.6, except to seek enforcement of the Stipulated Judgment and only after the Party has complied with the dispute resolution provisions provided in Section 24 of this Agreement.

26. Judicial Enforcement of Judgment. The Riverside County Superior Court shall retain jurisdiction to enforce this Agreement under Code of Civil Procedure section 664.6.

27. Compliance with All Laws. Nothing in this Agreement shall be construed to constrain or limit the City's ability to comply with the law, including but not limited to the California Public Records Act.

28. Effective Date. This Agreement is conditioned upon and will take effect only upon approval by each of the Parties, demonstrated by their respective signatures to this Agreement. The date the last of these events occurs constitutes the "Effective Date" of this Agreement.

29. General Provisions.

29.1 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the Parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

29.2 Assistance of Counsel. The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective counsel prior to executing this Agreement concerning its terms and conditions.

29.3 Authority to Sign. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized by law and existing; (ii) the signatories are duly authorized to execute and deliver this Agreement on behalf of said Party and to bind that Party, including its directors, officers, members, managers, agents, successors and assigns; (iii) by so executing this Agreement, such Party is formally bound to its provisions; and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

29.4 Counterparts. This Agreement may be executed in counterparts, including the execution of facsimile, or e-mail portable document format ("PDF") copies, and the exchange of signatures by facsimile, or e-mail PDF, with the same effect as if all original signatures were placed on one document, and which, when taken together, will constitute one original agreement.

29.5 Enforcement Costs. Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that Party may be entitled. As used herein, the "prevailing party" shall be the party determined as such by a court of law pursuant to the definition in Code of Civil Procedure section 1032 (a)(4), as it may be subsequently amended.

29.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties that have executed it, and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the Parties to this Agreement for the Action. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or by anyone acting on their behalf, which are not embodied in this Agreement, that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty, and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding, unless executed in writing by all of the Parties to this Agreement.

29.7 Governing Law and Venue. This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said state without giving effect to conflicts of laws principles. Venue for any action to enforce any claim under this Agreement shall lie solely and exclusively in Riverside County Superior Court, located at 4050 Main Street in Riverside, California.

29.8 Headings. Headings at the beginning of each numbered section of this Agreement are solely for the convenience of the Parties and are not a substantive part of this Agreement.

29.9 Non-Admission of Liability. The Parties acknowledge and agree that this Agreement is a settlement of disputed claims. Neither the fact that the Parties have settled nor the terms of this Agreement shall be construed in any manner as an admission of any liability by any Party hereto, or any of its employees, or an affiliated person(s) or entity/ies.

29.10 Notices. Any notice, demand, request, document, consent, approval, or communication that any Party to this Agreement desires or is required to give to the other Parties or any other person or entity regarding this Agreement shall be in writing and either served personally or sent by prepaid, certified first-class mail, with the exception that attorneys may be notified by electronic mail as indicated below to:

To: PARDEE

Mike Taylor
Division President of Inland Empire
Pardee Homes
2120 Park Place, Suite 120
El Segundo, CA 90245
mike.taylor@pardeehomes.com

With a copy to:

Chris Hallman, General Counsel
Pardee Homes
2120 Park Place, Suite 120
El Segundo, CA 90245
chris.hallman@pardeehomes.com

To: CVAN

Cherry Valley Pass Acres & Neighbors
P.O. Box 3257
Beaumont, CA 92223-1204
ATTN: Ms. Patsy Reeley

With a copy to:

Robert C. Goodman, Esq.
D. Kevin Shipp, Esq.
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104
rgoodman@rjo.com
kshipp@rjo.com

To: CITY

City Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

With a copy to:

David J. Aleshire, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
daleshire@awattorneys.com

To: RESORT

Tina Kummerle
President, Highland Springs Resort
10600 Highland Springs Avenue
Beaumont, CA 92223
tina.k@hsresort.com

With a copy to:

Douglas P. Carstens, Esq.
Amy Minter, Esq.
CHATTEN-BROWN & CARSTENS
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
acm@cbcearthlaw.com
dpc@cbcearthlaw.com

To: CVEPG

Cherry Valley Environmental Planning Group
10065 Frontier Trail
Cherry Valley, CA 92223
ATTN: Mr. Patrick Doherty

With a copy to:

Robert C. Goodman, Esq.
D. Kevin Shipp, Esq.
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104
rgoodman@rjo.com
kshipp@rjo.com

29.11 Recitals. The Recitals set forth in the beginning of this Agreement are hereby incorporated into the terms of the Agreement as though set forth in full herein.

29.12 Severability. Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

29.13 Singular and Plural. Whenever required by the context, as used in this Agreement, the singular shall include the plural, and the masculine gender shall include the feminine and the neuter, and the feminine gender shall include the masculine and the neuter.

29.14 Successors and Assigns. This Agreement and all terms and provisions shall inure to the benefit of and be binding upon the heirs, legal representatives, successors, assignees and delegates of the parties hereto. Any heir, legal representative, successor, assignee or delegate shall be fully bound by each and every applicable term and condition of this Agreement, as though a signatory thereto.

29.15 Waiver. Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

List of Attachments:

- A: Parties' Letter in Support of County Amending General Plan
- B: Restrictive Covenant on Lot 13 of recorded Tract No. 34330
- C: Proposed Resort Deed - Legal Description
- D: Proposed Resort Deed -- Graphic Depiction
- E: Revocable License Agreement
- F: Letter of Non-Opposition from the Resort, CVAN and CVPEG to the Court
- G: Parties' Officers or Principals
- H: Authorized Representatives and Contact Information
- I: [Proposed] Stipulated Judgment

[SIGNATURE PAGES FOLLOW]

PARDEE HOMES

Date: _____

By: _____
Name: ~~Mike Taylor~~ *TAM MATHEN*
Title: ~~Division~~ President of ~~Inland Empire~~
Pardee Homes

CITY OF BANNING

Date: _____

By: _____
Name: _____
Title: _____

HIGHLAND SPRINGS RESORT

Date: _____

By: _____
Name: Tina Kummerle
Title: President

CHERRY VALLEY PASS ACRES AND
NEIGHBORS

Date: _____

By: _____
Name: Patsy Reeley
Title: President

CHERRY VALLEY ENVIRONMENTAL
PLANNING GROUP

Date: _____

By: _____
Name: Patrick Doherty
Title: President

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PARDEE HOMES

Date: _____

By: _____
Name: Mike Taylor
Title: Division President of Inland Empire

CITY OF BANNING

Date: _____

By: _____
Name: _____
Title: _____

HIGHLAND SPRINGS RESORT

Date: _____

By: Tina Kummerle
Name: Tina Kummerle
Title: President

CHERRY VALLEY PASS ACRES AND
NEIGHBORS

Date: _____

By: _____
Name: Patsy Reeley
Title: President

CHERRY VALLEY ENVIRONMENTAL
PLANNING GROUP

Date: _____

By: _____
Name: Patrick Doherty
Title: President

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PARDEE HOMES

Date: _____

By: _____
Name: Mike Taylor
Title: Division President of Inland Empire

CITY OF BANNING

Date: _____

By: _____
Name: _____
Title: _____

HIGHLAND SPRINGS RESORT

Date: _____

By: _____
Name: Tina Kummerle
Title: President

CHERRY VALLEY PASS ACRES AND
NEIGHBORS

Date: November 3, 2014

By: Patsy Reiley
Name: Patsy Reiley
Title: President

CHERRY VALLEY ENVIRONMENTAL
PLANNING GROUP

Date: November 3, 2014

By: Patrick Doherty
Name: Patrick Doherty
Title: President

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EXHIBIT A

Parties' Letter in Support of County Amending General Plan

November ____, 2014

Via U.S. Mail and E-mail (klovelad@rcitlma.org)

Kristi Lovelady, Principal Planner
County of Riverside
4080 Lemon Street, 12th Floor
Riverside, CA 92501

Re: General Plan Amendment No. 960
Removal of Extension Cherry Valley Boulevard from Circulation Element

Dear Ms. Lovelady,

On behalf of the Highland Springs Resort, Cherry Valley Pass Acres and Neighbors, the Cherry Valley Environmental Planning Group, and Pardee Homes, we submit these comments on General Plan Amendment No. 960 to request the removal of the extension of Cherry Valley Boulevard east of Highland Springs Avenue to Wilson Street from the Circulation Element of the County General Plan.

The Highland Springs Resort is located in the community of Cherry Valley, within the Pass Area of the County's General Plan. The resort is "a popular conference retreat with a picturesque lodge and convenient connections to surrounding natural features via trail systems." (General Plan Amendment No. 690, Pass Area Plan, p. 9.) Cherry Valley Acres and Neighbors and the Cherry Valley Environmental Planning Group are citizens groups dedicated to preserving the environmental values and unique character of Cherry Valley. As described in the Pass Area Plan, Cherry Valley is a rural community characterized by charming orchards, large-lot residential, agricultural and animal-keeping uses. (General Plan Amendment No. 690, Pass Area Plan, pp. 8-9.) To retain the rural charm, the County LAFCO has designated Cherry Valley as an unincorporated community.

On March 27, 2012, the City of Banning approved Pardee Homes' application for the Butterfield Specific Plan. The Butterfield Specific Plan authorizes 5,387 new residences, parks, schools, commercial uses, and open space on 1,522 acres of undeveloped land located in the northern portion of the City of Banning, east of Highland Springs Avenue. The Specific Plan area is adjacent to the community of Cherry Valley and the Resort's property. The environmental review conducted for the Specific Plan determined that the circulation system approved by the City would satisfy City and County traffic standards, without requiring the future extension of Cherry Valley Boulevard depicted in the Circulation Element. Since its 2012 approval, Pardee Homes has agreed to reduce the number of dwelling units planned for this site to 4,862 units, and remove the proposed golf course from

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Ms. Kristi Lovelady
November __, 2014
Page 2

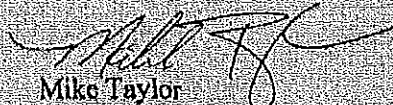
the project. Given that the City's traffic analyses had already determined that the future extension of Cherry Valley Boulevard was unnecessary, even with 5,387 homes and the golf course, these reductions ensure that the Specific Plan area will be adequately served without the need for extension of Cherry Valley Boulevard. Further, the circulation system and development plan that was approved for the Specific Plan eliminated the Highland Home Road extension to Brookside Avenue, and re-configured traffic through the center of the Specific Plan area, making the extension of Cherry Valley Boulevard unnecessary to the Butterfield Specific Plan development.

In addition, further development in the area is constrained by land use restrictions, agricultural easements, and the San Bernardino National Forest. Accordingly, the Highland Springs Resort, Cherry Valley Acres and Neighbors, Cherry Valley Environmental Planning Group, and Pardee Homes all respectfully request that the County remove the future extension of Cherry Valley Boulevard between Highland Springs Avenue and Wilson Street from the Circulation Element of the Riverside County General Plan.

Sincerely,



Tina Kummerle
President
Highland Springs Resort



Mike Taylor
Division President of Inland Empire
Pardee Homes

Patrick Doherty
President
Cherry Valley Environmental Planning Group

Patsy Reelcy
President
Cherry Valley Pass Acres and Neighbors

EXHIBIT B

**Restrictive Covenant on Lot 13 of recorded
Tract No. 34330**

RECORDING REQUESTED BY
Brownstein Hyatt Farber Schreck, LLP

AND WHEN RECORDED, RETURN TO:
Diane De Felice, Esq.
Brownstein Hyatt Farber Schreck, LLP
2049 Century Park East, Suite 3550
Los Angeles, CA 90067-3007
Telephone (310) 500-4600

THIS SPACE RESERVED FOR RECORDER ONLY
(Gov. Code § 27361.6)

RESTRICTIVE COVENANT

This RESTRICTIVE COVENANT (this **Covenant**) is made this _____ day of _____, _____ by Pardee Homes, a California corporation (the **Grantor**), in favor of Highland Springs Resort, a corporation organized under the laws of the State of California. The legal name of the entity is Highland Springs Conference and Training Center, which is doing business as (dba) "Highland Springs Resort," "123 Farm," and "Highland Springs Conference and Training Center" (hereinafter the **Grantee**).

RECITALS

WHEREAS, Grantor received approval from the City of Banning (the **City**) for a master planned community with residential and commercial development situated on a total of approximately 1,543 acres in the City of Banning, State of California which is sometimes known and referred to as the Butterfield Specific Plan Area and is described with specificity in attached Exhibit A and is depicted graphically in attached Exhibit B (the **Development**).

WHEREAS, Grantee owns a commercial resort operation on approximately 2,400 acres of land, some of which are adjacent to and adjoin the Development, and is described with specificity in attached Exhibit C and is depicted graphically in attached Exhibit D (the **Resort**).

WHEREAS, Grantee filed a lawsuit against the City [*Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No RIC1206246, Consolidated with Case No. RIC 1206271)] challenging the City's approval of the Development on the grounds that the Environmental Impact Report for the Development failed to consider and address certain significant adverse impacts as required by the California Environmental Quality Act (the **CEQA Litigation**).

WHEREAS, rather than engaging in protracted adversarial proceedings, Grantor and Grantee agreed to settle the CEQA Litigation by, among other things, Grantor's grant of this Covenant over certain portions of the Development, which areas are described with specificity in attached Exhibit E and are depicted graphically in attached Exhibit F (the **Restricted Property**).

WHEREAS, this Covenant is Grantor's agreement to have no structural development on the Restricted Property except as provided in the terms hereinafter.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor covenants and agrees and Grantee accepts as follows:

1. Covenant. Except as otherwise provided in Paragraph 4 below, Grantor covenants and agrees to maintain the Restricted Property in an open, natural and scenic condition with passive use recreational amenities (the **Property Attributes**). This Covenant is intended to be a covenant running with the land under California Civil Code section 1460 et seq.

2. Reserved Rights. Grantor reserves to itself, and to its successors and assigns, all rights accruing from its ownership of the Restricted Property, including the right to perform any act not specifically prohibited or limited by this Covenant and including the right to use the Restricted Property to meet any open space or similar requirements imposed on Grantor by the County, provided such acts do not substantially diminish or impair the Property Attributes of the Restricted Property. Further, Grantor specifically reserves the right to construct certain utility infrastructure and other appurtenances as specifically set forth in Paragraph 4. Grantor's reserved ownership rights which include, but are not limited to, the right to exclude any member of the public from trespassing on the Restricted Property, the right to honor existing easements across the Restricted Property, the right to grant underground utility easements and the right to engage in or permit or invite others to engage in all uses of the Restricted Property that are not expressly prohibited or restricted herein and that do not substantially diminish or impair the Restricted Property's Property Attributes. Without limiting the generality of the foregoing, Grantor also reserves the right to engage in all activities which a landowner is entitled, including its' interest in underlying mineral and water rights, and oil, gas, and other hydrocarbon substances, as well as any recreational activities, all of which are to be enjoyed solely by the Grantor, its successors and assigns and their licensees and permittees, so long as they are undertaken in compliance with applicable state and federal laws and regulations and pursued in a manner that does not substantially diminish or impair the Property Attributes of the Restricted Property. Grantor hereby reserves the right to transfer development rights from the Restricted Property to any other portion of the Development (other than the Restricted Property). Additionally, the Restricted Property may be used for the purpose of calculating permissible development density and/or open space/recreational use credits for the Development generally.

3. Prohibited Acts. Any activity on or use of the Restricted Property inconsistent with the purpose of this Covenant, subject to the provisions of Paragraph 4 below, is expressly prohibited.

4. Permitted Acts. Notwithstanding anything herein to the contrary, Grantor may make the following uses of and improvements to the Restricted Property:

(a) Water Storage Tanks. Grantor may construct on the Restricted Property water storage tanks and public utility facilities as described in the Butterfield Specific Plan. In the event of any contradiction between the terms and provisions of this Covenant and the Butterfield Specific Plan as to public utility and/or infrastructure improvements that exist or to be constructed in the Restricted Property, the terms and provisions of the Butterfield Specific Plan shall supersede and control. Grantor shall use its best efforts to locate the water tanks at the approximate latitude of 33.96 north and longitude of 116.93 west, provided that this location meets the City's engineering requirements for the adequate functioning of the water tanks, which determination is subject to confirmation by the City's engineers. In the event that either regulations, geologic features or other limiting factors prohibit placing the water tanks in the identified location, Grantor shall locate the water tanks in the closest feasible location. If more than one alternative location is feasible, preference shall be given to the site that is the farthest north, provided that the costs for construction and operation of the tanks do not significantly exceed that of a site located elsewhere. The City retains authority to make the final decision on tank siting which may be based on factors of utility for the intended purpose and cost.

(b) Fire Station. Grantor may construct a fire station at the southeast corner of the Restricted Property as contemplated under the Butterfield Specific Plan.

(c) Service Roads. Grantor may construct and/or reconstruct service roads in and across the Restricted Property as necessary or appropriate to access the water storage tanks and public utility facilities, the exact location of which shall be at Grantor's sole discretion.

(d) Utilities. Standard utilities, including water, sewer, gas, as well as road access, are needed to serve the water tanks and fire station.

(e) Power Lines. The existing power transmission lines that cross the Restricted Property may remain and/or be relocated on the Restricted Property. New, above-ground power lines may be erected to serve the tanks and fire station.

(f) Drainage Facilities. Grantor may construct detention basins and other drainage and debris facilities on the Restricted Property as contemplated under the Butterfield Specific Plan.

(g) Landscaping/Irrigation. Grantor anticipates infrastructure will include surrounding landscaping which will include irrigation facilities, and other necessary irrigation as contemplated under the Butterfield Specific Plan.

5. Rights of Grantee. To accomplish the purpose of this Covenant, the following rights are hereby conveyed to Grantee:

(a) To enforce the terms of this Covenant to preserve and protect the Property Attributes of the Restricted Property;

(b) To enter upon the Restricted Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Covenant; provided that, except in cases of emergency, such entry shall be upon not less than five (5) day prior written notice to Grantor, in which event Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Restricted Property; and

(c) To prevent any activity on or use of the Restricted Property that is inconsistent with the purpose of this Covenant.

6. Enforcement. If Grantee believes a violation of this Covenant has occurred, Grantee shall notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either: (a) diligently work to restore the Restricted Property to its condition prior to the violation; or (b) provide a written explanation to Grantee of the reason why the alleged violation should be permitted. If clause (b) above is applicable, the Parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting or within ninety (90) days of written notification of a potential violation, the parties agree to meet with a mediator to attempt to resolve the dispute pursuant to Paragraph 7 of this Covenant below.

(a) Costs. Should any legal action be required to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled. As used herein, the "prevailing party" shall be the party determined as such by a court of law pursuant to the definition in Code of Civil Procedure section 1032 (a)(4), as it may be subsequently amended.

(b) Acts Beyond Grantor's Control. Nothing contained in this Covenant shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Restricted Property resulting from causes beyond Grantor's control or force majeure events, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Restricted Property or to any person resulting from such causes.

7. Dispute Resolution. Any controversies, disputes or claims relating to the interpretation or enforcement of any material provision or respective rights, duties or obligations of the Parties under this Agreement shall be subject to written notification to the party or parties alleged to have breached this Agreement. The party in alleged breach shall have ninety (90) days to cure or address the alleged issue. If, at the end of the 90-day period, the party claiming a breach does not believe the issue or issues are

resolved, the parties shall have the right to extend the cure period. Alternatively, if there is no agreement to extend this period, the aggrieved party may seek to resolve the matter through mediation using an agreed upon mediator. The parties will split the costs for mediation services. If, after one hundred and twenty (120) days, the parties are unable to resolve the dispute, only then may the aggrieved party seek judicial relief. A waiver of a breach, failure of condition, or any right or remedy contained in or granted by the provisions of this Agreement is effective only if it is in writing and signed by the party waiving the breach, failure, right, or remedy.

8. Transfer of Restricted Property. Grantor shall have the right to convey the Restricted Property subject to the terms of this Covenant and assign its rights and obligations under this Covenant to such transferee, provided such transferee expressly agrees to assume the responsibility imposed on Grantor by this Covenant.

9. Perpetual Duration. The restrictions and obligations created by this Covenant shall be a servitude running with the Restricted Property in perpetuity. Every provision of this Covenant that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear; provided, however, (i) that either party's rights and obligations under this Covenant shall terminate (as to such party, but not as to such party's successor, who shall be bound as provided herein) upon a transfer of such party's entire interest in this Covenant or the Restricted Property, except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer; and (ii) Grantee's rights hereunder are indivisible and may only be assigned to a single person, entity or association, and in no event shall Grantor be responsible and/or liable hereunder to more than one person, entity or association.

10. Notices. Any notices required by this Covenant shall be in writing and shall be personally delivered to or sent by certified mail, return receipt requested, to Grantor and Grantee respectively at the following addresses, unless a party has been notified by the other of a change of address:

Grantor:

Pardee Homes
Attention: Chris Hallman, General Counsel
2120 Park Place, Suite 120
El Segundo, CA 90245

With a copy to:

Brownstein Hyatt Farber Schreck, LLP
Attention: Diane C. De Felice, Esq.
2049 Century Park East, Suite 3550
Los Angeles, CA 90067-3007
ddefelice@bhfs.com

Grantee: Highland Springs Resort
Attention: Tina Kummerle, President
Highland Springs Resort
10600 Highland Springs Avenue
Beaumont, CA 92223

With a copy to:

Douglas P. Carstens, Esq.
Amy Minter, Esq.
CHATTEN-BROWN & CARSTENS
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
acm@cbcearthlaw.com
dpc@cbcearthlaw.com

11. Recording. This Covenant shall be recorded by Grantor in the Official Records of the County of Riverside, State of California.

12. Acceptance. Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Covenant.

13. General Provisions.

(a) Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against any of the Parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

(b) Amendment. If the circumstances arise under which an amendment to or modification of this Covenant would be appropriate, Grantor and Grantee are free to jointly amend this Covenant. Any amendment must be in writing, signed by both parties, and recorded in the Official Records of the Recorder of Riverside County, California.

(c) Assistance of Counsel. The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective counsel prior to executing this Agreement concerning its terms and conditions.

(d) Authority to Sign. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such party is duly organized by law and existing; (ii) the signatories are duly authorized to execute and deliver this Agreement on behalf of said party and to bind that party, including its directors, officers, members, managers, agents, successors and assigns; (iii) by so executing this Agreement, such party is

formally bound to its provisions; and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

(e) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(f) Change of Conditions. A change in the potential economic value of any use that is prohibited by or inconsistent with this Covenant, or a change in any current or future uses of neighboring properties, shall not constitute a change in conditions that makes it impossible or impractical for continued use of the Restricted Property for open space purposes and shall not constitute grounds for terminating the Covenant.

(g) Counterparts. This Agreement may be executed in counterparts, including the execution of facsimile, or e-mail portable document format ("PDF") copies, and the exchange of signatures by facsimile, or e-mail PDF, with the same effect as if all original signatures were placed on one document, and which, when taken together, will constitute one original agreement.

(h) Governing Law and Venue. This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed under the laws of said state without giving effect to conflicts of laws principles. Venue for any action to enforce any claim under this Agreement shall lie solely and exclusively in Riverside County Superior Court, located at 4050 Main Street in Riverside, California.

(i) Joint Obligations. If more than one owner owns the Restricted Property at any time, the obligations imposed by this Covenant upon Grantor shall be joint and several.

(j) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(k) Non-Merger. No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Covenant or the Restricted Property.

(l) Recitals. The Recitals set forth in the beginning of this Agreement are hereby incorporated into the terms of the Agreement as though set forth in full herein.

(m) Severability. Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

(n) Successors. The covenants, terms, conditions, and restrictions of this Covenant shall be binding upon, and inure to the benefit of, the parties hereto, and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Restricted Property.

(o) Termination of Rights and Obligations. Although this Covenant shall survive any transfer of the Restricted Property, a party's rights and obligations under this Covenant terminate upon transfer of the party's interest in the Covenant or Restricted Property, except for liability for acts or omissions occurring prior to transfer shall survive transfer.

IN WITNESS WHEREOF, Grantor, intending to legally bind itself, has set its hand on the date first written above.

GRANTOR:

Pardee Homes

GRANTEE:

Highland Springs Resort

By: [Signature]
Name: Mr. M. D. Allen
Title: Pardee Homes

By: _____
Name: _____
Title: _____

ATTACHMENTS:

Exhibit A – Butterfield Specific Plan Area – Legal Description

Exhibit B – Butterfield Specific Plan Area – Graphic Depiction

Exhibit C – Highland Springs Resort – Legal Description

Exhibit D – Highland Springs Resort – Graphic Depiction

Exhibit E – Restricted Property – Legal Description

Exhibit F – Restricted Property– Graphic Depiction

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IN WITNESS WHEREOF, Grantor, intending to legally bind itself, has set its hand on the date first written above.

GRANTOR:

Pardee Homes

By: _____
Name: M. D. KEL
Title: Pardee Homes

GRANTEE:

Highland Springs Resort

By: _____
Name: _____
Title: _____

ATTACHMENTS:

- Exhibit A – Butterfield Specific Plan Area – Legal Description
- Exhibit B – Butterfield Specific Plan Area – Graphic Depiction
- Exhibit C – Highland Springs Resort – Legal Description
- Exhibit D – Highland Springs Resort – Graphic Depiction
- Exhibit E – Restricted Property – Legal Description
- Exhibit F – Restricted Property – Graphic Depiction

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(o) Termination of Rights and Obligations. Although this Covenant shall survive any transfer of the Restricted Property, a party's rights and obligations under this Covenant terminate upon transfer of the party's interest in the Covenant or Restricted Property, except for liability for acts or omissions occurring prior to transfer shall survive transfer.

IN WITNESS WHEREOF, Grantor, intending to legally bind itself, has set its hand on the date first written above.

GRANTOR:

Pardee Homes

GRANTEE:

Highland Springs Resort

By: _____
Name: _____
Title: _____

By: A K C
Name: Tina Kummelle
Title: President

ATTACHMENTS:

Exhibit A – Butterfield Specific Plan Area – Legal Description

Exhibit B – Butterfield Specific Plan Area – Graphic Depiction

Exhibit C – Highland Springs Resort – Legal Description

Exhibit D – Highland Springs Resort – Graphic Depiction

Exhibit E – Restricted Property – Legal Description

Exhibit F – Restricted Property– Graphic Depiction

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EXHIBIT A

RESTRICTIVE COVENANT

355

EXHIBIT "A"

LEGAL DESCRIPTION

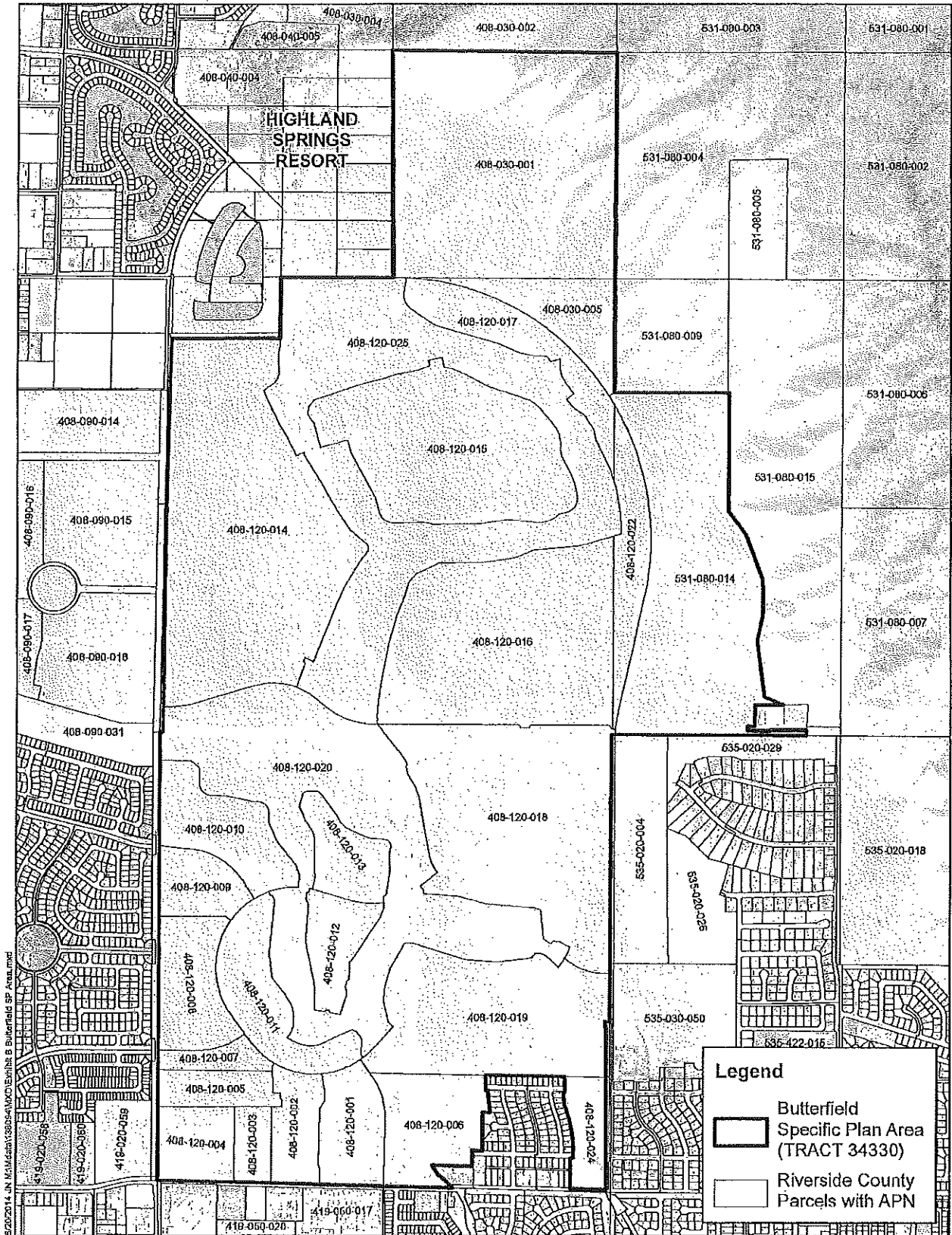
BUTTERFIELD SPECIFIC PLAN AREA

ALL OF TRACT NO. 34330 IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AS SHOWN ON THE MAP FILED IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY, CALIFORNIA.

EXHIBIT B

RESTRICTIVE COVENANT

357



5/20/2014 J:\N\MapData\138D54\W07\Exhibit B Butterfield SP Area.mxd



Source: Riverside County GIS, Eagle Aerial 2013

Butterfield Specific Plan Area - Graphic Depiction

TRACT NO. 34330

Exhibit B
RESTRICTIVE COVENANT

358

EXHIBIT C

RESTRICTIVE COVENANT

359

EXHIBIT "C"

LEGAL DESCRIPTION

HIGHLAND SPRINGS RESORT

PARCEL 1:

THOSE PORTIONS OF LOTS 19 AND 20 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF OVERLAND TRAIL (LOT J) NORTHEASTERLY OF THE NORTHEASTERLY LINE OF CHERRY VALLEY BLVD. (LOT S), AS SHOWN BY MAP OF TRACT NO. 4636-1 ON FILE IN BOOK 77, PAGES 90 THROUGH 98 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL 2:

LOTS 25, 26, 27, 28, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 AND 62 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THAT PORTION OF LOTS 25 AND 26 LYING WITHIN TRACT 14209-1 AS PER MAP RECORDED IN BOOK 133, PAGES 33 THROUGH 38 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THAT PORTION OF LOTS 27, 28, 39, 40 AND 41 LYING SOUTHWEST OF THE FOLLOWING DESCRIBED LINE.

BEGINNING AT THE CENTERLINE INTERSECTION OF CHERRY VALLEY BOULEVARD AND HIGHLAND SPRINGS AVENUE AS SHOWN ON MAP OF TRACT 4636-1 IN BOOK 11, PAGES 90 TO 98 INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 46°25'52" EAST, 1,781.43 FEET TO A POINT ON THE EAST LINE OF LOT 39 IN SAID GLEN EYRIE TRACT, SAID POINT BEING THE SOUTHEAST TERMINUS OF SAID LINE BEING DESCRIBED.

PARCEL 3:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS;

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 25;

THENCE NORTH 89°42'00" EAST, 543.90 FEET ON THE EAST AND WEST CENTERLINE OF SAID SECTION, SAID LINE BEING THE NORTH LINE OF LOT 25 OF GLEN EYRIE HEIGHTS, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER TO THE SOUTHWEST CORNER OF THAT CERTAIN UN-NUMBERED LOT LYING NORTH AND WEST OF LOT 61 OF SAID GLEN EYRIE HEIGHTS;

THENCE NORTH 28°43'00" EAST, 385.93 FEET ON THE WEST LINE OF SAID UN-NUMBERED LOT TO AN ANGLE POINT THEREON;

THENCE SOUTH 39°00'00" WEST 9.98 FEET;

THENCE SOUTH 89°42'00" WEST, 812.20 FEET TO THE WEST LINE OF SAID SECTION 25;

THENCE SOUTH 01°53'00" WEST, 330.00 FEET ON SAID WEST LINE TO THE POINT OF BEGINNING.

PARCEL 4:

THAT PORTION OF GLEN EYRIE HEIGHTS IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING NORTH AND WEST OF LOT 61 OF SAID GLEN EYRIE HEIGHTS AND SHOWN AS AN UN-NUMBERED LOT.

EXCEPT THAT PORTION DESCRIBED BY DEED TO THE GLEN EYRIE MUTUAL WATER COMPANY, A CORPORATION, RECORDED JULY 30, 1934 IN BOOK 181, PAGE 407 OF OFFICIAL RECORDS.

PARCEL 5:

THAT PORTION OF THAT CERTAIN UNNUMBERED LOT LYING NORTH OF LOT 61 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 16 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

THENCE SOUTH 52°38'10" EAST 140.00 FEET;

THENCE SOUTH 37°21'50" WEST, 100.00 FEET;

THENCE SOUTH 81°40'00" EAST, 90.14 FEET;

THENCE NORTH 02°00'00" WEST, 89.92 FEET;

THENCE NORTH 52°38'10" WEST, 85.00 FEET;

THENCE NORTH 37°21'50" EAST, 95.00 FEET;

THENCE SOUTH 52°38'10" EAST, 65.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT ANY PORTION INCLUDED WITHIN THE BOUNDARIES OF GLEN EYRIE HEIGHTS AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THAT PORTION DESCRIBED BY DEED TO THE GLEN EYRIE MUTUAL WATER COMPANY, A CORPORATION, RECORDED JULY 30, 1934 IN BOOK 181, PAGE 407 OF OFFICIAL RECORDS.

PARCEL 7:

GOVERNMENT LOTS 1, 2, 3 AND 4 IN THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL 8:

THE NORTHWEST QUARTER, THE NORTH-HALF OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE WEST-HALF OF THE NORTHEAST QUARTER, THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER EXCEPT THE NORTHEAST QUARTER OF THE NORTHEAST OF SAID SOUTHEAST QUARTER, ALL OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXHIBIT D

RESTRICTIVE COVENANT

363

EXHIBIT E

RESTRICTIVE COVENANT

365

EXHIBIT "E"

LEGAL DESCRIPTION RESTRICTED PROPERTY

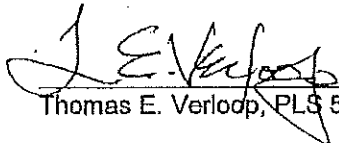
In the City of Banning, County of Riverside, State of California, being Lot 13 of Tract No. 34330 as shown on the map recorded in Book 429, Pages 84 through 103, inclusive of Maps in the Office of the County Recorder of said Riverside County, California and lying within Sections 25 and 36, Township 2 South, Range 1 West, San Bernardino Meridian.

EXCEPTING therefrom the southerly 50.00 feet.

CONTAINING: 180.96 acres, more or less.

EXHIBIT "F" attached hereto and by this reference made a part hereof.

This description was prepared
by me or under my direction.


Thomas E. Verloop, PLS 5348

Date: 10/23/2014

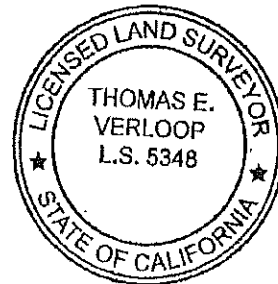


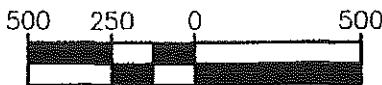
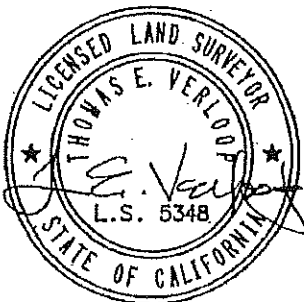
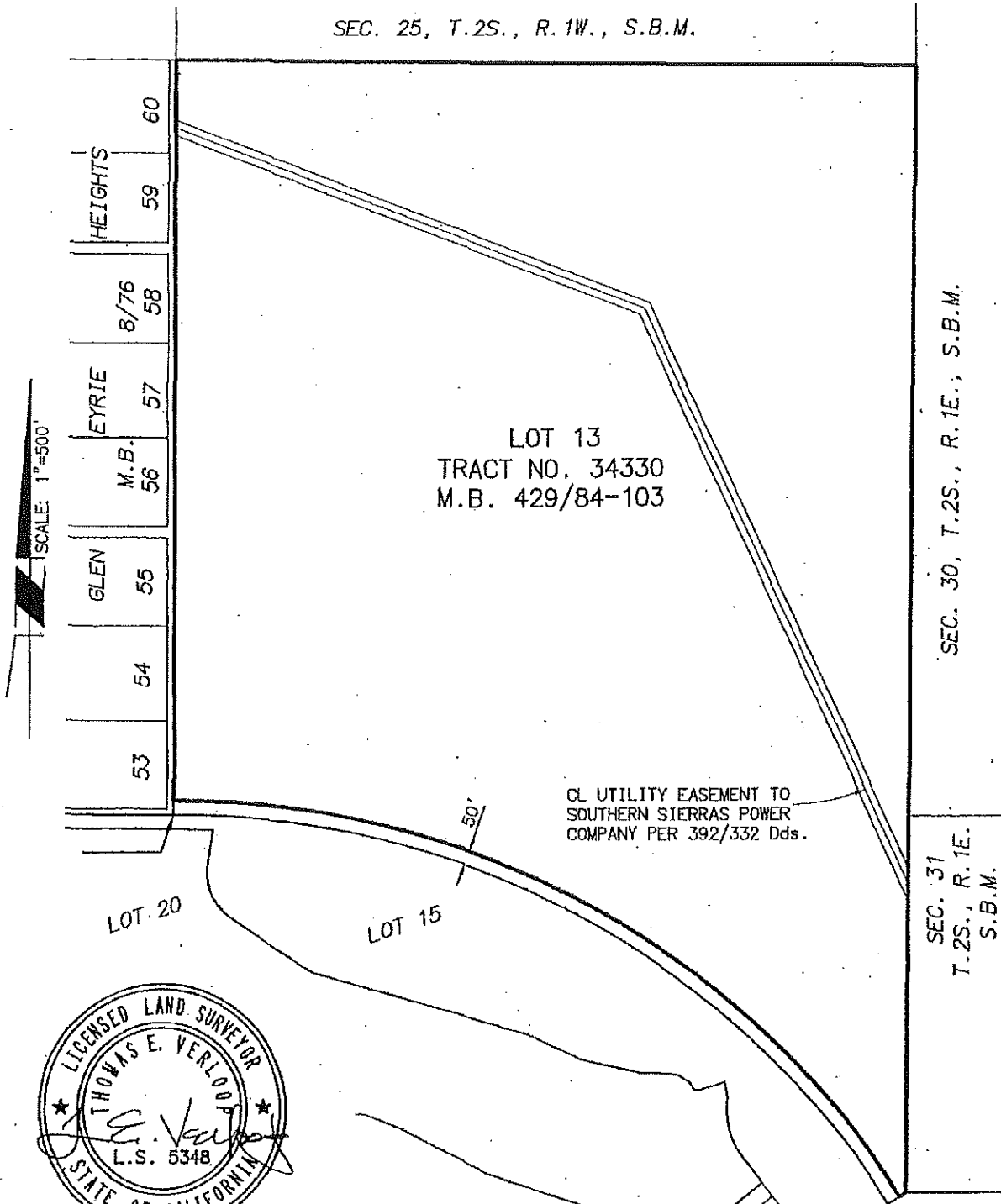
EXHIBIT F

RESTRICTIVE COVENANT

367

EXHIBIT "F"

SEC. 25, T.2S., R.1W., S.B.M.



SCALE: 1"=500'

SHEET 1 OF 1 SHEETS

RBF
CONSULTING

RESTRICTED PROPERTY

SECTION 25, T.2S., R.1W., S.B.M.

RESTRICTIVE COVENANT

368

EXHIBIT C

Proposed Resort Deed – Legal Description

EXHIBIT "C"

LEGAL DESCRIPTION PROPOSED RESORT DEED

In the City of Banning, County of Riverside, State of California, being that portion of Lot 13 of Tract No. 34330 as shown on the map recorded in Book 429, Pages 84 through 103, inclusive of Maps in the Office of the County Recorder of said Riverside County, California and lying within Sections 25 and 36, Township 2 South, Range 1 West, San Bernardino Meridian, more particularly described as follows:

BEGINNING at the northwest corner of said Lot 13;

Thence along the westerly line of said Parcel 13 South 00°05'41" East 396.35 feet;

Thence leaving said westerly line South 79°46'43" East 325.04 feet to the beginning of a tangent curve concave southwesterly and having a radius of 2790.00 feet;

thence along said curve easterly 315.45 feet through a central angle of 06°28'41";

thence tangent from said curve South 73°18'02" East 493.27 feet to the beginning of a tangent curve concave southwesterly and having a radius of 990.00 feet;

thence along said curve easterly 18.74 feet through a central angle of 01°05'05";

thence tangent from said curve South 72°12'57" East 382.93 feet to the beginning of a tangent curve concave northeasterly and having a radius of 1210.00 feet;

thence along said curve easterly 207.25 feet through a central angle of 09°48'49" to a point of reverse curvature with a curve concave southwesterly and having a radius of 30.00 feet, a radial line of said curve from said point bears South 07°58'14" West;

thence along said curve southeasterly 35.02 feet through central angle of 66°53'01";

thence tangent from said curve South 15°08'45" East 25.41 feet to the beginning of a tangent curve concave northeasterly and having a radius of 55.00 feet;

thence along said curve southeasterly 45.69 feet through a central angle of 47°36'00";

thence tangent from said curve South 62°44'45" East 106.45 feet to the beginning of a tangent curve concave southwesterly and having a radius of 80.00 feet;

thence along said curve southeasterly 57.78 feet through a central angle of 41°22'58";

thence non-tangent from said curve South 89°35'54" East 766.52 feet to the easterly line of said Lot 13;

thence along said easterly line North 00°24'06" East 985.58 feet to the northerly line of said Lot 13;

thence along said northerly line North 89°22'01" West 2649.36 feet to the POINT OF BEGINNING.

CONTAINING: 44.35 acres, more or less.

EXHIBIT "D" attached hereto and by this reference made a part hereof.

This description was prepared
by me or under my direction.


Thomas E. Verloop PLS 5348

Date: 10/23/2014

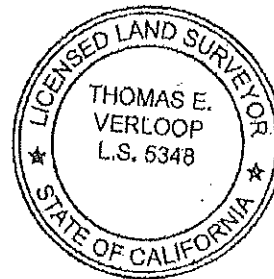
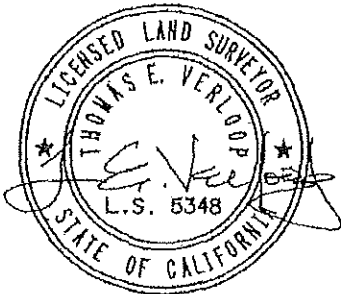
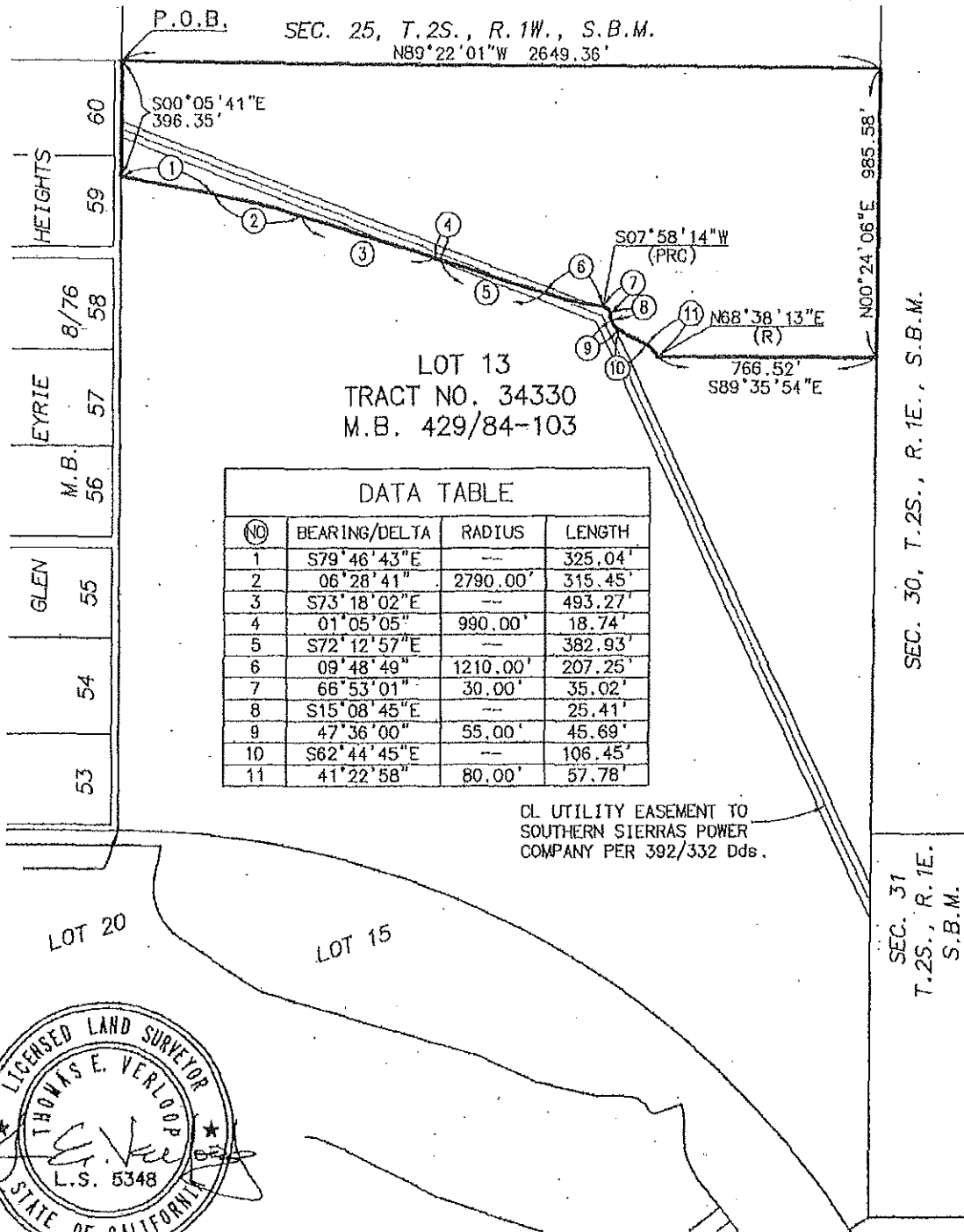


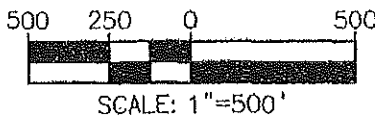
EXHIBIT D

Proposed Resort Deed – Graphic Depiction

EXHIBIT "D"



PROPOSED RESORT DEED
SECTION 25, T.2S., R.1W., S.B.M.



SHEET 1 OF 1 SHEETS

RBF
CONSULTING

EXHIBIT E

Revocable License Agreement

REVOCABLE LICENSE AGREEMENT

(For Hiking Area Use)

THIS REVOCABLE LICENSE AGREEMENT (the **Agreement**) is made and entered into this ____ day of _____, 2014, by and between Pardee Homes, a California corporation (the **Licensor**), and Highland Springs Resort (the **Licensee**). Licensor and Licensee are sometimes in this Agreement referred to individually as a **Party** and together as the **Parties**.

RECITALS

WHEREAS, Licensor received approval from the City of Banning (the **City**) for a master planned community with residential and commercial development situated on a total of approximately 1,543 acres in the City of Banning, State of California, which is sometimes known and referred to as the Butterfield Specific Plan Area and is described with specificity in attached Exhibit A and is depicted graphically in attached Exhibit B (the **Development**).

WHEREAS, Licensee owns a commercial resort operation on approximately 2,400 acres of land, some of which are adjacent to and adjoin the Development, and is described with specificity in attached Exhibit C and is depicted graphically in attached Exhibit D (the **Resort**).

WHEREAS, Licensee filed a lawsuit against the City [*Highland Springs Resort v. City of Banning, et al.* (Riverside County Superior Court Case No. RIC1206246, Consolidated with Case No. RIC 1206271)] challenging the City's approval of the Development on the grounds that the Environmental Impact Report for the Development failed to consider and address certain significant adverse impacts as required by the California Environmental Quality Act (the **CEQA Litigation**).

WHEREAS, rather than engaging in protracted adversarial proceedings, Licensor and Licensee agreed to settle the CEQA Litigation by, among other things, Licensor's grant of this Agreement over certain portions of Lot 13 of recorded Tract No. 34330, including an existing dirt road that is in line with portions of a realigned fifty (50)-foot wide unimproved access easement appurtenant to Southern California Edison's (**SCE**) easement for public utility purposes and maintenance access. For reference purposes only, the easement area is described with specificity in attached Exhibit E and depicted graphically in attached Exhibit F (the **Easement Area**). However, while the hiking area includes portions of the Easement Area, *the license is limited to the Hiking Area* (defined below).

WHEREAS, Licensee desires to obtain permission from Licensor to use portions of the Development and portions of the Easement Area for passive recreational uses, limited to hiking, walking, non-motorized bicycle use and the transport of equipment (the **Hiking Area**) as described with specificity in attached Exhibit G and as depicted graphically in attached Exhibit H, and Licensor desires to grant such permission to use the Hiking Area pursuant to the terms of this Agreement.

NOW, THEREFORE, for valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Grant of License.** All recitals are incorporated into this Agreement. Licensor grants to Licensee, and Licensee's employees, agents, guests and invitees, a non-exclusive revocable license pursuant to this Agreement to use the Hiking Area for passive recreational uses, limited to hiking, walking and non-motorized bicycle use and the transport of equipment to the eastern portion of the Licensee's property for security, maintenance and farming purposes. During the term of this Agreement, Licensee shall not install and/or construct any physical improvements, including fencing, landscaping, lighting and/or signage, within the Hiking Area, nor shall it be surfaced or paved.

2. **Licensee's Agreement to Indemnify Licensor.** During the term of this Agreement, Licensee shall indemnify and hold Licensor harmless from any and all costs, loss, damages or expenses, of any kind or nature, arising out of or resulting directly or indirectly from use of the Hiking Area, the entry and/or the activities within or about the Hiking Area by Licensee and/or Licensee's employees, agents, guests and invitees, consistent with California Civil Code 846 which reads as follows:

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.

A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites. [Per this Agreement, Hiking Area uses within the Easement Area are limited to hiking, walking, non-motorized bicycle use and the transport of equipment].

An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose; or (b)

constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed; or (c) assume responsibility for or incur liability for any injury to person or property caused by any act of such person to whom permission has been granted except as provided in this section.

This section does not limit the liability which otherwise exists (a) for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or (b) for injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; or (c) to any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

Nothing in this section creates a duty of care or ground of liability for injury to person or property.

2.1 In the event the Resort obtains releases from its guests, invitees, employees, or agents for activities taking place on either the Resort Property or Hiking Area, the Resort agrees to include Pardee Homes and SCE, successor in interest to Southern Sierras Powers Company, as named entities being released from any and all liability in the event of any injury, damage, and/or destruction of property.

3. **Acceptance.** Licensee hereby accepts without reservation the rights and responsibilities conveyed by this Agreement.

4. **Termination/Revocability.** Although this Agreement shall survive Licensor's transfer of that portion of the Development containing the Hiking Area to a third party, the Agreement shall terminate on the first to occur: (i) Licensee's material breach of this Agreement (defined in section 4.1); (ii) transfer of Licensee's ownership interest in the Resort without the transferee agreeing in a writing delivered to Licensor prior to the date of the transfer, to be unconditionally bound by all of the provisions of this Agreement; or (iii) Licensor's transfer of the northern portion of Lot 13 of recorded Tract No. 34330 underlying the Hiking Area by recorded deed to Licensee as set forth in section 2.3 of the Settlement Agreement approved by the parties.

4.1 A breach of this Agreement shall be any act derived from use of the Hiking Area by Licensee and /or Licensee's employees, agents, guests or invitees, which causes or is alleged to cause the personal injury or property damage of another, results in any claim against Pardee for damages or equitable relief, which includes interference with the development of the Project or interference with the existing SCE easement. This provision will only apply if the breach is a contributing factor in substantially delaying or preventing future Project approvals, which shall include but not be limited to federal and state approvals, tentative and final map approvals, and infrastructure plans. (See Settlement Agreement sections 3 and 17.)

5. **Permissive Use.** The right of Licensee, or any person claiming under Licensee who is an employee of Licensee, a documented guest of Licensee or a contractor of Licensee, to make any use whatsoever of the Hiking Area, or any portion thereof (including any uses which are in addition to or other than the use described herein), shall be deemed with permission from, and subject to control of, Licensor.

6. **Miscellaneous Provisions.**

6.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

6.2 **Heading and Titles.** The captions of the articles or sections of this Agreement are only to assist the parties in reading this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

6.3 **Agreement Binding of Successors.** The terms and conditions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto, and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Hiking Area.

6.4 **Interpretation.** Whenever required by the context of this Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the obligations, conduct, acts or omissions of Licensor or Licensee, the terms "Licensor" or "Licensee" shall include Licensor's or Licensee's officers, agents, employees, contractors, successors, subtenants or assigns. This Agreement shall be construed as though mutually drafted by Licensor and Licensee.

6.5 **Severability.** If any term or provision of this Agreement shall be held invalid or unenforceable to any extent under any applicable law by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.6 **Integration and Amendment.** This instrument constitutes the entire agreement between Licensor and Licensee relative to the use of the Hiking Area for recreational uses. This Agreement supersedes any prior agreements, negotiations and communications, verbal or written, between Licensor and Licensee pertaining to the issues herein and extinguishes any claim to prescriptive rights over the use of the Hiking Area. This instrument may be amended only by an instrument in writing signed by both Licensor and Licensee.

6.7 **Incorporation of Recitals.** The introductory recitals set forth above from the material part of this Agreement are incorporated by reference.

6.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.9 Exhibits. All exhibits attached to this Agreement are incorporated by reference as though fully set forth herein.

6.10 Jurisdiction and Venue. All Parties to this Agreement hereby agree that, unless the other Party consents to or chooses another forum, the state with jurisdiction over any disputes arising out of or relating to this Agreement shall be California, and the sole location for proper venue shall be in Riverside County, California.

6.11 Dispute Resolution – Mandatory Mediation as the Initial Forum. The Parties agree to mediate any and all disputes or claims arising between them relating to this Agreement before resorting to arbitration or court action. The Parties shall mutually agree upon the mediator, who shall be a retired judge, attorney or real estate broker with knowledge and experience in real estate and land use matters. The mediation shall be for a minimum period of eight (8) hours. Mediation fees, if any, shall be divided equally between the Parties. If the mediation is not successful, either of the Parties may pursue legal remedies or, if both Parties agree, binding arbitration. If, for any dispute or claim to which this paragraph applies, any Party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorneys' fees or legal fees, pursuant to Section 6.12, or otherwise, even if such attorneys' fees or legal fees would otherwise be available to that Party in any such action.

6.12 Attorneys' Fees and Costs. If either Party to this Agreement shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Agreement, the losing party shall pay to the prevailing party a reasonable sum for attorney fees incurred in bringing such suit and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For the purposes of this section, attorneys' fees shall include, without limitation, attorneys' fees and paralegal fees, costs, and expenses incurred in good faith (regardless of the size of the judgment) incurred in the following: (1) post judgment motions; (2) contempt proceedings; (3) garnishment, levy, and debtor and third party examinations; (4) discovery; and (5) bankruptcy litigation.

6.13 Notices. Any notices required by this Agreement shall be in writing and shall be personally delivered to or sent by certified mail, return receipt requested, to Licensor and Licensee respectively at the following addresses, unless a Party has been notified by the other of a change of address:

To Licensor:

Pardee Homes
Attention: Christopher J. Hallman
Legal Department
2120 Park Place, Suite 120
El Segundo, CA 90245

With a copy to:

Brownstein Hyatt Farber Schreck, LLP
Attn: Diane C. De Felice, Esq.
2049 Century Park East, Suite 3550
Los Angeles, CA 90067-3007
ddefelice@bhfs.com

To Licensee:

Highland Springs Resort
Attention: Tina Kummerle, President
10600 Highland Springs Avenue
Cherry Valley, CA 92223

With a copy to:

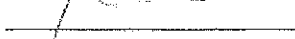
Douglas P. Carstens, Esq.
Amy Minter, Esq.
CHATTEN-BROWN & CARSTENS
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
acm@cbcearthlaw.com
dpc@cbcearthlaw.com

Notice of change of address shall be given by written notice in the manner detailed in this section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

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

Pardee Homes

Highland Springs Resort

By: 

By: _____

Name: Don M. DeRobertis

Name: _____

Title: Pardee Homes Attorney

Title: _____

Attachments:

- Exhibit A – Butterfield Specific Plan Area – Legal Description
- Exhibit B – Butterfield Specific Plan Area – Graphic Depiction
- Exhibit C – Highland Springs Resort – Legal Description
- Exhibit D – Highland Springs Resort – Graphic Depiction
- Exhibit E – Easement Area – Legal Description
- Exhibit F – Easement Area – Graphic Depiction
- Exhibit G – Hiking Area – Legal Description
- Exhibit H – Hiking Area – Graphic Depiction

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

Pardee Homes

Highland Springs Resort

By: _____

By: Tina Kummerte

Name: _____

Name: Tina Kummerte

Title: _____

Title: President

Attachments:

- Exhibit A – Butterfield Specific Plan Area – Legal Description
- Exhibit B – Butterfield Specific Plan Area – Graphic Depiction
- Exhibit C – Highland Springs Resort – Legal Description
- Exhibit D – Highland Springs Resort – Graphic Depiction
- Exhibit E – Easement Area – Legal Description
- Exhibit F – Easement Area – Graphic Depiction
- Exhibit G – Hiking Area – Legal Description
- Exhibit H – Hiking Area – Graphic Depiction

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EXHIBIT A

REVOCABLE LICENSE AGREEMENT

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EXHIBIT "A"

LEGAL DESCRIPTION

BUTTERFIELD SPECIFIC PLAN AREA

ALL OF TRACT NO. 34330 IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AS SHOWN ON THE MAP FILED IN BOOK 429, PAGES 84 THROUGH 103, INCLUSIVE, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY, CALIFORNIA.

EXHIBIT B

REVOCABLE LICENSE AGREEMENT

305

EXHIBIT C

REVOCABLE LICENSE AGREEMENT

387

EXHIBIT "C"

LEGAL DESCRIPTION

HIGHLAND SPRINGS RESORT

PARCEL 1:

THOSE PORTIONS OF LOTS 19 AND 20 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF OVERLAND TRAIL (LOT J) NORTHEASTERLY OF THE NORTHEASTERLY LINE OF CHERRY VALLEY BLVD. (LOT S), AS SHOWN BY MAP OF TRACT NO. 4636-1 ON FILE IN BOOK 77, PAGES 90 THROUGH 98 THEREOF, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL 2:

LOTS 25, 26, 27, 28, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 AND 62 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THAT PORTION OF LOTS 25 AND 26 LYING WITHIN TRACT 14209-1 AS PER MAP RECORDED IN BOOK 133, PAGES 33 THROUGH 38 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THAT PORTION OF LOTS 27, 28, 39, 40 AND 41 LYING SOUTHWEST OF THE FOLLOWING DESCRIBED LINE.

BEGINNING AT THE CENTERLINE INTERSECTION OF CHERRY VALLEY BOULEVARD AND HIGHLAND SPRINGS AVENUE AS SHOWN ON MAP OF TRACT 4636-1 IN BOOK 11, PAGES 90 TO 98 INCLUSIVE, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 46°25'52" EAST, 1,781.43 FEET TO A POINT ON THE EAST LINE OF LOT 39 IN SAID GLEN EYRIE TRACT, SAID POINT BEING THE SOUTHEAST TERMINUS OF SAID LINE BEING DESCRIBED.

PARCEL 3:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS;

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 25;

THENCE NORTH 89°42'00" EAST, 543.90 FEET ON THE EAST AND WEST CENTERLINE OF SAID SECTION, SAID LINE BEING THE NORTH LINE OF LOT 25 OF GLEN EYRIE HEIGHTS, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER TO THE SOUTHWEST CORNER OF THAT CERTAIN UN-NUMBERED LOT LYING NORTH AND WEST OF LOT 61 OF SAID GLEN EYRIE HEIGHTS;

THENCE NORTH 28°43'00" EAST, 385.93 FEET ON THE WEST LINE OF SAID UN-NUMBERED LOT TO AN ANGLE POINT THEREON;

THENCE SOUTH 39°00'00" WEST 9.98 FEET;

THENCE SOUTH 89°42'00" WEST, 812.20 FEET TO THE WEST LINE OF SAID SECTION 25;

THENCE SOUTH 01°53'00" WEST, 330.00 FEET ON SAID WEST LINE TO THE POINT OF BEGINNING.

PARCEL 4:

THAT PORTION OF GLEN EYRIE HEIGHTS IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING NORTH AND WEST OF LOT 61 OF SAID GLEN EYRIE HEIGHTS AND SHOWN AS AN UN-NUMBERED LOT.

EXCEPT THAT PORTION DESCRIBED BY DEED TO THE GLEN EYRIE MUTUAL WATER COMPANY, A CORPORATION, RECORDED JULY 30, 1934 IN BOOK 181, PAGE 407 OF OFFICIAL RECORDS.

PARCEL 5:

THAT PORTION OF THAT CERTAIN UNNUMBERED LOT LYING NORTH OF LOT 61 OF GLEN EYRIE HEIGHTS, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 8, PAGE 16 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

THENCE SOUTH 52°38'10" EAST 140.00 FEET;

THENCE SOUTH 37°21'50" WEST, 100.00 FEET;

THENCE SOUTH 81°40'00" EAST, 90.14 FEET;

THENCE NORTH 02°00'00" WEST, 89.92 FEET;

THENCE NORTH 52°38'10" WEST, 85.00 FEET;

THENCE NORTH 37°21'50" EAST, 95.00 FEET;

THENCE SOUTH 52°38'10" EAST, 65.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPT ANY PORTION INCLUDED WITHIN THE BOUNDARIES OF GLEN EYRIE HEIGHTS AS PER MAP RECORDED IN BOOK 8, PAGE 76 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ALSO EXCEPT THAT PORTION DESCRIBED BY DEED TO THE GLEN EYRIE MUTUAL WATER COMPANY, A CORPORATION, RECORDED JULY 30, 1934 IN BOOK 181, PAGE 407 OF OFFICIAL RECORDS.

PARCEL 7:

GOVERNMENT LOTS 1, 2, 3 AND 4 IN THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

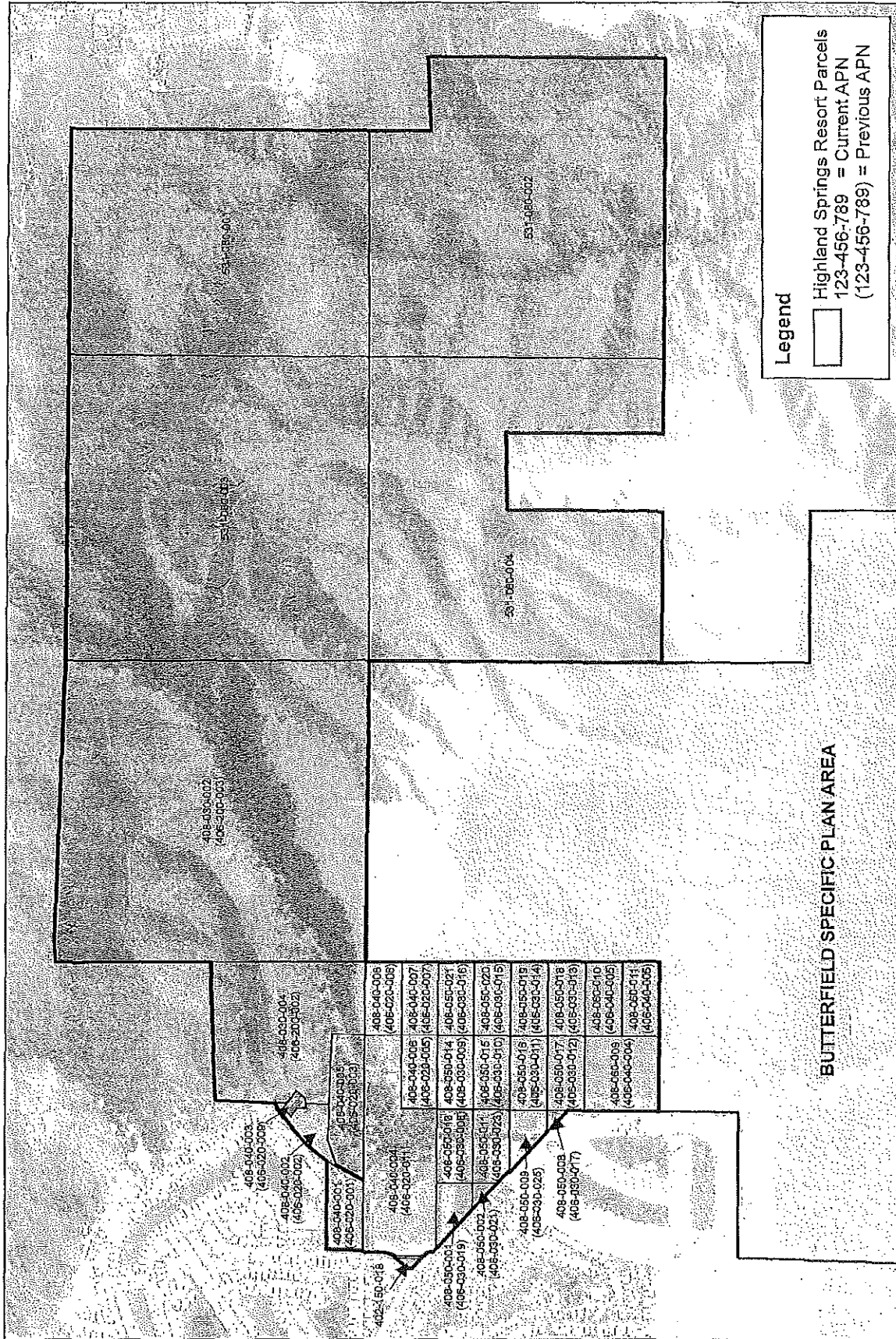
PARCEL 8:

THE NORTHWEST QUARTER, THE NORTH-HALF OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE WEST-HALF OF THE NORTHEAST QUARTER, THE WEST HALF OF THE EAST HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER EXCEPT THE NORTHEAST QUARTER OF THE NORTHEAST OF SAID SOUTHEAST QUARTER, ALL OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

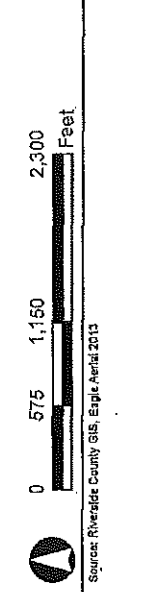
EXHIBIT D

REVOCABLE LICENSE AGREEMENT

391



HIGHLAND SPRINGS RESORT Highland Springs Resort - Graphic Depiction Exhibit D REVOCABLE LICENSE AGREEMENT



392

EXHIBIT E

REVOCABLE LICENSE AGREEMENT

393

EXHIBIT "E"

LEGAL DESCRIPTION

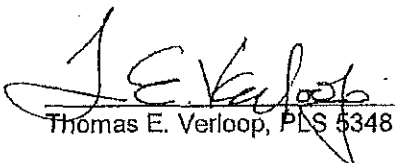
EASEMENT AREA

In the City of Banning, County of Riverside, State of California, being that portion of Lot 13 of Tract No. 34330 as shown on the map recorded in Book 429, Pages 84 through 103, inclusive of Maps in the Office of the County Recorder of said Riverside County, California, lying within that certain utility easement, 50.00 feet in width, granted to Southern Sierras Power Company recorded April 28, 1914 in Book 392, Page 332 of Deeds, in the Office of said Riverside County Recorder and also lying within Sections 25 and 36, Township 2 South, Range 1 West, San Bernardino Meridian.

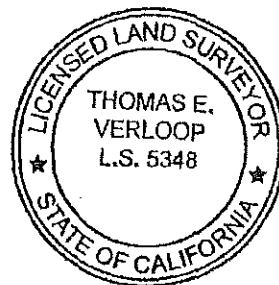
CONTAINING: 4.62 acres, more or less.

EXHIBIT "F" attached hereto and by this reference made a part hereof.

This description was prepared
by me or under my direction.


Thomas E. Verloop, PLS 5348

Date: 10/23/2014



RBF Consulting
3210 East Guasti Road
Ontario, CA 91761

October 20, 2014
JN 138094
Page 1 of 1

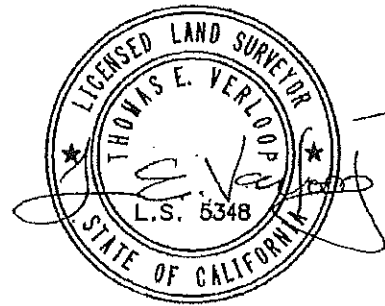
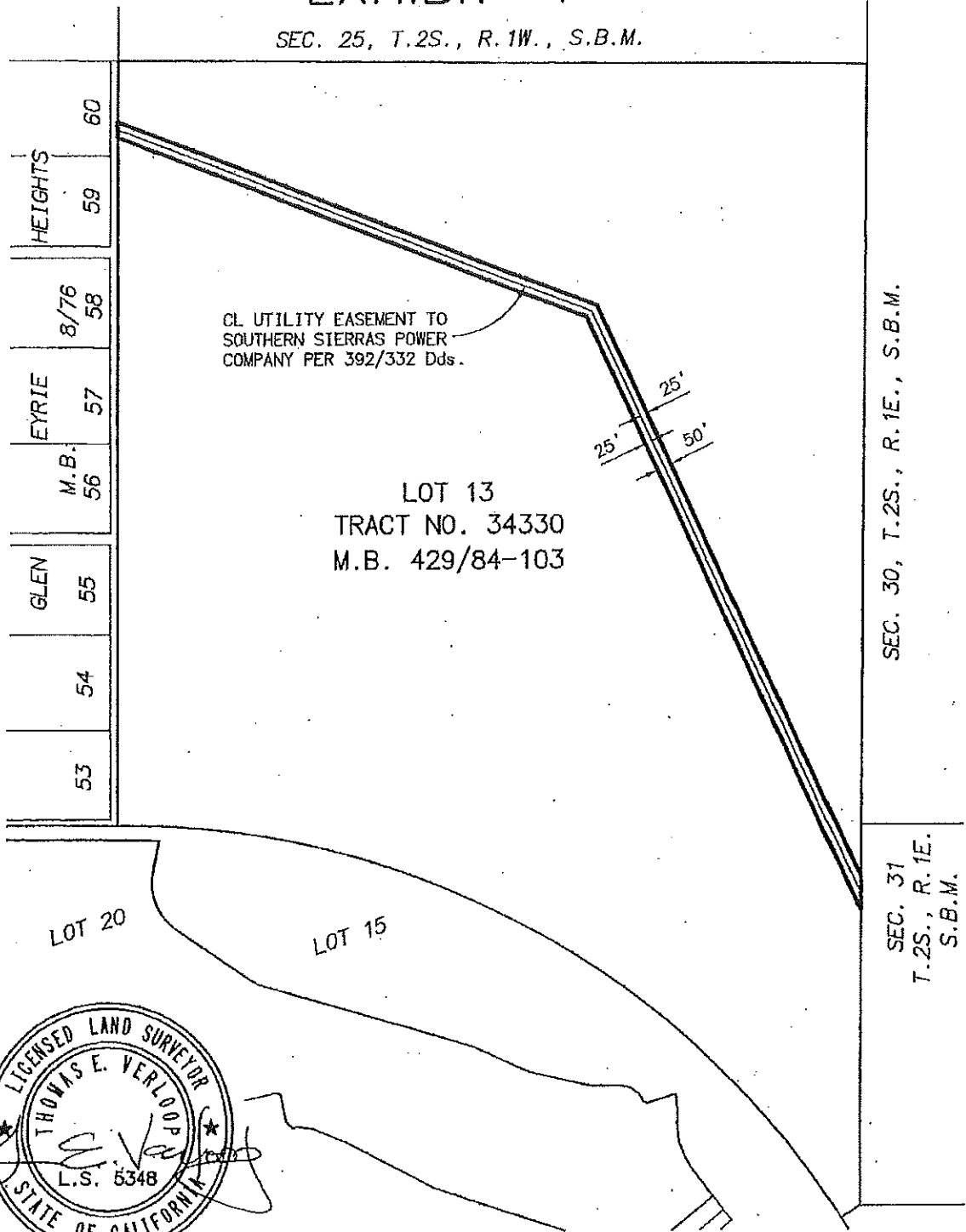
EXHIBIT F

REVOCABLE LICENSE AGREEMENT

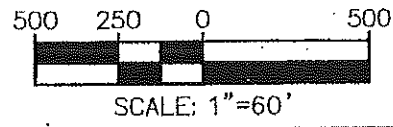
36

EXHIBIT "F"

SEC. 25, T.2S., R.1W., S.B.M.



EASEMENT AREA
SECTION 25, T.2S., R.1W., S.B.M.



SHEET 1 OF 1 SHEETS



EXHIBIT G

EXHIBIT "G"

LEGAL DESCRIPTION HIKING AREA

In the City of Banning, County of Riverside, State of California, being that portion of Lot 13 of Tract No. 34330 as shown on the map recorded in Book 429, Pages 84 through 103, inclusive of Maps in the Office of the County Recorder of said Riverside County, California and lying within Sections 25 and 36, Township 2 South, Range 1 West, San Bernardino Meridian, more particularly described as follows:

BEGINNING at the northwest corner of said Lot 13;

Thence along the westerly line of said Parcel 13 South 00°05'41" East 396.35 feet;

Thence leaving said westerly line South 79°46'43" East 325.04 feet to the beginning of a tangent curve concave southwesterly and having a radius of 2790.00 feet;

thence along said curve easterly 315.45 feet through a central angle of 06°28'41";

thence tangent from said curve South 73°18'02" East 493.27 feet to the beginning of a tangent curve concave southwesterly and having a radius of 990.00 feet;

thence along said curve easterly 18.74 feet through a central angle of 01°05'05";

thence tangent from said curve South 72°12'57" East 382.93 feet to the beginning of a tangent curve concave northeasterly and having a radius of 1210.00 feet;

thence along said curve easterly 207.25 feet through a central angle of 09°48'49" to a point of reverse curvature with a curve concave southwesterly and having a radius of 30.00 feet, a radial line of said curve from said point bears South 07°58'14" West;

thence along said curve southeasterly 35.02 feet through central angle of 66°53'01";

thence tangent from said curve South 15°08'45" East 25.41 feet to the beginning of a tangent curve concave northeasterly and having a radius of 55.00 feet;

thence along said curve southeasterly 45.69 feet through a central angle of 47°36'00";

thence tangent from said curve South 62°44'45" East 106.45 feet to the beginning of a tangent curve concave southwesterly and having a radius of 80.00 feet;

thence along said curve southeasterly 57.78 feet through a central angle of 41°22'58";

thence non-tangent from said curve South 89°35'54" East 766.52 feet to the easterly line of said Lot 13;

RBF Consulting
3300 East Guasti Road, Suite 100
Ontario, CA 91761

October 20, 2014
JN 138094
Page 1 of 2

thence along said easterly line North 00°24'06" East 985.58 feet to the northerly line of said Lot 13;

thence along said northerly line North 89°22'01" West 2649.36 feet to the **POINT OF BEGINNING**.

CONTAINING: 44.35 acres, more or less.

EXHIBIT "H" attached hereto and by this reference made a part hereof.

This description was prepared
by me or under my direction.


Thomas E. Verloop, L.S. 5348

Date: 10/23/2014

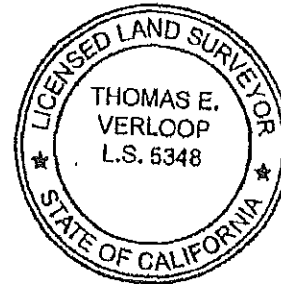


EXHIBIT H

REVOCABLE LICENSE AGREEMENT

400

EXHIBIT "H"

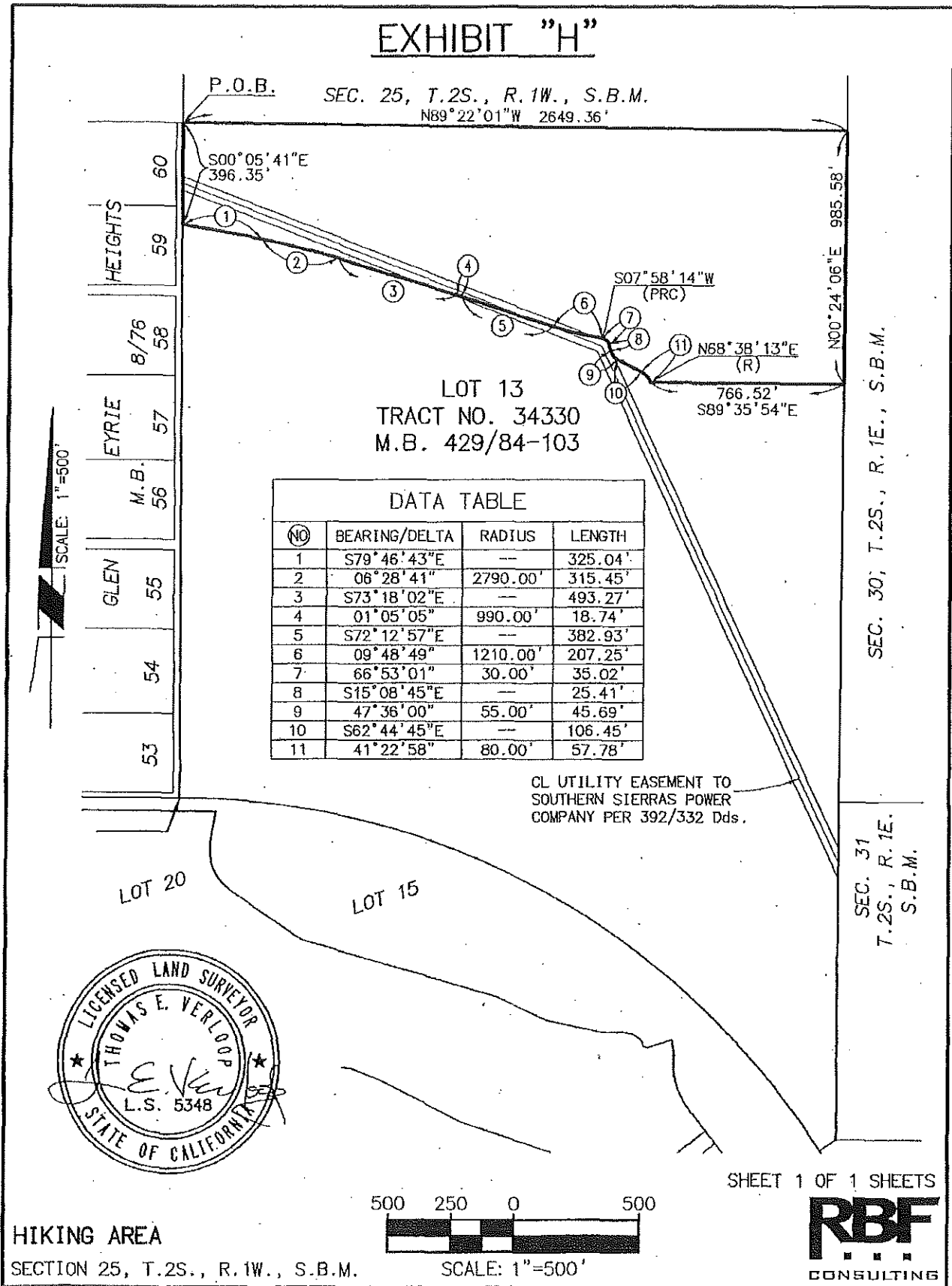


EXHIBIT F

Letter of Non-Opposition from the Resort, CVAN and CVPEG to the Court

November __, 2014

Via Federal Express

Hon. Daniel A. Ottolia
Judge, Superior Court of California, County of Riverside
Historic Courthouse, Department 4
4050 Main Street
Riverside, CA 92501

Re: *Highland Springs Resort v. City of Banning*, Riverside Superior Court Case
No. 1206246, consolidated with *Cherry Valley Pass Acres and Neighbors et
al. v. City of Banning*, Case No. 1206271

Dear Judge Ottolia,

Petitioners Highland Springs Resort, Cherry Valley Pass Acres and Neighbors, and the Cherry Valley Environmental Planning Group have reached an agreement with Respondent City of Banning and Real Party in Interest Pardee Homes (collectively "Parties") in the above-captioned matter. Pardee Homes has agreed not to construct the proposed golf course and to maintain in an open, natural and scenic condition the northern most portion of the Butterfield Specific Plan identified as Planning Areas 60 and 61, with the exception of a potential fire station, water tanks and utility infrastructure, as more specifically set forth in the Restrictive Covenant attached as Exhibit B to the Settlement Agreement, and to implement the remainder of the Butterfield Specific Plan with measures designed to reduce the project's water and energy use. Petitioners no longer oppose the Butterfield Specific Plan and agree to dismiss the above-captioned matters pursuant to the Stipulated Judgment filed jointly by the Parties.

Sincerely,



Tina Kummerle
President
Highland Springs Resort

Patsy Reeley
President
Cherry Valley Pass Acres and Neighbors

Patrick Doherty
President
Cherry Valley Environmental Planning Group

EXHIBIT G

Parties' Officers or Principals

EXHIBIT G

Parties' Officers and/or Principals

Officer/Principal Name	Title
Pardee	
Mike Taylor	Division President of Inland Empire
Chris Hallman	General Counsel
City of Banning	
June Overholt	Assistant City Manager
Debbie Franklin	Sitting Mayor
Edward Miller	Sitting Councilmember
Art Welch	Sitting Mayor Pro Tem
Don M. Peterson	Sitting Councilmember
Jerry Westholder	Sitting Councilmember
Highland Springs Resort	
Tina Kummerle	President
Dr. Min Chul Han	Director
Dr. Dong Yeon Moon	Director
Michael Ham	Secretary/Treasurer
CVAN	
Patsy Reeley	President
Marc Sanders	Vice President
Rhea Weber	Secretary
Luwana Ryan	Treasurer
CVEPG	
Pat Doherty	President
Richard Reeley	Vice President
Patsy Reeley	Secretary/Treasurer

Updated: 10/30/14

405

EXHIBIT H

Authorized Representatives and Contact Information

EXHIBIT H

Authorized Representatives and Contact Information

For: PARDEE

Mike Taylor
Division President of Inland Empire
Pardee Homes
2120 Park Place, Suite 120
El Segundo, CA 90245
mike.taylor@pardeehomes.com
Phone: 310-955-3100

Chris Hallman, General Counsel
Pardee Homes
2120 Park Place, Suite 120
El Segundo, CA 90245
chris.hallman@pardeehomes.com
Phone: 310-955-3100

For: CVAN

Patsy Reeley, President
Cherry Valley Pass Acres & Neighbors
P.O. Box 3257
Beaumont, CA 92223-1204
Email: CVANPRES@gmail.com
Phone: _____

Robert C. Goodman, Esq.
D. Kevin Shipp, Esq.
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104
rgoodman@rjo.com
kshipp@rjo.com
Phone: 415-956-2828

For: CITY OF BANNING

June Overholt
Assistant City Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220
joverholt@ci.banning.ca
Phone: 951-922-3105

David J. Aleshire, Esq.
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
daleshire@awattorneys.com
Phone: 949-223-1170

For: RESORT

Tina Kummerle
President, Highland Springs Resort
10600 Highland Springs Ave
Beaumont, CA 92223
tina.k@hsresort.com
Phone: 951-845-1151 ext. 192

Douglas P. Carstens, Esq.
Amy Minter, Esq.
CHATTEN-BROWN & CARSTENS
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
acm@cbcearthlaw.com
dpc@cbcearthlaw.com
Phone: 310-798-2400, ext. 3

For: CVEPG

Patrick Doherty, President
Cherry Valley Environmental Planning
Group
10065 Frontier Trail
Cherry Valley, CA 92223
Email: CVEPGPRESIDENT@gmail.com
Phone: _____

Robert C. Goodman, Esq.
D. Kevin Shipp, Esq.
ROGERS JOSEPH O'DONNELL
311 California Street, 10th Floor
San Francisco, CA 94104
rgoodman@rjo.com
kshipp@rjo.com
Phone: 415-956-2828

EXHIBIT I

[Proposed] Stipulated Judgment

1 ALESHIRE & WYNDER, LLP
2 DAVID J. ALESHIRE (State Bar No. 65022)
3 JUNE S. AILIN (State Bar No. 109498)
4 KATHRYN C. PHELAN (State Bar No. 210486)
5 MICHAEL C. HUSTON (State Bar No. 253303)
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Telephone: (949) 223-1170
Facsimile: (949) 223-1180

6 Attorneys for Respondent
7 CITY OF BANNING

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF RIVERSIDE

10
11 HIGHLAND SPRINGS RESORT,

12 Petitioner,

13 v.

14 CITY OF BANNING,

15 Respondent.

16
17 Real Party In Interest

18 PARDEE HOMES, INC. and Does 1-10

19 AND CONSOLIDATED CASE

Lead Case No. RIC 1206246

[Consolidated with *Cherry Valley Pass Acres
and Neighbors v. City of Banning* –Case No.
1206271]

JOINT STIPULATED JUDGMENT AND
[PROPOSED] ORDER

[Assigned to the Hon. Daniel A. Ottolia]

Petitions Filed: April 26, 2012

20
21 Petitioners Highland Springs Resort, Cherry Valley Pass Acres and Neighbors and Cherry
22 Valley Environmental Planning Group (herein collectively called "Petitioners"), by and through
23 their attorneys of record Chatten-Brown & Carstens LLP and Rogers Joseph O'Donnell,
24 Respondent City of Banning, by and through its attorneys of record Aleshire & Wynder LLP, and
25 Real Party in Interest Pardee Homes, Inc. by and through its attorneys of record Brownstein Hyatt
26 Farber Schreck, LLP (Respondent and Real Party in Interest are herein collectively called
27 "Respondents"), hereby stipulate as follows:

28 ///

1 WHEREAS, this matter came on for hearing before the Court on the Petitions for Writ of
2 Mandate on September 20 and December 13, 2013;

3 WHEREAS, the Court took the matter under submission;

4 WHEREAS, the Court issued its Proposed Statement of Decision on December 23, 2013;

5 WHEREAS, at the request of the parties by stipulation, the Court issued a stay of all
6 hearings on the Proposed Statement of Decision and the Court's entry of judgment on January 21,
7 2014 and again on March 13, 2014 to allow the Parties time to informally resolve the above-
8 captioned action ("the Action") and avoid further litigation;

9 WHEREAS, the Petitioners and Respondents (collectively, "Parties") have entered into a
10 Settlement Agreement attached hereto for the purpose of concluding this Action.

11 NOW, THEREFORE, in light of the foregoing, including the provisions of the Settlement
12 Agreement, the Parties, through their respective attorneys of record, do REQUEST, AGREE
13 AND STIPULATE as follows:

- 14 1. The Action is dismissed with prejudice;
- 15 2. The terms of the Settlement Agreement are hereby incorporated by reference and
16 constitute the terms of this stipulated judgment;
- 17 3. In accordance with provisions of section 664.6 of the Code of Civil Procedure, the
18 Court retains jurisdiction over the parties to enforce the terms of the Settlement Agreement as part
19 of this stipulated judgment; and
- 20 4. Except as agreed by the parties, each party is to bear its own costs and litigation
21 expenses incurred in these proceedings.

22
23 **IT IS REQUESTED, AGREED AND SO STIPULATED.**

24 ///

25 ///

1 Dated: October____, 2014

CHATTEN-BROWN & CARSTENS LLP

2

3

By: _____
JAN CHATTEN-BROWN
DOUGLAS P. CARSTENS
AMY MINTEER
MICHELLE BLACK
Attorneys for Petitioner
HIGHLAND SPRINGS RESORT

4

5

6

7

8 Dated: October____, 2014

ROGERS JOSEPH O'DONNELL

9

10

By: _____
ROBERT C. GOODMAN
ANN M. BLESSING
D. KEVIN SHIPP
Attorneys for Petitioners
CHERRY VALLEY PASS ACRES AND
NEIGHBORS and CHERRY VALLEY
ENVIRONMENTAL PLANNING
GROUP

11

12

13

14

15

16 Dated: October____, 2014

ALESHIRE & WYNDER, LLP

17

18

By: _____
DAVID J. ALESHIRE
JUNE S. AILIN
Attorneys for Respondent
CITY OF BANNING

19

20

21 Dated: October____, 2014

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

22

23

By: _____
DIANE C. DE FELICE
STEPHANIE O. HASTINGS
AMY M. STEINFELD
Attorneys for Real Party in Interest
PARDEE HOMES

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[PROPOSED] ORDER FOLLOWING JOINT STIPULATED JUDGMENT

FOR GOOD CAUSE SHOWN, the Parties' Joint Stipulated Judgment as set forth above is APPROVED AND SO ORDERED AND JUDGMENT SHALL BE ENTERED AS STIPULATED. The Court will retain jurisdiction over the terms of the Settlement Agreement under section 664.6 of the Code of Civil Procedure.

DATE: _____, 2014

THE HON. DANIEL A. OTTOLIA
Judge of the Superior Court

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PROOF OF SERVICE

I, Ivy B. Capili, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Brownstein Hyatt Farber Schreck, LLP, 2049 Century Park East, Suite 3550, Los Angeles, California 90067-3007. October __, 2014, I served a copy of the within document(s):

JOINT STIPULATED JUDGMENT AND [PROPOSED] ORDER

☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Los Angeles, California addressed as set forth below.

☒ By personally transmitting the document(s) via electronic service to the e-mail address(es) set forth below on this date.

See attached Service List

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October __, 2014, at Los Angeles, California.

Ivy B. Capili

4/4

SERVICE LIST

Jan Chatten-Brown, Esq.
Douglas P. Carstens, Esq.
Amy Minter, Esq.
Michelle Black, Esq.
CHATTEN-BROWN & CARSTENS
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Attorneys for Petitioners
CHERRY VALLEY PASS ACRES
AND NEIGHBORS and CHERRY
VALLEY ENVIRONMENTAL
PLANNING GROUP

Diane De Felice, Esq.
Timothy H. Irons, Esq.
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Los Angeles, California 90067-3007
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Fax: (310) 500-4602

Attorneys for Real Party in Interest
PARDEE HOMES, INC.

041328W0005\11342509.2

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EXHIBIT 2

Land Use	1993 Approved Deutsch Specific Plan		2012 Butterfield Specific Plan		2014 Settlement Agreement Butterfield Specific Plan	
	Gross Acres	Dwelling Units	Gross Acres	Dwelling Units	Gross Acres	Dwelling Units
Residential						
Low Density 0-5 DU/AC (LDR)	656.0 (42.3%)	1,946	539.2 (35.0%)	2,222	419.0 (27.5%)	1,810
Medium Density 0-10 DU/AC (MDR)	390.0 (25.1%)	1,950	324.4 (21.0%)	1,960	305.3 (20.0%)	1,847
High Density 11-18 DU/AC (HDR)	89.0 (5.7%)	1,184	73.8 (4.8%)	1,205	73.8 (4.8%)	1,205
Very High Density 18 DU/AC+ (HDR)	16.0 (1.0%)	320	(0)	(0)	(0)	(0)
Residential Subtotals	1,151.0 (74.2%)	5,400	937.4 (60.8%)	5,387	798.1 (52.4%)	4,862
Open Space						
Golf Course/Drainage	193.0 (12.4%)		253.9 (16.5%)		(0)	
Parks	75.0 (4.8%)		66.5 (4.3%)		66.5 (4.4%)	
Natural/Landscape/Drainage	(0)		108.4 (7.0%)		482.5 (31.7%)	
Open Space Subtotals	268.0 (17.3%)		428.8 (27.8%)		549.0 (36.0%)	
Other						
Commercial Office ¹	25.0 (1.6%)		36.0 (2.3%)		36.0 (2.4%)	
Schools ²	24.0 (1.5%)		23.0 (1.5%)		23.0 (1.5%)	
Utility Substation	(0)		4.2 (0.3%)		4.2 (0.3%)	
Fire station ³	1.0 (0.06%)		1.6 (0.1%)		1.6	
Backbone Roads	83.0 (5.3%)		113.6 (7.4%)		111.7 (7.3%)	
Other Subtotals	133.0 (8.5%)		176.8 (11.4%)		174.9 (11.5%)	
Specific Plan Totals	1,522.0 (100%)	5,400	1,543.0 (100%)	5,387	1522 (100%)	4,862

Notes:

1. Within the Butterfield Specific Plan, alternate Residential use or mixed use of the Commercial sites is provided for in PA 17 at up to 4.5 DU/AC (LDR) and in PA 18 at up to 10 DU/AC (MDR), as long as the overall DU total for the Specific Plan does not exceed 4,862 DU. In addition, the Butterfield Specific Plan allows Commercial as an alternate use for residential PA's 3, 4 and 5 (51.4 acres combined) and Park PA's 26 and 27 (0.9 acres combined). 2. Alternate Residential use of school sites at up to 10 DU/AC is provided for within the Butterfield Specific Plan as long as the overall DU total for the Specific Plan does not exceed 4,862DU. 3. A fire station site is designated as a permitted use in any of the Residential, Open Space, Commercial or School Planning Areas, Except PA's 36, 37, 38, 69, 73, 74, and 75 in the Butterfield Specific Plan. The 1.6 acre fire station site area is included in the area of other land use areas.

EXHIBIT 3



Mayor Debbie Franklin and City Council members
CITY OF BANNING
City Hall
99 East Ramsey Street
Banning, CA 92220

Re: Agenda Item # _____
Highland Springs Resort v. City of Banning, Riverside Superior Court, Case No. 1206246, consolidated with Cherry Valley Pass Acres and Neighbors et al. v. City of Banning, Case No. 1206271

Dear Mayor Franklin and Council members:

You have on your agenda tonight approval of a settlement of the above-entitled litigation challenging your approval of the 2012 Butterfield Specific Plan (Plan) and related actions. This settlement agreement is the product of many months of negotiation between Pardee and the petitioners with input from the City attorney. One of the more significant terms of the settlement agreement provides for an overall reduction in the total number of residential units permitted under the Plan (from 5,387 to 4,862 units).

We write to confirm that this reduction does not change the development goals of section 6.2 of the March 27, 2012 Development Agreement between the City of Banning and Pardee Homes. However, due to the reduction in residential units, the final phase of development (Phase IV) will now consist of fewer residential units than originally contemplated. Therefore, while the number of units projected to be developed in Phases I through III will remain the same, Phase IV will now consist of a total of 662 residential units (1187 original units minus the agreed reduction of 525 units).

Thank you for your thoughtful consideration of this hard won resolution and please let us know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mike Taylor", written over the typed name.

Mike Taylor