

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

October 13, 2015
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

The following information comprises the agenda for a regular meeting of the City Council and a Joint Meeting of the City Council, and the City Council Sitting in Its Capacity of a Successor Agency.

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

I. CALL TO ORDER

- Invocation – Pastor Sarah Guevara, New Creation Church
- Pledge of Allegiance
- Roll Call – Councilmembers Miller, Moyer, Peterson, Welch, Mayor Franklin

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff 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. Introduction of New Employees – Tammy Macias, George Perez,
Mark Washington, Ralph Munoz, Michael Nottingham (ORAL)

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.

APPOINTMENTS:

1. Ad-Hoc Committee Request (ORAL)
(At least two members from the City Council and the Acting Public Works Director to review and recommend FY 2016/17 Community Development Block Grant "CDBG" program applications.)

IV. 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 6

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 – 09/22/15 (Workshop) 1
2. Approval of Minutes – Special Meeting – 09/22/15 (Closed Session). 17
3. Approval of Minutes – Regular Meeting – 09/22/15 19
4. Approval of Accounts Payable and Payroll Warrants for Month of August 2015. 47
5. Resolution No. 2015-94, Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation for an Airport Improvement Program Matching Grant. 51
6. Resolution No. 2015-91, Approving the First Amendment to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) related to the Economic Development Consulting Services in an Amount "not-to-exceed" \$8,000.00 67

- Open for Public Comments
- Make Motion

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL AND THE BANNING CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY

V. CONSENT

1. Resolution No. 2015- 07 SA, Approving the Establishment of Recognized Obligation Payment Schedule 15-16B for the Period of January through June 2016 and Approving Certain Related Actions. 161

- Open for Public Comments
- Make Motion

REPORTS

1. Resolution No. 2015-08 SA –Refunding Tax Allocation Bonds
Staff Report. 171
Recommendation: **That the Agency approve Resolution No. 2015-08 SA, Authorizing the issuance of refunding tax allocation bonds in one or more series on a tax-exempt and/or taxable basis to refinance certain outstanding obligations, in an aggregate principal amount not to exceed \$40,000,000 and approving an indenture attached economic savings and legal information will be incorporate into a resolution to the City Council and Successor Agency for adoption.**

RECONVENE regular City Council Meeting.

VI. REPORTS OF OFFICERS

1. Village at Paseo San Gorgonio Project: Proposed Transfer of Project Development to Vanir Companies, Extension of Design Review and Second Amendment to Purchase and Sale Agreement Governing Project.
Staff Report. 283
Recominended Council actions are:

- 1) **Approve the “Master Transfer Agreement and Escrow Instruction” for Project Transfer to Vanir (*Exhibit “B”*) (Master Transfer Agreement”). This action would include approval of the following attendant instruments which are attached to the Master Transfer Agreement:**
 - a) **“Assignment and Assumption Agreement and Consent” approving Vanir’s assumption of all rights and obligations in re. the Project (*attached as Exhibit “B” to Master Transfer Agreement*):**
 - b) **“Second Amendment to Purchase and Sale Agreement of Real Property and Joint Escrow Instructions” clarifying terms of the original Project, including new timeframes for project built-out (*Exhibit “D-1 and D-2” to Master Transfer Agreement*;**
 - c) **“Completion and Payment Guaranty” by which Vanir absolutely and unconditionally guarantees both (i) repayment of the Note, and (ii) completion of the Project which shall be constructed, completed, equipped and furnished in a good and workmanlike manner free from mechanic liens (*Exhibit “E” to Master Transfer Agreement*); and**
 - d) **“Subordination Agreement” to allow Project construction financing (*Exhibit “C” to Master Transfer Agreement*).**
- 2) **Extend the existing Design Review expiration date to January 31, 2016.**

2. Amendment to Government Staffing Services, Inc. Contract
Staff Report. 345
Recommendations: **Authorize the Mayor to executc the attached amendment Increasing the Government Staffing Services, Inc. contract by \$20,0000 to cover increased compensation for the Interim City Manager as required by Cal PERS guidelines for retired annuitants.**

3.	Sex Offenders and Child Offenders Update Staff Report.	347
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4.	Resolution No. 2015-92, Approving an Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. to include Engineering Services. Staff Report.	349
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Recommendations: That the City Council: 1) adopt Resolution No. 2015-92, Approving an Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. of Mission Viejo, California, to include Engineering Services in the amount of \$125,000.00 for Fiscal Year 2015/2016 with the option to renew for three additional years; 2) Authorizing the Administrative Services Director to make necessary budget adjustments and appropriations and transfers related to the agreement; and 3) Authorizing the Interim City Manager to execute the Professional Services Agreement with Charles Abbott Associates, Inc. for Fiscal Year 2015-2016 with the option to renew for three additional years.

5.	Resolution No. 2015-93, Awarding the Construction Contract for Project No. 2015-91, ADA Upgrades at Lions Park and Rejecting All Other Bids. Staff Report.	395
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Recommendations: That the City Council: 1) adopt Resolution No. 2015-93, Awarding the Construction Contract for Project No. 2015-91, ADA Upgrades at Lions Park to Leonida Builders, Inc. of Glendora, CA for an Amount of “not to exceed” \$368,000.00 to cover and unforeseen project conditions, and Rejecting All Other Bids; 2) Anthorizing the Administrative Services Director to make the necessary budget adjustments and appropriations for this project; and 3) The City Manager is authorized to execute the contract agreement with Leonida Builders, Inc. of Glendora, CA for Project No. 2015-01, ADA Upgrades at Lions Park.

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

SCHEDULED MEETINGS

VII. BANNING UTILITY AUTHORITY (BUA)

Call to Order: Chairperson Deborah Franklin

Roll Call: Boardmembers Miller, Moyer, Peterson, Welch, Chairperson Franklin

REPORTS OF OFFICERS

1. Resolution No. 2015-14 UA, Approval to Join the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force.
Staff Report. 407
Recommendations: **That the Board: 1) adopt Resolution No. 2015-14 UA, Approving the City to Join the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force (“BMPTF”) and allowing the Mayor to execute Amendment No. 2 to the BMPTF Agreement; and 2) Authorizing the Administrative Services Director to make the necessary Budget adjustments and appropriations related to Resolution No. 2015-14-UA.**

BUA ADJOURNMENT - Next regular meeting: Tuesday, October 27, 2015 at 5:00 p.m., Banning City Hall Council Chambers.

BANNING FINANCING AUTHORITY (BFA) – no meeting.

RECONVENE regular City Council Meeting.

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

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

IX. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Discussion regarding City’s ordinance dealing with sex offenders and child offenders. *(10/13/15)*
2. Discussion of vacant properties and on Ramsey Street where people are discarding furniture.
3. Report on Banning Chamber of Commerce Utility Bill Issue
4. Workshop on legal issues (whistleblowers, harassment, personnel issues, consent calendar policy, more interaction with public, form of minutes,).
5. Attorney General Opinion re. Developer Impact Fees collected by hospital or other agencies.
6. Collection of Judgement re. Jim Smith
7. Discussion re. Time of City Council Meetings
8. Safe Walkways for student from the schools and signage.
9. Housing Element *(10/27/15)*

(Note: Dates attached to pending items are the dates anticipated when it will be on an agenda. The item(s) will be removed when completed.)

X. ADJOURNMENT

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

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.

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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]

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/22/15
SPECIAL MEETING

A special joint meeting of the Banning City Council and the Banning Planning Commission was called to order by Mayor Franklin on September 22, 2015 at 3:01 p.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

COMMISSIONERS PRESENT: Commissioner Briant
Commissioner Ellis
Commissioner Krick
Commissioner Price

COMMISSIONERS ABSENT: Chairman Shaw

OTHERS PRESENT: Dean Martin, Interim City Manager/Interim Administrative Services Dir.
Brian Guillot, Acting Community Development Dir.
Sandra Calderon,
Sonja De La Fuente, Office Specialist
Marie A. Calderon, City Clerk

WORKSHOP REPORTS

1. Economic Development – Billboards or Outdoor Advertising Signs

Acting Director Guillot addressed the Council and the Commissioners seeking a policy direction regarding this subject with no action is recommended at this time. Any actions brought forward would go first to the Planning Commission and then to the City Council regarding amending our sign regulations. At this time Action Director Guillot started his power-point presentation on this item (see Exhibit "A" attached). He said what staff is proposing is related to economic development and that is why it was titled as such and has to do with our billboards or outdoor advertising regulations. Currently our regulations prohibit any new billboards. However, we do have conditions where billboards are located on existing vacant parcels of land as shown on the screen. This is an example of the 3500 block of West Ramsey Street where a billboard is located in the commercial zoning district. The land would like to be developed for some retail use perhaps however, if the owner of that sign would want to develop the property and tore the sign down, that would be a complete loss to them of that advertising mechanism. So what staff is proposing is to amend the sign regulations simply to allow a relocation agreement approved by City Council. No new signs are proposed through these changes.

Acting Director Guillot continued with his presentation giving some background on the existing billboards. He needs to hear from the public, the Planning Commission and the Council as to what minimum exchange would we require, how many sign faces would we want traded for the ability to provide the digital billboard technology and that is one of the issues they would need to discuss. He said if there are any other items that should be added to the design guidelines related to this, please let him know. He briefly went over the benefits from changing our sign regulations to allow relocations and said he would appreciate hearing from the Council and the Commission about any other benefits.

Councilmember Welch said he thought he heard that one of things that would be determined is the number for replacement like a 2 for 1 and then the location has to be ratified by Caltrans.

Acting Director Guillot said the reason for that is because we would want Caltrans input on their regulations because there are a number of things in there that are the responsibility of Caltrans. Ultimately, the City is the permitting agency but would want to respect what Caltrans had to say. We wouldn't obviously want to approve a sign in a location that they would come back and say, for example, would be a distraction to the on-ramp or something like that.

Councilmember Welch said the same policies follow that all these signs are actually on private property and not on Caltrans and not on right-of-way. Acting Director Guillot said that was correct.

Councilmember Moyer said he noticed on page three it basically said 2 for 1 but in the presentation you had an example of 3 for 1. He thinks that 2 for 1 is adequate. He asked if any of this would be on City property and if so, do we get any income from it.

Acting Director Guillot said in regards to the question about 2 for 1 or 3 for 1 he did that purposely because he has not concluded a particular formula and wanted to hear from the Council and the Commission regarding that issue. In regards to signs being on City property, in his mind, that would be the best case if we could cooperate with an outdoor advertising company with a sign location because in that case we could generate some revenue for the City.

Councilmember Miller said he didn't quite understand why the signs would be relocated; what would be the reason.

Acting Director Guillot said in the case of his example in the power-point presentation on Slide 2 this sign intrudes into the area where a new building might be placed. For example, at one time he received a pre-application for this particular area for an auto parts facility but the building intruded into the sign so the sign would either have to come down or be relocated. So that is the reason why this would benefit both development and the outdoor advertiser and the City ultimately.

Councilmember Miller said he is not certain which of the various billboards we have that you are talking about. Are you proposing that they all be changed to digital, that some of them be changed to digital and then an agreement be reached amongst the different owners that some of them be digital.

Acting Director Guillot said he is not recommending what type of outdoor advertising sign goes in at all. What he is recommending is that we allow relocation agreements. An outdoor advertiser could ask that a sign be relocated without it being a digital sign and that would be up to them to negotiate that. What they have asked for in these relocation agreements is the ability to enhance their site by going digital. He said to him simply having the State law available in our City would allow relocation agreements of any type.

Mayor Franklin said so basically you are saying right now we don't have that capability because of our current ordinance. Acting Director Guillot said that is correct.

Commissioner Krick asked why the 2 for 1 billboards. Are we trying to get rid of billboards and is that why you have to give up 2. What if an individual owns one billboard and they want to upgrade it and they only have one billboard so they are not able to move it, upgrade it.

Acting Director Guillot said that would depend specifically on what regulations we do adopt. However, yes it is in our advantage to reduce the number of billboards along the interstate. Our General Plan doesn't go specific on this but scenic vistas and other aesthetic parts of this Pass Area are of value to the citizens. We need to balance that scenic vista with encouraging and facilitating business development so reducing the number of billboards in exchange for digital technology would seem to be an advantage both to ourselves as a community and to the advertiser.

Commissioner Krick said included in the packet is a Sample Relocation Agreement from the City of Corona and an interesting fact in that agreement is the payment to the City for a fixed amount of money per year, per changeable message board for the first three years. He doesn't know if the City of Banning at this point in time collects a license fee on billboards and if they get any kind of revenue sharing. In their attachment it refers to revenue sharing as stated on page 79, are we looking to that as a source of income or we are just going to give it to everybody for free.

Acting Director Guillot said he wasn't involved in negotiating the agreement with Corona. He simply presented that to the Commission and Council as an example of what could be negotiated. The agreements would be authorized to be negotiated through City Council. In this particular agreement it looks like maybe the advertiser may have offered this as an incentive. Lamar in their letter offered something different. They wanted to do a location on a City property where they could share the lease with the City. So whatever mechanism the City Council and those that are negotiating the agreement develop that is what would be used. He doesn't want to limit it to any specific item because then the flexibility that you have in an agreement is lost. Right now the City of Banning collects a business tax from all people who do business but it is small and not significant. How we develop that part of the program depends on the City of Banning and the advertiser in what they are willing to offer so he didn't put forth any specific requirements. The simple part of this is that we need to set guidelines and stick to those and the most important one in reviewing this information is the formula.

Commissioner Krick said on page 10 you are saying this is in the "prohibited section" but it's everything that is prohibited.

Acting Director Guillot said that is what happens in the Municipal Code something is put in a prohibited section and then it will list the exceptions. He knows that it is confusing but that is how "legal speak" often occurs. So in this particular instance it is in the "prohibited part" of our sign code but it is an exception.

Commissioner Krick asked if the signs had to be on metered electricity or can they run on generators.

Acting Director Guillot said generally we require signs to be on metered electricity and he thinks most advertisers would want that because the cost of installing generators with air quality regulations and other expenses far exceeds just having an electric meter but that could be something in the code that we could prohibit any generators to illuminate these signs.

Commissioner Krick said from his standpoint the San Bernardino sign, shown on Slide 5, if somebody is going to redo the sign the enclosed pylon the way that it is designed is much more aesthetically pleasing than just the plain pole.

Acting Director Guillot said he agrees and that is why he included that sign. That is an architectural treatment for the mount and even the building has architectural elements and a decorative kind of fence around it. He said that those are the kinds of comments that he appreciates and he will bring forward those elements.

Commissioner Krick said on the relocation agreement if the sign is of a smaller nature, can it grow into a full-size sign or does it have to stay at the remaining size that it was originally.

Acting Director Guillot said he believes the agreement would define that. In regards to having an existing small sign go up to a larger sign and a single-sided sign being able to go to a double-sided sign is the kind of input he would like to hear from the Council and Commission.

Commissioner Briant said he gets the impression that we are sort of pushing landowners, business owners to adopt the electric as opposed to the signs we have now. Is that correct and over time are we aiming at that direction or is that a direction we should be going.

Acting Director Guillot said again, that is a policy question really that he needs to hear from the Council and the Commission. The outdoor advertising companies would like to have the ability to use this digital technology. We would like to reduce the number of billboards in our city and we would like to have obviously the ability to do some City advertising, public service emergency advertising on the billboards so those are all positives but they need to be weighed if this is something we want to do or keep things the status quo.

Commissioner Briant said in looking at the billboards today it is a mishmash of different sizes, types, and so on and asked if we are considering a more standardized billboard policy for the City.

Acting Director Guillot said we don't allow any new billboards period, so there would be no reason to have a policy for them. The policy that he is asking for comments now is related to relocations. What do we want out of a relocation agreement should the Council and the Commission want to adopt that so those ideas can go into the relocation guidelines. For

example, the seven items that he listed were just a sample of those things but if you would want other things include, that is what he would like to hear from this meeting.

Commissioner Ellis said if we all get on the road at Highland Springs and drive east you will find that there is not much room left for new signs and they are pretty well taxed out on the south side of the freeway traveling east. He thinks most of the signs are owned by Lamar and a few signs direct business into our town and others go to the casino and further down east. From Sunset Street all the way to Hargrave there is not one sign and it is a beautiful and scenic drive. Once you get passed the Hargrave on-ramp again, eastbound on the 10 freeway, it seems that we are filled up again with signs. As you get to Malki Road and head back west there are three or four signs and then you get to the scales and go to Ramsey Street and there are no more signs. Then as you go from the Ramsey off-ramp and you drive it is a hodge-podge of signs. Then there are many pillar signs of different sizes for the many businesses in town between Hargrave and 22nd Street. Then when you go past 22nd Street there are more signs from Sunset to Highland Springs. As far as relocation he thinks it is going to be tuff. Personally he wouldn't want to see any signs from Sunset to Hargrave. He was reading in the material about Caltrans and their greenbelts in some of the areas where they prohibit signs and he doesn't know who owns the property whether it is the State and railroad property and that is why there are no signs along there between the interstate and the railroad tracks. As far as our moratorium on signs he thinks that we are on the right direction and have plenty of signs. One of the issues that he has and feels is a major issue is the 2 for 1, 3 for 1, 4 for 1 or whatever it is that you have to give up two signs to relocate one sign and his first question is that an individual that owns one sign why should he be treated any different than a large company that owns 50 signs. Lamar enjoys the pleasure of saying they can give up two signs to put this one sign and he completely understands where the Sizzler sign is and that piece of probably and what is being talked about where they wanted to put the auto parts store in and he can see why would they want to give up an income sign to develop something else and he thinks it is gracious of them to consider relocating to see that property. But he totally disagrees that if someone owns one sign in this town and wanted to digitalize it we shouldn't say to that billboard owner that only has one billboard you can't do anything. He doesn't think it is fair. As far as exchanging two billboards to move one, he doesn't think it is fair to the guy that has one or the guy that has two, maybe. There are situations where you drive along headed westbound and there are people who have signs, not Lamar owned, that are in pretty bad shape also but doesn't have anything to do with relocation. He asked if there was any restriction with solar power for these signs because with LED technology you can light with low voltage so are we going to allow them to put solar collectors on their signs if they relocate.

Acting Director Guillot said that solar is allowed in the city and in fact we just adopted solar streamlining ordinance that allows a quick review of those types of things.

Commissioner Ellis said we talk about revenue and revenue sharing, giving up our city-owned property to share with a sign company. He thinks the best thing and the most equitable, in his opinion, would be a billboard tax similar to our bed tax and similar to our mining tax where a certain percentage is paid depending upon, he feels, the income of sign and not generally the location. He thinks that along with relocation if an individual has a sign on a large piece of property and it really doesn't have the visibility it should have, that that person should be able to relocate on the same property if they upgrade the sign. Also, someone made a comment that the three-legged signs are kind of ugly and the single pillar signs do look a lot better. In regards to 2

for 1 sign is that two physical signs or is that two faces of a sign. In other words, if you are going to give up 2 signs for one, is a two-faced sign considered two signs or one sign.

Acting Director Guillot said that goes to the issue of Commission Krick in that he was concerned with the exchange of the area of each sign face getting that precise. So those are the comments that he needs in regards to the billboards.

Commissioner Ellis said some of the early signs were on steel girders and they were "V" signs and stood about 75 feet high and had about the same surface of as the new ones have but were actually on a "V" and are not as attractive as the single post signs are. In relocation we should make it available if an owner wants to upgrade to make his sign look better and go to electronic because if we go to some type of a standardized tax and he goes to a digital type of sign it then just increases the money for us.

Acting Director Guillot said to address the comment about the one sign owner what might be suggested on his part is to make it just a "minimum" so that if the Council wants something else, that could be proposed or if the advertiser wants to offer something else.

Commissioner Price said pertaining to revenue does the City regulate how much it cost or does the sign company regulate the cost on the sign.

Acting Director Guillot said if it is the "advertising cost", the outdoor advertising owns the sign so they set the rates for their advertising.

Commissioner Price asked how we get our revenue from a fixed sign as opposed to a digital sign.

Acting Director Guillot said right now there is nothing in place that he is aware of to get revenue in that way. Simply any business in the city or a person carrying on business in the city pays a business tax but that would be nominal in comparison to the revenue that was shown as an example for the City of Corona. So what Lamar offered in their letter was a joint project so that we might share perhaps the rental or the lease of the property as a benefit to the City. But Commissioner Ellis was suggesting a tax on all outdoor advertising signs and he is not sure about the legality of that and would have to get with the City Attorney with more information. Also if you look at the way that the City of Corona did the revenue it was quite unique. They basically said so much advertising belongs to the City and if we don't use it, we get paid for it because you are going to sell it to somebody else. But there are so many different ways to generate revenue in this field and some of them have resulted in lawsuits so those are the comments we need and those are the answers he can get.

Commission Price said he doesn't know if we can ever do anything about this but for anything to block the view of the picturesque beauty of the Pass mountains, he is really not for and we have a lot of signs on the south side of the freeway going east and probably cannot control that very much but he would certainly want to see us take a serious look at controlling that because nobody likes blocking that view.

Acting Director Guillot said he wouldn't give up on that thought because, for example, if we do approve a relocation agreement ordinance in the sign regulations we could negotiate something like that because in his mind we value the view and the advertiser values the number of cars

going by so if they can find a spot where we get our view and they get their cars, then we both benefit. So that is the kind of thing we would do in the negotiations for each of the agreements.

Councilmember Peterson said personally he like signs and when you are driving down the road it kind of breaks the monotony. The signs along our picturesque highway as stated by Commission Price, if we could lower those signs to ground level, then it would cover the blight and free up the mountain scenery. He likes signs and guesses it can be overdone but he thinks that the signs do help local business. He is concerned about some of the privately-owned signs like Frank Burgess' sign or Rays RV sign or some of those people and how this would affect those signs. Lamar, CBS and the other sign companies would be able to fit right in but the local people with the single signs may have some difficulty. He thinks that whatever we do that when we rewrite this we have to take the single-sign owner into consideration and not damage their business with this sign ordinance.

Councilmember Miller said he is really confused as to what the definition of a billboard is on the local businesses like Travelodge, Arco and all of those. They have these pillars with a little sign above it that specifically refers to that business. Are those considered billboards or is that a different type of sign.

Acting Director Guillot said from a planning perspective they view those sign as on-site advertising. In other words, even today our Code makes provision for freeway-oriented signs for a business that is located near the freeway. They could pull a permit for that today. This discussion separates itself in that the items being advertised are off-site. In other words there is no Sizzler located on the parcel where the Sizzler advertising sign is located so we call that "an off-site or outdoor advertising sign" and right now those are prohibited by our Code and so we have been constrained in that we have some of these signs and Lamar has said we would like to relocate according to State law and he tells them that our City code does not allow that.

Councilmember Miller said is other concern is that when you talk about the signs being helpful to the businesses of our community and that is really what we want if you have a digital sign, is there any evidence whatsoever that you will not have 500 different businesses advertising on their sign and none of them being a local one.

Acting Director Guillot said he is not familiar with the marketing intricacies of outdoor advertising but he would just assume that they would give local businesses the opportunity to buy it and whether they could afford it or not, he wouldn't know that information. What we would be able to do that interest the City and to him is to advertise things that are related to our operation. For example, promoting different City events we could reserve through the relocation agreement some time on their sign for that and then the other thing that they could do is the "Amber" alerts, bad weather information, etc.

Councilmember Miller suggested that we reserve part of the time for us as you said and also a discount for local businesses should be part of the agreement.

Councilmember Moyer said he sees no reason why for single sign owners that have businesses here in Banning that we can't put something in to protect them in this matter; he totally agrees with that. Also, in regards to the Sizzler sign he knows that they want to move it and do we have any input into the second sign if we go for a 2 for 1.

Acting Director Guillot said he would think that in a negotiating agreement we could ask for what we want.

Councilmember Welch said he certainly agrees with the single sign owners. In the staff report on page 2, you identified the approximate number of billboards along the interstate and do you have any idea how many of them are individually owned by a business and how many of them are owned by sign corporations.

Acting Director Guillot said he doesn't have that information at this time. He said he took the actual data from a City study that was done about 10 years ago but nothing has changed in that we have not permitted any new signs. So staff can bring forward another data sheet.

Mayor Franklin said one of the things that she would like to have considered in updating the ordinance would be something about maintenance because some of the signs whether they are billboards or just outdoor advertising get a little old. She asked if AQMD (Air Quality Management District) had something to do with the placement of signs. Acting Director Guillot said not that he is aware of.

Mayor Franklin said when we talk about where signs are is there anything that says that they can only be within certain area of buildings because it was mentioned like with the Sizzler sign that a building wants to go in that spot. Is there something that says billboards have to be a certain distance from buildings?

Acting Director Guillot said that we don't have any guidelines right now so if we did want something like that we could include it in the requirements. He does recommend some sort of requirement related to existing residential and that is because we do have legal non-conforming residences in our commercial zones so we would want to be sensitive to relocating a sign next to one of those existing residential properties. In that case if we were negotiating it we would put in guidelines, for example, that at certain hours it wouldn't function or would have to be so many feet away so that it doesn't shine into the residence. We would need to address that in our guidelines.

Mayor Franklin said one of the pieces that you talked about on page 50 had to do with signs in residential zones and in particular, in regards to garage signs or even when we have an event and people put up local signs like if there is an "electronic drop off day" you see signs and do we have to have permits for those and how do people know they have to have permits for those kind of signs.

Acting Director Guillot said he doesn't know if they advertise the requirement that we need permits. He has a brochure that he keeps at the counter for individuals who ask so he gives them a copy of the regulations and explains those to the person. Right now the only digital type signs that we allow would have to be related to an auto mall or theater otherwise digital signs are prohibited for an on-site type sign; what we are discussing here is relocation for off-site.

Commission Krick said we are calling them "relocation agreements". Are we allowing them to pick up the sign and move it to a different parcel of land or it is relocation on to the parcel that

the existing lease currently takes place? In other words, are you allowing them to take it to the parcel next door if they can, or does it have to stay on the actual property where it started?

Acting Director Guillot said there is nothing in the guidelines that he recommended that would require anything like that. The relocation would simply be relocation somewhere within the city and then it would have to meet all those Caltrans requirements and City requirements but there are no requirements to relocate it on that parcel and that could be problematic because some of the parcels are not of the same size.

Commissioner Krick said and unless you pick up the sign and want to move it you can't just come in and upgrade.

Acting Director Guillot said that was correct. It is to allow relocations in accordance with State law. As part of that most outdoor advertising companies will not spend the money to relocate a sign, even a fixed sign, unless they can make it produce more revenue and in exchange for that what we would want is a couple of other billboards or sign faces to come down and then we have control over those guidelines that he is asking for comments on. So we can separate it from business, from residences or however we want to do it but remember when we put something in the guideline it applies to everyone. You have now taken that from a negotiating item to a "must" or a "shall" and he generally tries to leave things open for negotiations. It gives the Council more ability to adjust on a particular project. If we put it into the Code, then they wouldn't have that leeway.

Commissioner Krick said if he were a person coming into the City and had a sign and wanted to relocate and upgrade it and said he was going to relocate his poles five feet away from the existing location of the existing poles, is that considered a relocation agreement?

Acting Director Guillot said first of all under the present regulations you could not do that because you would have to apply for a building permit so no you couldn't do anything to the sign other than maintain its integrity. Commissioner Krick said but he is talking with what we are trying to adopt. Acting Director Guillot said yes. If they wanted to move it five feet they would have to enter into a relocation agreement with City Council.

Commissioner Krick said so they could still relocate on the same parcel, move it over a few feet and then build a digital sign. Then we are going to say how high from the freeway grade or whatever and we will have provisions for that. Acting Director Guillot said yes, those are the types of things he is looking for from the Council and Commission.

Commissioner Ellis said on the relocation Councilmember Peterson made a comment about lowering the sign and could that be something we might consider in lieu of 2 for 1, or 1 for 1, or whatever it is. For instance, if the Sizzler sign needs to be relocated and Lamar has a three-legged sign that is not aesthetically nice and it is doing some wrong and if they agree to upgrade that sign to a single pole from a three pole, etc. would that be something we might be able to consider as well and he definitely thinks what the Mayor said as far as maintenance needs to be mandatory on any relocation that they have to keep it in an attractive manner.

Bill Houck, General Manager of Lamar addressed the Council and Commission stating that they have been in the desert and inclusive of this area since 2002. They came to the market by virtue

of an acquisition of Martin Communications and in 2003 they acquired another company which actually gave them an opportunity to do business with the Morongo Band of Mission Indians and they were the first of three different companies over time that were involved in marketing the structures that you see along the freeway close to the factory stores and on to the east. The billboard that Brian Guillot showed which they refer to as the "Sizzler" board is on a parcel that is contiguous to other parcels along the freeway and that became a Lamar property by virtue of another acquisition they did with a billboard company called "Fairway". So when they bought Fairway Outdoor they had an opportunity to have a billboard which really didn't have a ground lease and that was a very profitable situation because they owned the property. That billboard it is very scary and they cannot get on the billboard because it is dangerous and have been servicing that billboard since 2005 out of a crane so when they began talking about doing something there it wasn't with the mindset of having a digital billboard; it was with the mindset of making that billboard safe for their men to get on. They have not been able to move that project forward. So fast-forwarding from 2005 to a few years later again Lamar acquired a company called "Empire" formerly known as "Dezoro" and before that "Heywood Outdoor" and those companies for whatever reason decided that they weren't going to put a dime into the structures. The maintenance of them was abysmal, not painted, odd sizes in some respect and put together Tinker-Toy style and then they came in and through the opportunity that was provided by the City they upgraded every one of those structures that they acquired from Empire and have taken some down. He said that digital is state-of-the-art and Lamar was actually one of the leading companies to get involved in that technology. The reason for digital was two-fold. He said that Lamar grew up servicing local businesses and if you looked at their annual report or did any study of the percentage of national business, business that is placed by big advertising agencies or national concerns there is a very small percentage; they are focused on local business. The stuff along the south line is all railroad property from almost the 60-Highway split all the way to the other side of the factory stores where you run into the Morongo property. He wanted to make sure that the Council and the Commission understand that they really like to take care of their local clients and they become involved in the communities. At least 90% of the advertising is local advertisers. Even if it might appear to be a national ad, like McDonalds or Carl Jr., those businesses are owned by local franchisees; they just happen to fund it through national advertising. Back to digital, it was set up as a way to maximize revenue on locations where over the years they are fewer billboards now than there were ten years ago all over the country and they are not building more billboards and in rare occasions do they have an opportunity to add inventory; it is all relocation and usually they lose billboards because of development. At the end of the day the digital billboard was set up to provide an opportunity for advertisers to change their copy. It was a way that they could change their message based on what they were trying to do at any given time and that was the main purpose of it. They are not going to make a bazillion of their regular billboards into digital; it is cost prohibited. In a community of your size, if we got one or two, that would do it.

Mayor Franklin wanted to make sure that staff received some direction from the Council and the Commission and it sounds like we are interested in staff looking at making to some changes to what our current sign ordinance is and some of the things talked about were the single sign owner, maintenance of the signs, view restriction, City ad sharing, size of the sign, 2 for 1 or more, the location of the signs, the pillar decorations, electronic or LED's or solar signs, billboard tax and discounts for local businesses.

Mayor Franklin said that there was a consensus that this go back directly to the Planning Commission and then to the City Council.

ADJOURNMENT

By common consent the meeting adjourned at 4:07 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.

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City Council and Planning Commission
Joint Study Session

City of Banning

Community Development Department
Planning Division

September 22, 2015



**Economic Development
Billboards or Outdoor Advertising Signs**

Proposal

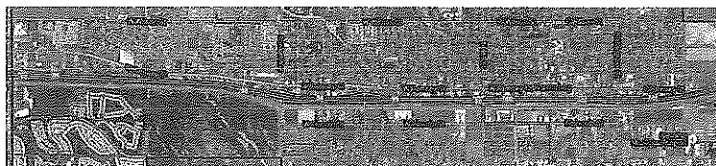
Billboard
3500 block of W. Ramsey Street



- ❖ Amend the sign regulations to allow the **relocation** of existing billboards or outdoor advertising signs through approval of a relocation agreement by City Council.

2

Background



- ❖ Interstate 10 has 5 miles of frontage in the City – 147,000 vehicles per day.
- ❖ Approximately 45 existing billboards, 39 double faced and 6 single faced; all are considered legal non-conforming by the zoning regulations.
- ❖ Policy of the State of California to encourage relocation agreements to allow development (Outdoor Advertising Act Section 5412).
- ❖ A number of cities in Southern California have taken advantage of this provision allowing relocation agreements that include reducing the number of existing signs in exchange for allowing digital technology signs.

3

Issues and Opportunities

- ❖ It is strongly recommended that guidelines be developed to determine under what non-subjective circumstances relocation agreements should be entered into.

Examples of design guidelines:

1. Relocations not permitted in the DC zoning district.
2. Relocations not permitted near existing residential uses.
3. Shall not simulate motion; require a balance to display brightness.
4. Minimum exchange formula for existing billboards (ex. 3 existing billboards removed for one digital billboard relocation agreement).
5. A building permit shall be required.
6. Caltrans shall approve the new location.
7. Limit the speed that a message can change.

4

Issues and Opportunities



Digital billboard located in San Bernardino along Interstate 10

- ❖ Digital billboards, when they replace off-site advertising structures, become exponentially more valuable. Traditional billboards rent by the week or month; digital billboards rent by increments of minutes, often seconds.
- ❖ Driver distraction - At this time, there is not enough evidence to determine whether electronic billboards are dangerously distracting to drivers.

5

Possible Benefits



- ☐ Encourage and facilitate the development of commercial projects where existing billboards are in the way.
- ☐ Reduce the number of existing billboards by allowing digital billboard technology in exchange for removing existing billboards.
- ☐ Ability to provide public service announcements and promote City sponsored events using digital technology.
- ☐ Secondary financial benefits due to increased business activities.
- ☐ Possible revenue sharing with the City on joint projects.

6

City of Banning



Community Development Department
Planning Division
PO Box 998
99 E. Ramsey Street
Banning , CA 92220
(951) 922-3125

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/22/15
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on September 22, 2015 at 4:10 p.m. at the Banning Civic Center Large Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Dean Martin, Interim City Manager/Interim Administrative Services Dir.
Lona N. Laymon, City Attorney
Rita Chapparosa, Deputy Human Resources Director
Sonja De La Fuente, Deputy City Clerk
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney Laymon announced the closed session items as follows: one case of potential initiation of litigation matter pursuant to Government Code Section 54956.9 (d)(4); one item of existing litigation pursuant to Government Code Section 54956.9 (d)(1): (a) Robertson's Ready Mix, Lt.; Real Property Negotiations pursuant to Government Code Section 54956.8 to enable the City Council to consider negotiations with Dr. David M. Birman, HydroResolve, and to give direction to its negotiators the City Attorney and Community Development Director regarding that certain real property commonly known as "Jensen Canyon"; Labor Negotiations pursuant to Government Code Section 54957.6 and the City is represented by the City Attorney and negotiations are with to union entities, Banning Police Officers Association (BPOA) and Banning Police Management Association (BPMA); and Personnel Matters pursuant to Government Code Section 54957: public employee appointment to the position of Human Resources Director.

Mayor Franklin opened the closed session items for public comments.

David M. Birman addressed the Council regarding the Jensen Canyon Project stating that back in 2008 because of his background and his father's work as a geophysicist he discovered that there is a water opportunity that everybody has overlooked because of his father's particular technique in geophysics. He noted a whole bunch of historical and geological things going on at that point to the existence of water resources that everybody has had to overlook because of the concept of boundary conditions because without his dad's thermal technique you can't see where the water

is, you have to estimate where it is. However, the thermal program has been very successful for almost 60 years but kept really closely held because of his concern about being an academic and being in business. Nevertheless, those projects and that background gave him the ability to put things together and come up with the fact that there is water in the mountain block system that is being talked about by other professionals elsewhere. Included in the data is the fact that the Colorado Aqueduct crosses the Pass and enters Cabazon Peak and that was in 1934 called "The Cabazon Portal" and when they entered the Portal they ran into enormous amounts of water both on this side and the Hemet side and fought for four years to get the tunnel built. The geology reported then by his father's company for his client are identical and describe water that is available however, there are other locations that are much wider-based which would include the city of Banning, etc. He worked during the past years to bring together all the components to make the water available and he has investors who are hoping for an MOU from the City of Banning. He has spoken to the Morongo Nation, Cabazon Water District and has worked with Duane Burk when he was with the City and many, many other people. We are on the cusp of producing this water. There is a small well field that already shows that the water is there and that the quality of the water is superior according to a water master who works in Riverside County snow melt so we would be in a position to capitalize at no cost to the City of Banning the final delivery of the water to the surface in wells consistent with what the City would require and work out the engineering problems, EIR, etc. to make sure the pipeline is ran in accordance with all the rules and that water resources extracted would be environmentally safe and appropriate for the City of Banning. The amount they predict is approximately 5000 acre feet per year which is about little less than half of your requirement that you already get from the State Water Project. The difference is that this water needs no treatment minus the basic treatment. He thinks that it will be a cost saving benefit when they are finished with negotiations and will find based on what his original discussions with Mr. Burk in 2010 that this will be a huge savings for the City of Banning. Again, this is more than this one location and is turning into a regional thing and he thinks that there will be other benefits.

Mayor Franklin closed the item for public comments. Meeting went into closed session at 4:17 p.m. and recessed at 5:00 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:00 p.m.

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

09/22/15
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Franklin on September 8, 2015, at 5:09 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Dean Martin, Interim City Manager, Interim Administrative Services Dir.
Lona N. Laymon, City Attorney
Alex Diaz, Police Chief
Arturo Vela, Acting Public Works Director
Fred Mason, Electric Utility Director
Brian Guillot, Acting Community Development Director
Rita Chapparosa, Deputy Human Resources Director
Sonja De La Fuente, Deputy City Clerk
Marie A. Calderon, City Clerk

The invocation was given by Pastor Rich Szydlowski, Mountain Avenue Baptist Church. Councilmember Welch led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

Assistant City Attorney Laymon said that the Council met in closed session on five different items. On Item No. 1, one case of potential initiation of litigation there is no reportable action. On Item No. 2, existing litigation pursuant to Government Code Section 54956.9 (d)(1) the Robertson's Ready Mix case there was no reportable action. On Item No. 3, real property negotiations pursuant to Government Code Section 54956.8, there was no reportable action. On Item No. 4, labor negotiations pursuant to Government Code Section 54957.6 with respect to the Banning Police Officers Association (BPOA) there was no reportable action and with respect to the Banning Police Management Association (BPMA) there was a consensus to approve the MOU that is currently listed on the Council's consent calendar. In regards to Item No. 5, personnel matters pursuant to Government Code Section 54957 public employee appointment to the position of Human Resources Director there was no reportable action.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Inge Schuler, resident thanked Councilmember Miller for his comments on the Banning Informer about the goings on of the City Council. It is greatly appreciated and the transparency should even appease Mr. Sakurai. She was pleased to see an account that was accurate about the appointment of a Planning Commissioner. Two of the Councilmembers voted against the appointment and three voted for it. She saw the application of Mr. Krick and the other application submitted and felt it was an embarrassment to even look at that application. It was flippant, it didn't answer any of the questions, and it was an example of disrespect or arrogant assumption of being appointed or both. It turns out that three Councilmembers in unison appointed Mr. Krick and actually encourage the other two Councilmembers to agree to a consensus. She felt it was not a good thing for the City to do and maybe hapless Mr. Krick just doesn't know how to fill out an application. She thanked Councilmember Miller for insisting on completeness of the minutes of the City Council meetings. She has been saying this for some time that whenever there is a controversial item it is shown as so and so spoke for or against and then there is a list of people and the ones that want to read up on it cannot because it just never even comes to the forefront. Thank you for the minutes of the last August meeting and they are very much appreciated. She is also concerned about some of the utility problems and has said things before about the billing cycles and now it seems that there are some people, or some entities, that do not have to pay their bills or do not have to pay them in full and that it can be traced back only three years. There must be a hard and fast rule that she is not aware of it that if you owe something that goes on for decades all you have to do is pay the last three years. She is not aware that this applies to every citizen in town. Sun Lakes and the Chamber of Commerce have this rule that they can go back three years and that's it. Does this apply to everybody and when and by who was this instituted and does this apply only to utility bills. She sees that on Pending Items there is the judgement against Jim Smith and nothing is being done about it and he still owes, and people still owe and does the three-year limit actually apply to that. These are just some questions that probably the citizens in general also would like to have answered.

Dorothy Familetti-McLean personally thanked the Council for their support of Stagecoach Days. It was a wonderful weekend and she thinks that everyone enjoyed it and it is going to be bigger and better next year. She also commented on an article that was in the Press Enterprise and the Pearlman project (see Exhibit "A" attached).

Helen Barnes stated that she is a 40 year resident of Banning and for obvious reasons she doesn't come before these proceeding much anymore. Although in her capacity as a past Chairman of the City's General and Utility Unit and Shop Steward for IBEW Local 47 she came before the City Council enough times that she is sure the people sitting where you are now were saying to themselves "here she is again". Probably 90% of those times she came before the Council it was something that she and other employees along with the Union disagreed with whether it was a decision that the Council made or was anticipating making. She took her position as a spokesperson for the members seriously and although some of the things she came here and said she never reverted to calling or accused any member of any Council of doing anything inappropriate. Last week as she watched the Council Meeting on-line she was appalled at what she heard being said to this Council and that is why she is here to set the record straight. Over the years she has had the opportunity to be a part of committee meetings where Councilmember

Welch was present in both a professional manner and as a social gathering she has never seen or heard of Councilmember Welch being anything but a complete gentleman and a professional. She has never heard him ever saying anything inappropriate about another human being. She has never smelled liquor on his breath and she had many opportunities to do so. He truly cares about Banning as you all do or would not have ran for office. Those people who disagree with decisions made or actions that are being considered need to grow up and find a more appropriate means of expressing their opinion and stop the childish behavior. She truly believes in the right of the people to be allowed to voice their opinion but she doesn't believe people have the right to falsely accuse anyone whether it is a Councilmember, a City employee or another community member of anything. Those people who did just that at the last meeting shame on you. Those few people who think they have the answer to everything usually don't have a clue and she challenges anyone who thinks they do to step up and be on the next ballot. As the saying goes "put your money where your mouth is". With the population such as we have here in Banning no Council can please everyone and there are other means to show our objections than name calling and spreading lies about one another. She thanks every member of this Council for stepping forward with their courage and willingness to make an attempt at making Banning a better place to live.

Aurora Ramos addressed the Council stating on behalf of herself and her family you are invited to the dedication of her new home. Habitat for Humanity of the San Gorgonio Pass has chosen two veteran families in this area to receive homes. She and her family was the first veteran chosen. Their dedication will be held on October 5th at 4:00 p.m. at 1292 S. Hermosa and would like for the Council to attend. She left invitations with the City Clerk.

Rick Pippenger citizen said that he lives in southwest Banning and it is miserable; the grade separation. When they originally started that they put out a thanks saying that they were going to be working 6 days or 7 days a week from 7 a.m. to 6 p.m. It is rare that anybody is there after 3 p.m. and there are a lot of days when nobody is there and if it is supposed to be done mid-October they better hurry because it is not going to happen. Also, in his opinion he always thought that elected officials are supposed do what the citizens voted them into office want them to do. For the last Council meeting he was out of town and from everybody that he has talked to everybody that came up here was against the Pearlman project. But three of you voted for it. You paid all kinds of money for that property, sold it for a fraction of the cost and he has done nothing. A couple of the meetings where he was on the agenda he didn't even show up. He doesn't care about Banning and is trying to find somebody else to sell that to and put some money in his pocket.

Chris McCallum, 757 W. Westward agreed with what Rick Pippenger just said. He thinks that the Paso San Gorgonio Project needs to be rejected by the Council when it comes up. Also somebody wrote a letter about the issue between him and Councilmember Miller how well it was handled and he thinks they squashed it and can move forward in a great way. They also brought him in about that whole deal regarding Mr. Welch's character the way that he has handled some things. He wanted to make it perfectly clear that he in no way ever would be associated with the bad character of Mr. Welch. He is a great man for our City and always has been and whether he agrees for disagrees with his opinion that doesn't matter. He has done nothing but stand up everywhere he has ever been when elected officials or anybody else was there so his character

should not be an assassination by this Council or this community ever and he feels very strongly about that because a number of people came to him not directly about Mr. Welch but even his interaction with Mr. Miller. We as a community have now put ourselves in a position when people stand up here on a regular basis and all we are doing is throwing rocks at them. So if he has a developer or someone that comes into this forum and that is all they see us doing, for example, if he was a salesman or a real estate salesman and he came into a house and there was two other real estate agents walking out with their customer and my customer saw them coming out saying this town is a piece of crap or this house is a piece of crap, where is the opportunity for me to sell my customer, zero because that is what we do in this forum. That is why he asked the City Manager to change it and he hopes the Council listens to him because we need to change this forum in order for us to progress.

Councilmember Peterson thanked Mr. McCallum for his comment.

Lynn Hammer addressed the Council stating that she does not live in the city of Banning but does own property in the city. September 11th is now almost two weeks behind us. If any one of the Council sitting up there really believes the ridiculous statistics that Mr. Ellis has been throwing around for the past two years regarding the San Geronio Bridge and the weight of their "vintage" fire engines, you better condemn that bridge tonight. What you, the City of Banning allowed to happen on September 11th was beyond wounding Fire Memories Museum and the Hammer Family. What transpired was disgraceful. Who authorized the no parking signs and why? No one seems to have the answer. If anyone of you did not agree with what happened that day, your silence spoke otherwise. Their tribute on the San Geronio Bridge which has taken place for over eight years is and has been a tribute to America. A tribute of hope, a tribute of inspiration, a tribute of freedom, a tribute of thankfulness, a tribute to those who have served this country and to those that have died for this country, a tribute for what we have in America and because they are proud of our country they take tremendous pride in sharing this tribute with the community. If each one of you had come out for just five minutes to see what this is all about, it would have made your heart swell with pride by the unbelievable number of horns honking, headlights flashing, thumbs up, and hands waiving. It brings incredible response from the public. Over the years without any asking this tribute on the bridge has brought considerable positive press to the city of Banning. This year, this tribute brought the city of Banning considerable negative press which showed the people who live here and the people in the surrounding communities how unkind, heartless, and unpatriotic the city of Banning is.

Councilmember Peterson said as a point of personal privilege he would like to comment because he was kind of expecting something like this to come in and attack the Council, the Council's character and everyone one of us that sits up here to include the City Manager. He said the Hammers have contacted every media and press that is around. There have been articles in the Record Gazette, the Press Enterprise, KMIR, and in each and every one of them they quoted, "75% of the reason why we are closing the museum is because the City was uncooperative and 25% because we are tired." He said that the City has bent over backwards to try to keep them in there. Furthermore, according to your own 990's and your tax returns you yourself valued your lease at 20 cents a square foot or \$2,000 a month which is \$24,000 a year that you claim on your taxes as a deduction that is on the taxpayers of this city. That is \$100,000 that you have collected from the taxpayers here and you are not even a resident of the city and how dare you as

a non-resident come into this city and take taxpayer money and then want to throw rocks at the very people who give you that opportunity. He said that the Hammers were notified on August 25th by Caltrans that they could not go on to the bridge. That was Caltrans that told them and Lynn Hammer writes in her own Facebook (see Exhibit "B") about the call from Caltrans. Then Charlene Sakurai answers, "Who is spelled Ellis or Peterson". But in Bob Pratt's article about Fire Memories he quotes Shelli Lombardo who is a Caltrans Public Information Specialist (see Exhibit "C"). So here again, less than two weeks ago Bob Pratt writes that a Caltrans official told Doug Hammer who heads the non-profit museum. So all this crying is absolutely ridiculous. Furthermore, even the City requires you to pick up a Special Event Permit (see Exhibit "D") and it says right on it in our City Ordinance that any time a city street is impacted you must have a Special Event Permit but yet nobody made Fire Memories get one and nobody has ever made them get one. The State of California personally calls you and tells you that you are in need of an Encroachment Permit and it states that any time you have an event in, on, or under a state highway an encroachment permit is required. All of which Fire Memories ignored and said you had a right. He said that we are tired of the rock-slinging, we have Councilmembers that have bent over backwards to try to give you a home, work out a deal and now you turn around and you bite the foot that fed it.

Lynn Hammer responded saying that they should have a face to face and nothing that you are saying is new but it is all BS. She said that she would like a sit-down meeting with the Council to discuss this whole issue.

Mayor Franklin said at this point we are just going to let Councilmember Peterson finish his comments and if there are any additional comments, she thinks that we need to set up a meeting outside of this forum.

Councilmember Peterson continued stating that the word "fire" and "fire department" in the Vehicle Code, Section 27905 cannot be displayed on your vehicles; it is a vehicle code violation. You are not an authorized emergency vehicle. An authorized emergency vehicle has to receive an authorized emergency certificate from the Superintendent of the Highway Patrol and you don't have that either. This is all information that the Banning Police Department gave to you and that you were completely well aware of.

Mayor Franklin asked Councilmember Peterson to stick to the item he was talking about and if you have more that you would like to say to the Hammers, she would like to see if we can have a meeting for that.

Councilmember Peterson said it is all about the lease and it is about our integrity and our about our City Manager who made a direction for the safety of the public to have items placed on the bridge and he would have been derelict of his duties and negligent had something happened on that bridge on that day if he hadn't given the order and they almost want to tar and feather him and put him out on public display and that is not going to happen. The City Manager did exactly what his duties were and executed them exactly the way he was supposed to. The Fire Memories fire truck is nothing more than an inanimate object. You were given the right to assemble which you did and your right of freedom of speech and no one interfered with you. You had the right to go on the bridge, do your celebration, do your memorialization but the inanimate object did

not have the right to be on the bridge and you were told but yet you still want to come in here and continue to throw rocks and then you threw them all over social media and you bash the Mayor, you bash him and the other Councilmembers, you bash Ellis; you bash us all. This from the origination never had anything to do with him. This was not his issue, has never been his issue but he will make sure going forward that the City is directed, all staff members, the Chief of Police, etc. are going to be instructed to carry out the law and require people to do what they are supposed to do and if you come back in to the city next year as a non-resident wanting to do something in our city, then you need to comply by the law.

Drew Tatum from Innovative Federal Strategies addressed the Council stating that he and Leticia White are in town and wanted to let the Council know what an honor it is to represent the City. Tomorrow they have some staff from Congressman Paul Cook's office coming and have been working with the Mayor and members from the staff on some very high priority issues including the Land Swap Bill currently pending before the United State Senate and issues related to the water conveyance system that is of great importance not only to the City but to Banning Heights as well. He said that they are the City's representatives in Washington, DC so any issue that is of federal significance to the City of Banning they have the honor of representing the City before the House, the Senate, and any federal agency with jurisdiction over those particular issues. As he mentioned before they are currently working with Councilmember Peterson on the Land Swap Bill with the Morongo Tribe and with Mayor Franklin and the water staff on the water conveyance system and competing bills in the House and the Senate that may affect that critical water supply delivery.

CORRESPONDENCE

The City Clerk read an item at this time:

- Fred Sakurai regarding the Banning Informer, secret sessions, and Brown Act restrictions on comments by elected officials (see Exhibit "E" attached).

Councilmember Miller said that he would like to make a correction. It is not the outlaw website. There is nothing illegal about this website. The correct name of this website is TheBanningInformer.com and he puts a summary of what happens at this meeting on that website because there is no other way to get that information out. The Record Gazette does not print a summary of what happens. The minutes of this meeting are long and drawn out and they simply say what people say. They do not say what the actual thing we voted on says. So the information he gives describes what actually happens here in regards to its effect on the people here.

PRESENTATIONS:

1. Introduction of New Employees – Mark Washington and Ralph Munoz
(Deferred to next meeting.)

CONSENT ITEMS

1. Approval of Minutes – Regular Meeting – 08/25/15

Recommendation: That the minutes of the regular meeting of August 25, 2015 be approved.

2. Approval of Minutes – Special Meeting – 09/08/15 (*Closed Session*)

Recommendation: That the minutes of the special meeting of September 8, 2015 be approved.

3. Approval of Minutes – Regular Meeting – 09/08/15

Recommendation: That the minutes of the regular meeting of September 8, 2015 be approved.

4. Approval of Accounts Payable and Payroll Warrants for Month of July 2015

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

5. Report of Investments for July 2015

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

6. Resolution No. 2015-84, Approving Amendment No. 1 to the Memorandum of Understanding (MOU) Between the City of Banning and City of Banning Police Management Association setting for the complete negotiated terms and conditions of employment for the represented employees.

Recommendation: That the City Council adopt Resolution No. 2015-84.

Motion Welch/Peterson to approve Consent Items 1 through 6. Mayor Franklin opened the item for public comment; there were none. **Motion carried, all in favor.**

Joint Meeting

Mayor Franklin recessed the regular City Council meeting to a joint meeting of the Banning City Council and the Banning City Council Sitting In Its Capacity of a Successor Agency.

CONSENT ITEM

1. Rotation of Senior Underwriter to Raymond James & Associates, Inc.

Recommendation: Appoint Raymond James & Associates, Inc. as Senior Underwriter for the refunding of the City's 2003-2007 Tax Allocation Bonds.

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

Motion Moyer/Peterson to approve Consent Item 1. Motion carried, all in favor.

Mayor Franklin reconvened the regular City Council Meeting.

REPORTS OF OFFICERS

1. Resolution No. 2015-90, Approving the Reinstatement of the Business Retention Electric Rate Schedule and the Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer.
(Staff Report – Fred Mason, Electric Utility Director)

Director Mason gave the staff report as contained in the agenda packet.

There were some dialogue between Council and staff in regards to reinstating this program and it being in place when Deutsch was here and the hospital using this rate.

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

Motion Peterson/Moyer that the City Council adopt Resolution No. 2015-90. Motion carried, all in favor.

2. Consideration of the League of California Cities Annual Conference Resolutions for the 2015 Annual Conference.
(Staff Report – Dean Martin, Interim City Manager)

Interim City Manager gave the staff report as contained in the agenda packet and asked the Council to review the resolutions and determine how it is that they would like Councilmember Moyer to vote on these resolutions at the conference.

Resolution No. 1 - Relating to League Bylaws Amendment Regarding Succession of League Officers to Fill Vacancies.

Motion Moyer/Miller to support the League proposal. Mayor Franklin opened the item for public comment; there were none. **Motion carried, all in favor.**

Resolution No. 2 – Calling for Legislation to Preserve Therapeutic Environments for Group Homes and Avoid Impacts of Overconcentration of Alcohol and Drug Abuse Recovery and Treatment Facilities in Residential Neighborhoods.

There was Council and staff dialogue of this resolution in regards to group homes moving in and invading your residential areas, bringing property values down, money-making scheme for the owner of the home, a place for the State to put their patients, these homes technically being a "health care facility" if people are going through rehab and why are they allowed in a residential area and not an industrial zone, civil rights laws, this resolution being a start, limits of the number of people in a home, the need to have management on site, the 300 foot separation is not significant, registration of group homes is needed, and limit the number of people in a home.

There was direction from the Council to Councilmember Moyer to speak on the following issues:

- this is only a small part of what needs to happen in order to protect the residential family neighborhoods.
- want on-site management, restrict the number of people in a home, and opportunity for the local authorities to manage these group homes.
- need something significantly stronger, protect us from having an excessive number of homes; and League needs to take a firmer position.
- a 750 foot separation between facilities.
- a requirement that every group home has to register in City where located, and limit the number of people that can be in a home.

Mayor Franklin opened the item for public comments.

Chris McCallum, 757 W. Westward addressed the Council regarding his experience of having a group home next to his home and a second one up on 8th Street just two doors down. He does agree with some of the things that the Council talked about and it is a start. He is all for helping a people out and those people are trying to and the home next to him is being operated by a management company and they do have on-site management. As far as the number of people going in and out of the home he doesn't think that you can regulate it because what he sees is that every night it is a different number and he can't sit there and watch it so if they are going to come in into our communities and operate these homes then it needs to be limited to a certain amount of people and registered. As a homeowner, he needs to know who lives there and that is a pretty important fact to take forward because he has a right and also has a right to live where he lives and has been there for 37 years. Also, more distance between homes might help a little bit.

Motion Moyer/Miller to approve the suggested wording from the League of California Cities on this resolution knowing that he is going to try to get some additional language and amendments to it but if he cannot get that done we still need to vote yes or no on the item. Motion carried, all in favor.

Resolution No. 3 – Supporting SB 593 (McGuire) and Continued Local Flexibility for Cities as they Address Neighborhood and Fiscal Impacts of Temporary Rentals of Residential Units.

Councilmember Moyer said basically they want to collect TOT (transient occupancy tax) on vacation rentals or disallow them.

Motion Miller/Welch to support the League proposal. Mayor Franklin opened the item for public comment; there were none. **Motion carried, all in favor.**

Resolution No. 4 – Calling Upon the Governor and the Legislature to Work with the League of California Cities to Enact Legislation or to Otherwise Compel Southern California Edison to Create a Program to Automatically Provide Director Compensation to Its Customers Affected by Prolonged Electrical Power Outages Under Specified Circumstances for over 48 hours.

Councilmember Moyer said that PG&E (Pacific Gas and Electric) does this now and Southern California Edison (SCE) doesn't and because there have been some problems with SCE they

want to make it consistent with what PG&E is doing right now and that is the whole idea of supporting this resolution.

Mayor Franklin said that she wanted to make sure that they stick with doing this only for SCE and not bleed over to municipal utilities.

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

Motion Peterson/Welch to support the League proposal. Motion carried, all in favor.

SCHEDULED MEETINGS

BANNING UTILITY AUTHORITY (BUA) – no meeting

BANNING FINANCING AUTHORITY (BFA) -- no meeting.

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

Councilmember Miller –

- We have heard tonight various statements that are negative about the Council and in addition he has heard from several people that a Councilmember has expressed disappointment in this Council stating that he feels this Council has accomplished little. He finds that statement very difficult to believe and although he cannot believe anyone on the Council would make such a bizarre statement he thinks that it is appropriate that he consider changing that and emphasizing that this current Council has done an enormous job working together to improve many aspects of our City's government policies and actions. Among those are:
 - 1) The mine operating within our city limits is fully being taxed thanks to the voters of Banning approving the ballot measure proposed by this Council. That tax money is being used for a variety of purposes. It helps balance our budget and hopefully in the future will help alleviate the polluting dust and noise produced by that mine. What is interesting and perplexing is that the previous Councils' never attempted to obtain these sorely needed funds and he cannot phantom any reason for them not doing so.
 - 2) In addition, this tax is an incentive for the mine operators to be more willing to discuss the plans for the final improvements in the mine area once the mine is depleted and closed. Such relocation plans could result in a valuable park area for the city rather than a vast, empty dangerous hole abandoned at the eastern edge of our city.
 - 3) This Council has recognized Stagecoach Days as being an important part of this city's recreation and is indicative of the western heritage and culture of our city and is evident that it is an event that draws many people from outside the area to our city to increase business activity and improve the image of our city. This Council supports Stagecoach Days strongly and appreciates the enormous efforts and the volunteer group that arranges this event. The previous Council dismissed this signature event with insulting remarks equivalent to ones like "this labels us as a hick town" and refused to support Stagecoach Days.
 - 4) This Council has maintained Dysart Park in its current form with sufficient room for rodeo trailers. The original plan considered by the previous Council was for changes which would have made such uses impossible.

- 5) Lions Park is being improved to permit use by handicapped people. Such needs were ignored in the past.
- 6) The previous Chief of Police without proper authorization obtained an armored vehicle suitable for use in Iraq and other war zones but is incompatible with a suburban town such as Banning. The lack of appropriateness for our City's use is indicated by the fact that this vehicle was involved in an accident while being driven here. This has been returned by the current Chief of Police to the Department of Defense.
- 7) The police station previous known as the "fortress of isolation" by many people under the previous Council and Chief was closed to the public except for several hours a week. It is now open during normal working hours indicating the desire of our police under its new Chief Alex Diaz to be fully responsible and responsive to the residents of Banning.
- 8) Despite its excessive size the police station was improperly designed and there was no place for the Gang Task Force storage of the City's mobile control center and for attack training. Space is now available in the Wilson Street fire station due to its abandonment by the fire museum.
- 9) Our City has not had a State approved Housing Element for more than 20 years. The Housing Element is a zoning map which satisfies the State's requirements for affordable housing. Failure to have this approved plan has prevented our City from obtaining government housing grants for an incredibly 20 years. This is an astonishing display of leadership failure. This plan has finally been approved by our City under this new Council and we can now apply for these sorely needed grants.
- 10) The previous Council was lacks in assuring that all contracts were obtained through an open bidding process. We have assured now that all bids go through such a process to guarantee the lowest cost to our City for the services rendered.
- 11) Previously when bids were required they were often advertised only locally in local newspapers. We now require all such bids to be made through national trade magazines. In the reconstruction of the Electrical Yard more than \$2 million dollars was saved by this re-advertising.
- 12) City hall was only opened four days a week. This was initially done as a result of the recession of 2008 and that should have been corrected a while ago. City hall is now open five days a week demonstrating that our City is open for business and is thriving.
- 13) The flume is a vital source of our water supply but the water being brought to the water canyon by the flume has been under threat by the Forest Service for more than five years. While much more work is still required more progress in dealing with this problem has been made recently than in the last half a decade.
- 14) An oil spill occurred during the previous Council's reign costing the City over \$1.8 million dollars. The previous Council did nothing to attempt recovery of that money. This Council has obtained over \$600,000 dollars from parties responsible by strongly pursuing this action.
- 15) Other sources of income were freely given away by past Councils. The Chamber of Commerce was not being charged for its utility bills for many years. The City is now charging for these utilities and is pursuing collecting these back charges that are owed.
- 16) We now have a licensed professional engineer in charge of Public Works. Having a knowledgeable engineer in charge is invaluable in seeking for the best solution to engineering problems in our City. For example, this engineering knowledge is invaluable in helping to find the appropriate means for reducing the Chromium 6 concentration in our water supply and in evaluating the best solutions to solving the problems of the flume water supply.

- 17) The Pardee Development north of Wilson has been stalled due to lawsuits with Cherry Valley. These lawsuits are now settled and that project has been approved by the Council and is able to continue.
- 18) The Water and Electric bonds issued by this City have been reissued at a lower interest rate saving the City \$7 million dollars in interest charges. As a professional note, at his first meeting as a new Council Member with the City Manager he asked for the review of the interest charges and how they could be improved. His requests were ignored until recently with a new City Manager.
- 19) Our City is burdened with having an interest in a coal-burning power plant, the San Juan Power Plant. We will be divested of that plant in 2017 removing the cost from our Electric Department.
- 20) Previously our City's donations to various organizations were done in a hap-hazard or on a one-to-one basis. Our City now has a firm legal procedure stating the steps to be followed when the City is asked to provide cash, buildings, or in-kind services to any organization. This legal framework will protect the City from claims of prejudice and aid in preventing the awarding of taxpayer money to friends of the Council.
- 21) The City Manager has the authority to grant contracts up to \$25,000 dollars without the approval of the Council. Previously contracts of that amount could be awarded repeatedly to any one company. Now any such repeat contracts must go to open bids again, assuring that the City will receive the lowest cost for the services required.
- 22) The new Chief of Police Alex Diaz has instituted a policy of having officer internal affair investigations being done internally instead of having them sent to an outside firm saving the City the cost of such reviews and providing easier, less offensive reviews to our officers. The previous Police Chief developed costs to the City of about \$700,000 dollars for such external reviews which will no longer be done.
- 23) The previous Councils had given the Cultural Alliance hundreds of thousands of dollars with insufficient accounting back to the City. A Grand Jury investigation found that these gifts were unacceptable and stated that part of that money should be returned to the City. Despite that finding the previous Council continued to give taxpayer money to the Alliance without oversight. This Council has stopped that practice saving the taxpayers any additional expense.
- 24) Previous Councils have gladly continued to subsidize the airport despite the fact that it is underutilized and the number of users has continuously declined. The present Council has had several workshops to discuss the future of the airport. While no absolute decision has been made these discussions demonstrate that this Council is willing to review past policies and to see if they fit modern requirements.
- 25) The previous City Council had WRCOG (Western Regional Council of Governments) perform community work to inform people of the methods of recycling. This work was simultaneously being performed by our waste management company. The contract with WRCOG was therefore cancelled by the current Council as unnecessary saving our City \$60,000 dollars per year.
- 26) The Public Works Department was permitting a private company to use City land without payment. That practice has now been stopped.
- 27) The previous City Council approved the contract for the top City executive with what he considered an outrageous excess of salary and an outrageous excess of severance package of over one-year's salary when the manager left. Does anyone else in this City ever have such a deal? The previous permanent City Manager had a salary equivalent to that of the Mayor of Los

Angles and the Mayor of New York. Our City cannot and should not bear such an expense. This current City Council has agreed that future contracts will be more reasonable. While we do not yet have a permanent City Manager this City has been governed efficiently by the interim managers and we are searching carefully for an appropriate manager who will be of benefit to our City.

Councilmember Miller said that there are other improvements that have been made such as the conversion of our electric system from 4 kilovolts to 16 kilovolts making it more efficient with lower transmission losses. Plans have been submitted to the City to subdivide the empty K-Mart building to provide more stores of interest to the residents of Banning. The Apprentice Program to train electrical technicians has been a success with the first class entering our electrical workforce. Bus services to our community college have been extended to include evening classes. He could go on but he believes this list demonstrates the effort and successes this Council has made to improve our city. Anyone who has watched this Council's procedures must be aware of the improvements in the transparency of our City's government and the openness of our discussions. Items on the agenda are discussed vigorously and items are frequently removed from the Consent Calendar for open discussion. This City Council has increased the time permitted for anyone to talk to the Council to five minutes instead of the previous three minutes to provide for more feedback from the residents. This Council is considering changing its meeting time to 6 p.m. instead of the current 5 p.m. to permit residents who work to more easily attend these meetings. We have an open, active, productive Council that is working diligently and successfully in a serious effort to improve our City and given our City the serious legal foundation for fiscal responsibility and fiscal transparency.

Councilmember Moyer –

- For several weeks our City Manager has been trying to set up a meeting between the School Board and the Council to no avail. Yesterday he emailed the president of the School Board requesting a meeting and the reason he is working hard on this right now is because we recently lost a young man that we shouldn't have lost. In yesterday's paper you probably saw that they are going to increase their safety education program from once to twice a year and he doesn't think that is adequate and they also went on to show kids ducking under arms and racing across tracks particularly when they were going to be late for school so he is saying that is not enough and is calling for that meeting right away to actually get something going.
- He also said earlier that he has been in communication with the Sheriff's Dept. to address the release of inmate's procedure and was told that the previous agreements with the City are being followed except that prisoners are being release basically at all times of the night and day. Even though they might have a release of somebody by 9 a.m. by the time the clerk processes the papers and gets them sent to the jail it could be 10 or 11 at night and there is nothing that the Sheriff can do because by State law once they get the release form they have to let them go. So he has asked the Sheriff's Dept. to set up a meeting between him and the head of the court and see if we can find some solution to that problem.
- Tonight one of our residents said that we were doing nothing to collect the money from Jim Smith and that is not accurate. In fact, we are actively trying to collect that money from Mr. Smith and have hired a special attorney to do so.
- The second problem came up when the resident said that Sun Lakes has not been paying their utility bills. He knows a little about this because before he was on the City Council he was

made aware of a potential problem by Mr. Burk and our Utility Analyst when they said that there was two meters at Sun Lakes that have not been functioning properly. Even though they said they said they had sent personnel out there twice to check the meter and it is on file that twice that meter was reported as working accurately when in fact it wasn't. That was all the information that he had prior to being elected to this Council. At the time before he was elected he was told by Duane Burk and Stacy Bavol that it was being referred to management and Council and that they would be getting back with Sun Lakes. Nothing occurred on that until just a month or two ago and since he was both on the Board at Sun Lakes and a City Council Member now he has recused himself at both ends. He is not taking part in any discussions at Sun Lakes nor at the City. He doesn't know anymore know than what he knew before he was elected. He wanted to make it clear that Sun Lakes has paid its bills as received from the City every month for as long as he has been there.

Mayor Franklin --

- Last week she was asked to come to Central School and Chief Diaz and Sgt. Avila also joined her. This was a School Site Meeting and several parents were also at the meeting to voice their strong concern about the amount of people speeding on San Geronio when children are going and when they are released from school. They will be following up on that with some ideas and have a meeting scheduled for tomorrow with Art Vela from Public Works so that they can try to address some of the problems. Also, there are speed limits on the streets and sometimes we do have children walking where they are not supposed to be when going to and from school so they are asking the public to please be aware and slow down when our children are out there. A lot of our children are not being trained to properly check for traffic and we don't want another tragedy here in town.
- She attended a meeting for the Riverside County Transportation Commission (RCTC) and they have been holding meetings across the county to get public feedback about what people want for future transportation needs and there is one more meeting tomorrow from 6:30 to 8:30 p.m. at the Winchester Community Center. Basically what they are hearing from across the county is pretty much the same in that there is a need for more public transit, a need for more information about what transit is available, and they want all of the county to have more of the latest technology to make sure that we can utilize our transit system to its most effective means and will be using this information as they put forth the strategies for the future. There was also another issue that they had with Highway 91 in that there are a lot of delays and one that was blamed on RCTC when part of roadway failed and they did have to close some of the lanes but that was compounded by an accident on a different part of the freeway. But the 91 Project is a multi-year, multi-billion dollar project. There will be additional work going on but if anybody is worried about delays they can go to the website 511.com, as well as, RCTC Alerts. Also, RCTC did take the move to start litigation against the City of Moreno Valley in regards to the warehouse project because Moreno Valley is expecting Riverside County to pay for the infrastructure to cover all the issues that they are going to have with traffic because of this warehouse.
- For WRCOG (Western Riverside Council of Governments) they talked about two issues at their most recent meeting. One had to do with the TUMF (Transportation Uniform Mitigation Fee). There was a proposal brought forward to increase the fees because we are also doing a regional transportation plan that is coming through the Southern California Association of Governments. The decision was made to postpone any kind of fee increase until at least that study is completed

and that will be at least next year. She and staff are working with WRCOG to look at what issues we have locally with some of our transportation issues and how we might be able to remedy some of those. The other issue is the HERO (Home Energy Renovation Opportunity) Program. Here in Banning we had 355 people who have taken advantage of this program. It is a means for people that do not have ready cash to be able to get some energy efficiency modifications to their homes with anything from new windows to a new roof to an air-conditioning system. What happens is that you are able to qualify for monies based on the equity in your house and when you get a loan through this program it goes as a lien against your property and you pay it off is through your property taxes and she explained further about the program.

- The State of the City will be held on October 29th in the Council Chambers starting at 11:00 a.m. There will be a small charge for lunch but the actual State of the City is free.
- Our Bulky Item Drop-Off Day will be held October 3rd at Dysart Park from 8:00 a.m. to 1:00 p.m.
- She said that Councilmember Miller already mentioned this but starting last week we do have city hall open five days a week.

City Committee Reports - None

Report by City Attorney – Nothing at this time.

Report by Interim City Manager – Dean Martin

- Consistent with our goals and work plan for this year we are having our first “Meet and Greet” with city realtors and that will be held on September 29th at 3:00 p.m. Invitations have gone out to all of the realtors and staff will share with them what is going on with the City and what programs they might be interested in. It is also open to the public.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Miller reminded Councilmember Moyer that the problem with the students leaving school is also on the agenda for the Council.

Mayor Franklin said that we talked a little bit about a customer credit for Edison and as far as she knows in the 30 years that she has lived here we have never had a power outage that lasted 48 hours but she thought it might be good to talk about what we do have in the event we have an extended power outage as something for a future agenda item.

Director Mason said that any time there is any outage if a customer feels that they have a claim if they purchased groceries, for instance, and they went bad and they were in the refrigerator or whatever the case is, they can submit claims to the City and the City basically reviews those and in many cases, if they are valid, they pay the claim. So that is something that Edison doesn't do and if you recall the write-up it said that people would submit claims and Edison would just refuse them.

City Attorney Laymon said on Pending Items she has a couple of questions. In regards to Item No. 4 having to do with legal issues she or Colin Tanner will call Councilmember Miller regarding the intended scope of the whistleblower, harassment, personnel issues that he wants to talk about. In regards to consent calendar policy, the form of the minutes and under Item No. 7, the Time of City Council Meetings those are all sort of parliamentary procedure agenda type of issues that instead of doing a workshop she would like to bring them back as a regular staff report at a regular meeting and is that acceptable to the Council. **That was acceptable to the Council.** And in regards to Item No. 5, Attorney General Opinion regarding developer impact fees to be collected by the hospital, the Interim City Manager may have more information for the Council but as she understands it they have dropped their plan to do those kinds of development impact fees and that is no longer an issue.

Councilmember Peterson that has already passed and they couldn't drop.

Interim City Manager Martin said that they were scheduled to meet with the City and they cancelled the meeting and were informed at this point that they were looking at the issue further and were not intending to pursue it at this time.

City Attorney Laymon said that in regards to Item No. 6, collection of judgement re. Jim Smith as Councilmember Moyer mentioned the City Council did receive a City Attorney-Client Report on that matter so you are up-to-date on the status of that issue.

There was some further Council and staff discussion regarding the hospital impact fees and the Pass Water Agency also passing a fee as well so there is a need for an Attorney General's Opinion as to whether the City is a collection agency for their impact fees and are we actually mandated to have to collect those fees. City Attorney Laymon said that she would like a copy of the hospital's resolution.

Pending Items – City Council

1. Discussion regarding City's ordinance dealing with sex offenders and child offenders.
(10/2/15)
2. Discussion of vacant properties and on Ramsey Street where people are discarding furniture.
3. Report on Banning Chamber of Commerce Utility Bill Issue
4. Workshop on legal issues (whistleblowers, harassment, personnel issues, consent calendar policy, more interaction with public, form of minutes).
5. Attorney General Opinion re. Developer Impact Fees collected by hospital or other agencies.
6. Collection of Judgement re. Jim Smith
7. Discussion re. Time of City Council Meetings
8. Safe Walkways for student from the schools and signage
9. Housing Element

(Note: Dates attached to pending items are the dates anticipated when it will be on an agenda. The item(s) will be removed when completed.)

ADJOURNMENT

By common consent the meeting adjourned at 6:50 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.

Sept. 22, 2015

Dear Mayor Franklin and Council Members:

On Sunday there was an article in the Press Enterprise about a company that was filming a movie on Williams and San Geronimo. In the article, the director said he could see himself working in Banning again. It was stated that lots of communities in Ca. would like to have the look like downtown in Banning and don't have the layout.

Well, we won't have the layout if the project goes through across from the police station. If this area is built as planned, we will have two or three blocks that look like San Diego with white buildings and red tile roofs, and the rest of the town will not fit in and will look shabby compared to this complex.

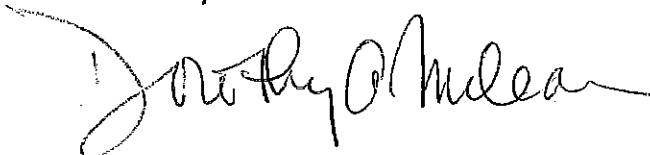
The project that is planned may well end up like the Banning Business Center, and we will have to live with it for the rest of our lives.

Council members, I beg of you to make the right decision and to not continue with this project. Banning will lose its unique small town look. This project is not what the citizens of Banning want. It will not fit in with our heritage or the décor of our town. It would be a sad statement if we have to live with something that we don't want, an area will not showcase what our town is about. Now that Banning Stagecoach Days is just coming off a successful weekend and people continue coming here, it would be remiss to not capitalize on this theme.

All of us have the capability of changing our minds. We all know the Pearlman decision was made several years ago. You now have the opportunity to do it right. When you view the big picture and our future, picture something down town that "fits it" and enhances the heritage of our town. I would rather risk a lawsuit than live with some structures that we have paid hundreds of thousands of dollars for, that we are stuck with and do not project our town's attributes.

Nix the contract to continue, and do what is best for our town and for the residents. Thank you.

Dorothy A. McLean

 Exhibit "A"
18
reg mtg. 09/22/15



Lynn Hammer

32 mins · 1

You know Fire Memories is quite popular in the state of California! Today we received a phone call from Caltrans. Out of all the people and vehicles in the state of California, we were the ones chosen to be called! We were informed that a complaint has been filed and they were calling to inform Fire Memories Museum that it is illegal for us to do our September 11th tribute on the bridge over I-10 on San Geronio. We were informed that if we are on the bridge this year each individual vehicle will be ticketed. Now where and who do you supposed generated the complaint???



Write a comment...



Post



News Feed



Requests

Exhibit "B"
19
reg.mtg.-09/22/15



More

NEWS

BOB PRATTE: Permit or not, 9/11 rally will take place

September 4th, 2015, 5:02 pm ·

posted by BOB PRATTE

Head of Fire Memories Museum undaunted by permit requirement, says he will bring fire engines to San Geronio Avenue overpass of I-10 in Banning.

Published: Sept. 4, 2015 Updated: Sept. 8, 2015 2:24 p.m.

1 of 3



Fire Memories Museum in Banning stages a memorial to 9-11 on an Interstate 10 overpass in Banning on Sept. 11. Photo from 2012.

CONTRIBUTED IMAGE

An unfortunate faceoff may occur Friday during, of all things, a Sept. 11 memorial rally staged annually by the Fire Memories Museum in Banning.

Lombardo said an encroachment permit is needed for events like parades and bike races and for construction work on state routes and bridges. She said it is a violation of the California Vehicle Code to park the engines on the state-owned bridge without proper authorization.

The rally certainly has grown into a big event.

She relayed the need for the permit to Hammer and told him, in a general sense, that issues like the weight of the engines, a proper traffic plan, room to safely park and the integrity of the 1960s-era bridge must be considered before a permit is issued.

Less than two weeks ago, a Caltrans official told Doug Hammer, who heads the nonprofit museum, that he needs an encroachment permit to stage the rally atop the San Geronio Avenue overpass of I-10 in Banning.

It can take months to receive a permit.

Undaunted, Hammer vows to assemble at least some engines for the flag-waving rally that has been taken place every Sept. 11 since 2007.

"As a veteran, a retired firefighter and a citizen, I have the right to be there," the 67-year-old Hammer said.

"We will have people with flags walking on the sidewalk. We will be using discretion as far as fire engines. We won't have a ladder truck. If someone with authority tells us to move, we'll move."

The Fire Memories Museum, which has a fleet of 14 old fire engines, operated in an unused Banning fire station until this summer. Hammer was unhappy with negotiations for a new lease and closed the facility, which had engines and firefighting equipment on display.

Hammer plans to loan vintage engines to museums. He also would like to create a mobile display in a trailer that he would haul to schools and community events behind a fire engine.

On Sept. 11, 2007, while visiting the former home of the Fire Memories Museum in the state of Washington, he received a call from his brother Monte Hammer, who had parked an engine on the Banning overpass and displayed an American flag.

The one-man rally grew over the years until as many as 10 engines were parked on the bridge.

As many as 100 people, including museum volunteers and city of Banning officials and community leaders, were part of the popular rallies that were in clear view of I-10 travelers who steadily honked horns in appreciation.

Shelli Lombardo, a Caltrans public information specialist, said a supervisor in the agency's maintenance yard in the San Geronio Pass brought the issue of improperly staging the big rally on a state bridge to the attention of his supervisors. She said he was doing his job.

ENCROACHMENT PERMITS

►What is an Encroachment?

An "encroachment" is defined in Section 660 of the California Streets and Highways Code as "any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any structure, object of any kind or character not particularly mentioned in the section, or special event, which is in, under, or over any portion of the State highway rights of way. "Special event" means any street festival, sidewalk sale, community-sponsored activity, or community-approved activity."

►When is an Encroachment Permit required?

An encroachment permit must be obtained for all proposed activities related to the placement of encroachments within, under, or over the State highway rights of way. Some examples of work requiring an encroachment permit are: utilities, excavations, encroachment renewals, advertisements (when allowed by statute), vegetation planting or trimming, surveys, mail boxes, driveways, installation or removal of tire chains for compensation, special events, and commercial filming activities.

►How/where do I apply for an Encroachment Permit and what are the fees to process my application?

Applicants must complete a Standard Encroachment Permit Application (TR-0100), attach supporting documentation such as: plans, location map, environmental documentation, letter of authorization, surety bonds, liability insurance, any applicable fees, etc. and submit them to the appropriate District Encroachment Permits Office having jurisdictional authority over the proposed encroachment site.

Fees vary depending on the type of encroachment. Typically a deposit is required when the application package is submitted. The current Standard Hourly Rate for calculating encroachment permit fees is \$82.00 per hour. The total number of hours and fees required to review and approve your application will depend on the completeness of your submittal, scope, and complexity of the proposed work. Please contact the appropriate District Encroachment Permits Office for details.

►How long will it take to process my Encroachment Permit application?

Section 671.5 (a) of the California Streets and Highways Code requires that the Department either approves or denies an Encroachment Permit Application submittal within 60 calendar days, upon determination that the submittal is complete. This section grants the Department the authority in what constitutes a completed Encroachment Permit Application submittal. It also stipulates that an Encroachment Permit Application submittal is complete when all other statutory requirements, including (CEQA), have been complied with. The term statutory requirement includes both federal and California statutes.

The actual time needed to review and approve your application will depend on the completeness of your submittal, scope, and complexity of the proposed work.

►Who do I contact if...

- I have questions regarding my Encroachment Permit application?
- I need to submit additional information/documentation?
- I need a time extension (rider)?

APPLICATION FOR SPECIAL EVENT PERMIT

CITY OF BANNING
Community Services Dept.
P. O. Box 998
789 N. San Geronimo Avenue
Banning, CA 92220
(951) 922-3243



Instructions: Type or print using black ink only. *Incomplete applications will be returned.*
If you have any questions, contact the Banning Community Services Department at (951) 922-3243.

Event Organizer Information

Event's Sponsor/Organization: _____
Organization's Non-Profit Tax Identification Number (if applicable): _____
Organization's Address: _____
Contact Person: _____ Phone Number: _____
Contact Person's Address: _____
Person in charge day of event (on site): _____
Public Information Phone Number: _____

Event Information

Type of Event/Event Title: _____
(Examples: block party, concert, parade, carnival)

Location of Event (street address): _____

Date(s) of Event: _____

Hours of Event: Set-up _____ to _____
 Event _____ to _____
 Clean-up _____ to _____

Estimated Attendance (including spectators): _____ Estimated Participants: _____

Is the event open to the public? ☐ Yes ☐ No

Will admission be charged? ☐ Yes ☐ No Charge: \$ _____

Will participants be charged? ☐ Yes ☐ No Charge: \$ _____

Will there be amplified sound? ☐ Yes ☐ No ☐ Live Music ☐ Recorded Music

Will food be served? ☐ Yes ☐ No ☐ Sold ☐ Free

Riverside County Health Department Permit must be obtained as required by law.

Will alcohol be served? ☐ Yes ☐ No ☐ Sold ☐ Free

Alcoholic Beverage Control (ABC) Permit must be obtained as required by State Law.

Will vendors be at the event? ☐ Yes ☐ No How many? _____

Vendors require a day business license from the City to sell items.

FOR OFFICE USE ONLY
Special Event
Application Number: _____

Description of event: _____

What City services, if any, do you require for this special event? _____

How does this special event benefit the residents of the City of Banning? _____

Please attach the following information to this application:

- ♦ **Certificate of Insurance.** Events taking place on City-owned or City-controlled property, including the public right-of-way require a \$1,000,000 General Liability Insurance policy naming the City as additional insured by policy endorsement. The insurance company issuing this policy must be rated at minimum "A" or "B+" by Best's Key Rating Guide. The Carrier is required to provide notice of cancellation or reductions of coverage to the City. (Special event insurance is also available through the City's insurance carrier.)
- ♦ **Additional Information.** Any other documents that will assist City staff in understanding the scope of the special event

The information provided in this application is true and complete to the best of my knowledge. I, for myself and the above organization and all members thereof, agree to abide by the policies and procedures set forth by the City for this Special Event.

Signature of Applicant: _____

Date: _____

Event Site Plan

Applicant must provide a drawing or a detailed map of special event site to include 1) the area to be used (include parking areas and event boundaries), 2) entrances and exits, 3) set-up of structures (i.e., bleachers, fences, rides, inflatables, stages, etc.) for your event.

VENDOR LIST
(Use additional pages as needed.)

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Owner/Contact Person Name: _____ Phone #: _____

Business/Organization Name: _____

Business/Organization Address: _____

City Business Tax Certificate #: _____

Marie Calderon

From: Frp2002@aol.com
Sent: Monday, September 21, 2015 3:06 PM
To: Marie Calderon
Subject: Marie, would you please read this at the next Council meeting, 9/22.

To Banning residents in the Council chambers and to all viewers on Channel 10.

It is a sad day in Banning when a City Council member recommends an outlaw website called the Banning (Mis)Informer as a source of information concerning the City Council meetings. The information concerning the meeting can be obtained, truthfully, by attending the council meeting in person, or viewing the complete proceedings on Channel 10, where it is rebroadcast often. Or, request a copy of the minutes.

This outlaw website has been the subject of lawsuits, and the owner of the website, Philip Gobels (as in Ellis, Fields, Peterson, Miller & Westholder) has legally protected himself with an LLC. Also, you will note, that there is no provision for comments or questions on the website.

Besides, the more important topics seem to be discussed in secret, so what does that leave for the general meeting?

As a point of information, does the Brown Act place restrictions on comments by elected officials regarding correspondence read at Council meetings?

Fred Sakurai
frp2002@aol.com
951-849-3027

CITY COUNCIL AGENDA

Date: October 13, 2015

TO: City Council

FROM: Dean Martin, Interim City Manager

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of August 2015

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 August 2015.

The reports are:

Expenditure approval lists	
August 6, 2015	122,088.19
August 13, 2015	364,362.41
August 20, 2015	984,485.75
August 24, 2015	1,044.71
August 27, 2015	414,014.33
September 22, 2015	2,824,362.38 (August Month End)
Payroll check registers	
August 7, 2015	8,805.16
August 21, 2015	7,908.05
Payroll direct deposits*	
August 7, 2015	245,005.25
August 21, 2015	248,703.77

*Included in Month End total

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: Melissa Elizondo, Accountant

APPROVED BY:

A handwritten signature in black ink, appearing to read "Dean Martin", is written over a horizontal line.

Dean Martin
Interim 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

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CITY COUNCIL AGENDA

Date: October 13, 2015

TO: City Council

FROM: Art Vela, Acting Director of Public Works

SUBJECT: Resolution No. 2015-94, "Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation for an Airport Improvement Program Matching Grant"

RECOMMENDATION: Adopt Resolution 2015-94:

- I. Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation for an Airport Improvement Program Matching Grant.
- II. Authorizing the City Manager to execute any documents required to apply for and accept these subject funds on behalf of the City of Banning.
- III. The Administrative Services Director is authorized to make the necessary budget adjustments to record the grant revenue into the Airport Fund.

JUSTIFICATION: City Council's authorization is necessary in order to obtain and utilize Department of Transportation ("DOT") funds for Airport Improvement Program ("AIP") Project No. 3-06-0018-014-2015, at the Banning Municipal Airport.

BACKGROUND: On September 8, 2015, the City Council adopted Resolution No. 2015-78, "Awarding the Construction Contract for 'Construction of Apron Markings, Signage and Obstruction Removals at Banning Municipal Airport' and Approving the Airport Improvement Program Grant Agreement offer from the Federal Aviation Administration for AIP Project No. 3-06-0018-014-2015".

The total project costs are anticipated to be \$141,300.00. As part of the Grant Agreement Offer, FAA will reimburse the City ninety percent (90%), up to \$127,170.00 of the construction costs, including costs for construction administration and observation services and City staff administration time. The City is required to fund the remaining costs, approximately \$14,130.00.

Pursuant to the Public Utilities Code section 21683.1, the DOT can provide grants to be applied towards the local match of Federal Airport Improvement Program grants. If this resolution is approved staff will submit a DOT grant application requesting 5%, up to \$6,358.00, of the amount of the FAA grant for AIP Project No. 3-06-0018-014-2015, "Construction of Apron Markings, Signage, and Obstruction Removals at the Banning Municipal Airport".

FISCAL DATA: Currently, the City's match is equal to \$14,130.00. With the assistance of the DOT grant in the amount of \$6,358.00, the City's match will be reduced to \$7,772.00 and funded by Account No. 600-5100-435.93-73.

RECOMMENDED BY:



Art Vela
Acting Director of Public Works

APPROVED BY:



Dean Martin
Interim City Manager

Attachment:

1. State Matching DOT Grant Application

RESOLUTION NO. 2015-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF AN APPLICATION, ACCEPTANCE OF AN ALLOCATION OF FUNDS AND EXECUTION OF A GRANT AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, FOR AN AIRPORT IMPROVEMENT PROGRAM MATCHING GRANT

WHEREAS, the City of Banning and the Federal Aviation Administration ("FAA") are soon to be parties to Federal Airport Improvement Program ("AIP") Grant 3-06-0018-014-2015, for the Construction of Apron Markings, Signage and Obstruction Removals at Banning Municipal Airport'; and

WHEREAS, the California Department of Transportation ("DOT"), pursuant to the Public Utilities Code section 21683.1, provides grants equal to 5% of FAA grants to airports; and

WHEREAS, the DOT requires the City Council to adopt a resolution authorizing the submission of an application for an AIP Matching Grant.

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

SECTION 1. City Council adopts Resolution No. 2015-94, "Authorizing the Submittal of an Application, Acceptance of an Allocation of Funds and Execution of a Grant Agreement with the California Department of Transportation, for an AIP Matching Grant."

SECTION 2. The City Manager is authorized to execute any documents required to apply for and accept these subject funds on behalf of the City of Banning.

SECTION 3. The Administrative Services Director is authorized to make the necessary budget adjustments to record the grant revenue into the Airport Fund

PASSED, APPROVED, AND ADOPTED this 13th day of October, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-94, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 13th day of October, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Attachment 1

State Matching DOT Grant Application

STATE MATCHING GRANT FOR FAA AIRPORT IMPROVEMENT PROGRAM - APPLICATION

DOA-0012 (REV 06/2011)

PLEASE PRINT OR TYPE AND COMPLETE ALL ITEMS

PART I. AIRPORT INFORMATION

PUBLIC ENTITY City of Banning	AIRPORT NAME Banning Municipal Airport	PERMIT NO. N/A
CONTACT NAME Art Vela	TITLE Acting Public Works Director	
BUSINESS ADDRESS 99 E. Ramsey Street, Banning, CA 92220		BUSINESS PHONE 951-922-3130

PART II. PROJECT INFORMATIONVerify that project is within the Department's most recent Capital Improvement Plan: ☒ YES ☐ NO If no, then project is not eligible for grant funds.

DESCRIPTIVE TITLE OF APPLICANT'S PROJECT (as shown on page one of the executed grant agreement and in the adopted Capital Improvement Plan):
Attach Additional Sheets if Necessary

Remove Obstructions, Install Airfield Guidance Signs

FEDERAL GRANT	\$ 127,170.00
APPLICANT FUNDS	\$ 7,772.00
STATE * FUNDS	\$ 6,358.00
TOTAL COST OF PROJECT	\$ 141,300.00


* Maximum is 5% of the federal grant amount

PART III. REQUIRED SUPPORTING DOCUMENTS

Pursuant to Public Utilities Code Sections 21681-21684 and Section 4067 of the CAAP Regulations, please submit the following documents with this application:

- Local government approval (resolution or minute order) as described in Section 4067(a).
- FAA Grant Agreement with FAA and sponsor signatures.
- Verification of full compliance with the California Environmental Quality Act (CEQA) by submitting information to fulfill either 1. or 2. below:
 - Copy of Notice of Exemption or provide the Categorical Exemption Class # _____ (CEQA Guidelines Sections 15300-15333)
 - Copy of Notice of Determination or provide the following information:
 - Environmental Impact Report (Title/Date) _____ State Clearinghouse (SCH)# _____ or
 - Negative Declaration (Title/Date) _____ State Clearinghouse (SCH)# _____ or
 - National Environmental Policy Act (NEPA) document (Title/Date) Attached
(NEPA documents-Environmental Impact Statement or Finding of No Significant Impact must comply with CEQA provisions)
- 11 x 17-inch Drawing or Airport Layout Plan showing project location(s) and dimensions.
- Completed CAAP Certification (Form DOA-0007), if not submitted to the Division of Aeronautics earlier for this fiscal year.
- Additional documentation may be required if items in the FAA AIP grant are not eligible for CAAP funding.

PART IV. AUTHORIZATION

AUTHORIZED OFFICIAL'S SIGNATURE 	TITLE Acting Public Works Director
PRINT NAME Art Vela	DATE 9/24/15

SEND COMPLETED APPLICATION AND ALL SUPPORTING DOCUMENTS TO:

CALIFORNIA DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS - MS #40
P. O. BOX 942874
SACRAMENTO, CA 94274-0001

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.



U.S. Department
of Transportation
Federal Aviation
Administration

GRANT AGREEMENT

PART I - OFFER

Date of Offer	<u>August 20, 2015</u>
Airport/Planning Area	<u>Banning Municipal</u>
AIP Grant Number	<u>3-06-0018-014-2015</u>
DUNS Number	<u>099169823</u>
TO:	<u>City of Banning</u> (herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated August 17, 2015, for a grant of Federal funds for a project at or associated with the Banning Municipal Airport, which is Included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Banning Municipal Airport (herein called the "Project") consisting of the following:

Remove Obstructions, Install Airfield Guidance Signs

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. 47101, et seq., (herein the AAIA grant statute is referred to as "the Act"), the representations contained in the Project Application, and in consideration of (a) the Sponsor's adoption and ratification of the Grant Assurances dated March 2014, and the Sponsor's acceptance of this Offer, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$127,170.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning
\$127,170 for airport development
\$0 for land acquisition.

2. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
3. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with the regulations, policies and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies and procedures of the Secretary. The Sponsor also agrees to comply with the assurances which are part of this agreement.
5. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 14, 2015, or such subsequent date as may be prescribed in writing by the FAA.
7. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
8. **United States Not Liable for Damage or Injury.** The United States is not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. **System for Award Management (SAM) Registration And Universal Identifier.**
 - A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or

another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

B. Requirement for Data Universal Numbering System (DUNS) Numbers

1. The Sponsor must notify potential subrecipient that it cannot receive a contract unless it has provided its DUNS number to the Sponsor. A subrecipient means a consultant, contractor, or other entity that enters into an agreement with the Sponsor to provide services or other work to further this project, and is accountable to the Sponsor for the use of the Federal funds provided by the agreement, which may be provided through any legal agreement, including a contract.
2. The Sponsor may not make an award to a subrecipient unless the subrecipient has provided its DUNS number to the Sponsor.
3. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-492-0280) or the Internet (currently at <http://fedgov.dnb.com/webform>).

10. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

11. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter to the Sponsor unilaterally reducing the maximum obligation. The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. If the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the FAA can issue a letter to the Sponsor amending the grant description.

By issuing an Informal Letter Amendment, the FAA has changed the grant amount or grant description to the amount or description in the letter.

12. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this grant.

13. Financial Reporting and Payment Requirements. The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

14. Buy American. Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

15. Maximum Obligation Increase For Nonprimary Airports. In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

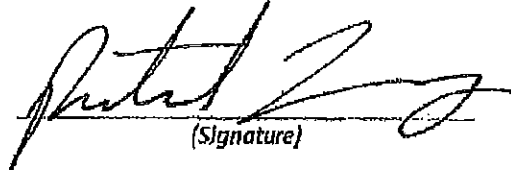
- A. May not be increased for a planning project;
- B. May be increased by not more than 15 percent for development projects;
- C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.

- 16. Audits for Public Sponsors.** The Sponsor must provide for a Single Audit in accordance with 2 CFR Part 200. The Sponsor must submit the Single Audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. The Sponsor must also provide one copy of the completed 2 CFR Part 200 audit to the Airports District Office.
- 17. Suspension or Debarment.** The Sponsor must inform the FAA when the Sponsor suspends or debar a contractor, person, or entity.
- 18. Ban on Texting While Driving.**
- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.
- 19. Trafficking in Persons.**
- A. Prohibitions: The prohibitions against trafficking in persons (Prohibitions) that apply to any entity other than a State, local government, Indian tribe, or foreign public entity. This includes private Sponsors, public Sponsor employees, subrecipients of private or public Sponsors (private entity) are:
 - 1. Engaging in severe forms of trafficking in persons during the period of time that the agreement is in effect;
 - 2. Procuring a commercial sex act during the period of time that the agreement is in effect; or
 - 3. Using forced labor in the performance of the agreement, including subcontracts or subagreements under the agreement.
 - B. In addition to all other remedies for noncompliance that are available to the FAA, Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), allows the FAA to unilaterally terminate this agreement, without penalty, if a private entity –
 - 1. Is determined to have violated the Prohibitions; or
 - 2. Has an employee who the FAA determines has violated the Prohibitions through conduct that is either:
 - a. Associated with performance under this agreement; or
 - b. Imputed to the Sponsor or subrecipient using 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 49 CFR Part 29.
- 20. Exhibit "A" Property Map.** The Exhibit "A" Property Map dated March 2007, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

21. Obstruction Removal. The Sponsor agrees to clear Parcel(s) that are identified in the project, as shown on Exhibit "A" Property Map, of the following obstructions: applicable obstruction, prior to final payment under the project. The Sponsor also agrees that it will not erect, nor permit the erection of any permanent structures or obstructions on the airport except those required for aids to air navigation or those which have been specifically approved by the FAA.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION


(Signature)

Patrick J. Lammerding
(Typed Name)

Assistant Manager, Los Angeles Airports
District Office
(Title)

3-06-0018-014-2015

PART II - ACCEPTANCE

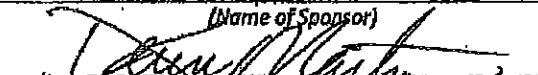
The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and Incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this 9th day of September, 2015

City of Banning

(Name of Sponsor)


(Signature of Sponsor's Designated Official Representative)

By:

Dean Martin

(Typed Name of Sponsor's Designated Official Representative)

Title:

Interim City Manager

(Title of Sponsor's Designated Official Representative)

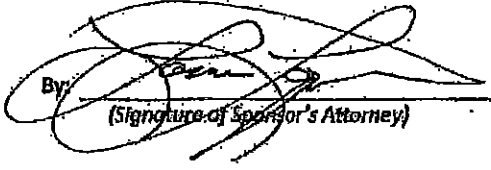
CERTIFICATE OF SPONSOR'S ATTORNEY

I, Lona Layman acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of California. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at Irvine, CA (location) this 10th day of September, 2015

By:


(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.



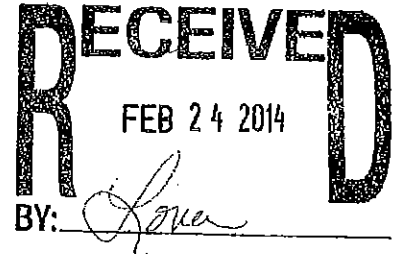
U.S Department
of Transportation
Federal Aviation
Administration

Western-Pacific Region
Airports Division
Los Angeles Airports District Office

15000 Aviation Boulevard
Lawndale, CA 90261

February 19, 2014

Mr. Art Vela
Senior Engineer
City of Banning
99 East Ramsey Street
P.O. Box 998
Banning, CA 92220-0998



Dear Mr. Vela:

Banning Municipal Airport
Apron Striping, Apron & Parking Lot Signage and Obstruction Removal
Categorical Exclusion Approval

The FAA has determined the proposed projects are Categorically Excluded pursuant to FAA Order 1050.1E as it relates to the National Environmental Policy Act of 1969, as amended (NEPA). Therefore, no further federal environmental disclosure documentation for this project is necessary for NEPA purposes.

This letter notifies you the proposed projects have complied with NEPA only. This is not a notice of final project approval or funding availability.

Please feel free to give me a call if you have any questions regarding this matter, I can be reached at 310-725-3637.

Sincerely,

Victor Globa
Environmental Protection Specialist

BANNING MUNICIPAL AIRPORT

REMOVE OBSTRUCTIONS, INSTALL AIRFIELD GUIDANCE SIGNS



SCALE: 1" = 250'

PREPARED: 12/2014 (FY 2015)

CALIFORNIA AID TO AIRPORTS PROGRAM (CAAP) CERTIFICATION

DOA-0007 (REV 06/2011)

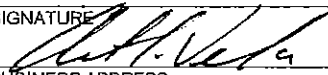
PART I. AIRPORT CERTIFICATION

I am authorized by _____ City of Banning _____ (Public Entity)

and hereby certify that _____ Banning Municipal Airport _____ (Airport Name)

for the fiscal year 2015/2016, meets the eligibility requirements of, and will be operated and maintained in accordance with, Sections 21680 through 21688 of the California Public Utilities Code (PUC) and the CAAP Regulations found in Title 21 of the California Code of Regulations, Division 2.5, Chapter 4.

1. This airport meets the Permit and Funding Requirements of CAAP Section 4056.
2. The Public Entity has control over airport operations under rules, regulations, or operating procedures adopted by Ordinance or Resolution # 731 dated 5/14/1979 per CAAP Section 4057.
3. Required airport surfaces for all usable runways are protected in accordance with the provisions of PUC Section 21688 and CAAP Section 4058.
4. The above airport is designated by the Federal Aviation Administration as General Aviation (Select One: Reliever, Commercial Service, General Aviation, or Non-NPIAS) [PUC Section 21682(b)].
5. Current Airport Layout Plan dated 4/30/07 is on file with the Division of Aeronautics (Information only: not a requirement for eligibility certification).

SIGNATURE 	PRINT NAME Art Vela, P.E.	TITLE Acting Public Works Director
BUSINESS ADDRESS 99 E. Ramsey Street Banning, CA 92220	BUSINESS PHONE (951) 922-3130	DATE <u>9/24/15</u>

PART II. FINANCIAL CERTIFICATION

I hereby certify that a SPECIAL AVIATION FUND has been established and will be maintained with a separate account for said airport in accordance with PUC Section 21684. Disbursements from this account will only be made in accordance with PUC Section 21681 and CAAP Regulations.

SIGNATURE (Finance Officer)	PRINT NAME Dean Martin	TITLE Admin. Services Director
BUSINESS ADDRESS 99 E. Ramsey Street Banning, CA 92220	BUSINESS PHONE (951) 922-3148	DATE

FOR AERONAUTICS USE ONLY:

VERIFIED BY	DATE
-------------	------

SEND COMPLETED AND SIGNED CERTIFICATION TO:

CALIFORNIA DEPARTMENT OF TRANSPORTATION
DIVISION OF AERONAUTICS - MS #40
P. O. BOX 942874
SACRAMENTO, CA 94274-0001

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

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CITY COUNCIL AGENDA

DATE: October 13, 2015

TO: City Council

FROM: Dean Martin, Interim City Manager

SUBJECT: Resolution No. 2015-91, "Approving the First Amendment to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) related to the Economic Development Consulting Services"

RECOMMENDATION: That the City Council:

- I. Adopt Resolution No. 2015-91 (Attachment 1) approving the First Amendment to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) in the amount not to exceed Eight Thousand Dollars (\$8,000.00) for additional Economic Development Consulting Services.

JUSTIFICATION: It is necessary to amend the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) to include the additional scope of services (Attachment 2) as the City Council requested the Economic Development Consultant during the City Council meeting of August 25, 2015 to:

- Provide an evaluation and market assessment for the City of Banning on Vanir Development Company Inc.'s proposal to assume control and pursue the development of the Village at Paseo San Gorgonio Project.
- Evaluate and determine the highest and best uses related to development of the Village at Paseo San Gorgonio project, including providing new possible revenues for the City of Banning.

BACKGROUND:

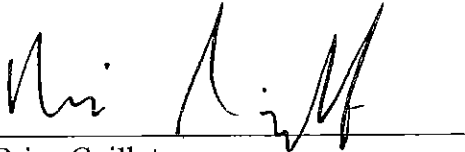
Original Contract Services Agreement - On July 2, 2015, the City entered into a Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) for Core ED Services that will include several tasks to help establish the focus of Banning economic development efforts and additional ED Consulting Services as directed and managed by the Banning Interim City Manager. The original Professional Services agreement between Hinderliter de Llamas & Associates (HdL) is for the total amount not to exceed Twenty Thousand Dollars (\$20,000.00) (Attachment 3).

FISCAL DATA:

Staff respectfully requests approval of additional funding for the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) for the total amount not to exceed Eight Thousand Dollars (\$8,000.00).

Funding is available in the City Manager Economic Development Division Fund Account No. 001-1210-412.33-11 for this First Amendment.

RECOMMENDED BY:



Brian Guillot
Acting Community Development Director

APPROVED BY:



Dean Martin
Interim City Manager
Interim Administrative Services Director

ATTACHMENTS:

1. Resolution No. 2015-91.
2. First Amendment to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL)
3. Original Contract to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL)

Attachment 1
Resolution No. 2015-91

RESOLUTION NO. 2015-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HINDERLITER DE LLAMAS & ASSOCIATES (HdL) RELATED TO ECONOMIC DEVELOPMENT CONSULTING SERVICES.

WHEREAS, on July 2, 2015, the City Council entered into a Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) related to the Economic Development Consulting Services; and

WHEREAS, The original Professional Services agreement between Hinderliter de Llamas & Associates (HdL) is for the total amount not to exceed Twenty Thousand Dollars (\$20,000.00). The original Professional Services agreement did not require an approval from the City Council as listed in the BMC Sec. 3.24.090 – Professional Services Purchasing Procedures.

WHEREAS, on August 25, 2015 the City Council requested the Economic Development Consultant to provide an evaluation and market assessment for the City of Banning on Vanir Development Company Inc.'s proposal to assume control and pursue the development of the Village at Paseo San Gorgonio Project and evaluate and determine the highest and best uses related to the development of the Village at Paseo San Gorgonio project, including providing new possible revenues for the City of Banning.

WHEREAS, staff respectfully requests approval of the additional funding for the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) for the total amount not to exceed Eight Thousand Dollars (\$8,000.00).


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

SECTION 1. The Council approves Amendment #1 to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) for additional funding in the amount of Eight Thousand Dollars (\$8,000.00) for additional Professional Services related to the Economic Development Consulting Services.

SECTION 2. The Interim City Manager is authorized to execute the First Amendment to the Professional Services Agreement with Hinderliter de Llamas & Associates (HdL) in a form approved by the City Attorney.

PASSED, APPROVED AND ADOPTED this 13th day of October, 2015.

[Signatures on the following page.]



Dean Martin, Interim City Manager
City of Banning

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

Lona N. Laymon, City Attorney
Aleshire and Wynder, LLP.

ATTEST:

Marie A. 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. 2015-91 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 13rd day of October, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Attachment 2

**First Amendment to the Professional Services Agreement
with Hinderliter de Llamas & Associates (HdL)**

AMENDMENT #1 TO AGREEMENT FOR PROFESSIONAL SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Amendment") by and between the **CITY OF BANNING** ("City") and Hinderliter de Llamas & Associates (HdL), a California corporation ("Consultant") is effective as of the 15th day of September, 2015.

RECITALS

A. City and Consultant entered into that certain Agreement for Professional Services dated July 2, 2015 ("Agreement") on whereby Consultant agreed to provide Economic Development Services for the City of Banning.

B. City and Consultant now desire to amend the Agreement to include additional compensation in an amount not to exceed Eight Thousand Dollars (\$8,000.00) to the original Contract Amount and revise the Scope of Services. The original Scope of Work and tasks are modified and revised to include the following: additional Economic Development Consulting Services as further described in Exhibit A-1.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein.

(a) Scope of Services (Exhibit A-1): Exhibit "A" to the Agreement is hereby amended to include the additional services as provided in the attached Exhibit "A1".

(b) Compensation (Exhibit C-1): Exhibit "C" to the Agreement is hereby amended to include the additional compensation as provided in the attached Exhibit "C-1".

(c) Schedule (Exhibit D-1): Exhibit "D" to the Agreement is hereby amended to include the additional services as provided in the attached Exhibit "D-1".

These exhibits do not amend the existing exhibits but pertain to the additional services performed hereunder.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Professional Services Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have

been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment, Consultant is not in default of any material term of the Agreement and that there have been not events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.


4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation

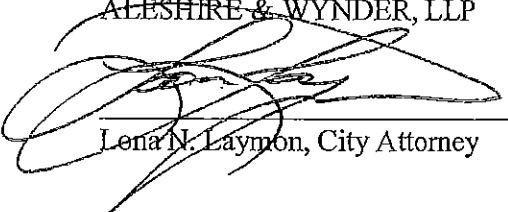

Dean Martin, Interim City Manager

ATTEST:


Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP


Lena N. Laymon, City Attorney

CONSULTANT:

Hinderlinter de Llamas & Associates (HdL)

By: _____
Name: Andrew Nickerson
Title: President

By: _____
Name:
Title:

Address: 1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765
(909) 861-4335

Two signatures are required if a corporation

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

EXHIBIT "A-1"

SCOPE OF SERVICES

I. Consultant will perform the following Services on an on-call basis:

- A. Provide an evaluation and market assessment for the City of Banning on Vanir Development Company Inc.'s proposal to assume control and pursue the development of the Village at Paseo San Gorgonio Project.
- B. Evaluate and determine the highest and best uses related to the development of the Village at Paseo San Gorgonio project, including new possible revenues for the City of Banning.

II. Consultant must perform all on-call Services in compliance with the following requirements:

- A. Each task shall be indicated by a written request produced by the Contract Officer with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
- B. Consultant must prepare a written description of the requested tasks including all components and subtasks; the costs to perform the task ("Task Project"); explain how the cost was determined; and a schedule for completion of the task ("Task Completion Date"); which shall all collectively be referred to as the "Task Proposal".
- C. Contract Officer shall in writing approve, modify or reject the Task Proposal, and may issue a Notice to Proceed.
- D. The task shall be performed at a cost not to exceeding the Task Budget.
- E. Consultant shall complete the task and deliver all deliverables to Contract Officer by the Task Completion Date.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

- A. A draft report shall be provided to the Interim City Manager by Thursday, October 8, 2015 for services performed as listed on Exhibit A-1 (Section I A-B).

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

A. Barry Foster, Principal

EXHIBIT "C-1"

SCHEDULE OF COMPENSATION

- I. Consultant shall establish a Task Budget for each Task identifying the subtasks, based on the time and rates of the personnel performing the subtasks, and itemizing all materials and equipment utilized and the costs thereof. If payment is to be made other than at completion of the services, then the phases of the performance and percentage of payment due shall also be shown in the Task Proposal.**
- II. City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include**
 - A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B. Line items for all materials and equipment properly charged to the Services.
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.
 - D. Line items for all approved subconsultant labor, supplies, equipment, materials, and travel properly charged to the Services.
- III. The total compensation for the Services shall not exceed \$ 8,000.00, as provided in the Recital B of this Agreement.**
- IV. The City will compensate Consultant for work performed at a rate of \$200/hour upon submission of a valid invoice.**

EXHIBIT "D-1"

SCHEDULE OF PERFORMANCE

- I. Consultant shall perform Services on an on-call basis as set forth in Exhibit A-1.**
- II. Consultant shall deliver the following tangible work products to the City by the following dates.**

A draft report shall be provided to the Interim City Manager by Thursday, October 8, 2015 for services performed as listed on Exhibit A-1 (Section I A-B).

- III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**

September 11, 2015

Dean Martin
Interim City Manager
City of Banning
99 E. Ramsey Street
Banning CA 92220

Dean:

SCOPE OF SERVICES

On behalf of HdL, I am pleased to submit the following proposal for consulting services for the City of Banning.

- Provide an evaluation and market assessment for the City of Banning on Vanir Development Company Inc.'s proposal to assume control and pursue the development of the Village at Paseo San Gorgonio project.
- Evaluate and determine the highest and & best uses related to the development of the Village at Paseo San Gorgonio project, including providing new possible revenues for the City of Banning.

TIMELINE

A draft of the report shall be provided to you by Thursday October 8.

COMPENSATION

HdL shall undertake the consulting work at a rate of \$200/hour, with a not to exceed total cost of \$8,000.

Please review the proposal and contact me if you have any questions.

Sincerely,

Barry Foster
Principal

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Attachment 3

**Original Contract to the Profession Services Agreement with
Hinderliter de Llamas & Associates (HdL)**

PROFESSIONAL SERVICES AGREEMENT

By and Between

CITY OF BANNING

and

Hinderliter de Llamas & Associates (HdL)

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF BANNING AND
Hinderliter de Llamas & Associates (HdL)**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 2nd day of July, 2015 by and between the CITY OF BANNING, a municipal corporation ("City") and Hinderliter de Llamas & Associates (HdL), ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties"). Consultant

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those

standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

This Agreement shall include the Request for Proposal or Invitation for Bids ("Contract Documents") and the Scope of Service shall include the Consultant's scope of work or in Consultant's accepted bid proposal ("Accepted Bid") shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Contract Documents, Accepted Bid, and/or this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra services, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Facilities and Equipment.

Except as otherwise provided, Consultant shall, at its own cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet or other communication charges, vehicles and reproduction facilities.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Twenty Thousand Dollars (\$20,000.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City may independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within thirty (30) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to

Consultant for correction and resubmission. Review and payment by the City of any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer shall extend the time for performance in accordance with the procedures set forth in Section 1.10. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Andrew Nickerson
(Name)

President
(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desire to reassign any staff or subcontractor of Consultant, Consultant shall, immediately upon reassign notice from City of such desire of City, reassign such persons or persons.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Workers Compensation Insurance. A policy of workers compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker

employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

(f) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Agent's Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnors"), or arising from Consultant's reckless or willful misconduct, or arising from Consultant's or indemnors' negligent performance of or

failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

In addition, Consultant agrees to indemnify, defend and hold harmless the Indemnified Parties from, any and all claims and liabilities for any infringement of patent rights, copyrights or trademark on any person or persons in consequence of the use by the Indemnified Parties of articles to be supplied by Consultant under this Agreement, and of which the Consultant is not the patentee or assignee or has not the lawful right to sell the same.

5.4 Sufficiency of Insurer or Surety.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the

Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared

by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the

reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain

any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant must file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Consultant and its sureties shall be liable for and shall pay to the City the sum of N/A as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Consultant any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such

action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ

such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 E. Ramsey St, Banning, CA 92220 and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.


The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

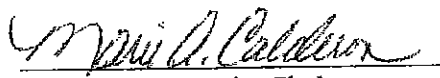
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal corporation.

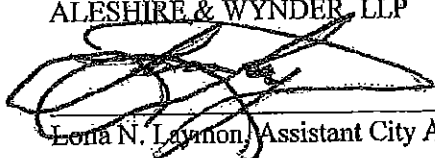

Dean Martin, Interim City Manager

ATTEST:


Marie Calderon, City Clerk


APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP


Lona N. Lannon, Assistant City Attorney

CONSULTANT:

Hinderliter de Llamas & Associates (HdL)

By: 
Name: Andrew Nickerson
Title: President

Address: 1340 Valley Vista Drive, Suite 200
Diamond Bar, CA 91765
(909) 861-4335

Two signatures are required if a corporation.

NOTE: CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California)SS
COUNTY OF LOS ANGELES)

On JULY 24TH 2015 before me, VICTOR HUGO VELAZQUEZ BUCIO, Notary Public, personally appeared ANDREW NICKERSON

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



This area for official notarial seal.

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER(S) TITLE(S) PRESIDENT
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

HINDERLITER DELLAMAS & ASSOCIATES

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION - NOT PART OF NOTARY ACKNOWLEDGEMENT

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: PROFESSIONAL SERVICES AGREEMENT

NUMBER OF PAGES 19 DATE OF DOCUMENT JULY 2ND, 2015

SIGNER(S) OTHER THAN NAMED ABOVE

Reproduced by First American Title Company 11/2007

EXHIBIT "A"

SCOPE OF SERVICES

I. Contractor will perform the following Services on an on-call basis:

A. CORE ED SERVICES

1. Services will include several tasks to help establish the focus of Banning's economic development efforts including the following activities:

- a) Research and study the make-up of the Banning community and its trade area to assist in the preparation of Community Profile to assist with economic development marketing, along better understanding economic development opportunities for Banning.
- b) Use a Consumer Demand & Market Supply Report and leakage data, along with undertaking void analysis to identify new business attraction opportunities for Banning.
- c) Facilitate a workshop with City Council members and City staff to identify the important considerations for economic development in Banning as well as providing direction in the development of a 2-year Economic Development Action for the City of Banning.

B. ADDITIONAL ED CONSULTING SERVICES

2. HdL will offer other additional economic development consulting services as directed by the Banning Interim City Manager including:

- a) Consulting support for a possible tax sharing agreement between the City of Banning and the new owner of the former Kmart building.
- b) Assistance with business attraction, marketing ideas and ICSC meetings.
- c) Provide site selection support and marketing assistance for potential business opportunities.
- d) Preparation of SDS site selection reports packages.
- e) Work with Banning staff as directed on other possible economic development activities.

II. Contractor must perform all on-call Services in compliance with the following requirements:

- A. Each task shall be indicated by a written request produced by the Contract Officer with a description of the work to be performed, and the time desired for completion. All tasks shall be carried out in conformity with all provisions of this Agreement.
- B. Contractor must prepare a written description of the requested tasks including all components and subtasks; the costs to perform the task ("Task Project"); explain how the cost was determined; and a schedule for completion of the task ("Task Completion Date"); which shall all collectively be referred to as the "Task Proposal".
- C. Contract Officer shall in writing approve, modify or reject the Task Proposal, and may issue a Notice to Proceed.
- D. The task shall be performed at a cost not to exceeding the Task Budget.
- E. Contractor shall complete the task and deliver all deliverables to Contract Officer by the Task Completion Date.

III. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

- A. Draft a 2-year Economic Development Action Plan for Banning that would focus on short-term economic development efforts in specific areas in the community that will enhance Banning's revenue stream (additional sales tax, TOT and property tax revenue).
- B. Prepare any needed sales tax revenue projections for a possible new businesses opportunities.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

- A. Provide the Interim City Manager with a draft Community Profile to review and provide comments.
- B. Provide the Interim City Manager with a Consumer Demand & Market Supply and Preliminary Void Analysis to garner feedback and identify possible opportunities to target.

C. Provide the Interim City Manager with an outline for the City Council workshop.

D. Provide the Interim City Manager with a draft Economic Development Action Plan to solicit feedback and direction.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

A. Barry Foster, Principal

EXHIBIT "B"

**SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)**

NONE

EXHIBIT "C"

SCHEDULE OF COMPENSATION

- I. Consultant shall establish a Task Budget for each Task identifying the subtasks, based on the time and rates of the personnel performing the subtasks, and itemizing all materials and equipment utilized and the costs thereof. If payment is to be made other than at completion of the services, then the phases of the performance and percentage of payment due shall also be shown in the Task Proposal.**

<u>TYPE OF SERVICE</u>	<u>TOTAL COST</u>	<u>Due Date</u>
Core ED Services	\$9,000.00	December 1, 2015
Additional ED Consulting Services	\$200.00/hour	To be determined as needed
SDS Report	\$3,000.00/each	To be determined as needed

- II. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.**
 - B. Line items for all materials and equipment properly charged to the Services.**
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.**
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.**
- V. The total compensation for the Services shall not exceed \$20,000.00 as provided in Section 2.1 of this Agreement.**

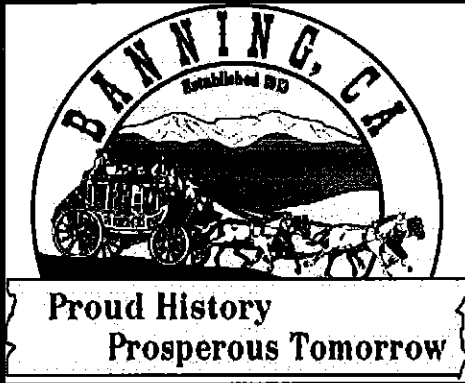
EXHIBIT "D"

SCHEDULE OF PERFORMANCE

- I. Consultant shall perform all Services on an on-call basis as set forth in Exhibit A.**

- II. Consultant shall deliver the following tangible work products to the City by the following dates:**
 - A. Research and study the make-up of the Banning community and its trade area to assist in the preparation of Community Profile to assist with economic development marketing, along better understanding economic development opportunities for Banning. September 1, 2015**
 - B. Use a Consumer Demand & Market Supply Report and leakage data, along with undertaking void analysis to identify new business attraction opportunities for Banning. November 1, 2015**
 - C. Facilitate a workshop with City Council members and City staff to identify the important considerations for economic development in Banning as well as providing direction in the development of a 2-year Economic Development Action for the City of Banning. November 3, 2015 (3pm to 6pm), November 10, 2015**
 - D. Draft a 2-year Economic Development Action Plan for Banning that would focus on short-term economic development efforts in specific areas in the community that will enhance Banning's revenue stream (additional sales tax, TOT and property tax revenue). December 1, 2015**
 - E. Prepare any needed sales tax revenue projections for possible new businesses opportunities. March 1, 2016**

- III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**



Proposal for The City of Banning

Consulting for Economic Development Services

Submitted by:
ECONsolutions by HdL
1340 Valley Vista Dr., Suite 200
Diamond Bar, CA 91765
www.hdlcompanies.com
www.econsolutionsbyhdl.com

Contact:
Barry Foster
909.861.4335
bfoster@hdlcompanies.com



TABLE OF CONTENTS

I. LETTER OF TRANSMITTAL/PROPOSAL.....	2
II. COMPANY PROFILE AND REFERENCES.....	5
III. KEY PERSONNEL AND RESUMES	7
IV. COST.....	10
VI. ADDENDUM	11
A. PowerPoint Presentation	
B. Sample Marketing Packet	
B. Retail Analytics Brochure	

I. LETTER OF TRANSMITTAL

July 17, 2015

Dean Martin
Interim City Manager
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: PROPOSAL FOR CONSULTING FOR ECONOMIC DEVELOPMENT SERVICES

HdL is pleased to submit this proposal to the City of Banning for consulting services related to Economic Development Services. For more than 30 years, HdL has been providing cities, counties and special districts with a variety of professional consulting services and software. Based in Diamond Bar, HdL's client list includes more than 380 local governments including the City of Banning, currently providing consulting for sales tax services, sales tax audits and software for business licensing. The HdL team consists of former public sector executives that possess extensive experience in local government fields of management, finance, taxation, economic development and community development.

In 2014, Barry Foster joined the HdL team after working 23 years in Southern California for the cities of Moreno Valley, Rancho Mirage, Monrovia and Loma Linda. Over his career in the public sector in California, Mr. Foster helped facilitate nearly 28 million square feet of development projects in logistics, shopping centers, office, medical-healthcare, hotels, and auto centers. Barry Foster is responsible for a new division of the company called ECONSolutions by HdL, which can provide customized economic development services to meet the specific needs of city clients. Some of the economic development related services provided through ECONSolutions by HdL include:

- Community Profiles
- Trade Area & Void Analysis
- Site Selection Assistance
- Business Attraction Support
- Economic Development Action Plans
- Financial Analysis & Revenue Projections
- Reuse & Redevelopment Studies
- Marketing Program Ideas

A specialty of ECONSolutions is the ability to actively assist with business attraction efforts through a variety of tools including consumer demand/market supply assessments, void analysis and site selection reports. ECONSolutions can present clients with an active involvement in business recruitment efforts. Barry Foster has a demonstrated track record in business attraction and has established solid contacts with site selectors, real estate professionals, developers and corporate executives while working in California for the past 25 years. A sampling of the projects and businesses Barry Foster has worked with include:

Restaurants

- Bloomin Brands (Outback Steakhouse, Roy's, Flemings Steakhouse & Carrabba's)
- Brinker International (Chili's, On the Border & Maggiano's)
- Buffalo Wild Wings
- Cheesecake Factory
- Darden Restaurants (Olive Garden, Lone Star Steakhouse, Red Lobster & Yard House)
- Dine Equity (Applebee's & IHOP)
- PF Chang's

Retailers

- BevMo
- Costco
- Kohl's
- Sports Authority
- Target
- TJX Companies (TJ Maxx, HomeGoods & Marshalls)
- Trader Joes
- Walmart

Automotive

- Audi
- BMW
- Chrysler, Dodge, Jeep and Ram
- General Motors (Chevrolet, Buick & GMC)
- Honda
- Jaguar, Porsche & Maserati
- Land Rover
- Rolls Royce & Bentley
- Toyota
- Volkswagon

Hotels

- Ayres Hotels
- Hilton Corp. (Hilton, Doubletree, Hilton Garden Inn & Hampton Inn)
- International Hotel Group—IHG (Holiday Inn Express & Candlewood Suites)
- LaQuinta Inns
- Marriott International (Marriott, Fairfield Inn Courtyard & Ritz Carlton)
- Westin Hotels & Resorts

Logistics, Distribution & Light Manufacturing

- Aldi USA
- Amazon
- Harbor Freight Tools
- Philips Electronics
- Procter & Gamble
- Ross Stores
- Serta Mattress
- Sketchers USA

HdL embraces and is firmly committed to Banning's approach highlighted in the Request for Proposal including utilizing a qualified consultant for assistance with the following economic development related services:

Core Economic Development Services

Core ED Services will include several tasks to help establish the focus of Banning's economic development efforts including the following activities:

- Research and study the make-up of the Banning community and its trade area to assist in the preparation of Community Profile to assist with economic development marketing, along better understanding economic development opportunities for Banning.
- Use a Consumer Demand & Market Supply Report and leakage data, along with undertaking void analysis to identify new business attraction opportunities for Banning.
- Facilitate a workshop with City Council members and City staff to identify the important considerations for economic development in Banning as well as providing direction in the development of a 2-year Economic Development Action for the City of Banning.
- Draft a 2-year Economic Development Action Plan for Banning that would focus on short-term economic development efforts in specific areas in the community that will enhance Banning's revenue stream (additional sales tax, TOT and property tax revenue).
- Prepare any needed sales tax revenue projections for a possible new businesses opportunities.


Additional Economic Development Consulting Services

HdL will offer other additional economic development consulting services as directed by the Banning Interim City Manager including:

- Consulting support for a possible tax sharing agreement between the City of Banning and the new owner of the former Kmart building.
- Assistance with business attraction, marketing ideas and ICSC meetings.
- Provide site selection support and marketing assistance for potential business opportunities.
- Preparation of SDS site selection reports packages.
- Provide technical assistance with land use proposals for new development projects in Banning.
- Work with Banning staff as directed on other possible economic development activities.

We enjoy working closely with our clients in a collaborative public-private team approach. The scope of services presented by Banning is exactly the approach that HdL embraces and is a major reason why ECONsolutions by HdL was created. Barry Foster will act as the Project Manager working with the City of Banning and looks forward to further discussing the opportunities in the city. In my role as President, I am authorized to sign for and make representations on behalf of the company. Please feel free to contact Barry Foster at 909.861.4335 or by email at bfoster@hdlcompanies.com

Sincerely,



Andy Nickerson
President
HdL

II. COMPANY PROFILE AND REFERENCES

THE RIGHT CONSULTANT—STRONG QUALIFICATIONS AND PROVEN EXPERIENCE

HdL has been in business for over 30 years. The firm is highly respected in the consulting industry with extensive experience working with local government agencies. The HdL team is highly experienced and has the necessary resources to complete a consulting contract on time. Below is a brief overview of the qualifications and proven experience possessed by the firm.



1340 Valley Vista Dr., Suite 200, Diamond Bar, CA 91765 909.861.4335
www.hdlcompanies.com

HdL, based in Diamond Bar, California, has been providing cities, counties and special districts professional consulting services and software systems that increase efficiency and enhance revenue streams, as well as planning for effective economic strategies for over 30 years. Founded in 1983, HdL currently works with a total of 383 agencies in six states. Many of HdL's clients have used HdL's services for years because of the superior customer service delivered by the company and its highly professional team. HdL has the largest privately held database in California and is able to provide expert in-depth forecasts and updates on economic trends. HdL is recognized as a leader in financial analysis, data analysis, market studies and economic forecasts.

HdL is a 100% employee owned company. Many of HdL's key staff have extensive local government experience having previously held executive positions in municipal management, finance, planning, economic development or revenue collection. This close understanding of local government needs coupled with extensive databases and advanced methodology provides for the most relevant, productive and responsive revenue recovery, forecasting and economic consulting services available.

Barry Foster joined HdL in 2014 as a Principal with the company to create a variety of economic development products and services to enhance HdL's offerings to local governments. With HdL, Mr. Foster has created ECONsolutions which offers a variety of new products including site selection tools, demographic packages and reports, along with providing a wide range of consulting services to assist cities with their economic development needs. HdL's software enables customized demographic and market studies for a community or trade area.

Barry Foster has significant redevelopment and real estate development experience including working on successful projects such as The River at Rancho Mirage, Monterey Marketplace, TownGate at Moreno Valley, Huntington Oaks Center and Old Town Monrovia. All of the projects included mixed use concepts that have successful retail, restaurant and entertainment components.

REFERENCES

The following are references for ECONsolutions and Barry Foster:

Client Name and Phone Number
Town of Apple Valley Frank Robinson, Town Manager Orlando Acevedo, Economic Development Manager <i>Phone: 760.240.7000</i>
City of Covina Andrea Miller, City Manager Angel Corillo, Assistant to the City Manager <i>Phone: 760.541.4261</i>
City of Indio Dan Martinez, City Manager Mariano Aquire, Housing and Economic Development Dir. <i>Phone: 760.541.4261</i>
City of Upland Rod Butler, City Manager Jeff Zwack, Development Services Director <i>Phone: 909.931.4102</i>

The following are references of developers and business executives for ECONsolutions and Barry Foster:

Name and Phone Number
Arizona Partners Shannon Green, Development Partner <i>Phone: 949.500.2587</i>
Lundin Development Michael Lundin, Partner <i>Phone: 562.307.7272</i>
Moss Brothers Auto Group Glenn Moss, President and CEO <i>Phone: 951.313.6194</i>
Pacific Retail Partners Joe Meyer, Partner <i>Phone: 951.248.1100</i>

III. KEY PERSONNEL AND RESUMES

KNOWLEDGEABLE STAFF SUPPORT

HdL possess the qualifications and experience to exceed the City of Arcadia's requirements as described in the Request for Proposal. Following are the key members of the HdL team including brief bios for each person. Full resumes are included as well. All key members work at our corporate headquarters located at 1340 Valley Vista Dr., Suite 200, Diamond Bar, CA 91765. Barry Foster will be the Project Manager.

Barry Foster – Principal, HdL Companies

Phone: 909.861.4335 Ext. 378 Email: bfoster@hdlcompanies.com

Barry Foster, who will serve as Project Manager for any project, has 28 years of local government experience including 23 years in Southern California with the cities of Moreno Valley, Rancho Mirage, Monrovia and Loma Linda. Mr. Foster has more than 20 years of economic development and development services experience. Additionally, he worked for a year as a Development Consultant with five developers and retail advisors in Southern California. Over the years, he has helped facilitate 28 million square feet of new development projects including logistics-distribution, shopping centers, commercial retail/office, medical-healthcare, hotels and auto centers. Mr. Foster has worked directly with major corporations such as Aldi, Amazon, Decker's Outdoor, Harbor Freight Tools, O'Reilly Automotive Group, Phillips Electronics, Proctor & Gamble, Ross Stores and Sketchers. He has also with major retailers including Costco, Home Depot, Target, TJ Maxx, Trader Joes and Walmart, along with desirable restaurants such as BJ's, Buffalo Wild Wings, Cheesecake Factory, Flemings Steakhouse, Mimi's Café, Pf Chang's, Roy's of Hawaii and Yard House. A sampling of some of the development projects and retail areas that Mr. Foster has worked on include Monterey Marketplace, Old Town Monrovia, River at Rancho Mirage, TownGate at Moreno Valley and Stoneridge Towne Centre. Mr. Foster is member of the International Council of Shopping Centers and the California Redevelopment Association, as well as Past President of the Municipal Management Assistants of Southern California. Barry Foster has a Bachelor of Science degree from Minnesota State University-Mankato and a Masters of Public Administration from the University of Kansas.

Andrew Nickerson – President, HdL Companies

Phone: 909.861.4335 Ext. 333 Email: anickerson@hdlcompanies.com

Andrew Nickerson possesses over 25 years of consulting experience working with local governments. He has been instrumental in guiding market expansion and new product development for the three affiliated HdL Companies. Presently, HdL works with 383 local government clients. Throughout his career, he has been involved a variety of organizations including the California League of Cities, California Society of Municipal Finance Officers, and California Redevelopment Association. Andrew Nickerson has a Bachelor of Science degree from California State Polytechnic University Pomona.

Jared DeVos – Analyst, HdL Companies

Phone: 909.861.4335 Ext. 357 Email: jdevos@hdlcompanies.com

Jared DeVos has worked at HdL for 3 years. Mr. DeVos is knowledgeable and competent is preparing a variety of economic development reports. Jared DeVos has a Bachelor of Arts degree in Economics from California State University, Fullerton.

Barry Foster

Experience

ECONSolutions by HdL – Principal:

2014 – Present

- Managing new economic development program and services to enhance HdL's offerings to local government clients. New economic development products include site selection tools, demographic packages and customized economic development programs tailored to a community's needs.

SARES-REGIS Group, Ridge Development & Radius Retail Advisor – Development Consultant

Project Manager:

2013– 2014

- Work included site location, marketing, development services and economic development consulting services for a number of major development firms.

City of Moreno Valley – Community & Economic Development Director:

2005 – 2013

- Managed five development services divisions (Building & Safety, Business Support Services, Code & Neighborhood Services, Land Development and Planning), plus economic development with a total staff of 65.

City of Rancho Mirage – Economic Development Director:

1997 – 2005

- Spearheaded public/private partnerships for economic development activities. Facilitated a variety of successful redevelopment projects. Formulated program to target reuse/rehabilitation of vacant commercial buildings.

City of Monrovia – Project Manager:

1991 – 1997

- Assisted with development of new retail centers, expansion of high-tech research and development corridor. Helped expand the Monrovia Auto Center. Also worked on variety of special projects including upgrade of marketing programs

Cities of North Mankato, Minnesota; Lenexa Kansas; Loma Linda and Grand Terrace, California – Management Assistant/Administrative Assistant/Management Consultant:

1988 – 1991

- Areas of focus included administrative policy, budget development, economic development, grant writing, human resources management, marketing, redevelopment and solid waste management.

Education

- **Master of Public Administration**

University of Kansas
1991

- **Bachelor of Science, Urban Studies and Political Science**

Minnesota State University
1989

Andrew Nickerson

Experience

Hinderliter, de Llamas & Associates – President:

2011 – Present

- Lead the strategic planning, sales and management operation of this market leader in sales tax, audit and information services. Led the development of a web-based sales tax application that offers HdL clients immediate access to the latest Board of Equalization sales, use and transactions tax data and quarterly reports. Forged business affiliation with Beacon Economics, Equity Recovery Solutions and Cost Control Associates to expand service offerings to local government agencies. Initiated HeadLines, a bi-weekly e-news service that provides up-to-date information on trends affecting California's economy. HeadLines is currently being circulated to over 1,400 subscribers.

HdL Coren & Cone – Vice President of Sales and Operations:

2002 – 2010

- Lead the product development and sales activities for this provider of government tax consulting services and related software products. Manage major accounts that generate over \$2.5 million in annual revenues. Prepare marketing proposals and deliver sales presentations to prospective clients. Meet annually with clients to review and discuss management reports and assist with budget projections. Enhanced revenues by identifying and developing complimentary products and services that were marketed to existing clients. Forged a strategic partnership with ESRI, a California based technology firm, enabling HdL to rapidly expand the utility of existing software applications. Streamlined a manual process for auditing real estate transfer tax revenues, significantly reducing staffing requirements and increasing revenue recovery. Spearheaded the in-house conversion of a 15 year old business critical database and software application increasing the companies' capabilities and enabling the firm to expand services to additional clients without adding extra staff.

HdL Coren & Cone – Production Manager:

1997 – 2002

- Managed the team responsible for producing semiannual property tax reports and executive summaries for over 100 California cities. Guided IT staff in expanding the capabilities of the firms' proprietary software applications. Designed systems for importing and maintaining property tax records from 35 California counties into a customized database format. Provided on-site software training and technical support to client agencies. Facilitated special projects and requests from strategic business partners.

HdL Coren & Cone – Associate:

1992 – 1997

- Conducted database research of tax records and contacted business owners to verify sales tax information. Performed sales tax and property tax revenue audits for client agencies. Coordinated audit recovery with local, county and state agencies. Analyzed tax receipts for development projects and tax sharing agreements.

Education

- **Bachelor of Science, Business Administration (Concentration in Finance, Real Estate, and Law) California State Polytechnic University, Pomona, 1992**

IV. COST

<u>TYPE OF SERVICE</u>	<u>TOTAL COST</u>
Core ED Services	\$9,000
Additional ED Consulting Services	\$200/hour
SDS Report	\$3,000/each

The total cost for the services during the twelve month period shall not exceed \$20,000.

V. ADDENDUM

Please find a recent PowerPoint Presentation, a sample marketing packet and our California Retail Analytics brochure.



Economic Development Services

www.ECONsolutionsByHdL.com

ECONsolutions
By HdL

Barry Foster
Principal

bfoster@hdlcompanies.com
www.hdlcompanies.com

909.861.4335
cell: 951.233.0414

1340 Valley Vista Drive #200, Diamond Bar, California 91765



ABOUT US

ECON Solutions

By HdL

ECON Solutions by HdL was started to further assist local governments by providing a number of economic development related services including:

- Community Profiles
- Trade Area & Void Analysis
- Site Selection Assistance
- Business Attraction Support
- Economic Development Action Plans
- Financial Analysis & Revenue Projections
- Reuse and Redevelopment Studies

ECON Solutions by HdL can help customize a program to fit the specific economic development needs and budget considerations of a prospective client.

HdL based in Diamond Bar, California has been providing cities, counties and special districts with professional consulting services and software systems for over 30 years. HdL has over 380 local government clients and many have been with HdL for a number of years because of the company's superior customer service. HdL has the largest privately held data base in California and is able to provide expert in-depth revenue forecasts and updates on economic trends. HdL is recognized as a leader in financial analysis, data analysis, market studies and economic/revenue forecasts. The addition of ECON Solutions as a new division of HdL, will add to and complement the quality service offerings offered by HdL. For more information about ECON Solutions, contact Barry Foster (909) 861-4335 or by email Bfoster@hdlcompanies.com

CURRENT CLIENTS

ECON Solutions
By HdL



CITY OF
TAFT
energized for the future



COMMUNITY PROFILE



CITY OF INDO, CALIFORNIA "The City of Festivals"

COMMUNITY PROFILE

THE COMMUNITY

The City of Indio, incorporated in 1930, is a Riverside County city located in the Coachella Valley. Nestled between the San Jacinto Mountains and Joshua Tree National Park, the Interstate 10 provides direct access west to the Los Angeles Metropolitan Area and east to Arizona. Designed to be a halfway point between Los Angeles and Yuma, Arizona to serve the Southern Pacific Railroad the City of Indio has emerged as one of the fastest growing cities in California. Known as "The City of Festivals" Indio hosts a variety of annual events including the Coachella Valley Music & Arts Festival, Stagecoach Country Music Festival, National Date Festival, Indio International Tamale Festival and many more. Other entertainment venues such as monster truck rallies, rodeos, along with international tennis and polo tournaments draw fans from around the world. Indio's variety of events, recreational activities and business community truly proves Indio to be "The Coolest Hot Spot."

POSITIVE ATTRIBUTES

Below are just some of the positive attributes the City of Indio offers:



- Largest of 9 municipalities in the Coachella Valley with a population of 82,396.
- Double digit projected population and household growth.
- 4 star accredited Chamber of Commerce which is ranked in the top 3% nationwide.
- 45% sales tax growth in the last 5 years.
- Located on two prime commercial corridors - I-10 and Highway 111
- Thriving tourism and entertainment industry.
- A Coachella Valley location benefits from \$3.5 billion in annual tourism spending.
- The City of Indio is one of the focal points for major cultural and musical festivals annually that attract 12 million visitors to the Coachella Valley each year.
- The City of Indio is home to Coachella Valley History Museum and the Aqua Caliente Cultural Museum.

ECON Solutions
By HdL

909.861.4335 www.hdlcommunities.com

1



CITY OF INDIR, CALIFORNIA

DEMOGRAPHIC HIGHLIGHTS

- Population of 82,398
- Average age of 36.4
- Land area of 25.18 square miles
- 30,650 housing units
- Average household income of \$65,654
- 73.1% of Indio residents possess a high school degree or above
- 17.1% of Indio residents possess a bachelor's degree or above
- Average commute to work is 23 minutes
- Indio's ethnic breakdown: 67.7% Hispanic; 27.1% White; 2% African American; 1.9% Asian; 1.3% Other



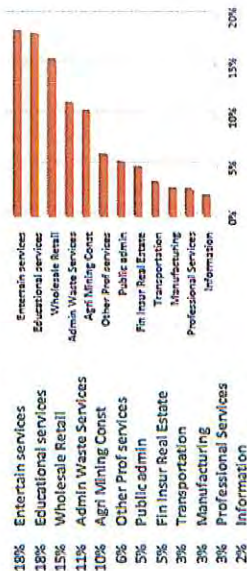
MARKET AREA

MARKET STATISTICS

- Labor force of 36,500
- Per Capita Income of \$20,154
- Average household income of \$65,654

INDUSTRY BREAKDOWN

Workers that reside in the City of Indio are employed within the following industries:





CITY OF INDIR, CALIFORNIA

OCCUPATION BREAKDOWN

Top occupational categories in the City of Indio:



TOP 10 BUSINESS TYPES (Listed in Alphabetical Order)

- Automotive Supply Stores
- Casual Dining
- Discount Department Stores
- Grocery Stores
- Home Furnishings
- Lumber/Building Supplies
- New Motor Vehicle Dealers
- Plumbing/Electrical Supplies
- Quick-Service Restaurants
- Service Stations

NATIONAL & REGIONAL BRANDS—RETAILERS, RESTAURANTS, HOSPITALS & FINANCIAL INSTITUTIONS REPRESENTED IN THE MARKET

7 Eleven	Harbor Freight Tools	Petco
Americas Times	Home Depot	Ralphs
Auto Zone	In N Out Burgers	Rite Aid
Bank of America	Jack in the Box	Ross
Big Lots	John F. Kennedy Memorial Hospital	Starbucks
Burger King	K Mart	Stater Bros.
Cardenas Market	Kaiser Permanente	Subway
Carl's Jr.	Marshalls	Target
Chase Bank	Mathis Bros. Furniture	Toys R Us
CVS Pharmacy	McDonalds	U.S. Bank
Del Taco	O'Reilly Auto Parts	Walgreens
Dollar Tree	Panda Express	Walmart
Food 4 Less	Party City	Wells Fargo Bank
GameStop	Pep Boys	WinCo Foods

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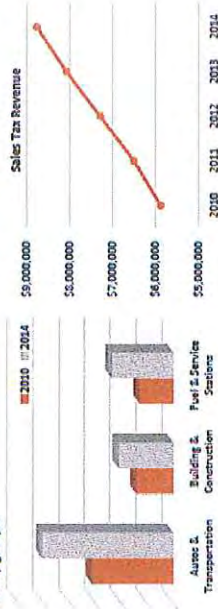


CITY OF INDIR, CALIFORNIA ECONOMIC INDICATORS

The City of Indio has experienced a growing local economy in the years after the Great Recession confirmed by indicators such as tremendous sales tax growth, increasing entertainment and tourism dollars, a declining unemployment rate and a recovering housing market that is competitive in price and product type throughout the Coachella Valley.

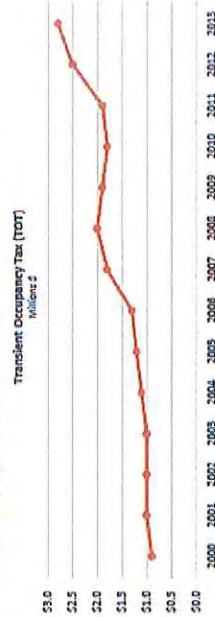
SALES TAX GROWTH

Indio's adjusted sales tax revenues experienced substantial growth of 45% within the 5 year period from 2010 through 2014 led by Fuel & Service Stations, Autos & Transportation and Building & Construction groups. All seven major industry groups exhibited increases of 20% or more. In 2014, Indio sales tax revenues gained 8% over the prior year highlighted by double digit gains in three out of seven major industry groups.



TOURISM

Tourism is a key contributor in Indio's economy proven by the entertainment and tourism industry making up 18% of the employment breakdown. More people are traveling to the City of Indio shown below by a 47% increase in TOT revenues over the period of 2009 to 2013. Visitors account for 25% of local tax receipts throughout all of Riverside County.

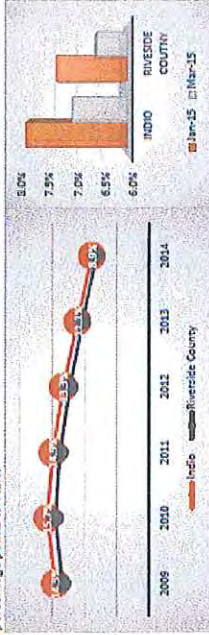




CITY OF INPIO, CALIFORNIA

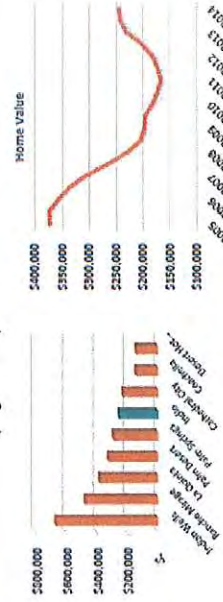
EMPLOYMENT

Indio's unemployment rate has declined for 4 consecutive years, going from a peak of 15.7% in 2010 to 8.3% in 2014. Through the first quarter of 2015 the unemployment rate has declined nearly two percentage points to 7.1%.



HOUSING MARKET

- Median home value in Indio is \$249,400, which is up 5.5% over the past year and is projected to increase by 5.4% over the next year.
- High vs Low home values during the last decade:
 - High: February 2006 - \$378,000
 - Low: November 2011 - \$166,000
- Indio's housing market compared to other Coachella Valley communities:
 - Indian Wells: \$666,500
 - Rancho Mirage: \$473,300
 - La Quinta: \$375,100
 - Palm Desert: \$320,800
 - Palm Springs: \$289,100
 - Indio: \$249,400
 - Cathedral City: \$224,400
 - Coachella: \$145,100
 - Desert Hot Springs: \$141,000



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CITY OF INUDIO, CALIFORNIA

IDEAL POTENTIAL CUSTOMERS

According to a consumer demand and market supply assessment, combined with a sales tax leakage report, Indio offers opportunities in the following business categories:

- Apparel/Clothing Stores
- Automotive Dealers
- Discount Department/General Merchandise Stores
- Fast-Casual Restaurants
- Health/Personal Care/Pharmacy Stores
- Fuel & Service Stations

CONTACT

For more information on the marketplace, contact Barry Foster at (951) 253-0414.

Note: Demographic Data and Market-Business Information was formulated from a number of sources including CA Department of Finance, U.S. Census, Employment Development Department, American Community Survey, Visit California, Zillow, X-Span Results, SDS and HdL Companies.

CONSUMER DEMAND/MARKET SUPPLY ASSESSMENT

Demographics		Consumer Demand	Market Supply	Opportunity Gap/Surplus
Population		56,917	50	
5-Year Population estimate		57,443		
Population Households		56,512		
Group Quarters Population		405		
Households		18,359		
5-Year Households estimate		19,025		
Workplace Establishments		1,529		
Workplace Employees		22,507		
Median Household Income		565,136		
By Establishments				
Electronic Shopping/Mail Order Houses		535,351,064		
Other General Merchandise Stores		\$111,701,102	\$63,713,399	(\$48,387,703)
Grocery Stores		\$85,873,383	\$65,407,603	(\$20,765,780)
Clothing Stores		\$51,026,742	\$31,745,751	(\$19,380,991)
Furniture Stores		\$9,578,401	50	(\$9,578,401)
Electronics/Appliance		\$14,330,916	\$6,446,157	(\$7,764,759)
Other Motor Vehicle Dealers		\$9,831,511	\$2,639,756	(\$7,191,755)
Vending Machine Operators (Non-Store)		\$6,811,869	50	(\$6,811,869)
Gasoline Stations		\$96,532,573	\$50,735,733	(\$45,796,840)
Lawn/Garden Equipment/Supplies Stores		\$6,965,950	\$2,197,331	(\$4,771,619)
Direct Selling Establishments		\$7,113,561	\$3,505,170	(\$3,608,391)
Home Furnishing Stores		\$6,955,847	\$4,595,774	(\$2,359,073)
Book/Periodical/Music Stores		\$4,771,361	\$850,176	(\$3,921,185)
Health/Personal Care Stores		\$51,394,457	\$47,595,747	(\$3,800,710)
Shoe Stores		\$6,751,056	\$3,040,076	(\$3,690,980)
Building Material/Supplies Dealers		\$48,923,600	\$45,942,846	(\$2,980,754)
Sporting Goods/Hobby/Musical Instrument		\$13,445,699	\$10,855,522	(\$2,590,177)
Used Merchandise Stores		\$2,907,091	\$453,077	(\$2,453,974)
Automotive Parts/Accessories/Tire		\$15,766,943	\$13,406,714	(\$2,354,205)
Special Food Services		\$3,635,637	\$6,435,709	(\$2,799,072)
Office Supplies/Fstationary/Gift		\$6,793,915	\$5,123,616	(\$1,669,299)
Specialty Food Stores		\$6,008,204	\$4,495,300	(\$1,512,904)
Florists/Misc. Store Retailers		\$1,423,547	\$610,205	(\$813,341)
Beer/Wine/Liquor Stores		\$9,054,186	\$7,436,749	(\$1,617,437)
Jewelry/Luggage/Leather Goods		\$6,857,886	\$6,650,213	(\$207,673)
Bar/Drinking Places (Alcoholic Beverages)		\$2,750,943	\$2,779,994	\$29,051
Full-Service Restaurants		\$40,143,147	\$40,479,122	\$335,775
Other Misc. Store Retailers		\$11,156,159	\$11,490,127	\$333,968
Limited-Service Eating Places		\$42,015,900	\$50,633,943	\$8,618,043
Department Stores		\$15,885,652	\$12,896,469	(\$2,989,183)
Automotive Dealers		\$159,793,311	\$206,375,055	\$46,581,744

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ECON Solutions

By HdL

By Major Product Lines

Groceries/Other Food Items (Off Premises)

Drug/Health Aids/Beauty Aids/Cosmetics

Furniture/Sleep/Outdoor/Patio Furniture

Computer Hardware/Software/Supplies

All Other Merchandise

Women's/Unions/Misses Wear

Automotive Fuels

Footwear, including Accessories

Lawn/Garden/Farm Equipment/Supplies

Automotive Tires/Tubes/Batteries/Parts

Books/Periodicals

Sporting Goods (incl Bicycles/Sports Vehicles)

Packaged Liquor/Wine/Beer

Kitchenware/Home Furnishings

Cigars/Cigarettes/Tobacco/Accessories

Jewelry (including Watches)

Mens Wear

Floor/Floor Coverings

Pets/Pet Foods/Pet Supplies

Audio Equipment/Musical Instruments

Household Fuels (incl Oil, LP gas, Wood, Coal)

Televisions/VCR/Video Cameras/DVD etc

Alcoholic Drinks Served at the Establishment

Optical Goods (incl Eyeglasses, Sunglasses)

Soaps/Detergents/Household Cleaners

Dimensional Lumber/Other Building Materials

Paper/Related Products

Curtains/Draperies/Slipcovers/Seat/Coverings

Toys/Hobby Goods/Games

Hardware/Tools/Plumbing/Electrical Supplies

Photographic Equipment/Supplies

Sewing/Knitting Materials/Supplies

Paints/Sundries/Wallpaper/Wall Coverings

Small Electric Appliances

Major Household Appliances

Automotive Lubricants (incl Oil, Greases)

Childrens Wear/Infants/Toddler's Clothing

Retailer Services

Meats/Nonalcoholic Beverages

Autos/Cars/Vans/Trucks/Motorcycles

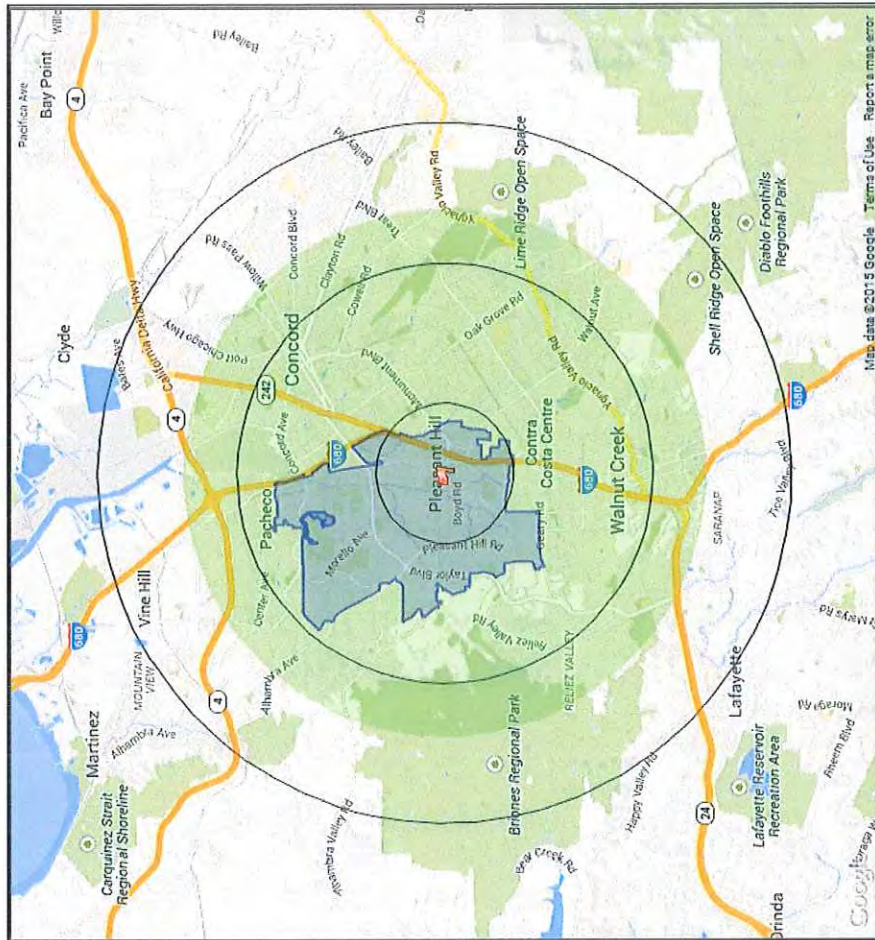
Consumer Demand	Market Supply	Opportunity Gain/Supplies
\$145,366,314	\$95,281,068	(\$53,585,446)
\$306,204,977	\$69,002,107	(\$241,402,870)
\$23,347,326	\$5,006,795	(\$18,300,531)
\$14,081,950	\$3,829,048	(\$14,502,905)
\$33,475,057	\$19,163,218	(\$14,312,839)
\$36,746,039	\$25,600,956	(\$11,137,083)
\$97,487,610	\$86,955,278	(\$10,542,332)
\$14,777,730	\$9,465,235	(\$6,612,495)
\$13,959,590	\$9,137,967	(\$5,731,621)
\$21,022,706	\$21,622,595	(\$5,400,170)
\$6,186,841	\$1,183,490	(\$4,983,150)
\$11,440,734	\$6,613,953	(\$4,826,780)
\$17,636,452	\$13,104,200	(\$4,432,253)
\$10,335,362	\$5,898,381	(\$4,395,971)
\$14,802,516	\$10,718,471	(\$4,084,047)
\$11,110,189	\$7,691,014	(\$3,419,175)
\$14,314,904	\$11,395,175	(\$2,919,729)
\$7,247,399	\$4,756,148	(\$2,491,153)
\$7,097,025	\$4,763,040	(\$2,334,183)
\$4,749,347	\$2,569,508	(\$2,179,859)
\$3,131,699	\$1,904,991	(\$1,226,707)
\$5,720,960	\$4,525,920	(\$1,195,040)
\$14,160,027	\$13,354,164	(\$804,663)
\$2,771,789	\$2,075,038	(\$696,751)
\$5,090,193	\$5,500,237	(\$501,947)
\$20,609,898	\$20,451,203	(\$158,695)
\$4,383,219	\$4,143,041	(\$240,178)
\$3,747,927	\$3,543,319	(\$205,608)
\$4,751,966	\$4,550,106	(\$201,760)
\$13,131,948	\$12,895,614	(\$236,334)
\$883,206	\$725,002	(\$168,204)
\$974,329	\$839,072	(\$135,458)
\$3,712,807	\$3,693,795	(\$19,012)
\$1,264,829	\$1,313,934	\$29,106
\$2,786,021	\$2,876,497	\$110,476
\$2,786,021	\$2,876,497	\$110,476
\$5,135,317	\$5,990,189	\$854,872
\$28,172,943	\$29,771,403	\$1,598,460
\$54,493,030	\$59,676,760	\$5,243,730
\$137,976,487	\$174,167,073	\$36,190,586

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VOID ANALYSIS SUMMARY

Chain	Retail Class	Nearest Location	Est. Annual Sales Tax (\$1,000's)	Size (SF)
Buckle	Apparel	34.9	54 - 8	1.2 - 2.5
Citi Trends	Apparel	41.7	59 - 13	12 - 15
David's Bridal	Apparel	5.4	\$15 - 35	15 - 25
Dressbarn	Apparel	14.4	58 - 20	7 - 8
Rue21	Apparel	9.1	58 - 12	4 - 5
White House Black Market	Apparel	11	58 - 12	3 - 4
Little Tokyo Cosmetics	Beauty & Personal Services	16	53 - 3.5	1 - 1.5
Palace Beauty	Beauty & Personal Services	17	55 - 6	1 - 1.5
ULTA Beauty	Beauty & Personal Services	3.4	\$30 - 60	10 - 12
Best Buy Mobile	Consumer Electronics	8.2	\$3.5 - 5	2 - 4
Hancock's Fabrics	Crafts	22	\$10 - 12	10 - 20
Michael's	Crafts	4.2	\$20 - 40	20 - 30
Round 1 Entertainment	Entertainment	13	\$10 - 20	30 - 40
Blaze Pizza	Fast Casual Restaurants	4.7	\$10 - 15	2.5 - 3
Café Rio	Fast Casual Restaurants	25	\$13 - 20	3 - 3.5
Capriotti's Sandwich Shop	Fast Casual Restaurants	9.6	54 - 6	2 - 3
Farmer Boys	Fast Casual Restaurants	6.7	\$10 - 25	3 - 4
Fatburger	Fast Casual Restaurants	11.5	56 - 9	1.5 - 2.5
Five Guys	Fast Casual Restaurants	8.2	58 - 12	2 - 3
Freebirds World Burrito	Fast Casual Restaurants	13.1	58 - 15	2 - 2.5
Pei Wei Asian Diner	Fast Casual Restaurants	20.5	\$12 - 2.5	2 - 2.5
Pick up Stix	Fast Casual Restaurants	4.8	54 - 8	1.5 - 2.5
Pizza Studio	Fast Casual Restaurants	4.1	\$10 - 15	2.5 - 3
Smashburger	Fast Casual Restaurants	4.3	56 - 12	1.5 - 2.5
Waba Grill	Fast Casual Restaurants	3.8	54 - 9	1.5 - 2
Alkasaka	Full Service Restaurants	17	\$10 - 12	3.5 - 4.5
Bishamen Japanese Restaurant	Full Service Restaurants	13	54 - 5	3 - 4
Chef Hung Taiwanese Beef Noodles	Full Service Restaurants	43	\$10 - 13	2.5 - 3.5
Chili's Bar & Grill	Full Service Restaurants	4.3	\$20 - 30	5 - 6
HG Café	Full Service Restaurants	15	53 - 4	2.5 - 3
Mimi's Café	Full Service Restaurants	4.4	\$15 - 25	5 - 6
RA Sushi	Full Service Restaurants	22.6	\$25 - 35	5 - 6
Tokyo Shabu Shabu	Full Service Restaurants	15	55 - 6	3 - 4
Urban Seoul	Full Service Restaurants	49	56 - 8	1.5 - 2
Kirkland's	Furniture & Home Furnishin	4.3	\$25 - 35	10 - 20
Sit 'n Sleep	Furniture & Home Furnishin	4.6	\$25 - 50	5 - 7
Tuesday Morning	General Merchandise	4.6	56 - 20	15 - 20
Anytime Fitness	Health and Fitness Clubs	9.9	0	10 - 20
Crunch Fitness	Health and Fitness Clubs	13.8	0	20 - 25
Planet Fitness	Health and Fitness Clubs	8.2	0	15 - 25
Peir 1 Imports	Home Furnishing/Furniture	4.1	\$12 - 30	12 - 15
BevMo	Market	3.2	\$50 - 75	10 - 12
JONS International Market	Market	10.4	\$20 - 30	20 - 30
H Mart	Market	15	\$12 - 30	20 - 30
85°C Bakery Café Taiwan	Quick Service Restaurant	10.8	\$10 - 13	2 - 2.5
Chick-fil-A	Quick Service Restaurant	3.8	\$20 - 30	2 - 3

Current View
155 Crescent Plaza - Pleasant Hill



155 Crescent Plaza
3.75 Mile Radius
Demographics:
Population: 193,441
Households: 77,983
Pop Density: 4,020
SY Pop Growth: 5.7%
Avg Age: 40.0
Median HH Income: \$84,211
% Pop Asian: 11.7%
% Pop Hispanic: 21.3%
% Pop AA: 2.6%
Daytime Population: 146,356



SOURCE: Site Decision Systems © 2015 mapbox results, inc. All rights reserved.
Map provided by Google © 2015. All rights reserved.

ID	Name	Address	City	State	1	2	3	4	5	6	7	HdLs	Median HH Inc	Retail Locs	Traffic Count	Retail Exp	Match Score
155	Crescent Plaza	155 Crescent Plaza	Pleasant Hill	CA	23.0%	15.2%	23.8%	8.2%	11.2%	11.6%	7.0%	77,983	\$94,211	4,999	233,000	\$373.53	
4946976	Trader Joes	22224 Redwood Rd	Castro Valley	CA	16.1%	15.1%	23.3%	9.6%	11.6%	15.9%	8.1%	81,075	\$69,034	3,893	175,000	\$365.37	85
4946982	Trader Joes	24321 Avenida De La C	Laguna Hills	CA	27.5%	15.1%	23.5%	11.4%	8.1%	8.0%	5.4%	84,460	\$87,977	6,728	332,000	\$364.97	85
4947030	Trader Joes	21054 Carendon St	Woodland Hills	CA	19.3%	13.4%	23.9%	9.1%	9.9%	14.9%	9.5%	88,121	\$75,386	6,038	252,000	\$337.32	84
4946984	Trader Joes	11114 Balboa Blvd	Granada Hills	CA	19.6%	17.0%	24.5%	10.6%	8.2%	12.4%	7.8%	77,173	\$71,337	4,187	217,000	\$332.34	83
4946981	Trader Joes	1761 S Elena Ave	Redondo Beach	CA	27.5%	14.5%	24.7%	7.8%	10.6%	10.9%	4.2%	82,815	\$97,857	6,066	32,000	\$361.60	81
4946986	Trader Joes	337 3rd St	San Rafael	CA	25.6%	11.5%	27.7%	9.2%	10.0%	10.5%	5.3%	41,624	\$84,398	4,109	184,000	\$369.85	81
4946981	Trader Joes	8857 Villa La Jolla Dr	La Jolla	CA	19.2%	11.8%	21.3%	8.9%	13.5%	13.5%	11.9%	55,120	\$94,900	3,828	161,000	\$945.45	80
4947060	Trader Joes	28541 Aliso Creek Rd	Aliso Viejo	CA	26.6%	14.4%	23.6%	11.5%	9.4%	8.1%	6.1%	66,003	\$86,086	5,323	37,000	\$354.55	79
4946926	Trader Joes	2500 E Imperial Hwy	Steele	CA	25.4%	16.0%	22.1%	11.0%	8.5%	10.3%	6.7%	80,504	\$94,139	4,561	42,000	\$347.88	79
13571938	Trader Joes	1795 S Victoria Ave	Ventura	CA	20.1%	17.6%	23.4%	11.7%	9.7%	12.3%	5.2%	47,094	\$74,607	4,031	133,000	\$332.18	78
4946987	Trader Joes	6751 Fairbrook Ave	West Hills	CA	20.7%	14.1%	23.7%	9.6%	8.7%	13.7%	9.3%	81,485	\$77,150	5,993	35,000	\$338.80	77
4946983	Trader Joes	3854 Bel Aire Plz	Napa	CA	19.6%	15.1%	23.2%	11.8%	9.6%	13.2%	7.0%	31,663	\$70,889	2,502	50,000	\$363.86	77
4946980	Trader Joes	2100 Santa Rosa Ave	Santa Rosa	CA	14.2%	14.3%	21.5%	11.0%	12.9%	16.9%	9.2%	53,753	\$59,065	4,294	134,000	\$363.57	77
4946939	Trader Joes	475 Foothill Blvd	La Canada Flintridge	CA	24.5%	14.2%	30.3%	8.4%	7.6%	10.7%	4.3%	45,460	\$84,014	3,640	117,000	\$352.81	77
4946908	Trader Joes	14443 Culver Dr	Irvine	CA	27.5%	14.3%	20.3%	7.0%	14.4%	11.0%	5.5%	91,147	\$87,044	6,295	45,000	\$354.32	76
4946981	Trader Joes	25410 Marguerite Pkwy	Mission Viejo	CA	33.0%	15.7%	22.6%	9.6%	8.1%	6.8%	4.4%	74,381	\$85,594	4,998	31,000	\$359.63	76
4946915	Trader Joes	115 N El Camino Real	Encinitas	CA	32.5%	15.3%	24.8%	8.9%	8.7%	7.0%	2.1%	38,321	\$86,183	3,362	43,000	\$367.17	75
4946952	Trader Joes	1117 Roseville Sq	Roseville	CA	21.6%	18.8%	21.0%	10.6%	10.2%	12.1%	5.4%	61,166	\$71,107	5,893	61,000	\$335.44	75
4946914	Trader Joes	720 Menlo Ave	Menlo Park	CA	24.0%	10.5%	28.5%	6.2%	13.6%	11.7%	7.5%	71,580	\$104,838	4,821	32,000	\$360.53	75
13539480	Trader Joes	850 E Blodwell St	Folsom	CA	33.4%	15.7%	23.4%	8.0%	9.0%	7.2%	3.3%	34,404	\$90,782	2,807	32,000	\$365.62	75
4946982	Trader Joes	383 Carmen Dr	Camarillo	CA	28.1%	15.7%	24.5%	11.1%	7.9%	7.3%	4.8%	24,568	\$87,228	1,850	139,000	\$347.80	75
4947043	Trader Joes	21431 Brookhurst St	Huntington Beach	CA	20.6%	14.3%	22.1%	9.7%	12.4%	13.2%	7.3%	90,435	\$83,659	12,913	30,000	\$345.50	75

TRADE AREA DEMOGRAPHIC REPORT



Consumer Profile Report
Grand Terrace - 3, 3.75, 5 Mile Rings
Store: Z2441 Barton Rd
Date Report Created: 4/9/2015

ECONSolutions
By HdL

- Drive Time
- Radius Rings
- Custom Polygons
- Cities
- Counties
- States





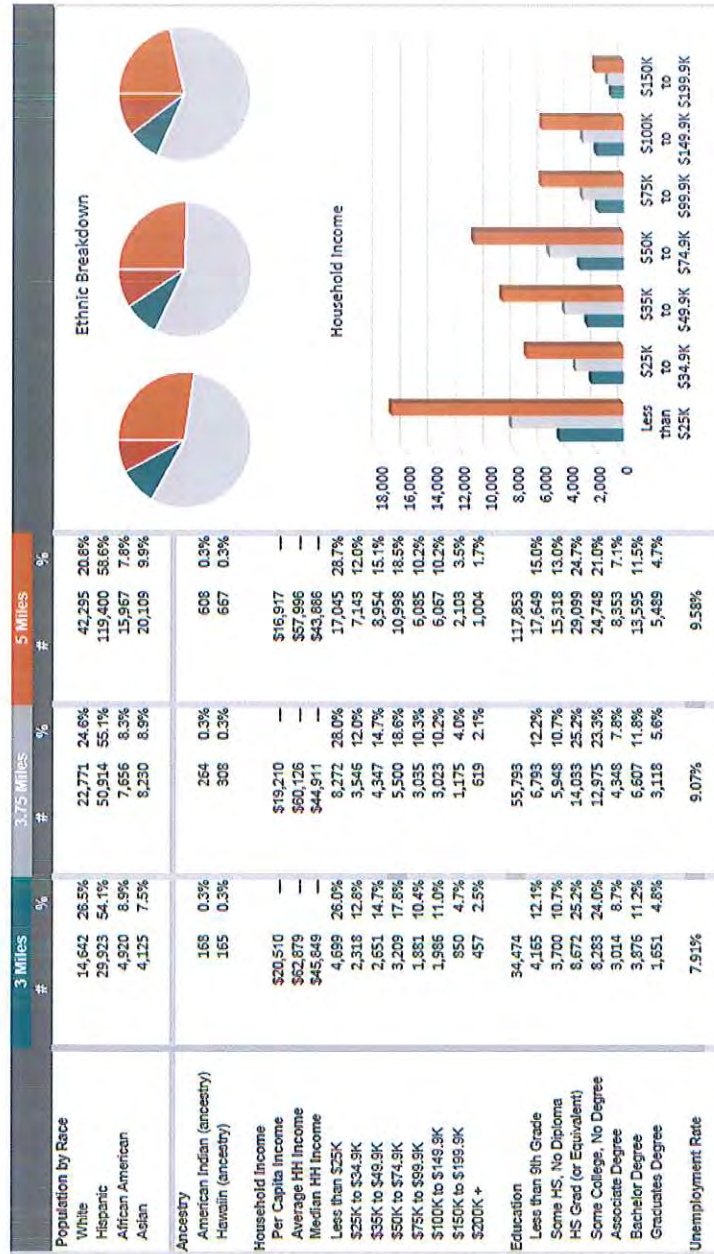
For Market:
Market Definition:
Date Report Created:

Consumer Profile Report
Grand Terrace - 3, 3.75, 5 Mile Rings
Store: 22441 Barton Rd
4/9/2015

ECON Solutions

By HdL

- Drive Time
- Radius Rings
- Custom Polygons
- Cities
- Counties
- States



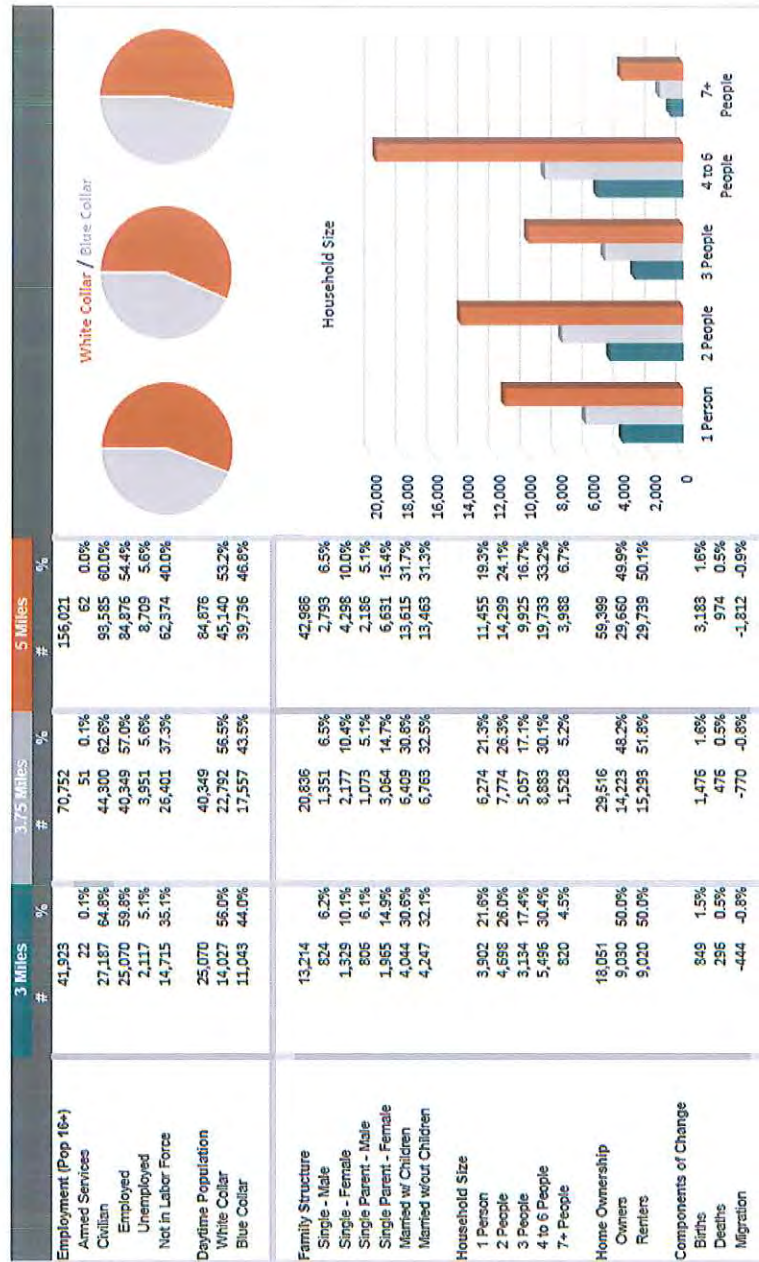


Consumer Profile Report
Grand Terrace - 3, 3.75, 5 Mile Rings
Store: 22441 Barton Rd
4/9/2015

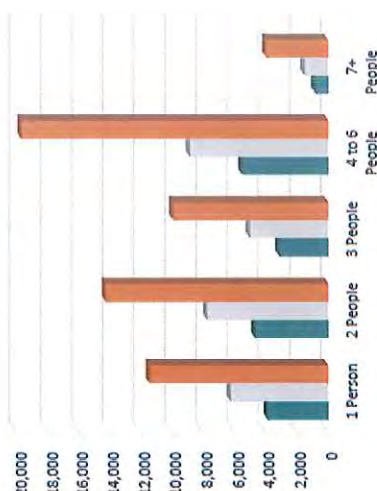
ECON Solutions

By HdL

For Market:
Market Definition:
Date Report Created:



Household Size



- Drive Time
- Radius Rings
- Custom Polygons
- Cities
- Counties
- States

May 14, 2015

Robert Kluger
Sr. Real Estate Manager Southern California
Panera Bread – Panera, LLC
417 W. Foothill Blvd. Suite B #266
Glendora, CA 91741

Mr. Kluger,

While working with the City of Indio on Economic Development services including site selection and business attraction together we have identified Panera Bread as an ideal match for a site at the Showcase at Indio shopping center. The shopping center is conveniently located directly off I-10 at the intersection of Ave 42 and Jackson St.

The Showcase at Indio is a 374,000 square foot property featuring strong visibility from the I-10. National anchor tenants and retailers such as Super Target, Marshalls, Ross Dress for Less, Anna's Linens, and Big Lots attract customers from the surrounding Coachella Valley while a 4-Mile trade area includes a population of over 102,000 capturing nearly 31,000 households.

While we believe the site is already a great fit for a Panera Bread when compared to demographics and sales activity from other high performing stores in California, the City of Indio presents the following business advantages:

- 12 Million visitors annually to the Coachella Valley created by a vast venue of entertainment events
- Double digit projected population and household growth over the next 5 years.
- 49% sales tax growth in the last 5 years.
- A 4 star accredited chamber of Commerce which is ranked in the top 3% nationwide.

A sampling of some of the national or regional stores situated in Indio include:

7 Eleven	Dollar Tree	Marshalls	Starbucks
America's Tires	Food 4 Less	Mathis Bros. Furniture	Stater Bros.
Auto Zone	Ferguson Enterprises	McDonalds	Subway
Bank of America	GameStop	O'Reilly Auto Parts	Superior Pool Products
Big Lots	Harbor Freight Tools	Panda Express	Target
Burger King	Home Depot	Party City	Toys R Us
Cardenas Market	In N Out Burgers	Pep Boys	U.S. Bank
Carl's Jr.	Jack in the Box	Petco	Walgreens
Chase Bank	JFK Memorial Hospital	Ralphs	Walmart
CVS Pharmacy	K Mart	Rite Aid	Wells Fargo Bank
Del Taco	Kaiser Permanente	Ross	WinCo Foods

Many of the locations above perform significantly higher than Statewide, SoCal or Riverside County averages for their respective companies. Please note that HdL works for over 380 cities and counties in the State of California and possesses the largest sales tax data base in the State of California. However, please understand that in conformance with State Government Code, individual sales tax data is confidential information and not able to be released for specific business locations. Because of the confidential requirements imposed by the State, HdL compares individual business locations versus major groupings—i.e. Statewide, SoCal or Riverside County averages.

Below is a sampling of some of the top performing retailers and restaurants that demonstrate the strength of the sales performance of the Indio marketplace:

RALPH'S

- 44.7% higher than Statewide average
- 26.3% higher than Riverside County average

ROSS DRESS FOR LESS

- 7.7% higher than Statewide average
- 2.4% higher than Riverside County average

TOYS R' US

- 35.8% higher than Statewide average

FOOD 4 LESS

- 5.4% higher than Riverside County average

AMERICA'S TIRES

- 81.9% higher than Statewide average
- 67.8% higher than Riverside County average

FERGUSON ENTERPRISES

- 227.9% higher than Statewide average
- 253.5% higher than Riverside County average

CARDENAS MARKETS

- 64.7% higher than Statewide average
- 24.9% higher than Riverside Countywide average

IN N OUT BURGERS

- 3.8% higher than Statewide average
- 10.9% higher than Riverside County average

SUPERIOR POOL PRODUCTS

- 7.2% higher than Statewide average

HARBOR FREIGHT TOOLS

- 32.4% higher than Riverside County average

To demonstrate the possible 'MATCH' of the Indio trade area with the Panera Bread concept, site selection and consumer profile reports were prepared using a software program called SDS (Site Decision Systems). The program establishes a trade area based on a density class and seeks to match trade areas with a similar demographic make-up. Many existing Panera Bread locations produced match scores of 80 or above, showing a strong similarity in demographics, with a score of 100 being an exact match.

Store	Address	City	State	Match
Panera Bread	540 E Betteravia Rd	Santa Maria	CA	92
Panera Bread	1337 W Henderson Ave	Porterville	CA	89
Panera Bread	2533 W Kettleman Ln	Lodi	CA	87
Panera Bread	3050 Hotel Dr	Turlock	CA	86
Panera Bread	3110 R St	Merced	CA	85
Panera Bread	73075 Highway 111	Palm Desert	CA	82
Panera Bread	30318 Haun Rd	Menifee	CA	82
Panera Bread	12510 Day St	Moreno Valley	CA	83
Panera Bread	1260 Shaw Ave	Clovis	CA	83
Panera Bread	2080 California Ave	Sand City	CA	81
Panera Bread	575 Grand Ave	San Marcos	CA	81

Please review the site selection information and sales information that has been provided. After doing so, I am confident that you will see the strong match of Indio with Panera Bread for opening a new store in the City. Please call me at (909) 861-4335 with any questions.

Sincerely

Barry Foster, Principal
ECONsolutions by HdL

c. Michael Lundin



Consumer Profile Report

Showcase at Indio

Store: 42625 Jackson St, Lat: 33.7397, Long: -116.2180,

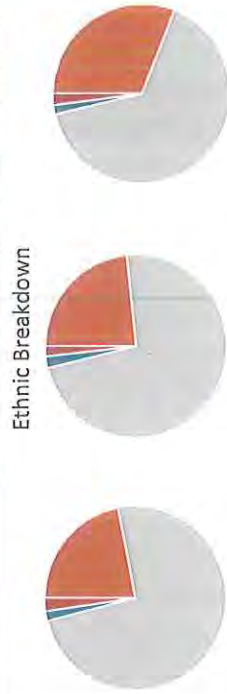
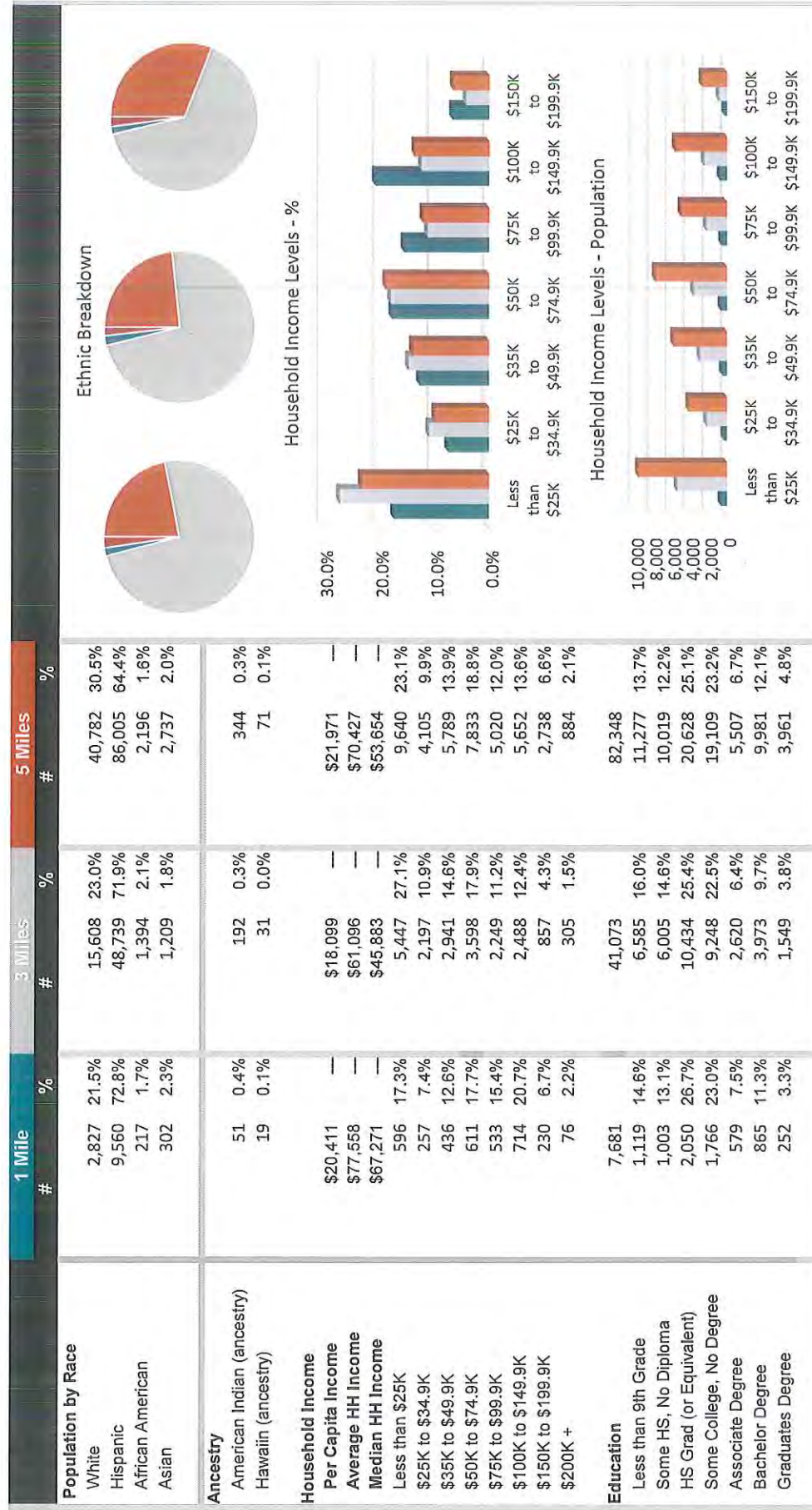
5/14/2015

For Market:

Market Definition:

Date Report Created:

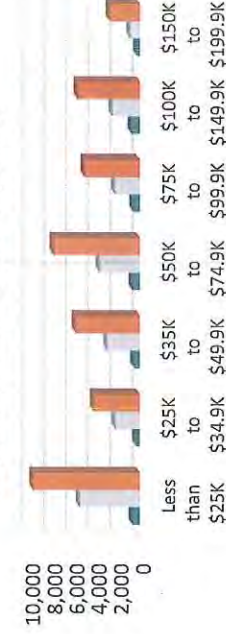




Household Income Levels - %



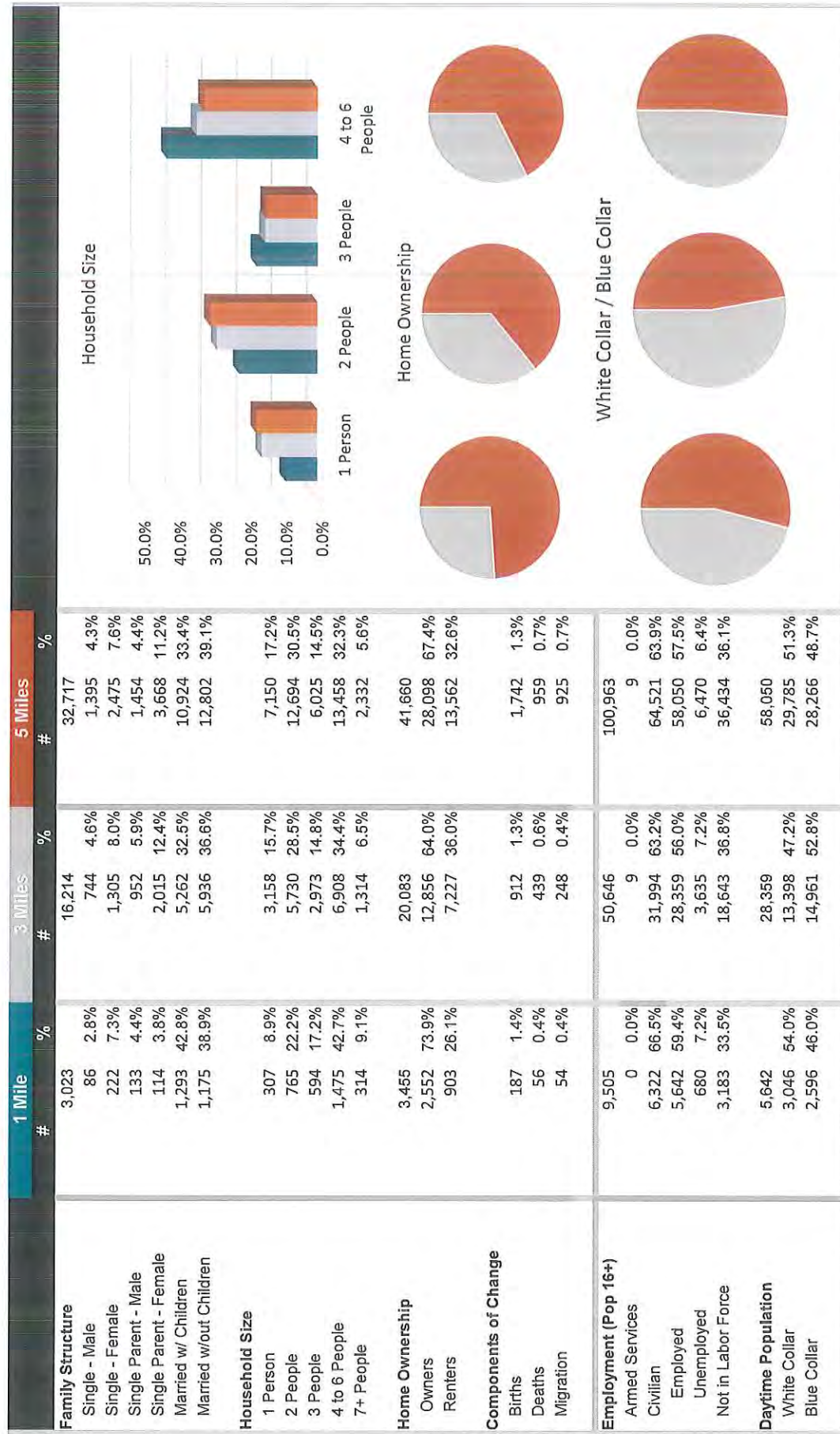
Household Income Levels - Population



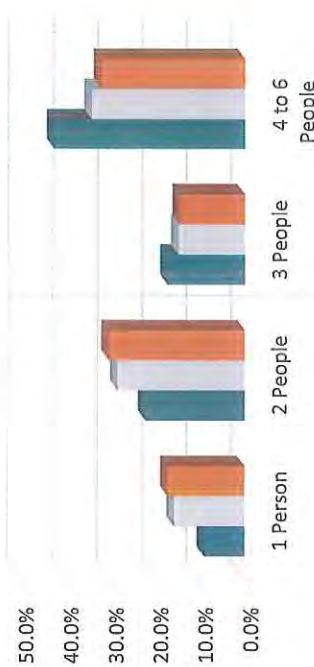


For Market:
Market Definition:
Date Report Created:

Consumer Profile Report
 Showcase at Indio
 Store: 42625 Jackson St, Lat: 33.7397, Long: -116.2180,
 5/14/2015



Household Size



Home Ownership



White Collar / Blue Collar





Consumer Profile Report

Showcase at Indio

Store: 42625 Jackson St, Lat: 33.7397, Long: -116.2180,

5/14/2015

For Market:

Market Definition:

Date Report Created:

ECON Solutions

By HdL



Density Class: 3					Trade Area: 3 Miles												
ID	Name	Address	City	State	1	2	3	4	5	6	7	HHlds	Median HH Inc	Retail Locs	Traffic Count	Retail Exp	Match Score
	42625 Jackson St	42625 Jackson St	Indio	CA	9.8%	15.6%	20.7%	15.6%	8.2%	19.4%	10.7%	20,083	\$50,576	1,854	60,000	\$299.53	
8849180	Panera Bread	540 E Betteravia Rd	Santa Maria	CA	10.3%	15.5%	19.2%	15.8%	9.3%	18.2%	11.7%	23,793	\$54,512	1,596	34,000	\$306.27	92
15148137	Panera Bread	1337 W Henderson Ave	Porterville	CA	9.9%	14.1%	19.6%	15.7%	7.6%	20.1%	13.0%	17,252	\$43,319	871	16,000	\$294.60	89
7649369	Panera Bread	2533 W Kettleman Ln	St Lodi	CA	14.3%	16.7%	19.5%	14.7%	8.5%	15.6%	12.0%	23,160	\$56,168	1,347	28,000	\$325.84	87
7649381	Panera Bread	3050 Hotel Dr	Turlock	CA	13.1%	16.3%	18.0%	12.8%	9.8%	18.0%	12.0%	19,202	\$53,488	1,082	74,000	\$321.28	86
13671567	Panera Bread	3110 R St	Merced	CA	10.8%	12.4%	17.1%	14.9%	9.9%	20.6%	14.3%	27,760	\$45,372	1,213	40,000	\$308.45	85
9564976	Panera Bread	73075 Highway 111	Palm Desert	CA	14.4%	10.9%	23.3%	18.7%	7.7%	15.1%	9.9%	18,272	\$59,864	1,607	35,000	\$326.33	82
12204726	Panera Bread	30318 Haun Rd	Menifee	CA	16.8%	18.8%	21.4%	14.0%	8.7%	11.6%	8.7%	21,447	\$60,377	769	35,000	\$318.95	82
Density Class: 4					Trade Area: 2 Miles												
ID	Name	Address	City	State	1	2	3	4	5	6	7	HHlds	Median HH Inc	Retail Locs	Traffic Count	Retail Exp	Match Score
	42625 Jackson St	42625 Jackson St	Indio	CA	10.7%	15.2%	20.7%	12.8%	8.6%	20.1%	11.9%	10,364	\$52,847	1,438	60,000	\$299.37	
11370971	Panera Bread	12510 Day St	Moreno Valley	CA	10.6%	17.6%	17.2%	11.3%	12.0%	20.8%	10.5%	15,177	\$50,863	924	132,000	\$298.36	83
7649399	Panera Bread	1260 Shaw Ave	Clovis	CA	13.0%	17.7%	19.2%	13.4%	7.4%	17.0%	12.4%	23,688	\$56,169	1,372	40,000	\$322.24	83
14639404	Panera Bread	2080 California Ave	Sand City	CA	11.7%	12.4%	17.3%	12.0%	13.5%	19.8%	13.3%	13,259	\$59,822	836	70,000	\$326.41	81
1024472	Panera Bread	575 Grand Ave Ste L-10	San Marcos	CA	19.7%	15.4%	18.9%	12.7%	9.0%	13.8%	10.6%	16,551	\$56,538	1,263	159,000	\$321.74	81

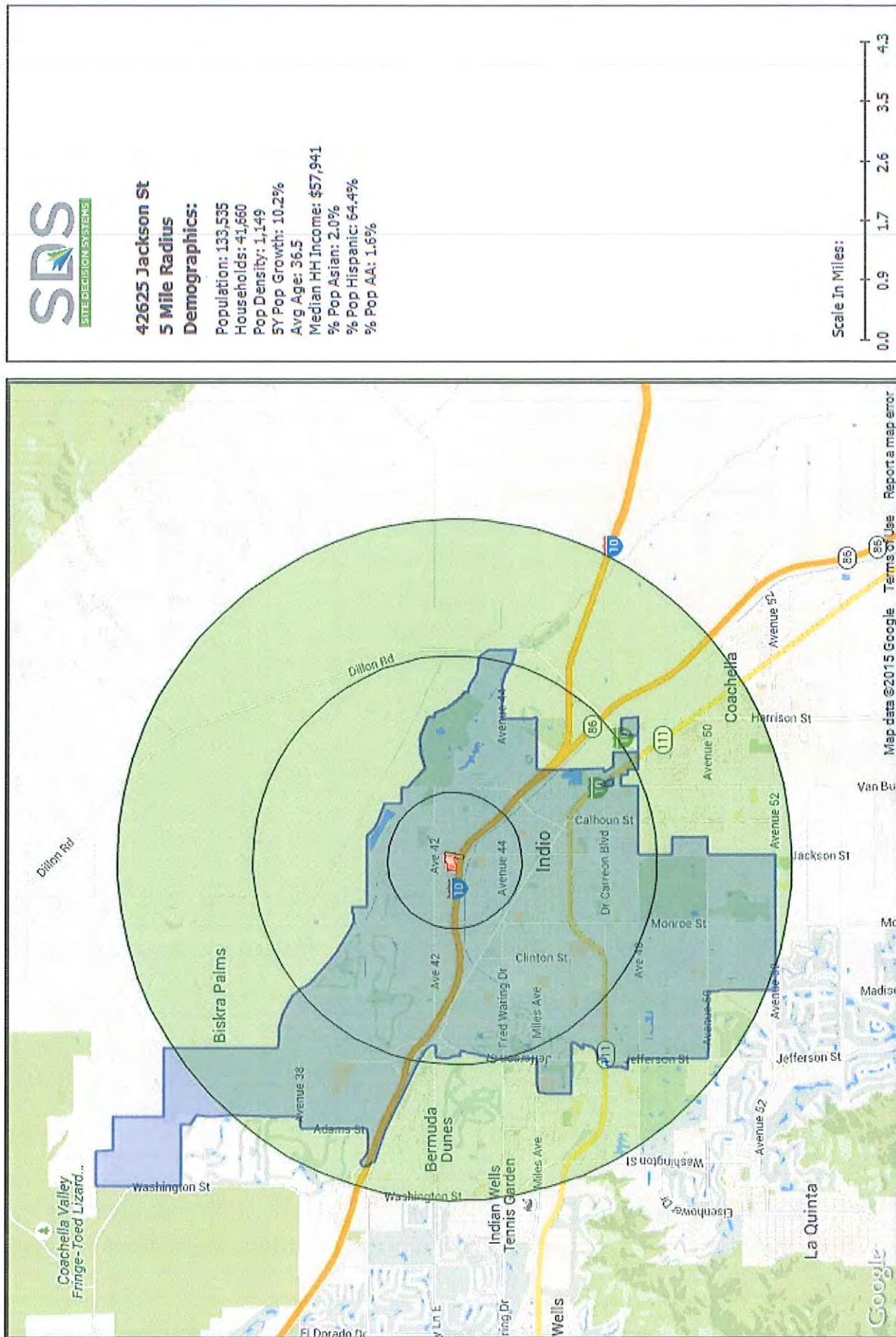
Density Class: 3		Trade Area: 3 Miles	
ID	Name	City	State
	42525 Jackson St	Indio	CA

Target Group		1	2	3	4	5	6	7	HHlds	Median HH Inc	Retail Locs	Traffic Count	Retail Exp	Match Score
		9.8%	15.6%	20.7%	15.6%	8.2%	19.4%	10.7%	20,083	\$50,576	1,854	60,000	\$299.53	

Target Group Definitions

Target Group	Income	Age	Marital Status	Home Ownership	Children	Community	Description
1	Wealthy	Middle Aged	Married	Owner	School-age Kids	Suburbs & Towns	Wealthy, middle aged married homeowners with school-age kids living in the suburbs
2	Upper Middle Income	Younger	Married	Owner	No Kids	Urban	Upper middle income, younger couples with no kids living in urban areas
3	Middle Income	Older	Married/Single	Owner	Kids; Age Mix	City & Surrounds	Middle income, older, married homeowner with kids living in the city
4	Upper Middle Income	Older	Married/Single	Owner	No Kids	City & Surrounds	Upper middle income, older, Married homeowners with no kids living in the city
5	Middle Income	Middle Aged	Married	Owner	No Kids	Rural	Middle income, middle aged, married homeowner with No Kids living in rural areas
6	Low Middle Income	Younger	Single	Owner	No Kids	City & Surrounds	Low middle income, younger, single homeowner with no kids living in the city
7	Lowest Income	Old and Young	Single	Renter/Owner	No Kids	Rural	Lowest income, old and young, single renters with no kids living in rural areas

Current View Showcase at Indio



[illegible]

Trade Area
Block Group Boundaries

Ring Radius: 1, 3, 5 Miles

Pop Density

Less Than 200
200 to 1,500
1,500 to 3,500
3,500 to 7,000
7,000 or higher

42625 Jackson St

5 Mile Radius

Demographics:

Population: 133,535
Households: 41,660
Pop Density: 1,149
5Y Pop Growth: 10.2%
Avg Age: 36.5
Median HH Income: \$57,941
% Pop Asian: 2.0%
% Pop Hispanic: 64.4%
% Pop AA: 1.6%

Scale In Miles:

A horizontal number line with tick marks at 0.0, 0.5, 1.2, 1.9, 2.5, and 3.1. The labels are placed below the tick marks.



CITY OF INDIO, CALIFORNIA

"The City of Festivals"

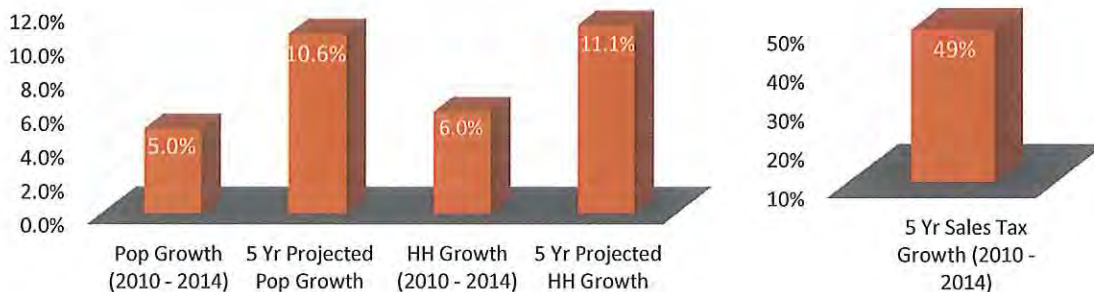
COMMUNITY PROFILE

THE COMMUNITY

The City of Indio, incorporated in 1930, is a Riverside County city located in the Coachella Valley. Nestled between the San Jacinto Mountains and Joshua Tree National Park, the Interstate 10 provides direct access west to the Los Angeles Metropolitan Area and east to Arizona. Designed to be a halfway point between Los Angeles and Yuma, Arizona to serve the Southern Pacific Railroad the City of Indio has emerged as one of the fastest growing cities in California. Known as "The City of Festivals" Indio hosts a variety of annual events including the Coachella Valley Music & Arts Festival, Stagecoach Country Music Festival, National Date Festival, Indio International Tamale Festival and many more. Other entertainment venues such as monster truck rallies, rodeos, along with international tennis and polo tournaments draw fans from around the world. Indio's variety of events, recreational activities and business community truly proves Indio to be **"The Coolest Hot Spot."**

POSITIVE ATTRIBUTES

Below are just some of the positive attributes the City of Indio offers:



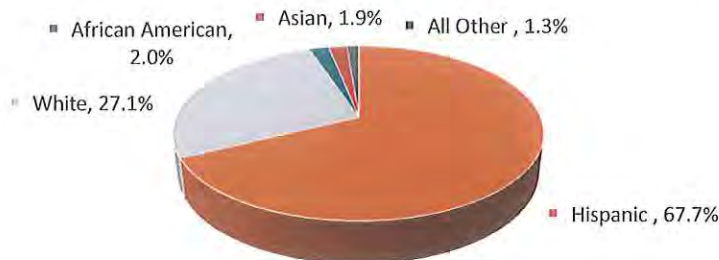
- Largest of 9 municipalities in the Coachella Valley with a population of 82,398.
- Double digit projected population and household growth.
- 4 star accredited Chamber of Commerce which is ranked in the top 3% nationwide.
- 49% sales tax growth in the last 5 years.
- Located on two prime commercial corridors – I-10 and Highway 111
- Thriving tourism and entertainment industry.
- A Coachella Valley location benefits from \$3.5 billion in annual tourism spending.
- The City of Indio is one of the focal points for major cultural and musical festivals annually that attract 12 million visitors to the Coachella Valley each year.
- The City of Indio is home to Coachella Valley History Museum and the Aqua Caliente Cultural Museum.



CITY OF INDIO, CALIFORNIA

DEMOGRAPHIC HIGHLIGHTS

- Population of 82,398
- Average age of 36.4
- Land area of 29.18 square miles
- 30,650 housing units
- Average household income of \$65,654
- 73.1% of Indio residents possess a high school degree or above
- 17.1% of Indio residents possess a bachelor's degree or above
- Average commute to work is 23 minutes
- Indio's ethnic breakdown: 67.7% Hispanic; 27.1% White; 2% African American; 1.9% Asian; 1.3% Other



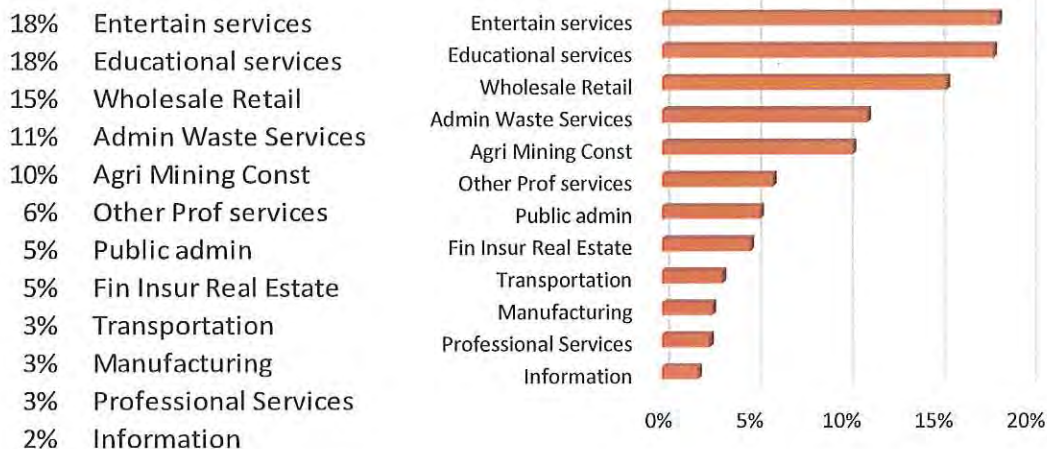
MARKET AREA

MARKET STATISTICS

- Labor force of 36,500
- Per Capita Income of \$20,154
- Average household income of \$65,654

INDUSTRY BREAKDOWN

Workers that reside in the City of Indio are employed within the following industries:





CITY OF INDIO, CALIFORNIA

OCCUPATION BREAKDOWN

Top occupational categories in the City of Indio:



TOP 10 BUSINESS TYPES (Listed in Alphabetical Order)

- Automotive Supply Stores
- Casual Dining
- Discount Department Stores
- Grocery Stores
- Home Furnishings
- Lumber/Building Supplies
- New Motor Vehicle Dealers
- Plumbing/Electrical Supplies
- Quick-Service Restaurants
- Service Stations

NATIONAL & REGIONAL BRANDS--RETAILERS, RESTAURANTS, HOSPITALS & FINANCIAL INSTITUTIONS REPRESENTED IN THE MARKET

7 Eleven	Harbor Freight Tools	Petco
Americas Tires	Home Depot	Ralphs
Auto Zone	In N Out Burgers	Rite Aid
Bank of America	Jack in the Box	Ross
Big Lots	John F. Kennedy Memorial Hospital	Starbucks
Burger King	K Mart	Stater Bros.
Cardenas Market	Kaiser Permanente	Subway
Carl's Jr.	Marshalls	Target
Chase Bank	Mathis Bros. Furniture	Toys R Us
CVS Pharmacy	McDonalds	U.S. Bank
Del Taco	O'Reilly Auto Parts	Walgreens
Dollar Tree	Panda Express	Walmart
Food 4 Less	Party City	Wells Fargo Bank
GameStop	Pep Boys	WinCo Foods



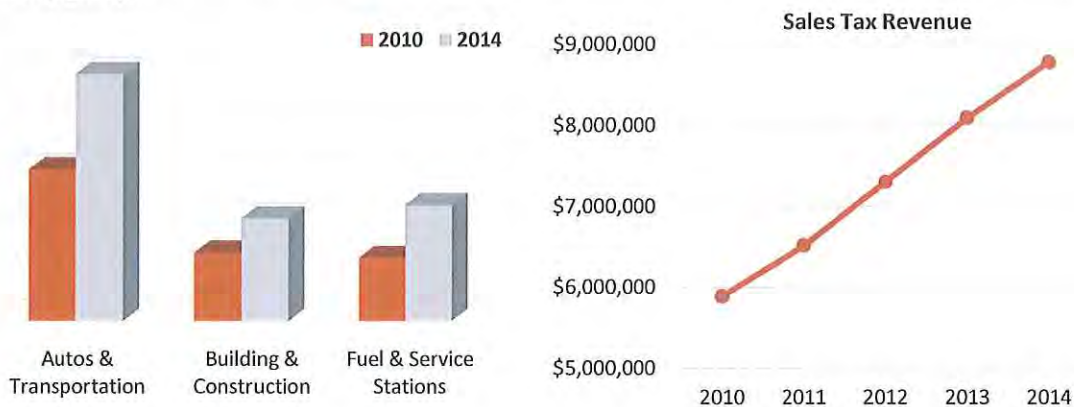
CITY OF INDIO, CALIFORNIA

ECONOMIC INDICATORS

The City of Indio has experienced a growing local economy in the years after the Great Recession confirmed by indicators such as tremendous sales tax growth, increasing entertainment and tourism dollars, a declining unemployment rate and a recovering housing market that is competitive in price and product type throughout the Coachella Valley.

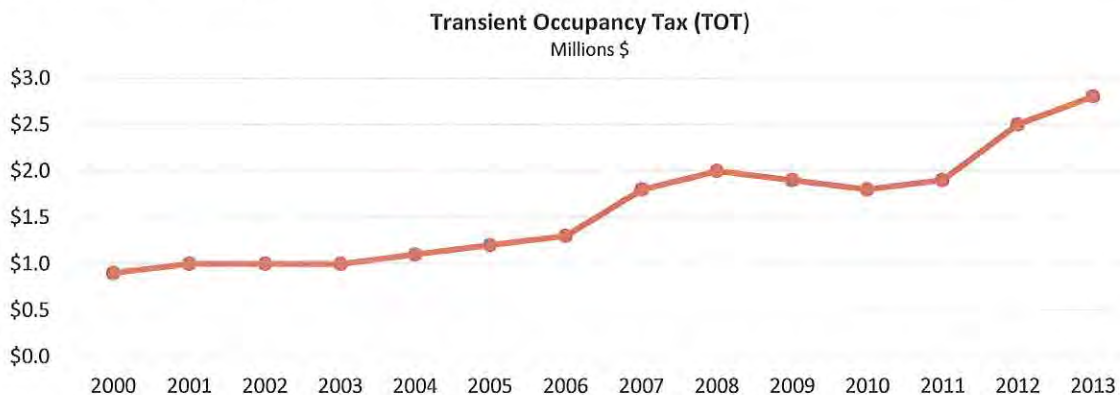
SALES TAX GROWTH

Indio's adjusted sales tax revenues experienced substantial growth of 49% within the 5 year period from 2010 through 2014 led by Fuel & Service Stations, Autos & Transportation and Building & Construction groups. All seven major industry groups exhibited increases of 20% or more. In 2014, Indio sales tax revenues gained 8% over the prior year highlighted by double digit gains in three out of seven major industry groups.



TOURISM

Tourism is a key contributor in Indio's economy proven by the entertainment and tourism industry making up 18% of the employment breakdown. More people are traveling to the City of Festivals shown below by a 47% increase in TOT revenues over the period of 2009 to 2013. Visitors account for 25% of local tax receipts throughout all of Riverside County.

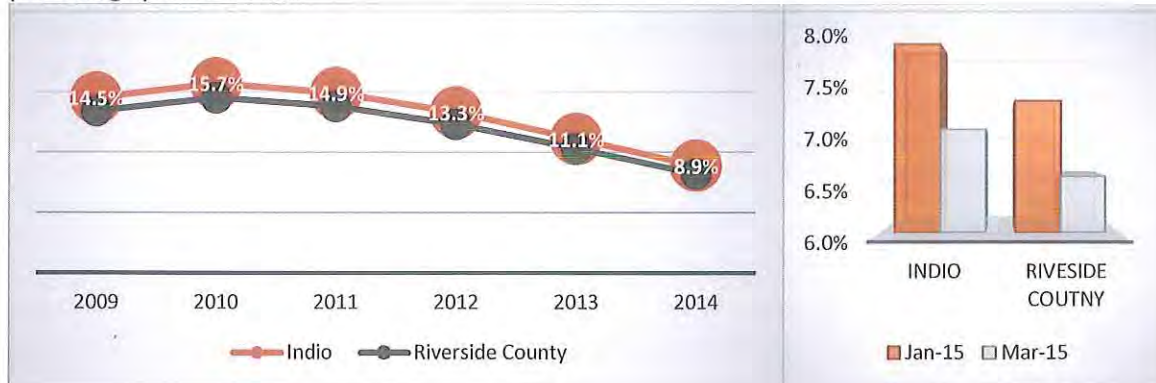




CITY OF INDIO, CALIFORNIA

EMPLOYMENT

Indio's unemployment rate has declined for 4 consecutive years, going from a peak of 15.7% in 2010 to 8.9% in 2014. Through the first quarter of 2015 the unemployment rate has declined nearly two percentage points to 7.1%.



HOUSING MARKET

- Median home value in Indio is \$249,400, which is up 5.5% over the past year and is projected to increase by 5.4% over the next year.
- High vs Low home values during the last decade:
 - High: February 2006 - \$378,000
 - Low: November 2011 - \$166,000
- Indio's housing market compared to other Coachella Valley communities:

Indian Wells	\$666,500
Rancho Mirage	\$473,300
La Quinta	\$379,100
Palm Desert	\$320,800
Palm Springs	\$289,100
Indio	\$249,400
Cathedral City	\$224,400
Coachella	\$143,100
Desert Hot Springs	\$141,000





CITY OF INDIO, CALIFORNIA

IDEAL POTENTIAL CUSTOMERS

According to a consumer demand and market supply assessment, combined with a sales tax leakage report, Indio offers opportunities in the following business categories:

- Apparel/Clothing Stores
- Automotive Dealers
- Discount Department/General Merchandise Stores
- Fast-Casual Restaurants
- Health/Personal Care/Pharmacy Stores
- Fuel & Service Stations

CONTACT

For more information on the marketplace, contact **Barry Foster** at (951) 233-0414.

Note: Demographic Data and Market-Business Information was formulated from a number of sources including CA Department of Finance, U.S. Census, Employment Development Department, American Community Survey, Visit California, Zillow, X-Span Results, SDS and HdL Companies.

2015 California Retail Analytics

Expanding Retailers and
Retail Store Sales Estimates



HdL supports local governments by providing increased revenues, accurate information, expert analysis and innovative software solutions. The firm's economic development practice provides consulting, site selection assistance and business attraction services tailored to the needs of individual clients.

RETAILERS EXPANDING IN CALIFORNIA 2015

Business Name	Leasable Sq Ft in 000's	Est. Annual Tax in 000's	Site Preferences	Expansion Area	Contact Information
GENERAL RETAIL					
99 Cents Only Stores	10-25	\$15-35	1, 2, 3, 4, 13	Statewide	jesssea@99only.com
Active Ride Shop	4.5-6	\$10-25	3, 6, 7, 13	Southern California	jeff@strategicretailadvisor.com
Anna's Linens	7-12	\$10-15	1, 2, 3	Statewide	steve.jackson@annaslinens.com
Armstrong Garden Center	6.5	\$15-25	4	Statewide	Monte Enright, 626.914.1091
Ashley Furniture Homestore	30-50	\$100-175	1, 2, 3, 4, 9	Statewide	aaron@hodgegroup.com
A T & T Mobility	3-3.5	\$5-25	2,3,9	Southern California	cm6802@att.com
Banner Bedding	4.5	\$10-15	1, 2	Statewide	customerservice@bannermattress.net
Big 5 Sporting Goods	10-12	\$20-50	1, 2, 13	Statewide	jsb@big5corp.com
Big Lots	30	\$25-35	1, 2, 13	Statewide	kevinday@biglots.com
Boot Barn	8-12	\$15-35	1, 2, 4, 10	Statewide	abrowning@bootbarn.com
Brooks Brothers	2.5-7	\$10-20	7, 8, 13	Statewide	rkehm@brooksbrothers.com
Burlington Coat Factory	50-70	\$60-100	1, 2, 3, 4, 6, 13	Statewide	eric.corpus@burlingtonstores.com
Cache	2	\$6-10	8, 9, 13	Statewide	dawn.cache@gmail.com
Carter's	4-5	\$10-30	1, 2, 3, 9, 11	Statewide	evan.graff@carter.com
Charming Charlie	6-10	\$10-20	1, 2, 4, 9	Statewide	mjshanahan23@gmail.com
Citi Trends	12-15	\$9-13	1, 2, 3, 13	Statewide	abeisel@citiitrends.com
Costco	150	\$800-1300	3, 4	Statewide	smcarthur@northwestatlantic.com
Destination XL	7-10	\$5-8	4, 12	Statewide	pschmitz@dxlg.com
Dollar Tree	8-12	\$10-30	1, 2, 4	Statewide	cwaizmann@dollartree.com
Dress Barn	7-8	\$8-20	3, 9, 13	Statewide	rsosnovy@dressbarn.com
DSW Shoe Warehouse	18-30	\$25-60	1, 2, 4, 6, 7, 8	Statewide	steveramey@dswhinc.com
Ethan Allen	10-14	\$10-15	8, 13	Los Angeles & Ventura Counties	matthew@mra.la
Family Dollar	8-10	\$8-18	1, 2, 3, 4, 9, 10	Southern California	cmoore3@familydollar.com
Famous Footwear	5-6	\$7-30	1, 2, 3, 6, 7	Statewide	hvanomeren@famousfootwear.com
Fashion Q	5-8	\$7-12	1, 13	Statewide	jmanarino@cox.net
Footwear Etc. / Footware Outlet	2-6	\$8-12	1, 2, 4, 12	Statewide	elie@footwareetc.com
GameStop	1.3-1.8	\$6-12	3, 9	Statewide	marcsummey@gamestop.com
Gap Inc. *1	7-15	\$25-50	3, 5, 6, 7, 8, 9, 12	Statewide	ed_kellof@gap.com
Guitar Center	7-15	\$15-60	1, 2, 3, 4	Statewide	ccantwell@guitarcenter.com
Harbor Freight Tools	15	\$40-80	2, 3, 6	Statewide	tfieiler@haborfreight.com
Hobby Lobby	50-75	\$40-80	3, 9, 13	Statewide	pbartlett@edge-re.com
Home Depot	60-110	\$200-800	3, 4, 9	Statewide	jeff_nichols@homedepot.com
Jo-Ann Fabrics & Crafts	20-25	\$20-60	3, 9, 13	Southern California	anthony.carosello@joann.com
Jo-Ann Fabrics & Crafts	20-25	\$20-60	3, 9, 13	Northern California	kevin.beagle@joann.com
Jos. A. Bank Clothiers	4-4.5	\$10-20	3, 7, 9, 11, 13	Statewide	jfoley@jos-a-bank.com
Justice	3.5-5	\$8-20	1, 3, 6, 7, 9	Statewide	realestate@tweenbrands.com
Kate Spade	1-4.2	\$15-40	4, 7, 8, 9	Upscale Urban Centers	contactus@katespade.com
Kohl's	55-87	\$75-175	3, 4, 9	Statewide	kathy.avjian@kohls.com
Mor Furniture for Less	40-60	\$90-180	3, 4, 11	Statewide	ricksr@morfurniture.com
Metro PCS	1-1.5	\$6-20	1, 2, 3, 13	Southern California	bbielatowicz@lee-associates.com
New York & Company	6-8	\$2-6	1, 4, 6, 7	Statewide	www.nyandcompany.com
Nordstrom Rack	30-40	\$250-400	1, 2, 4, 6, 8	Statewide	development@nordstrom.com
Papaya Fashions	2-5	\$12-25	2, 6, 11	Statewide	www.papayaclothing.com
Performance Bicycle Shop	6.5	\$12-25	2, 3	Statewide	tom.woods@colliers.com
Rack Room Shoes aka Off Broadway	5.5-7	\$18-25	1, 2, 3, 6, 7, 9	Statewide	kgonnerman@rackroom.com
Robert Wayne Footwear	2.5	\$5-20	2, 6, 8	Statewide	www.robertwayne.com
Ross Dress for Less	22-30	\$75-150	1, 2, 3, 13	Statewide	gregg.mcgillis@ros.com
Rue 21	4.5	\$8-12	3, 11, 13	Statewide	rthomson@rue21.com
Shiekh Shoes	3.5	\$8-20	6	Statewide	gaguinis@zallcompany.com
Shoe City	3.8-6	\$15-25	4	Southern California	bob@rpratt.com
Sport Chalet	42	\$50-100	3, 6, 9	Statewide	dtrausch@sportchalet.com
Sports Authority	30-45	\$30-100	3, 9	Statewide	eternansen@w-retail.com
Sprint	1.5-2.5	\$12-45	1, 2, 3, 13	Southern California	jradas@edge-re.com
Stein Mart	28-32	\$35-60	3, 9	Statewide	wally@strategicretailadvisor.com
Styles For Less	2.5-3	\$2-5	1, 3, 6, 7, 8, 9,	Statewide	jason@stylesforless.com
Talbots	3.7-5	\$12-20	1, 2, 4, 6, 7, 8	Statewide	laurine.riley@talbots.com
Target	100-150	\$250-700	3, 4, 9	Statewide	kareem.ali@target.com
The Alley	15-30	\$10-18	1, 3, 4	Statewide	William Marek, 760.347.7200
Thomasville Home Furnishing	6-14	\$6-10	4	Statewide	tlittle@drexelhertage.com
Tilly's	7-8	\$5-12	3, 9, 13	Statewide	dbeaney@tillys.com
TJX Companies *2	25-35	\$50-180	3, 9	Statewide	deborah_holmsen@tjx.com
Tractor Supply Co.	19-27	\$30-60	1, 2, 4, 12	Statewide	cteter@tractorsupply.com
True Religion Apparel	1.5-3.5	\$6-16	8, 11	Statewide	realestate@truereigionbrandjeans.com
Ultra Beauty	10	\$30-70	3	Statewide	rick.franz@ultainc.com
Verizon Wireless	1-4	\$12-50	2, 3, 9	Statewide	garymorris@morriscre.com
Walmart Supercenter	170-210	\$350-900	3, 4, 9	Statewide	colbytanner@wal-mart.com
West Marine	8-10	\$12-50	1, 2	Southern California	pbartlett@edge-re.com

Notes: *1 - Gap Inc. includes Gap, Old Navy and Banana Republic
*2 - TJX Companies includes TJ Maxx, Marshalls and Home Goods

<i>Business Name</i>	<i>Leasable Sq Ft in 000's</i>	<i>Est. Annual Tax in \$000's</i>	<i>Site Preferences</i>	<i>Expansion Area</i>	<i>Contact Information</i>
RESTAURANTS					
BJ's Restaurants	8.5-10	\$40-75	4, 13	Statewide	glynds@bjsrestaurants.com
Blaze Pizza	2.2-3	\$10-15	1, 2, 5, 12	Southern California	ed@blazepizza.com
Bloomin' Brands *1	6-8	\$25-50	3, 4, 5, 9	Statewide	markseferian@bloominbrands.com
Bluewater Grill	7-7.5	\$40-50	3, 4, 5, 9	Southern California	wally@stategicretailadvisors.com
Buffalo Wild Wings	65-7.5	\$30-70	3, 5, 6, 9, 12	Statewide	jvong@buffalowildwing.com
Burger Lounge	1-5.5	\$7-12	1, 2, 4, 5, 8, 9, 10	Southern California	realstate@burgerlounge.com
Café Rio	3-3.5	\$13-20	3, 5, 9, 12	Statewide	kyle@mainandmaininc.com
California Pizza Kitchen	5-5.5	\$25-35	7, 9, 12	Statewide	jbeus@cpk.com
Carl's Jr.	2.5-3	\$10-20	3, 4, 5, 12	Statewide	iakers@ckr.com
Chipotle	2-2.4	\$15-30	4, 12	Orange County, San Diego & Inland Empire	gvujnov@chipotle.com
Chipotle	2-2.4	\$15-30	4, 12	Los Angeles & Central Valley	gdibias@chipotle.com
Corner Bakery Café	2.7-3.5	\$10-18	1, 2, 3, 8	Statewide	rick.carson@cornerbakerycafe.com
Darden Restaurants *2	6-8	\$30-60	4, 9, 12	Statewide	michael@mdubin.com
Denny's	4-5	\$15-25	1, 2, 4, 5, 8, 13	Statewide	lgrace@dennys.com
Dunkin' Doughnuts	1.2-2.6	\$1-1.8	2, 4, 5, 9, 12	Southern California	jason.askinsie@dunkinbands.com
El Pollo Loco	2.2-3	\$14-20	3, 4, 5	Statewide	echang@elpololoco.com
Fat Burger	1.5-2	\$6-9	1, 12	Southern California	real.estate@falburger.com
Firehouse Subs	1.5-2	\$5-10	1, 2, 3, 5, 12	Statewide	jnamey@firehousesubs.com
Five Guys Burgers	2-3	\$8-12	1, 2, 4, 10, 12	Statewide	rlucio@fiveguys.com
Habit Burger Grill	2-2.4	\$12-20	5, 12	Southern California	cschlueter@habit.com
In n Out	3-3.5	\$25-60	3, 4, 5	Statewide	m Bailey@innout.com
Jersey Mike's	1.2-1.8	\$4-6	1, 2, 3, 5, 12	Statewide	npebbles@jerseymikes.com
Jimmy John's	1-2	\$4-6	1, 2, 3, 5, 12	Southern California	jgordon@espleen.com
King's Fish House	8.5-10	\$25-50	3, 4, 5, 8, 11	Southern California	administrator@kingsseafood.com
McDonald's	2.5-4	\$12-30	1, 2, 4	Southern California	lori.nunez@mcd.com
Norm's Restaurant	6	\$36-55	4	Southern California	psingerman@normsrestaurants.com
Panda Express	1.7-2	\$9-12	1, 3, 4, 12	Southern California	dan.samulski@cbre.com
Panera Bread	4-4.6	\$12-25	4, 5, 12, 13	Southern California	robert.kluger@panerabread.com
Peet's Coffee & Tea	1.5	\$1-1.5	1, 2, 4, 8, 9	Northern California	tlogan@retailvestinc.com
Pieology	2.5-3	\$15-20	1, 2, 5, 12	Statewide	craig@pieology.com
Pizza Studio	1.5-2.5	\$10-15	1, 2, 5, 12	Statewide	bgardela@pizzastudio.com
Red Robin	6-6.5	\$20-40	3, 4, 5, 9	Riverside and San Bernardino Counties	barclay.harty@cbre.com
Smashburger	1.6-2.2	\$6-12	3, 9, 12	Statewide	mfernandez@smashburger.com
Sonic Drive-In	1.5-1.8	\$6-10	4, 5	Southern California	jmorian@sonicdrivein.com
Starbucks Coffee	1.7-2	\$1-6	1, 2, 3, 4, 5, 8, 9, 12	Southern California	jgordon@espleen.com
T.G.I. Friday's	6.6	\$35-50	3, 9	Statewide	jlagowilz@studley.com
Taco Bell	2.5-3	\$12-20	1, 2, 3, 4, 9	Statewide	gary.brockman@yum.com
Texas Roadhouse	7-7.5	\$50-80	3, 4, 5	Southern California	bryce.myers@legendaryrestaurants.net
The Cheesecake Factory	7.2-11	\$70-115	4, 6, 7	Statewide	Robert Schnur, 310.262.5300
The Counter	1.7-3	\$10-20	3, 9	L.A. & Orange Counties	randy@thecounterburger.com
Waba Grill	1.5-2	\$4-9	1, 12	L. A., Orange & Ventura Counties	madamczk@kennedywilson.com
Wendy's	2.8-3	\$12-30	1, 2, 4, 5	Statewide	kathy.seferian@wendys.com

Notes: *1 - Bloomin' Brands include Outback Steakhouse, Carrabba's, Flemings & Roys

*2 - Darden Restaurants include Olive Garden, Longhorn Steakhouse, Bahama Breeze and Yard House

FOOD & DRUGS

Aldi USA	15-18	\$20-25	1, 2, 4	Southern California	jgordon@espleen.com
Bev Mo!	10	\$40-100	1, 2, 3	Statewide	endomg@bevmo.com
Bristol Farms	30	\$20-70	4, 9	Statewide	corporateinfo@bristolfarms.com
CVS	13	\$15-70	1, 2, 4, 12	Statewide	rick.dube@cvscaremark.com
Grocery Outlet	15-20	\$15-35	1, 2, 4	San Diego	mrasin@cfgo.com
Rite-Aid	14.5	\$15-50	1, 2, 4, 12	Southern California	tlverastegui@riteaid.com
Smart & Final Extra	23-32	\$20-65	1, 2, 4	Southern California	holly.jensen@smartandfinal.com
Sprout's Farmers Market	23-28	\$16-50	4, 9	Statewide	elizabethhoxworth@sprouts.com
Trader Joe's	12-14	\$35-60	1, 2, 4, 10	Statewide	deighanone@aol.com
Walgreens	14.5	\$20-60	1, 2, 4, 12	Southern California	walter.cathay@walgreens.com
Whole Foods Market	30.5	\$50-150	4	Statewide	norah.smith@wholefoods.com
Winco Foods	85-100	\$75-125	3, 4, 11	Statewide	greg.goins@wincofoods.com

AUTOMOTIVE & FUEL

7 Eleven	30-50	\$60-130	4, 5	Southern California	teresa.opsahl@7-11.com
Arco AM/PM	30-50	\$75-180	4, 5	Southern California	michael.e.glassman@tsocorp.com
AutoZone, Inc.	6.5-8	\$15-25	1, 2, 4, 5	Statewide	tahir.sikandar@autozone.com
Discount Tire Centers	4.5	\$6-10	1, 2, 3, 4	Statewide	jsilhasek@discounttire.com
O'Reilly Automotive	7-8	\$8-15	2, 4, 5	Statewide	jdrozee@oreillyauto.com
Pep Boys	4-6.5	\$10-25	4	Statewide	nicholas_puccio@pepboys.com

KEY TO PREFERRED SITES:

1 Community Strip	4 Freestanding	7 Enclosed Super Regional Mall	10 Mixed Use	13 Regional Strip Mall
2 Neighborhood Strip	5 Pad/Out Parcel	8 Downtown / CBD	11 Outlet Center	
3 Power Center	6 Enclosed Regional Mall	9 Lifestyle Center	12 Endcaps	



RETAIL STORE TAXABLE SALES ESTIMATES 2015

HdL used a mix of similar stores to estimate sales per gross square foot for each category. Actual results will vary based on store size, location and market area characteristics. If your jurisdiction has received a site plan and prospective tenant list for a new project, contact us for a revenue estimate.

Store Type	Typical Sq Ft in 000s	Example Stores	Est. Annual Tax in 000s	Annual Sales/Sq Ft
Women's Apparel Stores				
Accessories	1.1-3.3	Claire's, Fossil, Styles For Less, Francescas Collection	\$4.5-9	\$275-440
Small Format	1.5-3	Kate Spade, White House/Black Market, Love Culture, Chico's	\$8-12	\$415-675
Mid-Size Format	3.5-5	Aeropostale, Bebe, Cathelines, Papaya, Talbots, BCBGeneration	\$12-18	\$250-595
Large Format	5.5-9	Anni Taylor, Anthropologie, Express, Kiltson, New York & Co.	\$15-32	\$260-445
Bargain Chic	7.5-20	H & M, Forever 21, Charlotte Russe, Charming Charlie	\$30-41	\$185-460
Men's Apparel Stores				
Casual	3-9.5	Casual Male, Patrick James, Tommy Bahama, Paul Jardin	\$6-18	\$155-335
Business Attire	4-6	Men's Wearhouse, Jos A Bank, Brooks Brothers	\$8-65	\$265-535
Family Apparel				
Children	3.1-5.25	Babies 'R' Us, Childrens Place, Carters, Gymboree	\$15-28	\$340-575
Casual	3.5-25	American Eagle, Gap, Old Navy, Hollister, Abercrombie & Fitch, Aeropostale	\$22-50	\$205-560
Discount	30-80	Ross, T. J. Maxx, Marshalls, Nordstrom Rack, Burlington Coat, Kohl's	\$85-160	\$105-370
Shoe Stores				
Small	1.5-2.1	Cole Haan, Stride Rite, Journeys, Johnston & Murphy, Clarks	\$7-14	\$365-575
Mid-Sized	3-3.5	Payless, Footlocker, Shiekh Shoes, Skechers, Aldo	\$7-10.5	\$200-300
Large	5-30	DSW, Warehouse Shoe Sale, Famous Footwear, Boot Barn	\$11-55	\$185-355
Athletic	3-20	Nike, New Balance, Adidas, Reebok, Puma	\$17-100	\$400-575
Department Stores/General Merchandise				
Closeout / Dollar Stores	10-30	Big Lots, 99 Cents Only, Dollar Tree, Family Dollar, Fallas Paredes	\$12-25	\$155-255
Discount Department	125-140	Target, Walmart, K-Mart	\$315-785	\$260-995
Warehouse* Membership	140-150	Costco, Sam's Club	\$330-1540	\$275-1045
Department	140-200	Sears, JC Penney, Dillards, Macys	\$105-435	\$95-265
Upscale Department	130-275	Nordstrom, Bloomingdales, Neiman Marcus, Saks	\$460-715	\$385-485
Food Stores				
Jr. Market	5-15	Aldi USA, Bonfere Market, Trader Joe's, Grocery Outlet	\$5-55	\$100-465
Specialty Market	10-30	Sprouts, New Leaf, Jimbos Naturally, Mothers Market	\$11-55	\$105-270
Chain Supermarket*	40-55	Ralphs, Albertsons, Safeway, Raleys, Stater Bros., Vons	\$30-130	\$115-155
High End Market	16.5-55	Bristol Farms, Gelsons, Pavilions, Whole Foods, Andronicos, Draegers	\$31-102	\$130-205
Warehouse Grocery	45-60	Winco, Food 4 Less, Smart & Final, Food Maxx, Save Mart	\$110-335	\$80-165
Ethnic Market	25-50	99 Ranch, El Super, Mi Ranchito, Mi Pueblo, Cardenas, Superior Grocers	\$20-45	\$80-85
Stores				
Drug Stores / Pharmacy	10-19	Rite Aid, Walgreens, CVS	\$18-35	\$110-235
Restaurants				
Coffee House	1.5-1.7	Dunkin' Donuts, Starbucks, Coffee Bean & Tea Leaf, Peet's Coffee & Tea	\$0.7-2	\$170-230
Fast Food - Burger	1.5-3	McDonalds, Five Guys Burger, In-N-Out, Sonic Burger	\$10-35	\$415-1035
Fast Food - Hispanic	2.0-5.5	Taco Bell, Del Taco, High Tech Burrito, King Taco, Miguel's Jr.	\$10-55	\$310-1030
Fast Food - Asian	1-2.5	Ono Hawaiian BBQ, Rice Garden, Yoshinoya Beef Bowl, Panda Express	\$4-16	\$290-575
Fast Casual	1.5-4.5	Pick Up Stix, Panera Bread, Chipotle, Buffalo Wild Wings, Corner Bakery	\$6.5-22	\$665-800
Fast Casual - Pizza	1.5-3	Blaze Pizza, Pieology, Pizza Studio	\$10-25	\$270-625
Diners	4.5-5.5	Dennys, IHOP, Carrows, Bob's Big Boy, Ruby's Diner	\$10-19	\$215-425
Buffet	7.5-11	Hometown Buffet, Souplantation, Sweet Tomatoes, Golden Corral	\$20-40	\$200-400
Casual Dining	5-8.5	Islands, Chili's, BJ's Restaurant & Brewhouse, Buca di Beppo, Mimi's Cafe	\$25-70	\$475-740
Dinner House-Fine Dining	6.5-20	Flemings, P.F. Changs, McCormick & Schmicks, Kings Fish House	\$35-85	\$425-1000
Home Improvement/Furnishings				
Imports / Home Accents	10-30	Cost Plus, HomeGoods, Bed Bath & Beyond, Kirklands, Crate & Barrel	\$30-95	\$185-425
Home Décor / Accessories	10-40	Pottery Barn, Z Gallerie, Williams Sonoma, West Elm	\$31-92	\$280-435
Paint	4.5-10	Sherwin Williams, Vista Paint, Dunn Edwards	\$11-32	\$235-315
Home Improve. / Bldg Supply	110-160	Home Depot, Lowes, Probuild, Stock Building Supply	\$40-730	\$135-540
Hardware	3.5-50	Orchard Supply Hardware, Ace Hardware, True Value, De Naults Hardware	\$11-55	\$95-435
Furniture - Bedroom	2-10	Sit 'N Sleep, Sleep Number, Banner Mattress	\$7-75	\$210-420
Furniture - General	12-75	Mor For Less, Bassett Furniture, Ethan Allen	\$19-48	\$105-420
Warehouse Furniture	135-200	Living Spaces, IKEA, Ashley, Jeromes	\$210-1370	\$150-420
Small Electronics	1-6	Radio Shack, Gamestop	\$1.3-11	\$120-860
Cell Phones	1-5	Verizon Wireless, AT&T Mobility, T-Mobile, Sprint, Metro PCS	\$3.5-38	\$345-1380
Volume Elect. / Appliances	4-180	Best Buy, Pacific Sales, Fry's, Howard's	\$66.5-1140	\$260-900
Miscellaneous Retail				
Bath & Body	1-10	Ulta Beauty, Sephora, Bath & Body Works, Bare Escentuals	\$8.6-65	\$485-1405
Craft-Specialty Decor	15-60	Michaels, Jo-Ann Fabrics & Crafts, Hancock Fabrics, Hobby Lobby	\$10-50	\$75-225
Multi-plex Cinemas	10-20 screens	Regal-Edwards, AMC, Pacific, Cinemark		\$650-1,000/screen
Office Supplies	18-25	OfficeMax, Staples, Office Depot	\$29-72	\$140-240
Party Supplies	6-12	Party America, Party City	\$9-13	\$175-275
Pet Supplies	10-25	PetSmart, Petco, Pet Club, Kahoots	\$21-48	\$160-265
Sporting Goods	15-55	Sport Chalet, REI, Sports Authority, Dick's, Big 5	\$25-135	\$130-310

*May Include Gasoline Sales

HdL receives expanding retailer information from a variety of sources which tend to highlight large regional or national chains while excluding small regional retailers. Many of these uses are also looking to expand, but their growth objectives are not as well publicized because of their small size. Therefore, HdL recommends that agencies stay in touch with local business communities to maximize expansion opportunities offered by smaller chains.

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

AGENDA REPORT

MEETING OF: October 13, 2015

TO: Successor Agency Board

FROM: Michelle Green, Deputy Finance Director

SUBJECT: Approval of Recognized Obligation Payment Schedule 15-16B,
Resolution No. 2015-07 SA

RECOMMENDATION:

That the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning., adopts Resolution No. 2015-07 SA, approving Recognized Obligation Payment Schedule 15-16B for the period of January through June 2016 and approving certain related actions.

BACKGROUND:

Pursuant to Health and Safety Code (the "HSC") § 34172 (a)(1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012. Consistent with the provisions of the HSC, the City Council of the City of Banning previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning (the "Successor Agency"). The Oversight Board for the Successor Agency (the "Oversight Board") has been established pursuant to HSC § 34179 to assist in the wind-down of the dissolved redevelopment agency.

Per HSC § 34177 (l)(1), the Successor Agency is required to prepare a ROPS before each six-month fiscal period, which corresponds to equal halves of a fiscal year (i.e., January through June and July through December). Pursuant to HSC § 34180 (g), Oversight Board approval is required for the establishment of each ROPS. Pursuant to HSC § 34177 (m), an Oversight Board-approved ROPS 15-16B for the period of January through June 2016 must be submitted to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance no later than October 5, 2015. The Oversight Board approved the establishment of ROPS 15-16B, as attached to Resolution 2015-07 SA, at their September 24, 2015 meeting.

FISCAL IMPACT:

Per HSC § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations. The Oversight Board will approve the establishment of ROPS 15-16B, which will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations.

Prepared By:


Michelle Green
Deputy Finance Director

Approved By:


Dean Martin
Interim City Manager

RESOLUTION NO. 2015-07 SA

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING APPROVING THE ESTABLISHMENT OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE 15-16B FOR THE PERIOD OF JANUARY THROUGH JUNE 2016 AND APPROVING CERTAIN RELATED ACTIONS

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

WHEREAS, consistent with the provisions of the HSC, the City Council of the City of Banning previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning (the "Successor Agency"); and

WHEREAS, the Oversight Board for the Successor Agency (the "Oversight Board") has been established pursuant to HSC § 34179 to assist in the wind-down of the dissolved redevelopment agency; and

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

WHEREAS, pursuant to HSC § 34180 (g), Oversight Board approval is required for the establishment of each ROPS; and

WHEREAS, pursuant to HSC § 34177 (m), an Oversight Board-approved ROPS 15-16B for the period of January through June 2016 must be submitted to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance no later than October 5, 2015; and

WHEREAS, pursuant to HSC § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations; and

WHEREAS, the Oversight Board has approved the establishment of ROPS 15-16B, which will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations; and

WHEREAS, it is proposed that the Successor Agency approve the establishment of the ROPS 15-16B, which is attached hereto as Exhibit "A"; and

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

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The ROPS 15-16B for the period of January through June 2016, which is attached hereto as Exhibit "A", is approved, inclusive of each enforceable obligation.
- Section 3.** The City Manager, as the Successor Agency's Executive Director or designee, is authorized to: i) post that ROPS 15-16B on the City's website, ii) transmit the ROPS 15-16B to the County Auditor-Controller, the County Administrative Officer, the State Controller and the State Department of Finance for their review within the timeframe and in the manner prescribed by the HSC; and iii) make ministerial revisions to ROPS 15-16B, which may include, but are not limited to restating the information included within ROPS 15-16B in any format that may be requested by the State Department of Finance, take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution, and to implement ROPS 15-16B on behalf of the Successor Agency, including authorizing and causing such payments.
- Section 4.** This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED AND ADOPTED this 13th day of October 2015.

Deborah Franklin, Chairperson

ATTEST

Marie A. Calderon, Secretary

CERTIFICATION:

I, Marie A. Calderon, Secretary for the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning, do hereby certify that the foregoing Resolution No. 2015-07 SA was duly adopted by the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning, at a meeting thereof held on the 13th day of October 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon Secretary

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

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE 15-16B
(JANUARY THROUGH JUNE 2016)**

(See Attachment)

Recognized Obligation Payment Schedule (ROPS 15-16B) - Summary

Filed for the January 1, 2016 through June 30, 2016 Period

Name of Successor Agency: Banning

Name of County: Riverside

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding Sources (B+C+D):		
A	Sources (B+C+D):	\$ 2,306,061
B	Bond Proceeds Funding (ROPS Detail)	2,066,061
C	Reserve Balance Funding (ROPS Detail)	-
D	Other Funding (ROPS Detail)	240,000
E	Enforceable Obligations Funded with RPTTF Funding (F+G):	\$ 1,985,302
F	Non-Administrative Costs (ROPS Detail)	1,860,302
G	Administrative Costs (ROPS Detail)	125,000
H	Total Current Period Enforceable Obligations (A+E):	\$ 4,291,363

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding

I	Enforceable Obligations funded with RPTTF (E):	1,985,302
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	(21,323)
K	Adjusted Current Period RPTTF Requested Funding (I-J)	\$ 1,963,979

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding

L	Enforceable Obligations funded with RPTTF (E):	1,985,302
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
N	Adjusted Current Period RPTTF Requested Funding (L-M)	1,985,302

Certification of Oversight Board Chairman:

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

Name

/s/

Signature

Title

Date

Banning Recognized Obligation Payment Schedule (ROPS 15-16B) - ROPS Detail
January 1, 2016 through June 30, 2016
(Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Funding Source					
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)					
										Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total
1	2003 TABs (Interest Only)	Bonds Issued On or Before 12/31/10	12/16/2003	8/1/2028	US Bank	Interest Only Payments for the 2003 TABs	Merged	\$ 11,088,951	N	\$ -	\$ -	\$ 240,000	\$ 1,660,302	\$ 125,000	\$ 4,291,353
2	2007 TABs (Interest Only)	Bonds Issued On or Before 12/31/10	8/15/2007	8/1/2037	US Bank	Interest Only Payments for the 2007 TABs	Merged	\$ 3,745,207	N	\$ -	\$ -	\$ -	\$ 223,873	\$ -	\$ 223,873
4	Annual Continuing Disclosure	Fees	12/16/2003	8/1/2037	Urban Futures, Inc.	Bonding Continuing Disclosure Services	Merged	\$ 14,807,847	N	\$ -	\$ -	\$ 240,000	\$ 303,984	\$ -	\$ 548,984
5	Bond Trustee Fees	Fees	12/16/2003	8/1/2037	US Bank	Bond Trustee Fees	Merged	\$ 75,700	N	\$ -	\$ -	\$ -	\$ 3,500	\$ -	\$ 3,500
8	Note Payable	Third-Party Loans	8/7/2009	8/1/2023	Gluck	Property purchase - Trust Deed	Merged	\$ 124,700	N	\$ 20,531	\$ -	\$ -	\$ -	\$ -	\$ 20,531
10	RDA Audit	Professional Services	10/1/2009	8/1/2037	Lance, Soli & Lungard	Prepare Successor Agency Financial Statements	Merged	\$ 14,000	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12	Successor Agency Admin	Admin Costs	2/1/2012	8/1/2037	City of Banning	Successor Agency Administration	Merged	\$ 53,750,000	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
13	Fiscal Consulting Services	Professional Services	9/30/2009	8/1/2037	Urban Futures, Inc.	RDA wind down	Merged	\$ 37,500	N	\$ -	\$ -	\$ -	\$ 12,500	\$ -	\$ 12,500
17	Arbitrage Analysis for TABs	Fees	12/16/2003	8/1/2037	Willdan Associates	Arbitrage Analysis for TABs	Merged	\$ 55,000	N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23	Ramsey Street Improvements	Improvement/Infrastructure	12/1/2014	6/30/2015	Selected Contractors per IFB	Infrastructure Improvements post FOC	Merged	\$ 1,999,938	N	\$ 1,999,938	\$ -	\$ -	\$ -	\$ -	\$ 1,999,938
25	2003 TABs (Principal Reduction Only)	Bonds Issued On or Before 12/31/10	12/16/2003	8/1/2028	US Bank	Principal Reduction Only for the 2003 TABs	Merged	\$ 9,432,500	N	\$ -	\$ -	\$ -	\$ 260,000	\$ -	\$ 260,000
26	2007 TABs (Principal Reduction Only)	Bonds Issued On or Before 12/31/10	5/15/2007	8/1/2037	US Bank	Principal Reduction Only for the 2007 TABs	Merged	\$ 26,437,500	N	\$ -	\$ -	\$ -	\$ 390,000	\$ -	\$ 390,000
27	RDA Audit	Professional Services	10/1/2009	8/1/2037	Lance, Soli & Lungard	Shortfall from ROPS 14-15A for audit services - PPA Form for EO # 10 - One-Time Only Request	Merged	\$ 1	Y	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
28	Design Park Improvements	Improvement/Infrastructure	7/1/2015	12/31/2015	RHA Landscape Architects	Design Roosevelt Williams Park Improvements	Merged	\$ 45,592	N	\$ 45,592	\$ -	\$ -	\$ -	\$ -	\$ 45,592
29	SERAF Loan Repayment	SERAF/ERAF	7/1/2009	8/1/2037	Banning Housing Authority as Successor Housing Agency	Repay SERAF Loan from LMHF	Merged	\$ 2,298,433	N	\$ -	\$ -	\$ -	\$ 661,445	\$ -	\$ 661,445
30									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
31									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
32									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
33									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
34									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
35									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
36									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
37									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
38									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
39									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
40									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
41									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
42									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
43									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
44									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
45									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
46									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
47									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
48									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
49									N	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Banning Recognized Obligation Payment Schedule (ROPS 15-16B) - Report of Cash Balances
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see Cash Balance Tips Sheet									
A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period									
Fund Sources									
		Bond Proceeds		Reserve Balance		Other	RPTTF		
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF reserve for future period(s)	Rent, Grants, Interest, Etc.	Non-Admin and Admin		
ROPS 14-15B Actuals (01/01/15 - 06/30/15)									
1	Beginning Available Cash Balance (Actual 01/01/15)								Cell C-1 is the balance of bond proceeds on deposit with the Trustee bank. Cell G-1 is the "Other Funds" available as of 6-30-15 (See Notes from). Cell H-1 consists of the ROPS 14-15B PPA of \$14,510 and the ROPS 15-16A PPA of \$19,158.
2	Revenue/Income (Actual 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015	11,215,591				1,685,702	33,668		The funds included as income within Cell C-2 are described on the Notes form. Cell H-2 ties to that actual amount received from the CAC.
3	Expenditures for ROPS 14-15B Enforceable Obligations (Actual 06/30/15) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q	705,807				2,452	1,543,122		Cell C-3 ties to the PPA form for use of Bond Proceeds assets. Cell H-3 ties to the PPA Form for use of RPTTF.
4	Retention of Available Cash Balance (Actual 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	41,950					1,536,309		
5	ROPS 14-15B RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15B PPA in the Report of PPA, Column S								Cell H-5 ties to the PPA form.
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 11,879,448	\$ -	\$ -	\$ -	\$ 1,688,154	\$ 19,158	\$ 21,323	
ROPS 15-16A Estimate (07/01/15 - 12/31/15)									
7	Beginning Available Cash Balance (Actual 07/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 11,879,448	\$ -	\$ -	\$ -	\$ 1,688,154	\$ 40,481		Cell H-8 ties to the amount actually received from the CAC.
8	Revenue/Income (Estimate 12/31/15) RPTTF amounts should tie to the ROPS 15-16A distribution from the County Auditor-Controller during June 2015						105,842		The use of funds included within Cell C-9 are described on the Notes form.
9	Expenditures for ROPS 15-16A Enforceable Obligations (Estimate 12/31/15)	675,000				1,447,131	125,000		
10	Retention of Available Cash Balance (Estimate 12/31/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)								
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)	\$ 11,204,448	\$ -	\$ -	\$ -	\$ 241,023	\$ 21,323		

ROPS 14-15B Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15B (January through June 2015) period. The amount of recently audited Property Tax Fund (PTTF) approved for the ROPS 15-16B (January through June 2016) period will be offset by the SA's self-reported ROPS 14-15B prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.

169

Banning Recognized Obligation Payment Schedule (ROPS 15-16B) - Notes

January 1, 2016 through June 30, 2016

Item #	Notes/Comments
	ROPS DETAIL FORM
1	EO # 1 depicts the interest only component of the debt service due on the 2003 TABs. See Note for EO # 25 for the principal reduction only component.
2	EO # 2 depicts the interest only component of the debt service due on the 2007 TABs. See Note for EO # 26 for the principal reduction only component.
4	Payments for Continuing Disclosure are paid only during the ROPS "B" cycle.
5	None
8	Payments on EO # 8 are paid only during the ROPS B cycle.
10	Costs for the Successor Agency's Financial Statements Occur on the "A" ROPS Cycle.
12	None
13	None
17	EO # 17 is for the arbitrage analysis on the 2003 TABs and the 2007 TABs and is only paid on the "B" ROPS cycle every fifth year.
	Once the capital improvements approved for ROPS 14-15B are completed, the Successor Agency will propose additional capital improvements to be funded with unspent bond proceeds available for projects on a future ROPS. The amount is made of \$1,499,938 - funds remaining to be spent from request on ROPS 1415B, and \$500,000 - additional funding needed per revised estimates on project
23	EO No. 25 is for one-half of the principal reduction portion of the debt service payments on the 2003 TABs during bond year 2016. Due to the vagaries associated with the RPTTF cash-flow between the "B" and the "A" ROPS cycles, one-half of the principal reduction payment will be requested during the "B" ROPS cycle and the other half plus any shortfalls in the "B" cycle payment will be requested during the "A" ROPS cycle.
25	EO No. 26 is for one-half of the principal reduction portion of the debt service payments on the 2007 TABs during bond year 2016. Due to the vagaries associated with the RPTTF cash-flow between the "B" and the "A" ROPS cycles, one-half of the principal reduction payment will be requested during the "B" ROPS cycle and the other half plus any shortfalls in the "B" cycle payment will be requested during the "A" ROPS cycle.
26	EO # 27 was a one-time only request and has now been retired.
27	EO #28 was approved for \$50,000 on ROPS 15-16A. After a bidding process, the actual contract awarded for design services was \$95,542, which \$45,592 is the additional funds required for the contract on ROPS 15-16B.
28	The amount payable for the SERAF loan was calculated using DOF's Sponsoring Entity Loan Repayment Calculator.
29	
	CASH BALANCES FORM
Cell C-2	The \$705,807 indicated in Cell C-2 is the sum of: i) \$625,000 of RPTTF from ROPS 14-15B held by the Trustee for principal reduction payments due during ROPS 15-16A; ii) \$40,303 of grant receivables; iii) \$17,200 of loan receivables; and iv) \$23,304 of interest earned on the DSRF accounts. The aforementioned RPTTF is shown in column C to ensure that bond asset funds are accounted for properly.
Cell C-9	The \$675,000 indicated in Cell C-9 is the sum of: i) \$625,000 of RPTTF from ROPS 14-15B for principal reductions payments to be applied during ROPS 15-16A; and ii) \$50,000 for design costs for EO # 28, Roosevelt Williams Park Improvements. The aforementioned RPTTF is shown in column C to ensure that bond asset funds are accounted for properly.
	In it Meet and Confer request of 4-16-15, the Successor Agency contested DOF's determination in its April 12, 2015 letter that the amount of the retained balance was \$2,481,086. During the ROPS 15-16A review process with DOF's analyst, Banning was able to provide sufficient data to confirm that the actual amount of the retained balance was a lower amount. Unfortunately, although DOF's analyst agreed with the data presented, it was received after DOF's April 12, 2015 letter was authorized. The DOF analyst suggested that Banning file a meet and confer request in order to ensure that the matter is properly resolved. Unfortunately, the Successor Agency's Meet and Confer request was rejected. Since that time, Successor Agency financial records now confirm that the retained balance amount is \$1,685,702. This amount will be used over the ROPS 15-16A and ROPS 15-16B periods.
Cell G-1	

**SUCCESSOR AGENCY
AGENDA ITEM**

DATE: October 13, 2015

TO: Successor Agency

FROM: Dean Martin, Interim City Manager / Interim Admin. Services Director

SUBJECT: Resolution No. 2015-08SA - Refunding Tax Allocation Bonds

RECOMMENDATION: Approve Resolution No. 2015-08SA authorizing the issuance of refunding tax allocation bonds in one or more series on a tax-exempt and/or taxable basis to refinance certain outstanding obligations, in an aggregate principal amount not to exceed \$40,000,000 and approving an indenture attached economic savings and legal information will be incorporated into a resolution to the City Council and Successor Agency for adoption.

BACKGROUND:

1. **Prior Bonds** – During the winter of 2003, the Community Redevelopment Agency of the City of Banning issued the Series 2003 Tax Allocation Bonds (Merged Downtown and Midway Redevelopment Project) to assist in the refinancing of prior bonds and the financing of new redevelopment projects.

During the summer of 2007, the Community Redevelopment Agency of the City of Banning issued the Series 2007 Tax Allocation Bonds (Merged Downtown and Midway Redevelopment Project) to assist in the financing of new redevelopment projects and activities such as streetscapes, commercial facades, purchase of vacant parcels, and offering of economic incentives.

2. **Current Refunding** – With interest rates at near historic lows, the City's financing team analyzed the potential to refund (refinance) the existing bonds without extending the term of the original issuance and found that the combined savings from the two series of bonds presented significant savings to the City. Based on today's rates (subject to market conditions), the bonds can now be refunded under several scenarios.
 - a. Scenario 1 presents an estimated savings of approximately \$1.1 million or 2.98%.
 - b. Scenario 2 incorporates bond insurance and a surety (insurance for the reserve amount), and presents an estimated savings of approximately \$1.8 million or 5.08%.

In keeping with the City's goals and policy objectives, the refunding supports the City's goal of providing sound fiscal stewardship for the City of Banning. In addition to significant savings, the refundings represent "current refunding", which produce optimal economics in that they avoid "negative arbitrage". In an effort to effect the most benefit from the low interest-rate environment, City staff and the financing team have moved with significant expediency.

3. **Validation Process** – Assembly Bill 1484 provides in California Health and Safety Code Section 34177.5(d) that a successor agency may bring an action pursuant to California Civil Procedure Code Section 860 et seq. to determine the validity of the refunding bonds and any related matters. AB 1484 further provides in Health and Safety Code Section 34177.5(g) that “[...] bond authorized by Section 34177.5 shall be considered indebtedness incurred by the dissolved redevelopment agency, with the same legal effect as if the bonds...had been issued, incurred or entered into prior to June 29, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date, shall be included in the successor agency’s Recognized Obligation Payment Schedule, and shall be secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund.

Numerous issues with respect to Assembly Bill 1484 remain subject to litigation. Further, newly enacted Senate Bill No. 107 may also become subject to litigation. Validation will provide absolute certainty that no existing or future litigation relating to the Successor Agency’s legal matters may impact the validity of the Refunding Bonds.

FISCAL IMPACT: The recommended action does not, in itself, cause any new financial obligations. At today’s interest rates (subject to the market at actual time of pricing the bonds and offering them to the market), the bonds can be refunded with an estimated savings of approximately \$1.1 million or 2.98% savings for Scenario 1 and approximately \$1.8 million or 5.08% savings for Scenario 2.

Recommended By:

A handwritten signature in black ink, appearing to read "Dean Martin", written over a horizontal line.

Dean Martin

Interim City Manager/Interim Admin. Services Director

RESOLUTION NO. 2015-08 SA

A RESOLUTION OF THE SUCCESSOR AGENCY OF THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF BANNING AUTHORIZING THE ISSUANCE OF REFUNDING TAX ALLOCATION BONDS IN ONE OR MORE SERIES ON A TAX-EXEMPT AND/OR TAXABLE BASIS TO REFINANCE CERTAIN OUTSTANDING OBLIGATIONS, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000 AND APPROVING AN INDENTURE AND AUTHORIZING CERTAIN ACTIONS RELATING THERETO

WHEREAS, the Community Redevelopment Agency of the City of Banning (the "Predecessor Agency") was a public body, corporate and politic, duly created, established and authorized to transact business and exercise its powers under and pursuant to the provisions of the Community Redevelopment Law (Part 1 of Division 24 (commencing with Section 33000) of the Health and Safety Code of the State of California), and the powers of the Predecessor Agency included the power to issue bonds for any of its corporate purposes;

WHEREAS, the redevelopment plan for the Merged Downtown and Midway Redevelopment Project was approved by the City Council of the City of Banning, California (the "City") on February 26, 2002, pursuant to Ordinance No. 1280 (the "Redevelopment Plan"); and

WHEREAS, the Predecessor Agency previously issued its \$14,095,000 Community Redevelopment Agency of the City of Banning Merged Downtown and Midway Redevelopment Project Tax Allocation Bonds, Series 2003 (the "2003 Bonds"), for the purpose of funding certain redevelopment projects of the Predecessor Agency and refunding its outstanding Redevelopment Project Tax Allocation Bonds, Series 1992A, dated February 1, 1992; and

WHEREAS, the Predecessor Agency previously issued its \$29,965,000 Community Redevelopment Agency of the City of Banning Tax Allocation Parity Bonds, Series 2007 (Merged Downtown and Midway Redevelopment Project) (the "2007 Bonds"), for the purpose of funding certain redevelopment projects of the Predecessor Agency; and

WHEREAS, on June 28, 2011, the California Legislature adopted ABx1 26 to, *inter alia*, dissolve existing redevelopment agencies, including the Predecessor Agency; and

WHEREAS, the California Supreme Court substantially upheld the provisions of ABx1 26 on December 29, 2011, resulting in the dissolution of the Predecessor Agency on February 1, 2012; and

WHEREAS, the Successor Agency of the Dissolved Redevelopment Agency of the City of Banning (the "Successor Agency") desires to achieve debt service savings in accordance with ABx1 26 and AB 1484 and therefor assist the local taxing entities by refunding the 2003 Bonds and the 2007 Bonds (collectively, the "Refunded Bonds") with the proceeds of its Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015A (Tax-Exempt) (the "2015A Bonds") and/or its Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015B (Taxable) (the "2015B Bonds" and, together with the 2015A Bonds, the "Bonds"), respectively; and

WHEREAS, on June 27, 2012, AB 1484 was adopted and specifically authorizes the issuance of refunding bonds by the Successor Agency under the authority of Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California and provides in Section 34177.5(a)(1) of the Health and Safety Code of the State of California that “[t]he successor agency may pledge to the refunding bonds or other indebtedness the revenues pledged to the bonds or other indebtedness being refunded, and that pledge, when made in connection with the issuance of such refunding bonds or other indebtedness, shall have the same lien priority as the pledge of the bonds or other obligations to be refunded, and shall be valid, binding and enforceable in accordance with its terms”;

WHEREAS, AB 1484 specifically provides in Section 34177.5(g) of the Health and Safety Code that “[a]ny bonds . . . authorized by [Section 34177.5] shall be considered indebtedness incurred by the dissolved redevelopment agency, with the same legal effect as if the bonds . . . had been issued, incurred, or entered into prior to June 29, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date . . .”;

WHEREAS, the Successor Agency desires to achieve debt service savings and therefor assist the local taxing entities by refunding all or a portion of the Refunded Bonds with the proceeds of its Bonds, as the Chair, Vice-Chair, Executive Director or any member of the Board, and their respective designees (each an “Authorized Representative”) in one or more series on a tax-exempt and/or taxable basis through a public sale;

WHEREAS, the issuance of the Bonds will comply with the provisions of Section 34177.5(a)(1) of the Health and Safety Code of the State of California;

NOW THEREFORE, the Board resolves, determines and orders as follows:

Section 1. Findings. The Board hereby finds and determines that the recitals hereto are true and correct.

Section 2. Refunding and Payment Approved. The Board hereby approves the issuance and delivery of the Bonds in an aggregate principal amount not to exceed \$40,000,000, in one or more series on a taxable or tax-exempt basis, and the public or private sale of the Bonds on a negotiated basis. The Bonds shall achieve debt service savings for the Successor Agency in accordance with the provisions of Section 34177.5(a)(1) of the Health and Safety Code of the State of California. The maximum aggregate underwriter’s discount from the principal amount of the Bonds shall not exceed 2.5% of the aggregate principal amount of such Bonds, plus net premium or less net original issue discount.

The refunding of the Refunded Bonds is hereby authorized and approved. Any Authorized Representative is hereby authorized on behalf of the Successor Agency to purchase federal securities acceptable to Bond Counsel and authorized for the Refunded Bonds, including non-callable State and Local Government Series obligations of the United States of America issued by the Bureau of Public Debt and/or certain direct obligations of the United States of America purchased on the open market, in such amounts, maturing at such times and bearing such rates of interest as shall be necessary to pay when due the Refunded Bonds as provided in an escrow agreement or escrow instruction delivered in connection with the refunding or prepayment, and to take such other action he or she may deem necessary or appropriate to effectuate the purchase of such obligations.

Section 3. Indenture. To prescribe the terms and conditions upon which the Bonds are to be issued, secured, executed, authenticated and held, the Indenture proposed to be executed and delivered by the Successor Agency and a trustee to be selected by an Authorized Representative (the "Trustee"), in substantially the form on file with the Secretary, a copy of which has been made available to the Board, is hereby approved, and any Authorized Representative is hereby authorized and directed, for and in the name and on behalf of the Successor Agency, to execute, and the Secretary is authorized to attest and deliver the Indenture to the Trustee in substantially such form, with such changes (including, without limitation, changes relating to the purchase of a municipal bond insurance policy and/or a surety bond for a debt service reserve fund or such changes as may be requested by a rating agency providing a rating on the Bonds) as may be approved by any Authorized Representative, acting on behalf of the Successor Agency, subject to advice of counsel, such execution thereof to constitute conclusive evidence of the approval of the Successor Agency of all changes from the form of the Indenture presented to this meeting. An Authorized Representative may approve such changes, including with respect to authorized denominations of and transfer provisions for the Bonds, that are necessary or desirable in connection with a private placement of all or a portion of the Bonds, if any.

Section 4. Determinations by the Oversight Board. The Successor Agency requests that the Oversight Board to the Successor Agency of the Dissolved Community Redevelopment Agency of the City of Banning (the "Oversight Board") make the following determinations upon which the Successor Agency will rely in undertaking the refunding proceedings and the issuance, sale and delivery of the Bonds:

- (a) The Successor Agency is authorized, as provided in Section 34177.5(f), to recover its costs related to the issuance of the Bonds from the proceeds of the Bonds, including the cost of reimbursing the City for administrative staff time spent with respect to the authorization, issuance, sale and delivery of the Bonds;
- (b) The application of proceeds of the Bonds by the Successor Agency to the refunding and defeasance of the Refunded Bonds, as well as to the payment by the Successor Agency of all costs of issuance of the Bonds, as provided in Section 34177.5(a), shall be implemented by the Successor Agency promptly upon sale and delivery of the Bonds, and, notwithstanding Section 34177.3 or any other provision of law to the contrary, no further approval of the Oversight Board, the California Department of Finance, the Los Angeles County Auditor-Controller or any other person or entity other than the Successor Agency shall be required;
- (c) The Successor Agency shall be entitled to receive its full "Administrative Cost Allowance" as defined and described under Section 34181(a)(3) without any deductions with respect to continuing costs related to the Bonds, such as trustee's fees, auditing and fiscal consultant fees and continuing disclosure and rating agency costs (collectively, "Continuing Costs of Issuance"), and such Continuing Costs of Issuance shall be payable from property tax revenues pursuant to Section 34183. In addition, and as provided by Section 34177.5(f), if the Successor Agency is unable to complete the issuance of the Bonds for any reason, the Successor Agency shall, nevertheless, be entitled to recover its costs incurred with respect to the refunding proceedings from property tax revenues pursuant to Section 34183 without reduction in its Administrative Cost Allowance.

Section 5. Validation Proceedings. A validation proceeding for the Bonds and the Indenture under Section 860 *et seq.* of the Civil Procedure Code of the State of California, Section 53511 of the Government Code of the State of California, and Sections 33501, 34177.5, 34189.1, and 34189.2 of the Health and Safety Code of the State of California is hereby approved. Each Authorized Representative and any other officer of the Successor Agency is hereby authorized to execute and deliver any complaint,

declaration or other document necessary or advisable in connection with the validation proceeding for the Bonds and the Indenture.

Section 6. General Authorization. Each Authorized Representative and any other officer of the Successor Agency is hereby authorized to execute and deliver any and all agreements (including, but not limited to, investment agreements, bond insurance, reserve fund surety policies, guaranteed investment agreements, escrow agreements or escrow instructions), documents, certificates and instruments and to do and cause to be done any and all acts and things deemed necessary or advisable for carrying out the transactions contemplated by this Resolution, including, revising series designations, and acquiring any necessary consent of municipal bond insurers insuring the Refunded Bonds. Such actions heretofore taken by such officers or their designees are hereby ratified, confirmed and approved.

Section 7. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

PASSED and ADOPTED this 13th day of October 2015, by the following vote:

AYES:

NOES:

ABSENT:

Deborah Franklin, Chair

Attest:

Marie Calderon, Secretary

SOURCES AND USES OF FUNDS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Dated Date 02/03/2016
Delivery Date 02/03/2016

Sources:

Bond Proceeds:	
Par Amount	30,480,000.00
Premium	3,300,144.70
	<hr/> 33,780,144.70
Other Sources of Funds:	
Prior 2003 Reserve Fund	971,763.76
Prior 2007 Reserve Fund	1,880,751.26
	<hr/> 2,852,515.02
	<hr/> 36,632,659.72

Uses:

Refunding Escrow Deposits:	
Cash Deposit	0.42
SLGS Purchases	35,366,790.00
	<hr/> 35,366,790.42
Delivery Date Expenses:	
Cost of Issuance	300,000.00
Underwriter's Discount	169,525.86
Bond Insurance @ 150 bps	702,798.39
Surety Reserve @ 350 bps	90,257.16
	<hr/> 1,262,581.41
Other Uses of Funds:	
Additional Proceeds	3,287.89
	<hr/> 36,632,659.72

Note: Prior reserve balance assumed at reserve requirements at original issuance

SUMMARY OF REFUNDING RESULTS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Dated Date	02/03/2016
Delivery Date	02/03/2016
Arbitrage yield	3.749034%
Escrow yield	0.000000%
Value of Negative Arbitrage	97,883.65
Bond Par Amount	30,480,000.00
True Interest Cost	3.737346%
Net Interest Cost	4.017347%
Average Coupon	4.967068%
Average Life	10.815
Weighted Average Maturity	10.845
Par amount of refunded bonds	35,245,000.00
Average coupon of refunded bonds	4.409869%
Average life of refunded bonds	10.903
Remaining weighted average maturity of refunded bonds	10.846
PV of prior debt to 02/03/2016 @ 3.749034%	37,228,191.26
Net PV Savings	1,791,885.99
Percentage savings of refunded bonds	5.084086%
Percentage savings of refunding bonds	5.878891%

SAVINGS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Date	Prior Debt Service	Prior Receipts	Prior Net Cash Flow	Refunding Debt Service	Savings	Present Value to 02/03/2016 @ 3.7490341%
06/30/2017	2,820,198.76	39,146.01	2,781,052.75	2,578,776.11	202,276.64	198,370.57
06/30/2018	2,817,531.26	39,364.70	2,778,166.56	2,572,100.00	206,066.56	194,789.97
06/30/2019	2,816,088.13	39,364.70	2,776,723.43	2,574,500.00	202,223.43	184,268.16
06/30/2020	2,809,625.00	39,364.70	2,770,260.30	2,565,100.00	205,160.30	180,243.10
06/30/2021	2,808,825.00	39,364.70	2,769,460.30	2,567,125.00	202,335.30	171,292.10
06/30/2022	2,810,025.00	39,364.70	2,770,660.30	2,564,750.00	205,910.30	167,971.63
06/30/2023	2,808,100.00	39,364.70	2,768,735.30	2,564,000.00	204,735.30	160,931.13
06/30/2024	2,807,290.63	39,364.70	2,767,925.93	2,564,625.00	203,300.93	153,990.44
06/30/2025	2,802,471.88	39,364.70	2,763,107.18	2,561,500.00	201,607.18	147,150.39
06/30/2026	2,798,462.50	39,364.70	2,759,097.80	2,554,625.00	204,472.80	143,816.80
06/30/2027	2,799,900.00	39,364.70	2,760,535.30	2,558,625.00	201,910.30	136,852.45
06/30/2028	2,797,193.75	39,364.70	2,757,829.05	2,553,250.00	204,579.05	133,617.64
06/30/2029	2,795,218.75	39,364.70	2,755,854.05	2,553,375.00	202,479.05	127,436.45
06/30/2030	2,493,987.50	39,364.70	2,454,622.80	2,251,375.00	203,247.80	123,236.34
06/30/2031	2,258,981.25	39,364.70	2,219,616.55	2,013,500.00	206,116.55	120,405.11
06/30/2032	1,657,843.75	39,364.70	1,618,479.05	1,412,875.00	205,604.05	115,743.80
06/30/2033	1,660,968.75	39,364.70	1,621,604.05	1,419,125.00	202,479.05	109,844.74
06/30/2034	1,656,578.13	39,364.70	1,617,213.43	1,412,625.00	204,588.43	106,954.66
06/30/2035	1,654,671.88	39,364.70	1,615,307.18	1,413,375.00	201,932.18	101,729.93
06/30/2036	1,655,031.25	39,364.70	1,615,666.55	1,411,125.00	204,541.55	99,295.90
06/30/2037	1,408,015.63	39,364.70	1,368,650.93	1,167,000.00	201,650.93	94,340.11
06/30/2038	1,262,015.63	2,872,197.37	-1,610,181.74	1,019,875.00	-2,630,056.74	-1,183,683.33
	52,199,024.43	3,698,637.38	48,500,387.05	46,853,226.11	1,647,160.94	1,788,598.10

Savings Summary

PV of savings from cash flow	1,788,598.10
Plus: Refunding funds on hand	3,287.89
Net PV Savings	1,791,885.99

Note: Prior reserve fund earnings estimated at current 5-year UST (1.38%)

SUMMARY OF BONDS REFUNDED

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Merged Downtown and Midway Redevelopment Project Tax Allocation Bonds, Series 2003:					
SERIAL	08/01/2016	4.375%	520,000.00	02/18/2016	100.000
	08/01/2017	4.500%	545,000.00	02/18/2016	100.000
	08/01/2018	4.600%	570,000.00	02/18/2016	100.000
TERM_23	08/01/2019	5.000%	595,000.00	02/18/2016	100.000
	08/01/2020	5.000%	625,000.00	02/18/2016	100.000
	08/01/2021	5.000%	655,000.00	02/18/2016	100.000
TERM_28	08/01/2022	5.000%	690,000.00	02/18/2016	100.000
	08/01/2023	5.000%	725,000.00	02/18/2016	100.000
	08/01/2024	5.000%	760,000.00	02/18/2016	100.000
	08/01/2025	5.000%	795,000.00	02/18/2016	100.000
	08/01/2026	5.000%	835,000.00	02/18/2016	100.000
	08/01/2027	5.000%	880,000.00	02/18/2016	100.000
	08/01/2028	5.000%	925,000.00	02/18/2016	100.000
			9,120,000.00		
Tax Allocation Parity Bonds, Series 2007 (Merged Downtown and Midway Redevelopment Project):					
SERIAL	08/01/2016	3.625%	780,000.00	03/04/2016	100.000
	08/01/2017	3.700%	805,000.00	03/04/2016	100.000
	08/01/2018	3.875%	835,000.00	03/04/2016	100.000
	08/01/2019	4.000%	865,000.00	03/04/2016	100.000
	08/01/2020	4.000%	900,000.00	03/04/2016	100.000
	08/01/2021	4.000%	940,000.00	03/04/2016	100.000
	08/01/2022	4.000%	975,000.00	03/04/2016	100.000
	08/01/2023	4.125%	1,015,000.00	03/04/2016	100.000
	08/01/2024	4.125%	1,055,000.00	03/04/2016	100.000
	08/01/2025	4.250%	1,100,000.00	03/04/2016	100.000
	08/01/2026	4.250%	1,150,000.00	03/04/2016	100.000
	08/01/2027	4.250%	1,195,000.00	03/04/2016	100.000
	08/01/2028	4.250%	1,245,000.00	03/04/2016	100.000
	08/01/2029	4.250%	1,960,000.00	03/04/2016	100.000
	08/01/2030	4.250%	1,805,000.00	03/04/2016	100.000
TERM_37	08/01/2031	4.375%	1,270,000.00	03/04/2016	100.000
	08/01/2032	4.375%	1,330,000.00	03/04/2016	100.000
	08/01/2033	4.375%	1,385,000.00	03/04/2016	100.000
	08/01/2034	4.375%	1,445,000.00	03/04/2016	100.000
	08/01/2035	4.375%	1,510,000.00	03/04/2016	100.000
	08/01/2036	4.375%	1,325,000.00	03/04/2016	100.000
	08/01/2037	4.375%	1,235,000.00	03/04/2016	100.000
			26,125,000.00		
			35,245,000.00		

Notes:

The Series 2003 Bonds have a 30-day call notice with the option to rescind. Call date assumes notice will be disseminated at pricing.

The Series 2007 Bonds have a 30-day call notice but no option to rescind. Call date assumes notice will be disseminated at closing.

BOND SUMMARY STATISTICS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Dated Date	02/03/2016
Delivery Date	02/03/2016
Last Maturity	08/01/2037
Arbitrage Yield	3.749034%
True Interest Cost (TIC)	3.737346%
Net Interest Cost (NIC)	4.017347%
All-In TIC	4.143019%
Average Coupon	4.967068%
Average Life (years)	10.815
Duration of Issue (years)	8.373
Par Amount	30,480,000.00
Bond Proceeds	33,780,144.70
Total Interest	16,373,226.11
Net Interest	13,242,607.27
Total Debt Service	46,853,226.11
Maximum Annual Debt Service	2,578,776.11
Average Annual Debt Service	2,179,783.07
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	5.561872
Total Underwriter's Discount	5.561872
Bid Price	110.271059

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Serial Bonds	22,600,000.00	111.441	4.941%	8.140	15,417.25
Term 2033 Bonds	3,305,000.00	109.851	5.000%	16.528	3,007.55
Term 2037 Bonds	4,575,000.00	108.501	5.000%	19.902	4,071.75
	30,480,000.00			10.815	22,496.55

	TIC	All-In TIC	Arbitrage Yield
Par Value	30,480,000.00	30,480,000.00	30,480,000.00
+ Accrued Interest			
+ Premium (Discount)	3,300,144.70	3,300,144.70	3,300,144.70
- Underwriter's Discount	-169,525.86	-169,525.86	
- Cost of Issuance Expense		-300,000.00	
- Other Amounts		-793,055.55	-793,055.55
Target Value	33,610,618.84	32,517,563.29	32,987,089.15
Target Date	02/03/2016	02/03/2016	02/03/2016
Yield	3.737346%	4.143019%	3.749034%

BOND PRICING

Successor Agency to the Community Redevelopment Agency of the City of Banning
 Tax Allocation Refunding Bonds, Series 2016
 ***** Preliminary *****
 Rates as of September 28, 2015
 Insured, Surety Reserve

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
Serial Bonds:									
	08/01/2016	1,145,000	2.000%	0.770%	100.605				6,927.25
	08/01/2017	1,165,000	4.000%	1.190%	104.149				48,335.85
	08/01/2018	1,215,000	4.000%	1.530%	106.022				73,167.30
	08/01/2019	1,255,000	4.000%	1.880%	107.137				89,569.35
	08/01/2020	1,315,000	5.000%	2.230%	111.783				154,946.45
	08/01/2021	1,380,000	5.000%	2.480%	112.869				177,592.20
	08/01/2022	1,450,000	5.000%	2.720%	113.489				195,590.50
	08/01/2023	1,525,000	5.000%	2.930%	113.837				211,014.25
	08/01/2024	1,600,000	5.000%	3.070%	114.334				229,344.00
	08/01/2025	1,675,000	5.000%	3.200%	114.637				245,169.75
	08/01/2026	1,765,000	5.000%	3.320%	114.784				260,937.60
	08/01/2027	1,850,000	5.000%	3.420%	113.833 C	3.526%	08/01/2026	100.000	255,910.50
	08/01/2028	1,945,000	5.000%	3.520%	112.892 C	3.702%	08/01/2026	100.000	250,749.40
	08/01/2029	1,735,000	5.000%	3.610%	112.052 C	3.847%	08/01/2026	100.000	209,102.20
	08/01/2030	1,580,000	5.000%	3.700%	111.221 C	3.974%	08/01/2026	100.000	177,291.80
		22,600,000							2,585,648.40
Term 2033 Bonds:									
	08/01/2031	1,045,000	5.000%	3.850%	109.851 C	4.199%	08/01/2026	100.000	102,942.95
	08/01/2032	1,105,000	5.000%	3.850%	109.851 C	4.199%	08/01/2026	100.000	108,853.55
	08/01/2033	1,155,000	5.000%	3.850%	109.851 C	4.199%	08/01/2026	100.000	113,779.05
		3,305,000							325,575.55
Term 2037 Bonds:									
	08/01/2034	1,215,000	5.000%	4.000%	108.501 C	4.385%	08/01/2026	100.000	103,287.15
	08/01/2035	1,275,000	5.000%	4.000%	108.501 C	4.385%	08/01/2026	100.000	108,387.75
	08/01/2036	1,090,000	5.000%	4.000%	108.501 C	4.385%	08/01/2026	100.000	92,660.90
	08/01/2037	995,000	5.000%	4.000%	108.501 C	4.385%	08/01/2026	100.000	84,584.95
		4,575,000							388,920.75
		30,480,000							3,300,144.70

BOND PRICING

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016
***** Preliminary *****
Rates as of September 28, 2015
Insured, Surety Reserve

Dated Date	02/03/2016	
Delivery Date	02/03/2016	
First Coupon	08/01/2016	
Par Amount	30,480,000.00	
Premium	3,300,144.70	
Production	33,780,144.70	110.827246%
Underwriter's Discount	-169,525.86	-0.556187%
Purchase Price	33,610,618.84	110.271059%
Accrued Interest		
Net Proceeds	33,610,618.84	

BOND DEBT SERVICE

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Period Ending	Principal	Coupon	Interest	Debt Service
06/30/2017	1,145,000	2.000%	1,433,776.11	2,578,776.11
06/30/2018	1,165,000	4.000%	1,407,100.00	2,572,100.00
06/30/2019	1,215,000	4.000%	1,359,500.00	2,574,500.00
06/30/2020	1,255,000	4.000%	1,310,100.00	2,565,100.00
06/30/2021	1,315,000	5.000%	1,252,125.00	2,567,125.00
06/30/2022	1,380,000	5.000%	1,184,750.00	2,564,750.00
06/30/2023	1,450,000	5.000%	1,114,000.00	2,564,000.00
06/30/2024	1,525,000	5.000%	1,039,625.00	2,564,625.00
06/30/2025	1,600,000	5.000%	961,500.00	2,561,500.00
06/30/2026	1,675,000	5.000%	879,625.00	2,554,625.00
06/30/2027	1,765,000	5.000%	793,625.00	2,558,625.00
06/30/2028	1,850,000	5.000%	703,250.00	2,553,250.00
06/30/2029	1,945,000	5.000%	608,375.00	2,553,375.00
06/30/2030	1,735,000	5.000%	516,375.00	2,251,375.00
06/30/2031	1,580,000	5.000%	433,500.00	2,013,500.00
06/30/2032	1,045,000	5.000%	367,875.00	1,412,875.00
06/30/2033	1,105,000	5.000%	314,125.00	1,419,125.00
06/30/2034	1,155,000	5.000%	257,625.00	1,412,625.00
06/30/2035	1,215,000	5.000%	198,375.00	1,413,375.00
06/30/2036	1,275,000	5.000%	136,125.00	1,411,125.00
06/30/2037	1,090,000	5.000%	77,000.00	1,167,000.00
06/30/2038	995,000	5.000%	24,875.00	1,019,875.00
	30,480,000		16,373,226.11	46,853,226.11

ESCROW REQUIREMENTS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Period Ending	Interest	Principal Redeemed	Total
02/18/2016	21,143.51	9,120,000.00	9,141,143.51
03/04/2016	100,646.91	26,125,000.00	26,225,646.91
	121,790.42	35,245,000.00	35,366,790.42

Notes:

The Series 2003 Bonds have a 30-day call notice with the option to rescind. Call date assumes notice will be disseminated at pricing.

The Series 2007 Bonds have a 30-day call notice but no option to rescind. Call date assumes notice will be disseminated at closing.

ESCROW DESCRIPTIONS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate	Max Rate
Feb 3, 2016:						
SLGS	Certificate	02/18/2016	02/18/2016	9,141,144		0.000%
SLGS	Certificate	03/04/2016	03/04/2016	26,225,646		0.000%
				35,366,790		

SLGS Summary

SLGS Rates File	28SEP15
Total Certificates of Indebtedness	35,366,790.00

ESCROW COST

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Type of Security	Maturity Date	Par Amount	Rate	Total Cost
SLGS	02/18/2016	9,141,144		9,141,144.00
SLGS	03/04/2016	26,225,646		26,225,646.00
		35,366,790		35,366,790.00

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost
02/03/2016	35,366,790	0.42	35,366,790.42
	35,366,790	0.42	35,366,790.42

ESCROW CASH FLOW

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Date	Principal	Net Escrow Receipts	Present Value to 02/03/2016 @ 0.0000000%
02/18/2016	9,141,144.00	9,141,144.00	9,141,144.00
03/04/2016	26,225,646.00	26,225,646.00	26,225,646.00
	35,366,790.00	35,366,790.00	35,366,790.00

Escrow Cost Summary

Purchase date	02/03/2016
Purchase cost of securities	35,366,790.00
Target for yield calculation	35,366,790.00

ESCROW SUFFICIENCY

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Excess Balance
02/03/2016		0.42	0.42	0.42
02/18/2016	9,141,143.51	9,141,144.00	0.49	0.91
03/04/2016	26,225,646.91	26,225,646.00	-0.91	
	35,366,790.42	35,366,790.42	0.00	

ESCROW STATISTICS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 35,366,790.42	0.075			35,268,906.77	97,883.65	
35,366,790.42				35,268,906.77	97,883.65	0.00

Delivery date 02/03/2016
Arbitrage yield 3.749034%

UNDERWRITER'S DISCOUNT

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Underwriter's Discount	\$/1000	Amount
Average Takedown*	4.50000	137,160.00
Underwriter's Counsel*	0.82021	25,000.00
Ipreo Book Running	0.06180	1,883.66
Ipreo Electronic Order Entry Charge	0.01500	457.20
Ipreo Wire Charges	0.00344	105.00
DTC Charges	0.02625	800.00
CUSIP	0.01919	585.00
CUSIP Disclosure Fee	0.00115	35.00
CDIAC Fees	0.09843	3,000.00
Misc	0.01640	500.00
	5.56187	169,525.86

Note: * Estimated, subject to change

COST OF ISSUANCE

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Insured, Surety Reserve

Cost of Issuance	\$/1000	Amount
Other Cost of Issuance	9.84252	300,000.00
	9.84252	300,000.00

Note: Placeholder, subject to change

SOURCES AND USES OF FUNDS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Dated Date 02/03/2016

Delivery Date 02/03/2016

Sources:

Bond Proceeds:

Par Amount	32,755,000.00
Premium	3,054,597.85
	<u>35,809,597.85</u>

Other Sources of Funds:

Prior 2003 Reserve Fund	971,763.76
Prior 2007 Reserve Fund	1,880,751.26
	<u>2,852,515.02</u>

38,662,112.87

Uses:

Refunding Escrow Deposits:

Cash Deposit	0.42
SLGS Purchases	35,366,790.00
	<u>35,366,790.42</u>

Other Fund Deposits:

Reserve Fund	2,747,515.28
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Delivery Date Expenses:

Cost of Issuance	300,000.00
Underwriter's Discount	245,448.09
	<u>545,448.09</u>

Other Uses of Funds:

Additional Proceeds	2,359.08
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38,662,112.87

Note: Prior reserve balance assumed at reserve requirements at original issuance

SUMMARY OF REFUNDING RESULTS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Dated Date	02/03/2016
Delivery Date	02/03/2016
Arbitrage yield	3.605199%
Escrow yield	0.000000%
Value of Negative Arbitrage	94,166.89
Bond Par Amount	32,755,000.00
True Interest Cost	3.937923%
Net Interest Cost	4.185595%
Average Coupon	4.968109%
Average Life	10.960
Weighted Average Maturity	10.964
Par amount of refunded bonds	35,245,000.00
Average coupon of refunded bonds	4.409869%
Average life of refunded bonds	10.903
Remaining weighted average maturity of refunded bonds	10.846
PV of prior debt to 02/03/2016 @ 3.605199%	37,678,180.89
Net PV Savings	1,051,147.85
Percentage savings of refunded bonds	2.982403%
Percentage savings of refunding bonds	3.209122%

SAVINGS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016
***** Preliminary *****
Rates as of September 28, 2015
Uninsured, Cash Funded Reserve

Date	Prior Debt Service	Prior Receipts	Prior Net Cash Flow	Refunding Debt Service	Refunding Receipts	Refunding Net Cash Flow	Savings	Present Value to 02/03/2016 @ 3.6051990%
06/30/2017	2,820,198.76	39,146.01	2,781,052.75	2,747,515.28	37,705.07	2,709,810.21	71,242.54	70,394.32
06/30/2018	2,817,531.26	39,364.70	2,778,166.56	2,744,550.00	37,915.72	2,706,634.28	71,532.28	68,241.04
06/30/2019	2,816,088.13	39,364.70	2,776,723.43	2,744,350.00	37,915.72	2,706,434.28	70,289.15	64,768.38
06/30/2020	2,809,625.00	39,364.70	2,770,260.30	2,737,250.00	37,915.72	2,699,334.28	70,926.02	63,145.81
06/30/2021	2,808,825.00	39,364.70	2,769,460.30	2,736,125.00	37,915.72	2,698,209.28	71,251.02	61,191.09
06/30/2022	2,810,025.00	39,364.70	2,770,660.30	2,735,125.00	37,915.72	2,697,209.28	73,451.02	60,833.66
06/30/2023	2,808,100.00	39,364.70	2,768,735.30	2,735,500.00	37,915.72	2,697,584.28	71,151.02	56,853.65
06/30/2024	2,807,290.63	39,364.70	2,767,925.93	2,737,000.00	37,915.72	2,699,084.28	68,841.65	53,075.12
06/30/2025	2,802,471.88	39,364.70	2,763,107.18	2,729,625.00	37,915.72	2,691,709.28	71,397.90	53,081.40
06/30/2026	2,798,462.50	39,364.70	2,759,097.80	2,723,375.00	37,915.72	2,685,459.28	73,638.52	52,803.21
06/30/2027	2,799,900.00	39,364.70	2,760,535.30	2,727,750.00	37,915.72	2,689,834.28	70,701.02	48,916.40
06/30/2028	2,797,193.75	39,364.70	2,757,829.05	2,722,500.00	37,915.72	2,684,584.28	73,244.77	48,870.47
06/30/2029	2,795,218.75	39,364.70	2,755,854.05	2,722,500.00	37,915.72	2,684,584.28	71,269.77	45,872.40
06/30/2030	2,493,987.50	39,364.70	2,454,622.80	2,420,125.00	37,915.72	2,382,209.28	72,413.52	44,919.55
06/30/2031	2,258,981.25	39,364.70	2,219,616.55	2,186,500.00	37,915.72	2,148,584.28	71,032.27	42,476.25
06/30/2032	1,657,843.75	39,364.70	1,618,479.05	1,584,750.00	37,915.72	1,546,834.28	71,644.77	41,322.48
06/30/2033	1,660,968.75	39,364.70	1,621,604.05	1,589,625.00	37,915.72	1,551,709.28	69,894.77	38,883.87
06/30/2034	1,656,578.13	39,364.70	1,617,213.43	1,581,500.00	37,915.72	1,543,584.28	73,629.15	39,499.21
06/30/2035	1,654,671.88	39,364.70	1,615,307.18	1,580,375.00	37,915.72	1,542,459.28	72,847.90	37,688.61
06/30/2036	1,655,031.25	39,364.70	1,615,666.55	1,580,875.00	37,915.72	1,542,959.28	72,707.27	36,272.78
06/30/2037	1,408,015.63	39,364.70	1,368,650.93	1,334,125.00	37,915.72	1,296,209.28	72,441.65	34,853.66
06/30/2038	1,262,015.63	2,872,197.37	-1,610,181.74	1,189,000.00	2,766,473.14	-1,577,473.14	-32,708.60	-15,174.59
	52,199,024.43	3,698,637.38	48,500,387.05	50,590,040.28	3,562,492.61	47,027,547.67	1,472,839.38	1,048,788.77

Savings Summary

PV of savings from cash flow	1,048,788.77
Plus: Refunding funds on hand	2,359.08
Net PV Savings	1,051,147.85

SAVINGS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016
***** Preliminary *****
Rates as of September 28, 2015
Uninsured, Cash Funded Reserve

Note: Prior and new reserve fund earnings estimated at current 5-year UST (1.38%)

SUMMARY OF BONDS REFUNDED

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Merged Downtown and Midway Redevelopment Project Tax Allocation Bonds, Series 2003:					
SERIAL	08/01/2016	4.375%	520,000.00	02/18/2016	100.000
	08/01/2017	4.500%	545,000.00	02/18/2016	100.000
	08/01/2018	4.600%	570,000.00	02/18/2016	100.000
TERM_23	08/01/2019	5.000%	595,000.00	02/18/2016	100.000
	08/01/2020	5.000%	625,000.00	02/18/2016	100.000
	08/01/2021	5.000%	655,000.00	02/18/2016	100.000
	08/01/2022	5.000%	690,000.00	02/18/2016	100.000
	08/01/2023	5.000%	725,000.00	02/18/2016	100.000
	08/01/2024	5.000%	760,000.00	02/18/2016	100.000
TERM_28	08/01/2025	5.000%	795,000.00	02/18/2016	100.000
	08/01/2026	5.000%	835,000.00	02/18/2016	100.000
	08/01/2027	5.000%	880,000.00	02/18/2016	100.000
	08/01/2028	5.000%	925,000.00	02/18/2016	100.000
			9,120,000.00		
Tax Allocation Parity Bonds, Series 2007 (Merged Downtown and Midway Redevelopment Project):					
SERIAL	08/01/2016	3.625%	780,000.00	03/04/2016	100.000
	08/01/2017	3.700%	805,000.00	03/04/2016	100.000
	08/01/2018	3.875%	835,000.00	03/04/2016	100.000
	08/01/2019	4.000%	865,000.00	03/04/2016	100.000
	08/01/2020	4.000%	900,000.00	03/04/2016	100.000
	08/01/2021	4.000%	940,000.00	03/04/2016	100.000
	08/01/2022	4.000%	975,000.00	03/04/2016	100.000
	08/01/2023	4.125%	1,015,000.00	03/04/2016	100.000
	08/01/2024	4.125%	1,055,000.00	03/04/2016	100.000
	08/01/2025	4.250%	1,100,000.00	03/04/2016	100.000
	08/01/2026	4.250%	1,150,000.00	03/04/2016	100.000
	08/01/2027	4.250%	1,195,000.00	03/04/2016	100.000
	08/01/2028	4.250%	1,245,000.00	03/04/2016	100.000
	08/01/2029	4.250%	1,960,000.00	03/04/2016	100.000
	08/01/2030	4.250%	1,805,000.00	03/04/2016	100.000
TERM_37	08/01/2031	4.375%	1,270,000.00	03/04/2016	100.000
	08/01/2032	4.375%	1,330,000.00	03/04/2016	100.000
	08/01/2033	4.375%	1,385,000.00	03/04/2016	100.000
	08/01/2034	4.375%	1,445,000.00	03/04/2016	100.000
	08/01/2035	4.375%	1,510,000.00	03/04/2016	100.000
	08/01/2036	4.375%	1,325,000.00	03/04/2016	100.000
	08/01/2037	4.375%	1,235,000.00	03/04/2016	100.000
			26,125,000.00		
			35,245,000.00		

Notes:

The Series 2003 Bonds have a 30-day call notice with the option to rescind. Call date assumes notice will be disseminated at pricing.

The Series 2007 Bonds have a 30-day call notice but no option to rescind. Call date assumes notice will be disseminated at closing.

BOND SUMMARY STATISTICS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Dated Date	02/03/2016
Delivery Date	02/03/2016
Last Maturity	08/01/2037
Arbitrage Yield	3.605199%
True Interest Cost (TIC)	3.937923%
Net Interest Cost (NIC)	4.185595%
All-In TIC	4.041011%
Average Coupon	4.968109%
Average Life (years)	10.960
Duration of Issue (years)	8.397
Par Amount	32,755,000.00
Bond Proceeds	35,809,597.85
Total Interest	17,835,040.28
Net Interest	15,025,890.52
Total Debt Service	50,590,040.28
Maximum Annual Debt Service	2,747,515.28
Average Annual Debt Service	2,353,633.30
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	7.493454
Total Underwriter's Discount	7.493454
Bid Price	108.576247

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Serial Bonds	23,875,000.00	110.085	4.941%	8.152	16,054.75
Term 2033 Bonds	3,695,000.00	108.056	5.000%	16.527	3,288.55
Term 2037 Bonds	5,185,000.00	106.733	5.000%	19.921	4,562.80
	32,755,000.00			10.960	23,906.10

	TIC	All-In TIC	Arbitrage Yield
Par Value	32,755,000.00	32,755,000.00	32,755,000.00
+ Accrued Interest			
+ Premium (Discount)	3,054,597.85	3,054,597.85	3,054,597.85
- Underwriter's Discount	-245,448.09	-245,448.09	
- Cost of Issuance Expense		-300,000.00	
- Other Amounts			
Target Value	35,564,149.76	35,264,149.76	35,809,597.85
Target Date	02/03/2016	02/03/2016	02/03/2016
Yield	3.937923%	4.041011%	3.605199%

BOND PRICING

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016
***** Preliminary *****
Rates as of September 28, 2015
Uninsured, Cash Funded Reserve

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Yield to Maturity	Call Date	Call Price	Premium (-Discount)
Serial Bonds:									
	08/01/2016	1,205,000	2.000%	0.970%	100.506				6,097.30
	08/01/2017	1,230,000	4.000%	1.390%	103.846				47,305.80
	08/01/2018	1,280,000	4.000%	1.730%	105.518				70,630.40
	08/01/2019	1,325,000	4.000%	2.080%	106.438				85,303.50
	08/01/2020	1,385,000	5.000%	2.430%	110.879				150,674.15
	08/01/2021	1,455,000	5.000%	2.680%	111.779				171,384.45
	08/01/2022	1,530,000	5.000%	2.920%	112.223				187,011.90
	08/01/2023	1,610,000	5.000%	3.130%	112.406				199,736.60
	08/01/2024	1,685,000	5.000%	3.270%	112.740				214,669.00
	08/01/2025	1,765,000	5.000%	3.400%	112.890				227,508.50
	08/01/2026	1,860,000	5.000%	3.520%	112.892				239,791.20
	08/01/2027	1,950,000	5.000%	3.620%	111.960 C	3.712%	08/01/2026	100.000	233,220.00
	08/01/2028	2,050,000	5.000%	3.720%	111.037 C	3.877%	08/01/2026	100.000	226,258.50
	08/01/2029	1,845,000	5.000%	3.810%	110.214 C	4.012%	08/01/2026	100.000	188,448.30
	08/01/2030	1,700,000	5.000%	3.900%	109.399 C	4.132%	08/01/2026	100.000	159,783.00
		<u>23,875,000</u>							<u>2,407,822.60</u>
Term 2033 Bonds:									
	08/01/2031	1,170,000	5.000%	4.050%	108.056 C	4.338%	08/01/2026	100.000	94,255.20
	08/01/2032	1,235,000	5.000%	4.050%	108.056 C	4.338%	08/01/2026	100.000	99,491.60
	08/01/2033	<u>1,290,000</u>	5.000%	4.050%	108.056 C	4.338%	08/01/2026	100.000	<u>103,922.40</u>
		<u>3,695,000</u>							<u>297,669.20</u>
Term 2037 Bonds:									
	08/01/2034	1,355,000	5.000%	4.200%	106.733 C	4.508%	08/01/2026	100.000	91,232.15
	08/01/2035	1,425,000	5.000%	4.200%	106.733 C	4.508%	08/01/2026	100.000	95,945.25
	08/01/2036	1,245,000	5.000%	4.200%	106.733 C	4.508%	08/01/2026	100.000	83,825.85
	08/01/2037	<u>1,160,000</u>	5.000%	4.200%	106.733 C	4.508%	08/01/2026	100.000	<u>78,102.80</u>
		<u>5,185,000</u>							<u>349,106.05</u>
		<u>32,755,000</u>							<u>3,054,597.85</u>

BOND PRICING

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016
***** Preliminary *****
Rates as of September 28, 2015
Uninsured, Cash Funded Reserve

Dated Date	02/03/2016	
Delivery Date	02/03/2016	
First Coupon	08/01/2016	
Par Amount	32,755,000.00	
Premium	3,054,597.85	
Production	35,809,597.85	109.325593%
Underwriter's Discount	-245,448.09	-0.749345%
Purchase Price	35,564,149.76	108.576247%
Accrued Interest		
Net Proceeds	35,564,149.76	

BOND DEBT SERVICE

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Period Ending	Principal	Coupon	Interest	Debt Service
06/30/2017	1,205,000	2.000%	1,542,515.28	2,747,515.28
06/30/2018	1,230,000	4.000%	1,514,550.00	2,744,550.00
06/30/2019	1,280,000	4.000%	1,464,350.00	2,744,350.00
06/30/2020	1,325,000	4.000%	1,412,250.00	2,737,250.00
06/30/2021	1,385,000	5.000%	1,351,125.00	2,736,125.00
06/30/2022	1,455,000	5.000%	1,280,125.00	2,735,125.00
06/30/2023	1,530,000	5.000%	1,205,500.00	2,735,500.00
06/30/2024	1,610,000	5.000%	1,127,000.00	2,737,000.00
06/30/2025	1,685,000	5.000%	1,044,625.00	2,729,625.00
06/30/2026	1,765,000	5.000%	958,375.00	2,723,375.00
06/30/2027	1,860,000	5.000%	867,750.00	2,727,750.00
06/30/2028	1,950,000	5.000%	772,500.00	2,722,500.00
06/30/2029	2,050,000	5.000%	672,500.00	2,722,500.00
06/30/2030	1,845,000	5.000%	575,125.00	2,420,125.00
06/30/2031	1,700,000	5.000%	486,500.00	2,186,500.00
06/30/2032	1,170,000	5.000%	414,750.00	1,584,750.00
06/30/2033	1,235,000	5.000%	354,625.00	1,589,625.00
06/30/2034	1,290,000	5.000%	291,500.00	1,581,500.00
06/30/2035	1,355,000	5.000%	225,375.00	1,580,375.00
06/30/2036	1,425,000	5.000%	155,875.00	1,580,875.00
06/30/2037	1,245,000	5.000%	89,125.00	1,334,125.00
06/30/2038	1,160,000	5.000%	29,000.00	1,189,000.00
	32,755,000		17,835,040.28	50,590,040.28

ESCROW REQUIREMENTS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Period Ending	Interest	Principal Redeemed	Total
02/18/2016	21,143.51	9,120,000.00	9,141,143.51
03/04/2016	100,646.91	26,125,000.00	26,225,646.91
	121,790.42	35,245,000.00	35,366,790.42

Notes:

The Series 2003 Bonds have a 30-day call notice with the option to rescind. Call date assumes notice will be disseminated at pricing.

The Series 2007 Bonds have a 30-day call notice but no option to rescind. Call date assumes notice will be disseminated at closing.

ESCROW DESCRIPTIONS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate	Max Rate
Feb 3, 2016:						
SLGS	Certificate	02/18/2016	02/18/2016	9,141,144		0.000%
SLGS	Certificate	03/04/2016	03/04/2016	26,225,646		0.000%
				35,366,790		

SLGS Summary

SLGS Rates File	28SEP15
Total Certificates of Indebtedness	35,366,790.00

ESCROW COST

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Type of Security	Maturity Date	Par Amount	Rate	Total Cost
SLGS	02/18/2016	9,141,144		9,141,144.00
SLGS	03/04/2016	26,225,646		26,225,646.00
		35,366,790		35,366,790.00

Purchase Date	Cost of Securities	Cash Deposit	Total Escrow Cost
02/03/2016	35,366,790	0.42	35,366,790.42
	35,366,790	0.42	35,366,790.42

ESCROW CASH FLOW

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Date	Principal	Net Escrow Receipts	Present Value to 02/03/2016 @ 0.0000000%
02/18/2016	9,141,144.00	9,141,144.00	9,141,144.00
03/04/2016	26,225,646.00	26,225,646.00	26,225,646.00
	35,366,790.00	35,366,790.00	35,366,790.00

Escrow Cost Summary

Purchase date	02/03/2016
Purchase cost of securities	35,366,790.00
Target for yield calculation	35,366,790.00

ESCROW SUFFICIENCY

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Date	Escrow Requirement	Net Escrow Receipts	Excess Receipts	Excess Balance
02/03/2016		0.42	0.42	0.42
02/18/2016	9,141,143.51	9,141,144.00	0.49	0.91
03/04/2016	26,225,646.91	26,225,646.00	-0.91	
	35,366,790.42	35,366,790.42	0.00	

ESCROW STATISTICS

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015
Uninsured, Cash Funded Reserve

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 35,366,790.42	0.075			35,272,623.53	94,166.89	
35,366,790.42				35,272,623.53	94,166.89	0.00

Delivery date 02/03/2016
Arbitrage yield 3.605199%

UNDERWRITER'S DISCOUNT

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Underwriter's Discount	\$/1000	Amount
Average Takedown*	6.50000	212,907.50
Underwriter's Counsel*	0.76324	25,000.00
Ipreo Book Running	0.06180	2,024.26
Ipreo Electronic Order Entry Charge	0.01500	491.33
Ipreo Wire Charges	0.00321	105.00
DTC Charges	0.02442	800.00
CUSIP	0.01786	585.00
CUSIP Disclosure Fee	0.00107	35.00
CDIAC Fees	0.09159	3,000.00
Misc	0.01526	500.00
	7.49345	245,448.09

Note: * Estimated, subject to change

COST OF ISSUANCE

Successor Agency to the Community Redevelopment Agency of the City of Banning
Tax Allocation Refunding Bonds, Series 2016

***** Preliminary *****

Rates as of September 28, 2015

Uninsured, Cash Funded Reserve

Cost of Issuance	\$/1000	Amount
Other Cost of Issuance	9.15891	300,000.00
	9.15891	300,000.00

Note: Placeholder, subject to change

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1 **NORTON ROSE FULBRIGHT US LLP**

JOHN C. GRAY (BAR NO. 267686)

2 555 South Flower Street

Forty-First Floor

3 Los Angeles, California 90071

Telephone: (213) 892-9200

4 Facsimile: (213) 892-9494

john.gray@nortonrosefulbright.com

5 Attorneys for Plaintiff

6 SUCCESSOR AGENCY OF THE DISSOLVED

COMMUNITY REDEVELOPMENT AGENCY OF

7 THE CITY OF BANNING

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SACRAMENTO

10
11 SUCCESSOR AGENCY OF THE
12 DISSOLVED COMMUNITY
REDEVELOPMENT AGENCY OF THE
CITY OF BANNING,

13 Plaintiff,

14 v.

15 KAMALA HARRIS, in her official capacity as
16 the California Attorney General; MICHAEL
COHEN, in his official capacity as the
17 California State Director of Finance; BETTY
YEE, in her official capacity as the California
18 State Controller; PAUL ANGULO, in his
19 official capacity as the Riverside County
Auditor-Controller; and ALL PERSONS
20 INTERESTED IN THE MATTER OF THE
ISSUANCE AND SALE OF BONDS FOR
21 THE PURPOSE OF REFUNDING CERTAIN
OBLIGATIONS OWED BY THE
22 SUCCESSOR AGENCY OF THE
DISSOLVED REDEVELOPMENT AGENCY
OF THE CITY OF BANNING AND ALL
23 PROCEEDINGS LEADING THERETO,
INCLUDING THE ADOPTION OF
24 RESOLUTIONS AUTHORIZING THE
ISSUANCE AND SALE OF SUCH BONDS,

25 Defendants.

Case No.

COMPLAINT

1. Validation (Cal. Civ. Proc. Code § 860
et seq.; Cal. Gov. Code § 53511; Cal. Health &
Safety Code §§ 33501, 34177.5, 34189.1,
34189.2)

[Fee Exemption, Cal. Govt. Code § 6103]

[TIME SENSITIVE – PRIORITY
Cal. Civ. Proc. Code § 867]

1 The Successor Agency of the Dissolved Community Redevelopment Agency of the City
2 of Banning ("Plaintiff" or "Successor Agency") brings this action pursuant to California Civil
3 Procedure Code section 860 et seq.; California Government Code section 53511; and California
4 Health and Safety Code sections 33501, 34177.5, 34189.1, and 34189.2 and alleges as follows:

5 **BACKGROUND**

6 1. The Community Redevelopment Agency of the City of Banning (the "Predecessor
7 Agency") was a redevelopment agency duly created and authorized to transact business and
8 exercise its powers under the Community Redevelopment Law, California Health and Safety
9 Code section 33000 et seq. (the "CRL").

10 2. The powers of the Predecessor Agency included the power to issue bonds for any
11 of its corporate purposes.

12 3. In compliance with all applicable legal requirements, the City of Banning,
13 California (the "City") adopted and approved a redevelopment plan for the Merged Downtown
14 And Midway Redevelopment Project (the "Project") by Ordinance No. 1280 on February 6, 2002.

15 4. In compliance with all applicable legal requirements, the Predecessor Agency
16 issued its \$14,095,000 Community Redevelopment Agency of the City of Banning Merged
17 Downtown and Midway Redevelopment Project Tax Allocation Bonds, Series 2003 (the "2003
18 Bonds").

19 5. In compliance with all applicable legal requirements, the Predecessor Agency
20 issued its \$29,965,000 Community Redevelopment Agency of the City of Banning Tax
21 Allocation Parity Bonds, Series 2007 (Merged Downtown and Midway Redevelopment Project)
22 (the "2007 Bonds" and, together with the 2003 Bonds, the "Prior Bonds").

23 6. On June 28, 2011, California enacted ABx1 26, *inter alia*, to dissolve existing
24 redevelopment agencies, including the Predecessor Agency.

25 7. The California Supreme Court substantially upheld the provisions of ABx1 26 on
26 December 29, 2011, resulting in the dissolution of the Predecessor Agency and the transfer of
27 certain of its powers, assets, and obligations to the Successor Agency pursuant to ABx1 26 on
28 February 1, 2012.

1 8. The Successor Agency is and was at all times mentioned herein a successor agency
2 duly created and authorized to transact business and exercise its powers under the CRL and
3 ABx1 26.

4 9. On June 27, 2012, California enacted AB 1484.

5 10. AB 1484 authorizes the issuance of certain refunding bonds by the Successor
6 Agency under the authority of California Government Code section 53580 et seq. and provides in
7 California Health and Safety Code section 34177.5(a)(1) that “[t]he successor agency may pledge
8 to the refunding bonds or other indebtedness the revenues pledged to the bonds or other
9 indebtedness being refunded, and that pledge, when made in connection with the issuance of such
10 refunding bonds or other indebtedness, shall have the same lien priority as the pledge of the bonds
11 or other obligations to be refunded, and shall be valid, binding and enforceable in accordance
12 with its terms.”

13 11. Additionally, AB 1484 provides in California Health and Safety Code section
14 34177.5(d) that a successor agency may bring an action pursuant to California Civil Procedure
15 Code section 860 et seq. to determine the validity of the refunding bonds and any related matters.

16 12. AB 1484 further provides in California Health and Safety Code section 34177.5(g)
17 that “[a]ny bonds . . . authorized by [Section 34177.5] shall be considered indebtedness incurred
18 by the dissolved redevelopment agency, with the same legal effect as if the bonds . . . had been
19 issued, incurred, or entered into prior to June 29, 2011, in full conformity with the applicable
20 provisions of the Community Redevelopment Law that existed prior to that date, shall be included
21 in the successor agency’s Recognized Obligation Payment Schedule, and shall be secured by a
22 pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the
23 Redevelopment Property Tax Trust Fund . . .”

24 13. Pursuant to AB 1484 and California Health and Safety Code section 34177.5, the
25 Successor Agency desires to refund the Prior Bonds by issuing the Successor Agency of the
26 Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds,
27 Series 2015A (Tax-Exempt) (the “2015A Bonds”) and its Successor Agency of the Dissolved
28

1 Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015B
2 (Taxable) (the "2015B Bonds" and, together with the 2015A Bonds, the "2015 Bonds").

3 14. Pursuant to AB 1484, and in accordance with all applicable law, the Successor
4 Agency adopted Resolution No. [NUMBER] on [DATE], approving the issuance of the 2015
5 Bonds and the filing of this validation action (the "Successor Agency Resolution").

6 15. Pursuant to AB1484, and in accordance with all applicable law, the Oversight
7 Board of the Successor Agency of the Dissolved Redevelopment Agency of the City of Banning
8 (the "Oversight Board") adopted Resolution No. [NUMBER] on [DATE], approving the issuance
9 of the 2015 Bonds and the filing of this validation action (the "Oversight Board Resolution" and,
10 together with the Successor Agency Resolution, the "Resolutions").

11 16. Pursuant to the Resolutions, and in accordance with all applicable law, the 2015
12 Bonds will be issued under an Indenture (the "2015 Indenture"), entered into by and between the
13 Successor Agency and a trustee to be named therein (the "Trustee").

14 17. The 2015 Indenture is attached hereto as Exhibit A and is incorporated herein by
15 reference.¹

16 18. Pursuant to the 2015 Indenture, the 2015 Bonds are special obligations of the
17 Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal,
18 interest, and premium, if any, from Pledged Tax Revenues.

19 19. Also pursuant to the 2015 Indenture:

- 20 a. "Pledged Tax Revenues" means Tax Revenues, but excluding therefrom
21 Statutory Pass-Through Amounts;
- 22 b. "Tax Revenues" means all taxes annually allocated and paid to the
23 Successor Agency with respect to the Redevelopment Project Area
24 pursuant to Article 6 of Chapter 6 (commencing with section 33670) of the
25 Health and Safety Code and section 16 of Article XVI of the Constitution
26 of the State, including taxes resulting from a local agency's or public
27

28 ¹ Unless otherwise noted herein, all capitalized terms have the meanings assigned to them in the Indenture.

1 agency's property tax override, but excluding therefrom any amounts
2 attributable to a tax rate levied by a taxing agency for the purpose of
3 producing revenues in an amount sufficient to make annual repayments of
4 the principal of, and interest on any bonded indebtedness approved by the
5 voters of the taxing agency on or after January 1, 1989, for the acquisition
6 or improvement of real property, which portion shall be allocated to, and
7 when collected, shall be paid into the fund of that taxing agency and as
8 provided in the Redevelopment Plan; and

9 c. "Statutory Pass-Through Amounts" means amounts payable to affected
10 taxing agencies pursuant to Sections 33607.5 and/or 33607.7 of the Health
11 and Safety Code and Section 34183 of the Health and Safety Code.

12 20. The 2015 Bonds and the interest and premium, if any, thereon are not a debt of the
13 City, the County of Riverside (the "County"), the State of California (the "State"), or any of its
14 political subdivisions (except the Successor Agency), and none of the City, the County, the State,
15 or any of its political subdivisions (except the Successor Agency) is liable thereon.

16 21. The 2015 Bonds and the interest and premium, if any, thereon are not payable out
17 of any funds or properties other than those pledged pursuant to the 2015 Indenture.

18 22. Neither the members of the Successor Agency Board, the Oversight Board, the
19 County Board of Supervisors nor any persons executing the 2015 Bonds is liable personally on
20 the 2015 Bonds by reason of their issuance.

21 23. The total interest cost to maturity on the 2015 Bonds plus the principal amount of
22 the 2015 Bonds will not exceed the total remaining interest cost to maturity on the Prior Bonds
23 plus the remaining principal of the Prior Bonds.

24 24. The principal amount of the 2015 Bonds will not exceed the amount required to
25 redeem and defease the Prior Bonds, to establish customary debt service reserves, and to pay
26 related costs of issuance.

1 25. The Successor Agency has made and will make diligent efforts to ensure that the
2 lowest long-term cost financing has been and will be obtained, and the financing does not provide
3 for any bullets or spikes and does not use variable rates.

4 26. The Successor Agency, at all relevant times, has made and will make use of an
5 independent financial advisor in developing financing proposals and will make the work products
6 of the financial advisor available to the Department of Finance at its request.

7 27. Pursuant to California Health and Safety Code section 34171(d)(1) and pursuant to
8 a valid Recognized Obligation Payments Schedule ("ROPS"), the Successor Agency and/or
9 Trustee may hold amounts in a Reserve Fund and/or Revenue Fund when required by the 2015
10 Indenture or when the next property tax allocation will be insufficient to pay all obligations due
11 under the provisions of the 2015 Bonds for the next payment due in the following half of the
12 calendar year.

13 28. Pursuant to California Health and Safety Code section 34177.5, the Pledged Tax
14 Revenues pledged by the Successor Agency under the 2015 Indenture to the 2015 Bonds has the
15 same lien priority as the pledge to the Prior Bonds; is valid, binding, and enforceable in
16 accordance with its terms; and is not subject to any deduction or offset by the County or any other
17 taxing entity.

18 29. The Pledged Tax Revenues identified in the 2015 Indenture are not subject to any
19 allocation or set aside to any Low and Moderate Income Housing Fund pursuant to California
20 Health and Safety Code section 33334.2 et seq.

21 30. In accordance with the 2015 Indenture, continuing costs related to the 2015 Bonds,
22 such as trustee fees and expenses and auditing and continuing disclosure related fees and
23 expenses are payable from property tax revenues pursuant to California Health and Safety Code
24 section 34183 and shall not count toward the Successor Agency's "Administrative Cost
25 Allowance."

26 31. In accordance with the 2015 Indenture, and consistent with California Health and
27 Safety Code section 34187(b), the Successor Agency will not terminate its existence at any time
28 prior to the payment in full of all debt service on the 2015 Bonds and all other expenses related to

1 the 2015 Bonds, and, for the purposes of such payments and notwithstanding California Health
2 and Safety Code sections 34187(a)(1) and 34187(b), the Successor Agency is entitled to be
3 allocated property tax from the Redevelopment Property Tax Trust Fund.

4 **FIRST CAUSE OF ACTION**

5 **VALIDATION (CAL. CIV. PROC. CODE § 860 ET SEQ.; CAL. GOV. CODE § 53511;**
6 **CAL. HEALTH & SAFETY CODE §§ 33501, 34177.5, 34189.1)**

7 **(By Plaintiff Against All Defendants)**

8 32. The Successor Agency re-alleges and incorporates by reference every allegation of
9 the Complaint as though fully set forth in this paragraph.

10 33. Pursuant to California Civil Procedure Code section 860 et seq.; California
11 Government Code section 53511; and California Health and Safety Code sections 33501,
12 34177.5, and 34189.1, the Successor Agency seeks to validate the 2015 Bonds, the Resolutions,
13 and the 2015 Indenture.

14 34. The purpose of this judicial validation action is to determine, *inter alia*, the
15 validity of the 2015 Bonds, the Resolutions, and the 2015 Indenture; the pledge of revenues to the
16 2015 Bonds; and the legality and validity of all proceedings related thereto, including the
17 authorization, execution, issuance, sale, and delivery of the 2015 Bonds and the payment of debt
18 service on the 2015 Bonds.

19 35. The 2015 Bonds, the Resolutions, and the 2015 Indenture, including all
20 proceedings leading thereto, were and are in the best interests of the Successor Agency and all
21 interested parties.

22 36. The 2015 Bonds, the Resolutions, and the 2015 Indenture, including all
23 proceedings leading thereto, were and are in conformity with the provisions of all laws and
24 enactments at any time in force or controlling (whether of law, statute, or ordinance, and whether
25 federal, state, or municipal) and were and are in conformity with all requirements of all regulatory
26 bodies, agencies, or officials having authority over or asserting authority over said proceedings or
27 any part thereof.

28

37. Defendants Kamala Harris, Michael Cohen, Betty Yee, and Paul Angulo are named in their official capacities pursuant to California Health and Safety Code sections 33501 and 34189.1.

38. The remaining unnamed defendants herein are all persons having or claiming to have an interest in the 2015 Bonds, the Resolutions, and/or the 2015 Indenture, including all proceedings leading thereto, whose names and capacities are unknown to the Successor Agency, which therefore names such persons as provided under California Civil Procedure Code section 861.1.

PRAYER FOR RELIEF

WHEREFORE, the Successor Agency prays for entry of judgment as follows:

39. That the Court find and declare that:

a. This action is properly brought pursuant to California Civil Procedure Code section 860 et seq.; California Government Code section 53511; and California Health and Safety Code sections 33501, 34177.5, 34189.1, and 34189.2.

b. The 2015 Bonds, the Resolutions, and the 2015 Indenture, including all proceedings leading thereto, were and are valid, legal, and binding obligations in accordance with their terms.

c. The 2015 Bonds, the Resolutions, and the 2015 Indenture, including all proceedings leading thereto, were and are in conformity with the provisions of all laws and enactments at any time in force or controlling (whether of law, statute, or ordinance, and whether federal, state, or municipal) and were and are in conformity with all requirements of all regulatory bodies, agencies, or officials having authority over or asserting authority over said proceedings or any part thereof.

d. All conditions, things, and acts required by law to exist, happen, or be performed precedent to the adoption of the Resolutions and execution of the 2015 Indenture, and the terms and conditions thereof, including the

1 authorization for the issuance of the 2015 Bonds and the execution and
2 delivery of all related contracts or agreements approved by the Resolutions
3 or contemplated in connection with the issuance of the 2015 Bonds or
4 execution of the 2015 Indenture, have existed, happened, and been
5 performed in the time, form, and manner required by law.

6 e. The Successor Agency has the authority under California law to issue the
7 2015 Bonds, to pledge the Pledged Tax Revenues, and to execute and
8 deliver all contracts and agreements enacted with respect thereto.

9 f. The Successor Agency has the authority under California law to provide
10 for the refunding of its obligations by issuing the 2015 Bonds and applying
11 the proceeds of the 2015 Bonds to the retirement of its obligations.

12 g. The 2015 Bonds, the 2015 Indenture, and all agreements related thereto are
13 valid and binding obligations under the Constitution and laws of the State
14 of California.

15 h. The Successor Agency's incurrence of any and all indebtedness and/or
16 liability in connection with the 2015 Bonds and all agreements related
17 thereto is exempt from and not subject to the debt limitation set forth in
18 Article XVI, Section 18, of the California Constitution.

19 i. Pursuant to California Health and Safety Code section 34171(d)(1), the
20 Successor Agency and/or Trustee may hold amounts in a Reserve Fund
21 and/or Revenue Fund when required by the 2015 Indenture or when the
22 next property tax allocation will be insufficient to pay all obligations due
23 under the provisions of the 2015 Bonds for the next payment due in the
24 following half of the calendar year pursuant to a valid ROPS.

25 j. Pursuant to California Health and Safety Code section 34177.5, the
26 Pledged Tax Revenues to be pledged by the Successor Agency under the
27 2015 Indenture to the 2015 Bonds has the same lien priority as the pledge
28

1 to the Prior Bonds and is valid, binding, and enforceable in accordance
2 with the terms of the 2015 Bonds and 2015 Indenture.

3 k. The Pledged Tax Revenues identified in the 2015 Indenture are not subject
4 to any allocation or set aside to any Low and Moderate Income Housing
5 Fund pursuant to California Health and Safety Code section 33334.2 et seq.

6 l. No payments or allocations may or shall be made for any other obligation
7 listed on the relevant ROPS until all obligations arising under the terms of
8 the 2015 Indenture as set forth on a valid ROPS have been satisfied for the
9 relevant time period in their respective lien priority.

10 m. The 2015 Bonds and the interest and premium, if any, thereon are not a
11 debt of the City, the County, the State, or any of its political subdivisions
12 (except the Successor Agency), and none of the City, the County, the State
13 nor any of its political subdivisions (except the Successor Agency) shall be
14 liable thereon.

15 n. The 2015 Bonds and the interest and premium, if any, thereon are not
16 payable out of any funds or properties other than those pledged pursuant to
17 the 2015 Indenture.

18 o. Neither the members of the Successor Agency Board, the Oversight Board,
19 the County Board of Supervisors nor any persons executing the 2015
20 Bonds is liable personally on the Bonds by reason of their issuance.

21 p. In accordance with the 2015 Indenture, continuing costs related to the 2015
22 Bonds, such as trustee fees and expenses, auditing and continuing
23 disclosure related fees and expenses are payable from property tax
24 revenues pursuant to California Health and Safety Code section 34183 and
25 shall not count toward the Successor Agency's "Administrative Cost
26 Allowance."

27 q. In accordance with the 2015 Indenture, and consistent with California
28 Health and Safety Code section 34187(b), the Successor Agency shall not

1 terminate its existence at any time prior to the payment in full of all debt
2 service on 2015 Bonds and all other expenses related to the 2015 Bonds,
3 and, for the purposes of such payments and notwithstanding California
4 Health and Safety Code sections 34187(a)(1) and 34187(b), the Successor
5 Agency is entitled to be allocated property tax from the Redevelopment
6 Property Tax Trust Fund.

7 40. For costs incurred.

8 41. For such other and further relief as the Court may deem just and proper.
9

10 Dated: July __, 2015

NORTON ROSE FULBRIGHT US LLP
JOHN C. GRAY

11
12
13 By _____
14 **JOHN C. GRAY**
15 Attorneys for Plaintiff
16 **SUCCESSOR AGENCY OF THE**
17 **DISSOLVED COMMUNITY**
18 **REDEVELOPMENT AGENCY OF THE**
19 **CITY OF BANNING**
20
21
22
23
24
25
26
27
28

INDENTURE

Dated as of [Dated Date]

by and between the

SUCCESSOR AGENCY OF THE DISSOLVED
REDEVELOPMENT AGENCY OF THE CITY OF BANNING,

and

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

Relating to

 \$[2015A PAR AMOUNT]
 Successor Agency of the Dissolved
Redevelopment Agency of the City of Banning
 Tax Allocation Refunding Bonds,
 Series 2015A
 (Tax-Exempt)

 \$[2015B PAR AMOUNT]
 Successor Agency of the Dissolved
Redevelopment Agency of the City of Banning
 Tax Allocation Refunding Bonds,
 Series 2015B
 (Taxable)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DETERMINATIONS; DEFINITIONS.....	2
Section 1.1 Findings and Determinations.....	2
Section 1.2 Definitions.....	2
Section 1.3 Rules of Construction.....	11
ARTICLE II AUTHORIZATION AND TERMS	12
Section 2.1 Authorization of Bonds	12
Section 2.2 Term of Bonds.....	12
Section 2.3 Redemption	14
Section 2.4 Form of Bonds.....	16
Section 2.5 Execution of Bonds	16
Section 2.6 Transfer of Bonds.....	16
Section 2.7 Exchange of Bonds.....	17
Section 2.8 Registration Books	17
Section 2.9 Temporary Bonds	17
Section 2.10 Bonds Mutilated, Lost, Destroyed or Stolen	17
Section 2.11 Book-Entry Only System	18
Section 2.12 Successor Securities Depository; Transfers Outside Book-Entry Only System	18
ARTICLE III ISSUANCE OF BONDS; APPLICATION OF PROCEEDS OF BONDS.....	19
Section 3.1 Issuance of Bonds.....	19
Section 3.2 Application of Proceeds of Bonds.....	19
ARTICLE IV SECURITY OF BONDS; FLOW OF FUNDS; FUNDS AND ACCOUNTS.....	20
Section 4.1 Security of Bonds; Equal Security	20
Section 4.2 Revenue Fund; Reserve Fund.....	20
Section 4.3 Transfer of Amounts	20
Section 4.4 Costs of Issuance Funds	22
Section 4.5 Surplus Fund	23
Section 4.6 [Special Redemption Fund].....	23
ARTICLE V COVENANTS OF THE SUCCESSOR AGENCY	24
Section 5.1 Covenants of the Successor Agency	24
ARTICLE VI THE TRUSTEE.....	30
Section 6.1 Duties, Immunities and Liabilities of Trustee	30
Section 6.2 Merger or Consolidation	32
Section 6.3 Liability of Trustee.....	32
Section 6.4 Right to Rely on Documents	33
Section 6.5 Preservation and Inspection of Documents	33
Section 6.6 Compensation and Indemnification.....	33
Section 6.7 Investment of Moneys in Funds and Accounts	34
Section 6.8 Accounting Records and Financial Statements	35
Section 6.9 Appointment of Co-Trustee or Agent.....	35

TABLE OF CONTENTS

(continued)

	<u>Page</u>
ARTICLE VII MODIFICATION OR AMENDMENT OF THIS INDENTURE	36
Section 7.1 Amendment Without Consent of Owners	36
Section 7.2 Amendment With Consent of Owners	36
Section 7.3 Effect of Supplemental Indenture.....	37
Section 7.4 Endorsement or Replacement of Bonds After Amendment	37
Section 7.5 Amendment by Mutual Consent.....	37
Section 7.6 Opinion of Counsel	37
ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES OF OWNERS.....	37
Section 8.1 Events of Default and Acceleration of Maturities	37
Section 8.2 Application of Funds Upon Acceleration.....	39
Section 8.3 Power of Trustee to Control Proceedings.....	39
Section 8.4 Limitation on Owner's Right to Sue	39
Section 8.5 Non-waiver.....	40
Section 8.6 Actions by Trustee as Attorney-in-Fact	40
Section 8.7 Remedies Not Exclusive	40
ARTICLE IX MISCELLANEOUS.....	40
Section 9.1 Benefits Limited to Parties	40
Section 9.2 Successor is Deemed Included in All References to Predecessor	41
Section 9.3 Discharge of Indenture	41
Section 9.4 Execution of Documents and Proof of Ownership by Owners	41
Section 9.5 Disqualified Bonds.....	42
Section 9.6 Waiver of Personal Liability	42
Section 9.7 Destruction of Canceled Bonds.....	42
Section 9.8 Notices.....	42
Section 9.9 Partial Invalidity.....	43
Section 9.10 Unclaimed Moneys.....	43
Section 9.11 Execution in Counterparts	43
Section 9.12 Governing Law.....	43
Section 9.13 Payments Due on Other Than a Business Day	43
EXHIBIT A – FORM OF 2015A BOND.....	A-1
EXHIBIT B – FORM OF 2015B BOND	B-1

INDENTURE

THIS INDENTURE is dated as of August 1, 2015 (this "Indenture"), by and between the SUCCESSOR AGENCY OF THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF BANNING, a public body corporate and politic, duly organized and existing under the laws of the State of California (the "Successor Agency"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee");

WITNESSETH:

WHEREAS, the Community Redevelopment Agency of the City of Banning (the "Predecessor Agency") was a public body, corporate and politic, duly created, established and authorized to transact business and exercise its powers under and pursuant to the provisions of the Community Redevelopment Law (Part 1 of Division 24 (commencing with Section 33000) of the Health and Safety Code of the State of California) (the "Health and Safety Code"), and the powers of the Predecessor Agency included the power to issue bonds for any of its corporate purposes; and

WHEREAS, the redevelopment plan for the Merged Downtown and Midway Redevelopment Project was approved by the City Council of the City of Banning, California (the "City") on February 26, 2002, pursuant to Ordinance No. 1280 (the "Redevelopment Plan"); and

WHEREAS, the Predecessor Agency previously issued its \$14,095,000 Community Redevelopment Agency of the City of Banning Merged Downtown and Midway Redevelopment Project Tax Allocation Bonds, Series 2003 (the "2003 Bonds"), currently outstanding in the aggregate principal amount of \$_____, for the purpose of funding certain redevelopment projects of the Predecessor Agency and refunding its outstanding Redevelopment Project Tax Allocation Bonds, Series 1992A, dated February 1, 1992; and

WHEREAS, the Predecessor Agency previously issued its \$29,965,000 Community Redevelopment Agency of the City of Banning Tax Allocation Parity Bonds, Series 2007 (Merged Downtown and Midway Redevelopment Project) (the "2007 Bonds"), currently outstanding in the aggregate principal amount of \$_____, for the purpose of funding certain redevelopment projects of the Predecessor Agency; and

WHEREAS, on June 28, 2011, the California Legislature adopted ABx1 26 to, *inter alia*, dissolve existing redevelopment agencies, including the Predecessor Agency; and

WHEREAS, the California Supreme Court substantially upheld the provisions of ABx1 26 on December 29, 2011, resulting in the dissolution of the Predecessor Agency on February 1, 2012; and

WHEREAS, the Successor Agency desires to achieve debt service savings in accordance with ABx1 26 and AB 1484 and therefor assist the local taxing entities by refunding the 2003 Bonds and the 2007 Bonds (collectively, the "Refunded Bonds") with the proceeds of its Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015A (Tax-Exempt) (the "2015A Bonds") and its Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015B (Taxable) (the "2015B Bonds" and, together with the 2015A Bonds, the "Bonds"), respectively; and

WHEREAS, the Successor Agency adopted Resolution No. ___, on ___, 2015 approving the issuance of the Bonds and the Oversight Board adopted Resolution No. ___, on ___, 2015 approving the issuance of the Bonds; and

WHEREAS, to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and interest and redemption premium (if any) thereon, the Successor Agency and the Trustee have duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Successor Agency hereby certifies that all acts and proceedings required by law necessary to make the Bonds, when executed by the Successor Agency, and authenticated and delivered by the Trustee, the valid, binding and legal special obligations of the Successor Agency, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done or taken.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of the principal of and the interest and redemption premium (if any) on all the Bonds issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Successor Agency, the County and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DETERMINATIONS; DEFINITIONS

Section 1.1 Findings and Determinations. The Successor Agency has reviewed all proceedings heretofore taken, including all proceedings of the Oversight Board, and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, including but not limited to compliance with all applicable requirements of Section 34177.5 of the Health and Safety Code, and the Successor Agency is now duly empowered, pursuant to each and every requirement of law, to issue the Bonds of each Series in the manner and form provided in this Indenture.

Section 1.2 Definitions. Unless the context otherwise requires, the terms defined in this Section 1.2 shall, for all purposes of this Indenture, of any Supplemental Indenture, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

“Act” means Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code.

“Annual Debt Service” means, for any Bond Year, the principal and interest payable on the Outstanding Bonds of a Series in such Bond Year.

“Authorized Denomination” means \$5,000 and any integral multiple thereof.

“Bond” or “Bonds” means, collectively, the 2015A Bonds and the 2015B Bonds.

"Bond Counsel" means Norton Rose Fulbright US LLP or a successor thereto or a firm of attorneys acceptable to the Successor Agency of nationally recognized standing in matters pertaining to the exclusion of interest on bonds from the gross income of the holders thereof issued by states and political subdivisions.

"Bond Year" means the twelve (12) month period commencing on September 2 of each year, provided that the first Bond Year shall extend from the Delivery Date to and including September 1, 20__.

"Business Day" means any day other than (i) a Saturday or Sunday or legal holiday or a day on which banking institutions in the city in which the corporate trust office of the Trustee is located are authorized to close, or (ii) a day on which the New York Stock Exchange is closed.

"Certificate" or "Certificate of the Successor Agency" means a Written Certificate of the Successor Agency.

"Chairman" means the Chairman of the Successor Agency or other duly appointed officer of the Successor Agency authorized by the Successor Agency by resolution or by law to perform the functions of the Chairman in the event of the Chairman's absence or disqualification.

"City" means City of Banning, California.

"Code" means the Internal Revenue Code of 1986.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement, dated the Delivery Date, by and between the Successor Agency and the dissemination agent named therein, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

"Corporate Trust Office" means the Corporate Trust Office of the Trustee, or such other or additional offices as may be specified to the Successor Agency by the Trustee in writing.

"Costs of Issuance" means the costs and expenses incurred in connection with the issuance and sale of the Bonds including the initial fees and expenses of the Trustee, rating agency fees, verification agent fees, fees and expenses of Bond Counsel and Disclosure Counsel, other legal fees and expenses relating to the approval of the Bonds, this Indenture, other related documents and certificates and matters related thereto, costs of preparing the Bonds and printing the Official Statement, fees of financial consultants, redevelopment consultants, bond insurance or surety premium, if any, and other fees and expenses set forth in a Written Certificate of the Successor Agency.

"Costs of Issuance Funds" means the respective trust funds established in Section 4.4 of this Indenture.

"County" means the County of Riverside, California.

"Debt Service Coverage" means, for each Bond Year, Pledged Tax Revenues divided by Annual Debt Service.

“Defeasance Securities” means:

1. Cash
2. Obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States of America including:
 - U.S. treasury obligations
 - All direct or fully guaranteed obligations
 - Farmers Home Administration
 - General Services Administration
 - Guaranteed Title XI financing
 - Government National Mortgage Association (GNMA)
 - State and Local Government Series

Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

“Delivery Date” means the date on which the Bonds are delivered to the initial purchaser or purchasers thereof.

“Dissolution Act” means, Parts 1.8 (commencing with Section 34161) and 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code of the State, as amended on June 27, 2012 by Assembly Bill No. 1484, enacted as Chapter 26, Statutes of 2012 (as amended from time to time).

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“EMMA” means the Electronic Municipal Market Access System, a facility of the Municipal Securities Rulemaking Board, at www.emma.msrb.org.

“Escrow Agent” means U.S. Bank National Association, and its successors and assigns.

“Excess Tax Revenues” means, with respect to any Bond Year, all Pledged Tax Revenues in excess of the amount required to pay the principal of and interest on the Outstanding Bonds received during such Bond Year.

“Extraordinary Redemption Date” means September 1 of any year that Bonds shall be subject to extraordinary mandatory redemption pursuant to Sections 2.3(e).

“Fair Market Value” means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term “fair market value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit the value of which is determined in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) the value of which is determined in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security-State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is the Local Agency Investment Fund of the State, but only if at all times during which the investment is held its yield is reasonably expected to be equal to or greater than the yield on a reasonably comparable direct obligation of the United States of America.

“Fitch” means Fitch Ratings, Inc. and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Successor Agency.

“Fiscal Year” means any twelve (12) month period beginning on July 1st and ending on the next following June 30th.

“Fund or Account” means any of the funds or accounts referred to herein.

“Health and Safety Code” means the Health and Safety Code of the State of California.

“Indenture” means this Indenture, dated as of [Dated Date], by and between the Successor Agency and the Trustee.

“Independent Financial Consultant,” “Independent Certified Public Accountant” or “Independent Redevelopment Consultant” means any individual or firm engaged in the profession involved, appointed by the Successor Agency, and who, or each of whom, has a favorable reputation in the field in which his/her opinion or certificate will be given, and:

- (1) is in fact independent and not under domination of the Successor Agency;
- (2) does not have any substantial interest, direct or indirect, with the Successor Agency, other than as original purchaser of the Bonds or as financial advisor for fiscal consultant with respect to the Bonds; and
- (3) is not connected with the Successor Agency as an officer or employee of the Successor Agency, but who may be regularly retained to make reports to the Successor Agency.

“Information Services” means the Electronic Municipal Market Access System (referred to as “EMMA”), a facility of the Municipal Securities Rulemaking Board, at <http://emma.msrb.org>; provided, however, in accordance with then current guidelines of the Securities and Exchange Commission, Information Services shall mean such other organizations providing information with respect to called Bonds as the Authority may designate in writing to the Trustee.

“Interest Account” means the account by that name established in Section 4.3 of this Indenture.

"Interest Payment Date" means [March 1] and [September] 1, commencing _____ 1, 20__ so long as any of the Bonds remain Outstanding hereunder.

"Investment Agreement" means investment agreements when collateralized by United States of America guaranteed and direct obligation securities and such collateral is held by a third party institution and marked to market on a weekly basis to a minimum of the value of the outstanding balance of the agreement. Investment Agreements must be limited to the final maturity of the Bonds.

"Maximum Annual Debt Service" means, as of the date of calculation, the largest amount obtained by totaling, for the current or any future Bond Year, the sum of (a) the amount of interest payable on the Bonds of a Series to be Outstanding in such Bond Year, assuming that principal thereof is paid as scheduled and that any mandatory sinking fund payments are made as scheduled, and (b) the amount of principal payable on the Bonds of a Series to be Outstanding in such Bond Year, including any principal required to be prepaid by operation of mandatory sinking fund payments. For purposes of such calculation, there shall be excluded the principal of and interest on any debt payable from tax revenues to the extent the proceeds thereof are then deposited in a fully self-supporting escrow fund (by irrevocably depositing with the Trustee or another fiduciary, in trust, Defeasance Securities in such amount as an Independent Certified Public Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds (including all principal, interest and redemption premiums, if any) at or before maturity) from which amounts may not be released to the Successor Agency unless the amount of Pledged Tax Revenues then to be received is not less than the percentage of Maximum Annual Debt Service required for the issuance of such debt payable from tax revenues.

"Moody's" means Moody's Investors Service and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Successor Agency.

"Obligations" means obligations of the Successor Agency and includes, without limitation, bonds, notes, interim certificates, debentures or other obligations.

"Opinion of Counsel" means a written opinion of an attorney or firm of attorneys of favorable reputation in the field of municipal bond law. Any opinion of such counsel may be based upon, insofar as it is related to factual matters, information which is in the possession of the Successor Agency as shown by a certificate or opinion of, or representation by, an officer or officers of the Successor Agency, unless such counsel knows, or in the exercise of reasonable care should have known, that the certificate, opinion or representation with respect to the matters upon which his or her opinion may be based is erroneous.

"Outstanding" means, when used as of any particular time with reference to Bonds, subject to the provisions of this Indenture, all Bonds theretofore issued and authenticated under this Indenture except:

- (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation;
- (b) Bonds paid or deemed to have been paid; and
- (c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and authenticated pursuant to this Indenture.

“Oversight Board” means the oversight board duly constituted from time to time pursuant to Section 34179 of the Health and Safety Code.

“Owner” shall mean either the registered owners of the Bonds, or, if the Bonds are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in such depository system.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State for the moneys proposed to be invested therein (the Trustee is entitled to conclusively rely on a Written Request of the Successor Agency directing investment in such Permitted Investment as a certification by the Successor Agency to the Trustee that such Permitted Investment is a legal investment under the laws of the State), but only to the extent that the same are acquired at Fair Market Value:

(a) Direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or obligations the timely payment of the principal of and interest on which are fully guaranteed by the United States of America, including instruments evidencing a direct ownership interest in securities described in this clause such as Stripped Treasury Coupons rated the same rating as direct obligations of the United States of America by S&P and Moody’s and held by a custodian for safekeeping on behalf of holders of such securities.

(b) Bonds or notes which are exempt from federal income taxes and for the payment of which cash or obligations described in clause (a) of this definition in an amount sufficient to pay the principal of, premium, if any, and interest on when due have been irrevocably deposited with a trustee or other fiscal depository and which are rated the same rating as direct obligations of the United States of America by S&P and Moody’s.

(c) Obligations, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following: Federal Home Loan Bank System, Government National Mortgage Association, Farmer’s Home Administration, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association or Federal Housing Administration.

(d) Deposit accounts, certificates of deposit or savings accounts (i) fully insured by the Federal Deposit Insurance Corporation or (ii) with banks whose short term obligations are rated no lower than A-1 by S&P and P-1 by Moody’s including those of the Trustee and its affiliates.

(e) Federal funds or banker’s acceptances with a maximum term of one year of any bank that has an unsecured, uninsured and unguaranteed obligation rating of “Prime-1” or “A3” by Moody’s and “A-1” or “A” or better by S&P (including the Trustee and its affiliates).

(f) Repurchase obligations with a term not exceeding 30 days pursuant to a written agreement between the Trustee and either a primary dealer on the Federal Reserve reporting dealer list which falls under the jurisdiction of the Securities Investor Protection Corporation (“SIPC”) or a federally chartered commercial bank whose long-term debt obligations are rated A or better by S&P and Moody’s, with respect to any security described in clause (1); provided that the securities which are the subject of such repurchase obligation (i) are free and clear of all liens, (ii) in the case of a SIPC dealer, were not acquired pursuant to a repurchase or reverse repurchase agreement, and (iii) are deposited with the Trustee and maintained through weekly market valuations in an amount equal to 104% of the invested funds plus accrued interest. The Trustee must have a valid first perfected security interest in such securities.

(g) Taxable government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's, subject to a maximum permissible limit equal to six months of principal and interest on the Bonds including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or sub-custodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee

(h) Tax-exempt government money market portfolios that have a rating by S&P of Am-G or Am or better and rated in one of the three highest rating categories of Moody's consisting of securities which are rated in one of the two highest Rating Categories of S&P and Moody's subject to a maximum permissible limit equal to six months of principal and interest on the Bonds.

(i) Money market funds registered under the Investment Company Act of 1940, the shares in which are registered under the Securities Act of 1933 and that have a rating by S&P of AA-Am-G or AA-Am and rated in one of the two highest Rating Categories of Moody's, including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or sub-custodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee.

(j) Investment agreements, including guaranteed investment contracts, when collateralized by United States of America guaranteed and direct obligation securities and such collateral is held by a bank, insurance company or other financial institution whose long-term obligations are rated "AA" or higher by Fitch and S&P, respectively, or with a bank, insurance company or other financial institution guaranteed by an entity whose long-term obligations are rated "AA" or higher by Fitch and S&P, respectively, and marked to market on a weekly basis to a minimum of the value of the outstanding balance of the agreement. The following additional requirements shall apply to any investment agreement:

(i) the agreement shall be collateralized by United States of America guaranteed and direct obligation securities and such collateral shall be held by a third party institution and marked to market on a weekly basis to a minimum of the value of the outstanding balance of the agreement;

(ii) term must be limited to the final maturity of the applicable Series of Bonds;

(iii) moneys invested thereunder may be withdrawn without any penalty, premium, or charge on not more than two (2) Business Days' notice; provided, that such notice may be amended or cancelled at any time prior to the withdrawal date;

(iv) the agreement is not subordinated to any other obligations of the provider;

(v) the agreement provides that the Successor Agency in its sole discretion shall have the right to terminate such agreement if the provider's ratings are downgraded below the requirements set forth in this paragraph (k); and

(vi) the Successor Agency receives an opinion of counsel that such agreement is an enforceable obligation of the provider.

(k) Any other investments which meet the criteria established by applicable published investment guidelines issued by each rating agency then rating the Bonds.

(l) The Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

"Plan Limitations" means the limitations contained or incorporated in each Redevelopment Plan on (a) the aggregate principal amount of indebtedness payable from Pledged Tax Revenues which may be outstanding at any time and (b) the aggregate amount of taxes which may be divided and allocated to the Successor Agency pursuant to such Redevelopment Plan.

"Pledged Tax Revenues" means Tax Revenues, but excluding therefrom Statutory Pass-Through Amounts.

"Predecessor Agency" means the Community Redevelopment Agency of the City of Banning.

"Principal Account" means the account by that name established in Section 4.3 of this Indenture.

"Principal Payment Date" means September 1, commencing [September 1, 20__] so long as any of the Bonds remain Outstanding hereunder.

"Qualified Reserve Fund Credit Instrument" means an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company, deposited with the Trustee pursuant to the Indenture, provided that all of the following requirements are met: (i) at the time of delivery of such letter of credit or surety bond, the long-term credit rating of such bank is within the two highest rating categories of Moody's or S&P, or the claims paying ability of such insurance company is rated within the highest rating category of A.M. Best & Company and S&P; (ii) such letter of credit or surety bond has a term which ends no earlier than the last Interest Payment Date of the series of Bonds to which the Reserve Requirement applies; (iii) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to the Indenture; and (iv) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder amounts necessary to carry out the purposes specified in the Indenture, including the replenishment of the Interest Account or the Principal Account.

"Rating Agency" means Fitch, Moody's or S&P.

"Recognized Obligation Payment Schedule" means a Recognized Obligation Payment Schedule, prepared and approved from time to time pursuant to subdivision (1) of Section 34177 of the Health and Safety Code.

"Record Date" means the fifteenth day of the month preceding any Interest Payment Date whether or not such day is a Business Day.

"Redemption Account" means the account by that name established in Section 4.3 of this Indenture.

"Redevelopment Obligation Retirement Fund" means the fund created within the treasury of the Successor Agency pursuant to Section 34170.5 of the Health and Safety Code.

"Redevelopment Plan" means the Merged Downtown and Midway Redevelopment Project was approved by City Council of the City of Banning on February 26, 2002, pursuant to Ordinance No. 1280.

"Redevelopment Project Area" means the project area described and defined in the Redevelopment Plan.

"Redevelopment Property Tax Trust Fund" means the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of Section 34172 of the Health and Safety Code.

"Refunded Bonds" means, collectively, the 2003 Bonds and the 2007 Bonds.

"Reserve Fund" means the Fund by that name established in Section 4.3 hereof.

"Reserve Requirement" means, for each Series of Bonds, as of each calculation date, an amount equal to the least of (i) Maximum Annual Debt Service on all Outstanding Bonds of the applicable Series, (ii) 10% of the initial offering price to the public of the Bonds of the applicable Series, as determined under the Code, or (iii) 125% of the average Annual Debt Service as of the date of issuance of the Bonds of the applicable Series.

"Revenue Fund" means that trust fund established in Section 4.2 of this Indenture.

"Securities Depositories" means The Depository Trust Company, New York, New York and its successors and assigns or if (i) the then Securities Depository resigns from its functions as depository of the Bonds or (ii) the Successor Agency discontinues use of the then Securities Depository, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the Bonds and which is selected by the Successor Agency.

"Series" means all of the 2015A or all of the 2015B Bonds, as the context requires, that are being authenticated and delivered pursuant to this Indenture.

"Sinking Account" means, 2015A Sinking Account or the 2015B Sinking Account, as context requires, created in the Revenue Fund held by the Trustee pursuant to Section 4.3.

"Sinking Account Installment" means the amount of money required by this Indenture to be paid by the Successor Agency on any single date toward the retirement of any particular term bonds on or prior to their respective stated maturity dates.

"Sinking Account Payment Date" means any date on which Sinking Account Installments are scheduled to be paid with respect to a Series of Bonds.

"Standard & Poor's" or "S&P" means Standard & Poor's Financial Services LLC and its successors and assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Successor Agency.

"State" means the State of California.

"Statutory Pass-Through Amounts" means amounts payable to affected taxing agencies pursuant to Sections 33607.5 and/or 33607.7 of the Health and Safety Code and Section 34183 of the Health and Safety Code.

"Supplemental Indenture" means any indenture then in full force and effect which has been duly adopted by the Successor Agency under the Health and Safety Code, or any act supplementary thereto or amendatory thereof, at a meeting of the Successor Agency duly convened and held, of which a quorum was present and acted thereon, amendatory of or supplemental to this Indenture; but only if and to the extent that such supplemental indenture is specifically authorized hereunder.

"Tax Certificate" means that certain Tax Certificate executed by the Successor Agency with respect to the 2015A Bonds.

"Tax Revenues" means all taxes annually allocated and paid to the Successor Agency with respect to the Redevelopment Project Area pursuant to Article 6 of Chapter 6 (commencing with section 33670) of the Health and Safety Code and section 16 of Article XVI of the Constitution of the State, including taxes resulting from a local agency's or public agency's property tax override, but excluding therefrom any amounts attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and interest on any bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989, for the acquisition or improvement of real property, which portion shall be allocated to, and when collected, shall be paid into the fund of that taxing agency and as provided in the Redevelopment Plan.

"Trustee" means U.S. Bank National Association, a national banking association, its successors and assigns, and any other banking corporation or association which may at any time be substituted in its place, as provided in this Indenture.

"2015A Bonds" means \$[2015A PAR AMOUNT] aggregate principal amount of Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015A (Tax-Exempt).

"2015A Reserve Account" means the Account by that name established in Section 4.3 hereof.

"2015B Bonds" means \$[2015B PAR AMOUNT] aggregate principal amount of Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015B (Taxable).

"2015B Reserve Account" means the Account by that name established in Section 4.3 hereof.

"Written Request of the Successor Agency" or "Written Certificate of the Successor Agency" means a request or certificate, in writing signed by the Chairman, Secretary or Finance Officer of the Successor Agency or by any other officer of the Successor Agency duly authorized by the Successor Agency for that purpose.

Section 1.3 Rules of Construction. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

AUTHORIZATION AND TERMS

Section 2.1 Authorization of Bonds. (a) The 2015A Bonds in the aggregate principal amount of \$[2015A PAR AMOUNT] and the 2015B Bonds in the aggregate principal amount of \$[2015B PAR AMOUNT] are each hereby authorized to be issued by the Successor Agency under and subject to the terms of this Indenture, the Health and Safety Code and the Act. The Bonds shall be designated the "Successor Agency of the Dissolved Redevelopment Agency of the City of Banning, Tax Allocation Refunding Bonds, Series 2015A (Tax-Exempt)" and the "Successor Agency of the Dissolved Redevelopment Agency of the City of Banning, Tax Allocation Refunding Bonds, Series 2015B (Taxable)," respectively. This Indenture constitutes a continuing agreement with the Trustee for the benefit of the Owners of all of the Bonds hereunder and then Outstanding to secure the full payment of the principal of and interest or redemption premium (if any) on all Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained.

(b) The Bonds shall be and are special obligations of the Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from Pledged Tax Revenues, and other funds as hereinafter provided. The Bonds, interest and premium, if any, thereon are not a debt of the City, the County, the State or any of its political subdivisions (except the Successor Agency), and none of the City, the County, the State nor any of its political subdivisions (except the Successor Agency) is liable thereon. The Bonds, interest thereon and premium, if any, are not payable from any funds or properties other than those set forth in this Indenture. None of the members of the Successor Agency Board, the Oversight Board, or any persons executing the Bonds is liable personally on the Bonds by reason of their issuance.

Nothing in this Indenture shall preclude: (a) the payment of the Bonds from the proceeds of refunding bonds issued pursuant to this Indenture, the Health and Safety Code and the Act, as applicable, or (b) the payment of the Bonds from any legally available funds other than Pledged Tax Revenues.

Section 2.2 Term of Bonds.

(a) The 2015A Bonds shall be issued in fully registered form without coupons in Authorized Denominations and the Bonds shall mature on September 1, in the years and in the amounts and shall bear interest at the rates per annum as follows:

<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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Interest on the 2015A Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or draft of the Trustee mailed on the Interest Payment Date by first class mail to such Owner at the address of such Owner as it appears on the Registration Books; provided, however, that upon the written request of any Owner of at least \$1,000,000 in principal amount of 2015A Bonds received by the Trustee at least fifteen (15) days prior to such Record Date, payment shall be made by wire transfer in immediately available funds to an account in the United States designated by such Owner. Principal of and redemption premium (if any) on any 2015A Bond shall be paid upon presentation and surrender thereof, at maturity or redemption, at the Corporate Trust Office of the Trustee. Both the principal of and interest and premium (if any) on the 2015A Bonds shall be payable in lawful money of the United States of America. Interest shall be calculated based upon a 360-day year of twelve thirty-day months.

Each 2015A Bond shall be initially dated as of the Delivery Date and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) a 2015A Bond is authenticated on or before _____, 20__, in which event it shall bear interest from the Delivery Date; provided, however, that if, as of the date of authentication of any 2015A Bond, interest thereon is in default, such 2015A Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

(b) The 2015B Bonds shall be issued in fully registered form without coupons in Authorized Denominations and the 2015B Bonds shall mature on September 1, in the years and in the amounts and shall bear interest at the rates per annum as follows:

<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>September 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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Interest on the 2015B Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Registration Books as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check or draft of the Trustee mailed on the Interest Payment Date by first class mail to such Owner at the address of such Owner as it appears on the Registration Books; provided, however, that upon the written request of any Owner of at least \$1,000,000 in principal amount of 2015B Bonds received by the Trustee at least fifteen (15) days prior to such Record Date, payment shall be made by wire transfer in immediately available funds to an account in the United States designated by such Owner. Principal of and redemption premium (if any) on any 2015B Bond shall be paid upon presentation and surrender thereof, at maturity or redemption, at the Corporate Trust Office of the Trustee. Both the principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America. Interest shall be calculated based upon a 360-day year of twelve thirty-day months.

Each 2015B Bond shall be initially dated as of the Delivery Date and shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) a 2015B Bond is authenticated on or before _____ 15, 2015, in which event it shall bear interest from the Delivery Date; provided, however, that if, as of the date of authentication of any 2015B Bond, interest thereon is in default, such 2015B Bond shall bear interest

from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Section 2.3 Redemption.

(a) Optional Redemption of 2015A Bonds. The 2015A Bonds maturing on or before September 1, 20__ are not subject to redemption prior to maturity. The 2015A Bonds maturing after September 1, 20__ are subject to redemption prior to maturity in whole, or in part among maturities as determined by the Successor Agency on any date on or after September 1, 20__, from any available source of funds, at 100% of the principal amount of the 2015A Bonds to be redeemed, together with accrued interest thereon to the redemption date.

(b) Optional Redemption of 2015B Bonds. The 2015B Bonds maturing on or before September 1, 20__ are not subject to redemption prior to maturity. The 2015B Bonds maturing after September 1, 20__ are subject to redemption prior to maturity in whole, or in part, on a *pro rata* basis among maturities as determined by the Successor Agency, on any date on or after September 1, 20__, from any available source of funds, at 100% of the principal amount of the 2015A Bonds to be redeemed, together with accrued interest thereon to the redemption date.

(c) Sinking Account Redemption of 2015A Bonds. The 2015A Bonds maturing on September 1, 20__ are subject to redemption in part by lot on September 1, 20__ and on September 1 in each year shown below until maturity, from sinking account payments made by the Successor Agency, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; provided, however, that if some but not all of the 2015A Bonds have been redeemed the total amount of all future sinking account payments will be reduced by an amount corresponding to the aggregate principal amount of 2015A Bonds so redeemed, to be allocated among such sinking account payments on a *pro rata* basis in integral multiples of \$5,000 as determined by the Successor Agency (notice of which determination will be given by the Successor Agency to the Trustee):

Sinking Account Redemption Date (September 1)	Principal Amount to be Redeemed or Purchased
_____	_____

(d) Sinking Account Redemption of 2015B Bonds. The 2015B Bonds maturing on September 1, 20__ are subject to redemption in part by lot on September 1, 20__ and on September 1 in each year shown below until maturity, from sinking account payments made by the Successor Agency, at a redemption price equal to the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium, in the aggregate respective principal amounts and on the respective dates as set forth in the following table; provided, however, that if some but not all of the 2015B Bonds have been redeemed the total amount of all future sinking account payments will be reduced by an amount corresponding to the aggregate principal amount of 2015B Bonds so redeemed, to be allocated among such sinking account payments on a *pro rata* basis in integral multiples of \$5,000 as determined by the Successor Agency (notice of which determination will be given by the Successor Agency to the Trustee):

Sinking Account	Principal Amount to be
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Redemption Date
(September 1)

Redeemed or Purchased

(e) Extraordinary Mandatory Redemption. The Bonds shall be subject to extraordinary mandatory redemption, in whole or in part, prior to stated maturity, from moneys deposited in the Special Redemption Fund pursuant to Section 4.6 and Section 5.1 Covenant 11. In any year that a determination has been made to redeem Bonds pursuant to this Section 2.3(e), the Trustee, on September 1 of such year, shall apply the moneys in the Special Redemption Fund to redeem Bonds. Any redemption of a Series of Bonds, in part, pursuant to this Section 2.3(e) shall be (i) in the principal amount of an Authorized Denomination and (ii) such that the principal amount of each Series of Bonds remaining Outstanding after such extraordinary redemption shall be in an Authorized Denomination. The redemption price payable on Bonds called pursuant to this Section 2.3(e) shall equal 100 percent of the principal amount of such Bonds, plus unpaid accrued interest to the date fixed for redemption, without premium.]

(f) Partial Redemption of Bonds. If only a portion of any Bond is called for redemption, then upon surrender of such Bond the Successor Agency shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Successor Agency, a new Bond or Bonds of the same interest rate and maturity, of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(g) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption shall have been duly deposited with the Trustee, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(h) Manner of Redemption. Whenever any Bonds or portions thereof are to be selected for redemption by lot, the Trustee shall make such selection, in such manner as the Trustee shall deem appropriate. All Bonds redeemed or purchased pursuant to this Section 2.3 shall be canceled and destroyed by the Trustee.

(i) Notice of Redemption. The Successor Agency shall be required to give the Trustee written notice of its intention to redeem Bonds under subsection (a), (b) or (e) at least thirty (30) days prior to the date fixed for such redemption, and shall transfer to the Trustee for deposit in the Redemption Account all amounts required for such redemption at least five (5) Business Days prior to the date fixed for such redemption; provided, the Trustee may waive either or both of such requirements in its sole discretion upon written request of the Successor Agency.

The Trustee on behalf of and at the expense of the Successor Agency will mail (by first class mail, postage prepaid or other means acceptable to the recipient thereof) notice of any redemption at least twenty (20) days but not more than sixty (60) days prior to the redemption date, to (i) the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) to the Securities Depositories and to the Information Services designated in a Written Request of the Successor Agency filed with the Trustee at the time the Successor Agency notifies the Trustee of its intention to redeem Bonds; however, such mailing will not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein will affect the validity of the

proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice will state the redemption date and the redemption price, will designate the CUSIP number of the Bonds to be redeemed, state the individual number of each Bond to be redeemed or state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding (or all Bonds of a maturity) are to be redeemed, and will require that such Bonds be then surrendered at the Corporate Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date. Neither the Successor Agency nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bond or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Successor Agency nor the Trustee shall be liable for any inaccuracy in such numbers.

Any notice given pursuant to this paragraph may be rescinded by written notice given to the Trustee by the Successor Agency and the Trustee shall provide notice of such rescission as soon thereafter as practicable in the same manner, and to the same recipients, as notice of such redemption was given pursuant to this Section, but in no event later than the date set for redemption.

Section 2.4 Form of Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the form set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.5 Execution of Bonds. The Bonds shall be executed on behalf of the Successor Agency by the signature of the Chairman and the signature of its Secretary who are in office on the date of execution and delivery of this Indenture or at any time thereafter. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the Successor Agency by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Successor Agency although on the date of such Bond any such person shall not have been such officer of the Successor Agency.

Only such of the Bonds as shall bear thereon a certificate of authentication in the form set forth in Exhibit A hereto, manually executed and dated by and in the name of the Trustee by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture. In the event temporary Bonds are issued pursuant to Section 2.9 hereof, the temporary Bonds shall bear thereon a certificate of authentication manually executed and dated by the Trustee, shall be initially registered by the Trustee, and, until so exchanged as provided under Section 2.9 hereof, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.6 Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Corporate Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Successor Agency shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds, of like series, interest rate, maturity and principal amount of authorized denominations. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds pursuant to this

Section 2.6.

The Trustee may refuse to transfer, under the provisions of this Section 2.6, either (a) any Bonds during the period established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected by the Trustee for redemption pursuant to the provisions of Section 2.3.

Section 2.7 Exchange of Bonds. Bonds may be exchanged at the Corporate Trust Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations of the same Series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds pursuant to this Section 2.7. The cost of printing any Bonds and any services rendered or any expenses incurred by the Trustee in connection with any exchange or transfer shall be paid by the Successor Agency.

The Trustee may refuse to exchange, under the provisions of this Section 2.7, either (a) any Bonds during the period established by the Trustee for the selection of Bonds for redemption or (b) any Bonds selected by the Trustee for redemption pursuant to the provisions of Section 2.3.

Section 2.8 Registration Books. The Trustee will keep or cause to be kept, at its Corporate Trust Office, sufficient records for the registration and registration of transfer of the Bonds, which shall at all times during normal business hours be open to inspection by the Successor Agency with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Bonds as hereinbefore provided.

Section 2.9 Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Successor Agency, and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Successor Agency upon the same conditions and in substantially the same manner as the definitive Bonds. If the Successor Agency issues temporary Bonds it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Corporate Trust Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.10 Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Successor Agency, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon deliver, a new Bond of like amount and maturity in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Successor Agency and the Trustee and, if such evidence is satisfactory to both and indemnity satisfactory to them shall be given, the Successor Agency, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like amount and maturity in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Successor Agency may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section 2.10 and of the expenses which may be incurred by the Successor Agency and the Trustee in the premises. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Successor Agency whether or not the Bond so alleged to be lost,

destroyed or stolen shall be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued pursuant to this Indenture.

Section 2.11 Book-Entry Only System. It is intended that the Bonds, be registered so as to participate in a securities depository system with DTC (the "DTC System"), as set forth herein. The Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities and be registered in the name of Cede & Co., as nominee of DTC. The Successor Agency and the Trustee are authorized to execute and deliver such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including a representation letter in the form required by DTC (the "Representation Letter"). In the event of any conflict between the terms of any such letter or agreement, including the Representation Letter, and the terms of this Indenture, the terms of this Indenture shall control. DTC may exercise the rights of an Owner only in accordance with the terms hereof applicable to the exercise of such rights.

With respect to the Bonds registered in the books of the Trustee in the name of Cede & Co., as nominee of DTC, the Successor Agency and the Trustee, shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which DTC holds Bonds from time to time as securities depository (each such broker-dealer, bank or other financial institution being referred to herein as a "DTC Participant") or to any person on behalf of whom such a DTC Participant directly or indirectly holds an interest in the Bonds (each such person being herein referred to as an "Indirect Participant"). Without limiting the immediately preceding sentence, Successor Agency and the Trustee shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (b) the delivery to any DTC Participant or any Indirect Participant or any other person, other than an Owner, as shown in the Register, of any notice with respect to the Bonds, including any notice of redemption, (c) the payment to any DTC Participant or Indirect Participant or any other Person, other than an Owner, as shown in the Register, of any amount with respect to principal of, premium, if any, or interest on, the Bonds or (d) any consent given by DTC as registered owner. So long as certificates for the Bonds are not issued pursuant to Section 2.12 and the Bonds are registered to DTC, the Successor Agency, and the Trustee shall treat DTC or any successor securities depository as, and deem DTC or any successor securities depository to be, the absolute owner of the Bonds for all purposes whatsoever, including without limitation (i) the payment of principal and interest on the Bonds, (ii) giving notice of redemption and other matters with respect to the Bonds, (iii) registering transfers with respect to the Bonds and (iv) the selection of Bonds for redemption. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a Bond certificate with respect to any Bond. Notwithstanding any other provision of this Indenture to the contrary, so long as any of the Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the Representation Letter.

Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks being mailed to the registered owner at the close of business on the Record Date applicable to any Interest Payment Date, the name "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

Section 2.12 Successor Securities Depository; Transfers Outside Book-Entry Only System. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Successor Agency and the Trustee and discharging its responsibilities with respect thereto under applicable law. The Successor Agency, without the consent of any other person, but following written notice to the Successor Agency and the Trustee, may terminate the services of DTC

with respect to the Bonds. Upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to the foregoing provisions, unless a substitute securities depository is appointed to undertake the functions of DTC hereunder, the Successor Agency, at the expense of the Successor Agency, is obligated to deliver Bond certificates to the beneficial owners of the Bonds, as described in this Indenture, and the Bonds shall no longer be restricted to being registered in the books of the Trustee in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or name Owner transferring or exchanging Bonds shall designate to the Trustee in writing, in accordance with the provisions of this Indenture. The Successor Agency may determine that the Bonds shall be registered in the name of and deposited with a successor depository operating a securities depository system, qualified to act as such under Section 17(a) of the Securities Exchange Act of 1934, as amended, as may be acceptable to the Successor Agency, or such depository's agent or designee.

ARTICLE III

ISSUANCE OF BONDS; APPLICATION OF PROCEEDS OF BONDS

Section 3.1 Issuance of Bonds. Upon the execution and delivery of this Indenture and receipt by the Successor Agency of evidence satisfactory to it of satisfaction of the conditions precedent to issuance of the Bonds of each Series, the Successor Agency shall execute and deliver the 2015A Bonds in the aggregate principal amount of \$[2015A PAR AMOUNT] to the Trustee and the 2015B Bonds in the aggregate principal amount of \$[2015B PAR AMOUNT] and the Trustee shall authenticate and deliver the Bonds of each Series upon the Written Request of the Successor Agency.

Section 3.2 Application of Proceeds of Bonds. On the Delivery Date the proceeds of sale of the Bonds shall be paid to the Trustee and such amount shall be applied as follows:

(i) The Trustee shall transfer the amount of \$_____ to the Escrow Agent for redemption of the 2003 Bonds;

(ii) The Trustee shall transfer the amount of \$_____ to the Escrow Agent for redemption of the 2007 Bonds;

(iii) [The Trustee shall deposit the amount of \$_____ from 2015A Bond proceeds into the 2015A Reserve Account;]

(iv) [The Trustee shall deposit the amount of \$_____ from 2015A Bond proceeds into the 2015B Reserve Account;]

(v) The Trustee shall deposit the amount of \$_____ from 2015A Bond proceeds into the 2015A Costs of Issuance Fund; and

(vi) The Trustee shall deposit the amount of \$_____ from 2015B Bond proceeds into the 2015B Costs of Issuance Fund.

The Trustee may establish a temporary fund, account or subaccount in its records to facilitate and record such deposits and transfers.

ARTICLE IV

SECURITY OF BONDS; FLOW OF FUNDS; FUNDS AND ACCOUNTS

Section 4.1 Security of Bonds; Equal Security. The Bonds shall be equally secured by a pledge of, security interest in and a first and exclusive lien on all of the Pledged Tax Revenues, whether held in the Redevelopment Property Tax Trust Fund or by the Successor Agency or the Trustee, and a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Revenue Fund (including the Interest Account, the Principal Account, the Sinking Account and the Redemption Account and all subaccounts in the foregoing) and in the Reserve Fund to the Trustee for the benefit of the Owners of the Outstanding Bonds. In addition, pursuant to Health and Safety Code section 34177.5(g), the Bonds shall be specifically secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund.

The principal of and interest or redemption premium (if any) on the Bonds shall be payable from Pledged Tax Revenues.

Except for the Pledged Tax Revenues and moneys in the Revenue Fund (including the Interest Account, the Principal Account, the Sinking Account and the Redemption Account and all subaccounts in the foregoing) and the Reserve Fund (and all Accounts therein), no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds. Notwithstanding anything herein to the contrary, however, if Pledged Tax Revenues are insufficient for the deposits required hereunder or the payment of the principal of and interest or redemption premium (if any) on the Bonds, the Successor Agency may, but shall not be obligated, to make such deposits or pay such principal of and interest or redemption premium (if any) on the Bonds from other legally available funds.

This Indenture shall constitute a contract between the Successor Agency and the Trustee for the benefit of the Owners, and the covenants and agreements herein set forth to be performed on behalf of the Successor Agency and the Trustee shall be for the equal and proportionate benefit, security and protection of all Owners without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

Section 4.2 Revenue Fund; Reserve Fund. There are hereby established special trust funds known as the "Revenue Fund" and the "Reserve Fund," which Funds shall be held by the Trustee in trust for Owners. The Trustee shall send the Successor Agency on each [November 1 and April 1] a Written Request specifying the amount of Pledged Tax Revenues required to be deposited in the Revenue Fund and/or the Reserve Fund, as applicable. The Successor Agency shall remit the amount requested pursuant to such Written Request to the Trustee within two (2) Business Days of receipt of distributions of Pledged Tax Revenues on January 2 and June 1 of each year.

Section 4.3 Transfer of Amounts. There are hereby created separate Accounts within the Revenue Fund as set forth below, to be known respectively as the Interest Account, the Principal Account, the 2015A Sinking Account, 2015B Sinking Account and the Redemption Account. Upon receiving Pledged Tax Revenues from the Successor Agency, the Trustee shall deposit all amounts received into the Revenue Fund or the Reserve Fund, as applicable, until such time during each Bond Year as the amounts so deposited equal the aggregate amounts required to be transferred to the Trustee in such Bond Year (i) for deposit into the Interest Account, the Principal Account and the Redemption Account of the Revenue Fund and (ii) for deposit into the Reserve Fund, if necessary. Such deposits shall be in the following order of priority:

First Interest Account. Within the Interest Account, there are hereby created the "2015A Interest Subaccount" and the "2015B Interest Subaccount." Herein, collectively referred as the "Interest Subaccounts." On or before each Interest Payment Date, the Trustee shall set aside from the Revenue Fund and deposit in the respective Interest Subaccount an amount of money which, together with any money contained therein, is equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds of the related Series on such Interest Payment Date. No deposit need be made into the respective Interest Subaccount if the amount contained therein is at least equal to the interest to become due and payable on all Outstanding Bonds of the related Series on the Interest Payment Dates in such Bond Year. Subject to this Indenture, all moneys in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it becomes due and payable (including accrued interest on any Bonds redeemed prior to maturity pursuant to this Indenture).

Second Principal Account. Within the Principal Account, there are hereby created the "2015A Principal Subaccount" and the "2015B Principal Subaccount." Herein, collectively referred as the "Principal Subaccounts." On or before each Principal Payment Date, the Trustee shall set aside from the Revenue Fund and deposit in the respective Principal Subaccount an amount of money which, together with any money contained therein, is equal to the aggregate amount of the principal becoming due and payable on the Outstanding Bonds of the related Series on such Principal Payment Date. No deposit need be made into the respective Principal Subaccount if the amount contained therein is at least equal to the principal to become due and payable on all Outstanding Bonds of the related Series on the upcoming Principal Payment Date. Subject to this Indenture, all moneys in the Principal Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal and sinking account payments on the Outstanding Bonds as they become due and payable.

On or before each Principal Payment Date, the Trustee shall set aside from the Revenue Fund and deposit in the applicable Sinking Account an amount of money equal to the Sinking Account Installment, if any, payable on the Sinking Account Payment Date in such Bond Year. The Trustee shall use moneys in the applicable Sinking Account to redeem Bonds of the applicable Series pursuant to Section 2.3.

If there shall be insufficient money in the Revenue Fund to make in full all such principal payments and Sinking Account payments required to be made in such Bond Year, then the money available in the Revenue Fund shall be applied *pro rata* with respect to such principal payments and Sinking Account payments in the proportion that all such principal payments and sinking account payments bear to each other.

Third Reserve Fund. Within the Reserve Fund, there are hereby created the 2015A Reserve Account and the 2015B Reserve Account. Herein, collectively referred as the "Reserve Accounts." Subject to this Indenture, all money in the respective Reserve Account will be used and withdrawn by the Trustee solely for the purpose of (i) making transfers to the related Interest Account, the Principal Account and the Sinking Account (and subaccounts therein, as the case may be), in such order of priority, in the event of any deficiency at any time in any of such Accounts or (ii) for the retirement of all the Bonds of a related Series then Outstanding. Any amount in the Reserve Fund in excess of the applicable Reserve Requirement for the Bonds shall be withdrawn from the Reserve Fund on or before the Interest Payment Date by the Trustee and deposited in the Interest Account (for further deposit into the applicable subaccounts therein). All amounts in any Account in the Reserve Fund five (5) Business Days before the final Interest Payment Date shall be withdrawn therefrom by the Trustee and transferred either (i) to the Interest Account and then Principal Account and the Sinking Account (and subaccounts therein, as the case may be), to the extent required to make the deposits then required to be made hereunder, or (ii) if sufficient deposits have been made hereunder, then, as directed by the Successor Agency in any manner permitted by law pursuant to a Written Request of the Successor Agency.

The applicable Reserve Requirement may be satisfied by crediting to the Reserve Fund moneys or a Qualified Reserve Fund Credit Instrument or any combination thereof, which in the aggregate make funds available in the Reserve Fund in an amount equal to the applicable Reserve Requirement. Upon deposit of such Qualified Reserve Fund Credit Instrument, the Trustee shall transfer any excess amounts then on deposit in the Reserve Fund in excess of the applicable Reserve Requirement into a segregated account of the Bond Fund, which monies shall be applied upon written direction of the Successor Agency either (i) to the payment within one year of the date of transfer of capital expenditures of the Successor Agency permitted by law, or (ii) to the redemption of Bonds on the earliest succeeding date on which such redemption is permitted hereby, and pending such application shall be held either not invested in investment property (as defined in section 148(b) of the Code), or invested in such property to produce a yield that is not in excess of the yield on the Bonds; *provided, however*, that the Successor Agency may by written direction to the Trustee cause an alternative use of such amounts if the Successor Agency shall first have obtained a written opinion of nationally recognized bond counsel substantially to the effect that such alternative use will not adversely affect the exclusion pursuant to section 103 of the Code of interest on the Bonds from the gross income of the owners thereof for federal income tax purposes.

In any case where the Reserve Fund is funded with a combination of cash and a Qualified Reserve Fund Credit Instrument, the Trustee shall deplete all cash balances before drawing on the Qualified Reserve Fund Credit Instrument. With regard to replenishment, any available moneys provided by the Successor Agency shall be used first to reinstate the Qualified Reserve Fund Credit Instrument and second, to replenish the cash in the Reserve Fund. If the Qualified Reserve Fund Credit Instrument is drawn upon, the Successor Agency shall make payment of interest on amounts advanced under the Qualified Reserve Fund Credit Instrument after making any payments pursuant to this subsection.

Replenishment of Reserve Fund. The Trustee shall value the balances in the Accounts in the Reserve Fund on each [September] 1. If the balance in an Account in the Reserve Fund is less than the applicable Reserve Requirement, the Trustee shall indicate the amount of such deficiency in a Written Request to the Successor Agency. Upon receipt of such Written Request, the Successor Agency shall immediately take all necessary action to cure such deficiency in such Account, including using best efforts to place the amount of such deficiency on a Recognized Obligation Payment Schedule. No transfers or deposits need be made to any Account in the Reserve Fund so long as there is on deposit therein a sum at least equal to the applicable Reserve Requirement.

Fourth *Redemption Account.* On or before the 5th Business Day preceding any date on which Bonds are to be redeemed, the Successor Agency will deliver or cause to be delivered funds to the Trustee for deposit in the Redemption Account an amount required to pay the principal of, interest and premium, if any, on the Bonds (other than Bonds redeemed from sinking account payments) to be redeemed on such date. Subject to this Indenture, all moneys in the Redemption Account will be used and withdrawn by the Trustee solely for the purpose of paying the principal of and interest or redemption premium (if any) on the Bonds to be redeemed on the date set for such redemption.

Section 4.4 Costs of Issuance Funds. There are hereby established separate funds to be known as the "2015A Costs of Issuance Fund" and "2015B Costs of Issuance Fund," each of which shall be held in trust by the Trustee. Moneys in the Costs of Issuance Funds shall be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance upon submission of a Written Request of the Successor Agency stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against the applicable Fund. Each such Written Request of the Successor Agency shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. Six (6) months following the Delivery Date, or upon the earlier Written Request of the Successor Agency, all amounts (if any) remaining in either Costs of Issuance Fund shall be withdrawn therefrom by the Trustee

and transferred to the Revenue Fund.

Section 4.5 Surplus Fund. (a) There is hereby established the "Surplus Fund." Following the deposits described in Section 4.3 of this Indenture, the Trustee shall deposit any remaining Pledged Tax Revenues into the Surplus Fund. Following such deposit, the Trustee shall transfer any Pledged Tax Revenues to the Successor Agency for the payment of any enforceable obligations of the Successor Agency, or, if no such payment is required, such amounts shall be distributed in accordance with the Dissolution Act and other applicable law.

(b) Notwithstanding (a) of this Section, if the Report described in Section 5.1 Covenant 11 shows the cumulative amount of Annual Debt Service remaining to be paid on the Outstanding Bonds to their scheduled maturity equals or exceeds ___ percent of remaining Pledged Tax Revenues that the Successor Agency is permitted to receive under the applicable Redevelopment Plan to be credited to the Redevelopment Obligation Retirement Fund, then all Pledged Tax Revenue remaining following the deposits described in Section 4.3 of this Indenture, shall be deposited into the Special Redemption Fund pursuant to Section 4.6.]

Section 4.6 Special Redemption Fund. Upon receipt of any Excess Tax Revenues pursuant to Section 5.1 Covenant 11, the Trustee shall immediately deposit such money in the Special Redemption Fund. No later than ___ 15 of each year, the Trustee shall provide a written notification to the Successor Agency of the balance of the Special Redemption Fund. The Successor Agency, no later than the following ___ 25, shall (i) determine the amount (and if applicable, designating the maturities) of Bonds of each Series to be called pursuant to Section 2.3(e) on the following September 1, and (ii) notify the Trustee of such determination in writing. Such determination by the Successor Agency shall be based on a *pro rata* application of moneys in the Special Redemption Fund toward the redemption of each Series of Bonds, based on the then Outstanding principal amount of each such Series of Bonds; provided, that such "*pro rata* application" shall be in, as nearly as practicable, multiples of \$5,000, and shall result in the principal amount of each Series of Bonds remaining Outstanding after such extraordinary redemption being in an Authorized Denomination. Upon receipt of such determination by the Successor Agency, the Trustee shall prepare and send notices of redemption to the applicable Owners in accordance with Section 2.3(i). If the Successor Agency determines that there is not sufficient money in the Special Redemption Fund to redeem Bonds pursuant to Section 2.3(e) in any year, then the Successor Agency shall provide a written notice to the Trustee to that effect no later than ___ 25 of such year.

At least five (5) Business Days before each Extraordinary Redemption Date, the Trustee shall notify the Successor Agency in writing of the accrued interest (the "Accrued Interest") that will become due on such Extraordinary Redemption Date with respect to the Bonds being called pursuant to Section 2.3 (e). The Trustee shall, no later than the Business Day before such Extraordinary Redemption Date, transfer the amount of such Accrued Interest from the Revenue Fund to the Special Redemption Fund. The Trustee shall use the moneys in the Special Redemption Fund to pay the applicable Redemption Price on the Extraordinary Redemption Date.

Any money remaining in the Special Redemption Fund on the final maturity date of the Bonds or the defeasance date of all of the Outstanding Bonds shall be transferred to the Revenue Fund (for application toward the final payment on the Bonds or transfer to the defeasance escrow). Pending such transfer to the Revenue Fund, any interest earnings of moneys in the Special Redemption Fund shall be retained in the Special Redemption Fund.]

ARTICLE V

COVENANTS OF THE SUCCESSOR AGENCY

Section 5.1 Covenants of the Successor Agency. As long as the Bonds are Outstanding, the Successor Agency shall (through its proper members, officers, agents or employees) faithfully perform and abide by all of the covenants, undertakings and provisions contained in this Indenture or in any Bond issued hereunder, including the following covenants and agreements for the benefit of the Owners which are necessary, convenient and desirable to secure the Bonds:

Covenant 1. Compliance with Health and Safety Code. The Successor Agency covenants that it will comply with all applicable requirements of the Health and Safety Code.

Covenant 2. Recognized Obligation Payment Schedule. Pursuant to Section 34177 of the Health and Safety Code, not less than 90-days prior to each January 2 and June 1 (or such other dates as are specified in the Health and Safety Code or other applicable law), the Successor Agency shall prepare and submit to the Successor Agency Oversight Board and the State Department of Finance, a Recognized Obligation Payment Schedule pursuant to which enforceable obligations of the Successor Agency are listed, including debt service with respect to the Bonds. Such Recognized Obligation Payment Schedule shall include all scheduled interest and principal payments on the Bonds that are due and payable on March 1 and September 1 of the Bond Year ending on September 1 of the next ensuing calendar year, together with any amount required to replenish any Account in the Reserve Fund.

If, on January 2 of any year, the amount of Pledged Tax Revenues remitted by the County Auditor-Controller to the Successor Agency is less than the amount required pursuant to the preceding paragraph, then not less than 90-days prior to June 1 of such year, the Successor Agency shall prepare, and submit to the Successor Agency Oversight Board and the State Department of Finance, a Recognized Obligation Payment Schedule that includes the balance due.

Covenant 3. Punctual Payment. The Successor Agency covenants that it will duly and punctually pay or cause to be paid the principal of and interest on the Bonds on the date, at the place and in the manner provided in the Bonds, and that it will take all actions required under the Health and Safety Code to include debt service on the Bonds on the applicable Recognized Obligation Payment Schedule, including any amounts required to replenish either Account within the Reserve Fund to the full amount of the applicable Reserve Requirement.

Covenant 4. No Priority; No Additional Parity Bonds; Refunding Bonds; Other Obligations. The Successor Agency covenants that it will not issue any Obligations payable, either as to principal or interest, from the Pledged Tax Revenues which have any lien upon the Pledged Tax Revenues on a parity with or superior to the lien under this Indenture for the Bonds; provided, that the Successor Agency may issue and sell refunding bonds payable from Pledged Tax Revenues on a parity with Outstanding Bonds, if (a) annual debt service on such refunding bonds is lower than annual debt service on the Bonds being refunded during every year the Bonds will be outstanding, (b) the debt service payment dates with respect to such refunding bonds are the same as for the Bonds being refunded and (c) the final maturity of any such refunding bonds does not exceed the final maturity of the Bonds being refunded.

Covenant 5. Use of Proceeds: Management and Operation of Properties. The Successor Agency covenants that the proceeds of the sale of the Bonds will be deposited and used as provided in this Indenture and that it will manage and operate all properties owned by it comprising any part of the Redevelopment Project Area in a sound and proper manner and in accordance with applicable law.

Covenant 6. Payment of Taxes and Other Charges. The Successor Agency covenants that it will from time to time pay and discharge, or cause to be paid and discharged, all payments in lieu of taxes, service charges, assessments or other governmental charges which may lawfully be imposed upon the Successor Agency or any of the properties then owned by it in the Redevelopment Project Area, or upon the revenues and income therefrom, and will pay all lawful claims for labor, materials and supplies which if unpaid might become a lien or charge upon any of the properties, revenues or income or which might impair the security of the Bonds or the use of Pledged Tax Revenues or other legally available funds to pay the principal of and interest and redemption premium (if any) on the Bonds, all to the end that the priority and security of the Bonds shall be preserved; provided, however, that nothing in this covenant shall require the Successor Agency to make any such payment so long as the Successor Agency in good faith shall contest the validity of the payment.

Covenant 7. Books and Accounts: Financial Transactions and Records. The Successor Agency covenants that it will at all times keep, or cause to be kept, proper and current books and accounts in which complete and accurate entries are made of the financial transactions and records of the Successor Agency. Within one hundred eighty (180) days after the close of each Fiscal Year an Independent Certified Public Accountant shall prepare an audit of the financial transactions and records of the Successor Agency for such Fiscal Year. To the extent permitted by law, such audit may be included within the annual audited financial statements of the City. Upon written request, the Successor Agency shall, as soon practicable, furnish a copy of each audit to any Owner. The Trustee shall have no duty to review such audits.

Covenant 8. Protection of Security and Rights of Owners. The Successor Agency covenants to preserve and protect the security of the Bonds and the rights of the Owners and to contest by court action or otherwise (a) the assertion by any officer of any government unit or any other person whatsoever against the Successor Agency that the Pledged Tax Revenues pledged under this Indenture cannot be used to pay debt service on the Bonds or (b) any other action affecting the validity of the Bonds or diluting the security therefor.

Covenant 9. Continuing Disclosure. The Successor Agency covenants that it will comply with and carry out all of the provisions of its Continuing Disclosure Agreement. Notwithstanding any other provision of this Indenture, failure by the Successor Agency to comply with its Continuing Disclosure Agreement shall not be considered an Event of Default; however, any participating underwriter, Owner or beneficial owner of any Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

Covenant 10. Tax Covenants. The Successor Agency covenants in connection with the 2015A as follows:

(A) Special Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986.

“Computation Date” has the meaning set forth in section 1.148-1(b) of the Treasury Regulations.

“Gross Proceeds”, with respect to an issue, means any proceeds of that issue as defined in section 1.148-1(b) of the Treasury Regulations (referring to sales, investment and transferred proceeds), and any replacement proceeds of that issue as defined in section 1.148-1(c) of the Treasury Regulations.

“Investment” means (i) any security (within the meaning of section 165(g)(2)(A) or (B) of the Code), (ii) any obligation (notwithstanding that such obligation may be a tax-exempt bond), (iii) any annuity contract, (iv) when allocated to a bond other than a private activity bond, any residential rental property for family units that is not located within the jurisdiction of the issuer and that is not acquired to implement a court ordered or approved housing desegregation plan, or (v) any investment-type property (as defined in section 1.148-1(e) of the Treasury Regulations).

“Nonpurpose Investment,” with respect to an issue, means any investment other than a tax-exempt bond that is not a specified private activity bond (within the meaning of section 57(a)(5)(C) of the Code), in which Gross Proceeds of that issue are invested and that is not acquired to carry out the governmental purposes of that issue.

“Prior Issue” shall mean the Refunded Bonds.

“Proceeds,” with respect to an issue of governmental obligations, has the meaning set forth in has the meaning set forth in section 1.148-1(b) of the Treasury Regulations (referring to sales, investment and transferred proceeds, but not replacement proceeds, of that issue).

“Rebate Amount” has the meaning set forth in section 1.148-1(b) of the Treasury Regulations.

“Treasury Regulations” means the United States Treasury Regulations promulgated pursuant to sections 103 and 141 through 150 of the Code.

“Yield” shall have:

(1) with respect to any Investment or class of Investments, that meaning which is set forth in section 1.148-5 of the Treasury Regulations; and

(2) with respect to any issue, that meaning which is set forth in section 1.148-4 of the Treasury Regulations.

(B) *Not to Cause Interest to Become Taxable.* The Successor Agency shall not use, permit the use of, or omit to use Gross Proceeds of the 2015A Bonds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds) in a manner that if made or omitted, respectively, could cause the interest on the 2015A Bonds to fail to be excluded pursuant to section 103(a) of the Code from the gross income of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Successor Agency receives a written opinion of Bond Counsel to the effect that failure to comply with such covenant will not adversely affect the exclusion pursuant to section 103(a) of the Code of interest on any 2015A Bond from the gross income of the owners thereof for federal income tax purposes, the Successor Agency shall comply with each of the specific covenants in this Section.

(C) *Private Use or Private Payments.* Except as would not cause any 2015A Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Treasury Regulations and rulings thereunder, the Successor Agency shall at all times prior to the final cancellation of the last of the 2015A Bonds to be retired:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which has been or is to be financed or refinanced directly or indirectly with Gross Proceeds of the 2015A Bonds or of the Prior Issue and not use or permit the use of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, or agency or instrumentality thereof, unless such use is solely as a member of the general public;

(2) not directly or indirectly impose or accept any charge or other payment by any governmental or nongovernmental person or entity in respect of the use of Gross Proceeds of the 2015A Bonds or of the Prior Issue, or of any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, of the type described in clause (i) foregoing, other than payments that are of taxes of general application within the jurisdiction of the Successor Agency; and

(3) where the 2015A Bonds are refunded, the Successor Agency will apply the foregoing restrictions taking cognizance of the provisions of sections 1.141-3(g) and 1.141-4(c)(2)(ii) of the Treasury Regulations and of any subsequently adopted rules or regulations applicable to such a refunding.

(D) *No Private Loan.* Except as would not cause any 2015A Bond to become a “private activity bond” within the meaning of section 141 of the Code and the Treasury Regulations and rulings thereunder, the Successor Agency shall not use Gross Proceeds to make or finance any loan to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity not only if such Gross Proceeds are provided to such a person or entity under circumstances that create an indebtedness of that person or entity under local law or for federal income tax purposes, but also if: (a) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction that creates a debt for federal income tax purposes; (b) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (c) indirect benefits of such Gross Proceeds, or burdens and benefits of ownership of any property acquired, constructed or improved with such Gross Proceeds, are otherwise transferred in a transaction that is the economic equivalent of a loan. For purposes of this covenant, the Successor Agency will treat any transaction constituting a loan of Gross Proceeds of the Prior Issue as resulting in a loan of Gross Proceeds of the 2015A Bonds.

(E) *Not to Invest at Higher Yield.* Except as would not cause any 2015A Bond to become an “arbitrage bond” within the meaning of section 148 of the Code and the Treasury Regulations and rulings thereunder, the Successor Agency shall not, at any time prior to the final cancellation of the last 2015A Bond to be retired, directly or indirectly invest Gross Proceeds of the 2015A Bonds in any Investment, if as a result of such investment the Yield of any Investment or class of Investments acquired with Gross Proceeds, whether then held or previously disposed

of, would materially exceed the Yield of the 2015A Bond, all as determined in accordance with the provisions of said section 148 and Treasury Regulations and rulings.

(F) *Not Federally Guaranteed.* Except to the extent permitted by section 149(b) of the Code and the Treasury Regulations and rulings thereunder, the Successor Agency shall not take or omit to take any action that would cause any 2015A Bond to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Treasury Regulations and rulings thereunder. Without limitation of the foregoing, the Successor Agency will not permit any portion of the debt service on the 2015A Bonds to be guaranteed (in whole or in part) by the United States, or more than 5% of the proceeds of the 2015A Bonds to be loaned to any person under which the obligation of that person to repay such loan is guaranteed (in whole or in part) by the United States, or more than 5% of the proceeds of the 2015A Bonds to be invested (directly or indirectly) in federally insured deposits or accounts. For this purpose, a guarantee or insurance by an agency or instrumentality of the United States will be treated as though made or provided by the United States.

(G) *Information Report.* The Successor Agency shall timely file any information required by section 149(e) of the Code with respect to the 2015A Bonds with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(H) *Rebate of Arbitrage Profits.* Except to the extent otherwise provided in section 148(f) of the Code and the Treasury Regulations, in order to assure that no 2015A Bond is treated as an arbitrage bond:

(1) the Successor Agency shall account for all Gross Proceeds of the 2015A Bonds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last 2015A Bond is discharged. However, to the extent permitted by law, the Successor Agency may commingle Gross Proceeds of 2015A Bonds with its other monies, provided that it separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith in accordance with applicable Treasury Regulations;

(2) not less frequently than each Computation Date, the Successor Agency shall retain the services of a qualified rebate analyst to calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Treasury Regulations and rulings thereunder. The Successor Agency promptly shall report to the Trustee the results of such calculation, including the basis therefor, in sufficient detail and on a timely basis in order that the Successor Agency shall be able to comply with its covenants herein. The Trustee shall maintain a copy of the calculation with its official transcript of proceedings relating to the issuance of the 2015A Bonds until six years after the final Computation Date;

(3) to assure the exclusion pursuant to section 103(a) of the Code of interest on 2015A Bonds from the gross income of the owners thereof for federal income tax purposes, the Successor Agency shall provide to the Trustee for deposit into a “Rebate Fund” (established hereby and to be held in trust by the Trustee and governed by the Tax Certificate) an amount sufficient to permit the Successor Agency timely to pay to the United States the amount that when added to the

future value of previous rebate payments made for the 2015A Bonds equals (i) in the case of a Final Computation Date as defined in section 1.148-3(e)(2) of the Treasury Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, such rebate payments shall be made by the Successor Agency at the times and in the amounts as are or may be required by section 148(f) of the Code and the Treasury Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Treasury Regulations and rulings thereunder for execution and filing by the Successor Agency; and

(4) the Successor Agency shall exercise reasonable diligence to assure that no error is made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including by payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under section 1.148-3(h) or other provision of the Code or Treasury Regulations.

(I) *Not to Divert Arbitrage Profits.* Except to the extent permitted by section 148 of the Code and the Treasury Regulations and rulings thereunder, the Successor Agency shall, not at any time prior to the final cancellation of the last of the 2015A Bonds to be retired, enter into any transaction that reduces the amount required to be paid to the United States pursuant to paragraph (H) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield on the 2015A Bonds not been relevant to either party.

(J) *2015A Bonds Not Hedge Bonds.* The Successor Agency represents and covenants that neither the Prior Issue or the 2015A Bonds does or will not comprise "hedge bonds" within the meaning of section 149(g) of the Code. Without limitation of the foregoing, with respect to the Prior Issue, the Successor Agency warrants that: (i)(A) on the date of issuance of that issue the Prior Agency reasonably expected (based upon its own knowledge and upon representations made by other governmental persons upon the issuance of those obligations) that within the three-year period commencing on such date no less than 85% of the spendable proceeds of that issue would be expended for the governmental purposes thereof and (B) at no time has been or will be more than 50% of the proceeds of that issue invested in Nonpurpose Investments having a substantially guaranteed yield for a period of four years or more. For purposes of the preceding sentence, amounts treated as proceeds of the Prior Issue have been treated as continuing so to be proceeds of the Prior Issue notwithstanding the refunding thereof by the 2015A Bonds.

(K) *Use of Proceeds; Weighted Average Maturity.* The Successor Agency hereby represents and covenants that it will apply the proceeds of the 2015A Bonds in a manner so that the weighted average maturity of the 2015A Bonds does not exceed 120% of the average reasonably expected remaining economic life of the facilities financed or refinanced therewith (all determined in accordance with the provisions of section 147(b) of the Code).

(L) *Elections.* The Successor Agency hereby directs and authorizes the Executive Director of the Successor Agency to make elections permitted or required pursuant to the provisions of the Code or the Treasury Regulations, as such authorized Successor Agency

representative (after consultation with Bond Counsel) deems necessary or appropriate in connection with the 2015A Bonds, in the 2015A Bond as to Tax Exemption or similar or other appropriate certificate, form or document.

(M) *Closing Certificate.* The Successor Agency agrees to execute and deliver in connection with the issuance of 2015A Bonds a Tax Certificate as to Arbitrage and the Provisions of Sections 103 and 141-150 of the Code, or similar document containing additional representations and covenants pertaining to the excludability of interest from the gross income of the Owners for federal income tax purposes, which representations and covenants are incorporated as though expressly set forth herein.

Covenant 11. [Annual Review of Tax Revenues. On or before _____ 1 of each year commencing _____, 20__, the Successor Agency shall submit a written report of an Independent Redevelopment Consultant (the "Report") to the Trustee. The Report shall show the total amount of Pledged Tax Revenues remaining available to be credited to the Redevelopment Obligation Retirement Fund by the Successor Agency under the applicable Redevelopment Plan's cumulative tax increment limitation, as well as future cumulative Annual Debt Service with respect to the Bonds. The Successor Agency will not accept Pledged Tax Revenues for credit to the Redevelopment Obligation Retirement Fund in any Fiscal Year greater than the sum of the Annual Debt Service for the Outstanding Bonds, plus an amount necessary to replenish the Accounts in the Reserve Fund, if such acceptance would cause the amount remaining under the tax increment limit to fall below the remaining cumulative Annual Debt Service with respect to the Outstanding Bonds, except for the purpose of using Excess Tax Revenues for the redemption of Outstanding Bonds. If the Report shows the cumulative amount of Annual Debt Service remaining to be paid on the Outstanding Bonds to their scheduled maturity equals or exceeds ___ percent of remaining Pledged Tax Revenues that the Successor Agency is permitted to receive under the applicable Redevelopment Plan to be credited to the Redevelopment Obligation Retirement Fund, the Successor Agency shall cause the deposit of all Excess Tax Revenues in the Special Redemption Fund each Fiscal Year until all of the Outstanding Bonds have been paid or defeased. Moneys deposited in the Special Redemption Fund shall only be used to redeem Bonds as described in Section 4.6.]

Covenant 13. Further Assurances. The Successor Agency covenants to adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Indenture.

ARTICLE VI

THE TRUSTEE

Section 6.1 Duties, Immunities and Liabilities of Trustee.

(a) The Trustee shall, prior to the occurrence of an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Successor Agency may remove the Trustee at any time, unless an Event of Default shall have occurred and then be continuing, and shall remove the Trustee (i) if at any time requested to do

so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Successor Agency has knowledge that the Trustee has ceased to be eligible in accordance with subsection (e) of this Section, or has become incapable of acting, or has been adjudged as bankrupt or insolvent, or a receiver of the Trustee or its property has been appointed, or any public officer shall have taken control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of written notice of such removal by the Successor Agency to the Trustee, whereupon the Successor Agency shall appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving prior written notice of such resignation to the Successor Agency, and by giving the Owners notice of such resignation by first class mail, postage prepaid, at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Successor Agency shall promptly appoint a successor Trustee by an instrument in writing.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the Successor Agency and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Successor Agency or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Successor Agency shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Successor Agency shall mail, with a copy to the Successor Trustee, a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then has a current rating on the Bonds and to the Owners at their respective addresses shown on the Registration Books. If the Successor Agency fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Successor Agency. Notwithstanding any other provisions of this Indenture, no removal, resignation or termination of the Trustee shall take effect until a successor shall be appointed.

(e) Every successor Trustee appointed under the provisions of this Indenture shall be a trust company, national banking association, or bank in good standing authorized to exercise trust powers or having the powers of a trust company and duly authorized to exercise trust powers within the State having a combined capital and surplus of at least \$75,000,000, and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank, national banking association, or trust company shall be deemed to be its combined capital and surplus as set forth in its

most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

(f) The Trustee shall have no responsibility or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of these Bonds.

(g) Before taking any action under Article VIII or this Section 6.1 at the request or direction of the Owners, the Trustee may require that an indemnity bond satisfactory to the Trustee be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or its willful misconduct in connection with any action so taken.

Section 6.2 Merger or Consolidation. Any bank, national banking association, or trust company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank, national banking association, or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, national banking association, or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, national banking association, or trust company shall be eligible under subsection (e) of Section 6.1, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

Section 6.3 Liability of Trustee.

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Successor Agency, and the Trustee shall not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of this Indenture or of the Bonds nor shall incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee may become the Owner of any Bonds with the same rights it would have if they were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless the Trustee shall have been negligent in ascertaining the pertinent facts.

(c) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(d) The Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, except for actions arising from the negligence or willful misconduct of the Trustee. The permissive right of the Trustee to do things enumerated hereunder shall not be construed as a mandatory duty.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until it shall have actual knowledge thereof, or shall have received written notice thereof at its Corporate Trust Office. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder.

(f) No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder.

(g) The Trustee may execute any of the trust or powers hereof and perform any of its duties through attorneys, agents and receivers and shall not be answerable for the conduct of the same if appointed by it with reasonable care.

(h) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty.

(i) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

Section 6.4 Right to Rely on Documents. The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties, in the absence of negligence or willful misconduct by the Trustee. The Trustee may consult with counsel, including, without limitation, counsel of or to the Successor Agency, with regard to legal questions, and, in the absence of negligence or willful misconduct by the Trustee, the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the Successor Agency, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Written Certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable. The Trustee may conclusively rely on any certificate of report of any Independent Accountant or Independent Redevelopment Consultant appointed by the Successor Agency.

Section 6.5 Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times during regular business hours upon reasonable notice to the inspection of the Successor Agency and any Owner, and their agents and representatives duly authorized in writing, at reasonable hours and under reasonable conditions.

Section 6.6 Compensation and Indemnification. The Successor Agency shall pay to the Trustee from time to time reasonable compensation for all services rendered under this Indenture and also

all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties under this Indenture. Upon the occurrence of an Event of Default, the Trustee shall have a first lien on the Pledged Tax Revenues and all funds and accounts held by the Trustee hereunder to secure the payment to the Trustee of all fees, costs and expenses, including reasonable compensation to its experts, attorneys and counsel incurred in declaring such Event of Default and in exercising the rights and remedies set forth in Article VIII.

The Successor Agency further covenants and agrees to indemnify and hold the Trustee and its officers, directors, agents and employees, harmless against any loss, expense, and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses and those of its attorneys and advisors of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Trustee, its officers, directors, agents or employees. The obligations of the Successor Agency under this section shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

Section 6.7 Investment of Moneys in Funds and Accounts. Subject to the provisions of Article VI hereof, all moneys held by the Trustee in a Fund or Account, shall, at the written direction of the Successor Agency, be invested only in Permitted Investments. If the Trustee receives no written directions from the Successor Agency as to the investment of moneys held in any Fund or Account, the Trustee shall request such written direction from the Successor Agency and, pending receipt of instructions, shall invest such moneys solely in Permitted Investments described in subsection (b)(5) of the definition thereof.

(a) Moneys in the Redevelopment Obligation Retirement Fund shall be invested by the Successor Agency only in obligations permitted by the Health and Safety Code which will by their terms mature not later than the date the Successor Agency estimates the moneys represented by the particular investment will be needed for withdrawal from the Redevelopment Obligation Retirement Fund.

(b) Moneys in the Interest Account, the Principal Account, the Sinking Account and the Redemption Account of the Revenue Fund shall be invested by the Trustee only in obligations which will by their terms mature on such dates as to ensure that before each Interest Payment Date and Principal Payment Date, there will be in such account, from matured obligations and other moneys already in such account, cash equal to the interest and principal payable on such payment date.

(c) Moneys in the Reserve Fund shall be invested by the Trustee in (i) obligations which will by their terms mature on or before the date of the final maturity of the Bonds or five (5) years from the date of investment, whichever is earlier or (ii) an Investment Agreement which permits withdrawals or deposits without penalty at such time as such moneys will be needed or to replenish the Reserve Fund.

(d) Moneys in the Rebate Fund shall be invested in Defeasance Securities which mature on or before the date such amounts are required to be paid to the United States.

Obligations purchased as an investment of moneys in any of the Funds or Accounts shall be deemed at all times to be a part of such respective Fund or Account and the interest accruing thereon and any gain realized from an investment shall be credited to such Fund or Account and any loss resulting from any authorized investment shall be charged to such Fund or Account without liability to the Trustee. The Successor Agency or the Trustee, as the case may be, shall sell or present for redemption any obligation purchased whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such Fund or Account as required by this Indenture and shall incur no liability

for any loss realized upon such a sale. All interest earnings received on any monies invested in the Interest Account, the Principal Account, the Sinking Account, the Redemption Account or the Reserve Fund, to the extent they exceed the amount required to be in such Account, shall be transferred on each Interest Payment Date to the Revenue Fund. All interest earnings on monies invested in the Rebate Fund shall be retained in such Fund and applied as set forth in the Tax Certificate. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 6.7. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Section 6.7 hereof. The Successor Agency acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Successor Agency the right to receive brokerage confirmations of security transactions as they occur, the Successor Agency specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Successor Agency periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

The value of Permitted Investments shall be determined as follows: (i) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the Fair Market Value; (ii) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the Fair Market Value; (iii) as to certificates of deposit and bankers acceptances: the face amount thereof; and (iv) as to any investment not specified above: the value thereof established by prior agreement between the Successor Agency and the Trustee.

Section 6.8 Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of the Bonds and all funds and accounts held by it established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Successor Agency at reasonable hours and under reasonable circumstances with reasonable prior notice. The Trustee shall furnish to the Successor Agency, at least quarterly, an accounting of all transactions in the form of its regular account statements relating to the proceeds of the Bonds and all funds and accounts held by the Trustee pursuant to this Indenture.

Section 6.9 Appointment of Co-Trustee or Agent. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee or Successor Agency appoint an additional individual or institution as a separate co-trustee. The following provisions of this Section 6.9 are adopted to these ends.

In the event that the Trustee or Successor Agency appoint an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate

or co-trustee to exercise such powers, rights and remedies, and every covenant an obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Successor Agency be required by the separate trustee or co-trustee so appointed by the Trustee or Successor Agency for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Successor Agency. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

In addition to the appointment of a co-trustee hereunder, the Trustee may, at the expense and with the prior written consent of the Successor Agency, appoint any agent of the Trustee in New York, New York, for the purpose of administering the transfers or exchanges of Bonds or for the performance of any other responsibilities of the Trustee hereunder.

ARTICLE VII

MODIFICATION OR AMENDMENT OF THIS INDENTURE

Section 7.1 Amendment Without Consent of Owners. This Indenture and the rights and obligations of the Successor Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption, without consent of any Owners, to the extent permitted by law and any for one or more of the following purposes:

(a) to add to the covenants and agreements of the Successor Agency in this Indenture contained, other covenants and agreements thereafter to be observed or to limit or surrender any rights or power herein reserved to or conferred upon the Successor Agency; or

(b) to make such provisions for the purpose of curing any ambiguity, inconsistency or omission, or of curing or correcting any defective provision contained in this Indenture, or as to any other provisions of the Indenture as the Successor Agency may deem necessary or desirable, in any case which do not have a material and adverse effect on the security for the Bonds granted hereunder; or

(c) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute; or

(d) to modify or amend any provision of this Indenture with any effect and to any extent whatsoever permissible by law, provided that any such modification or amendment shall apply only to the Bonds issued and delivered subsequent to the execution and delivery of the applicable Supplemental Indenture.

Section 7.2 Amendment With Consent of Owners. Except as set forth in Section 7.1, this Indenture and the rights and obligations of the Successor Agency and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding when the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof, or extend the time of payment, without the consent of the Owner

of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or (iii) permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture or deprive the Owners of the Bonds of the lien created by this Indenture on such Pledged Tax Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding. It shall not be necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof. Promptly after the execution by the Successor Agency and the Trustee of any Supplemental Indenture pursuant to this subsection (a), the Trustee shall cause to be mailed a notice (the form of which shall be furnished to the Trustee by the Successor Agency), by first class mail postage prepaid, setting forth in general terms the substance of such Supplemental Indenture, to the Owners of the Bonds at the respective addresses shown on the Registration Books. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Indenture.

Section 7.3 Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 7.4 Endorsement or Replacement of Bonds After Amendment. After the effective date of any amendment or modification hereof pursuant to this Article VII, the Successor Agency may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the Successor Agency, as to such amendment or modification and in that case upon demand of the Successor Agency, the Owners of such Bonds shall present such Bonds for that purpose at the Corporate Trust Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the Successor Agency may determine that new Bonds shall be prepared and executed in exchange for any or all of the Bonds and, in that case upon demand of the Successor Agency, the Owners of the Bonds shall present such Bonds for exchange at the Corporate Trust Office of the Trustee, without cost to such Owners.

Section 7.5 Amendment by Mutual Consent. The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

Section 7.6 Opinion of Counsel. The Trustee shall be provided an opinion of counsel that any such Amendment or Supplemental Indenture entered into by the Successor Agency and the Trustee complies with the provisions of this Article VII and the Trustee may conclusively rely upon such opinion.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF OWNERS

Section 8.1 Events of Default and Acceleration of Maturities. The following events shall constitute Events of Default hereunder:

(a) if default shall be made in the due and punctual payment of the principal of or interest or redemption premium (if any) on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made by the Successor Agency in the observance of any of the covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, other than a default described in the preceding clause (a), and such default shall have continued for a period of thirty (30) days following receipt by the Successor Agency of written notice from the Trustee or any Owner of not less than 50% in aggregate principal amount of the Outstanding Bonds; provided, that if such default is such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Successor Agency within the applicable period and diligently pursued until the default is corrected, which period shall not be longer than sixty (60) days from the date of written notice specifying the failure; or

(c) if the Successor Agency shall commence a voluntary action under Title 11 of the United States Code or any substitute or successor statute.

If an Event of Default has occurred and is continuing, the Trustee may, or if requested in writing by the Owners of the majority in aggregate principal amount of the Bonds then Outstanding, the Trustee shall, by written notice to the Successor Agency, (a) only in the event of a default under Section 8.1(a), declare the principal of the Bonds, together with the accrued interest thereon, to be due and payable immediately, and upon any such declaration the same shall become immediately due and payable, and (b) upon any Event of Default (with receipt of indemnity to its satisfaction) exercise any remedies available to the Trustee and the Owners in law or at equity.

Immediately upon becoming aware of the occurrence of an Event of Default, the Trustee shall give notice of such Event of Default to the Successor Agency by telephone confirmed in writing. Such notice shall also state whether the principal of the Bonds shall have been declared to be or have immediately become due and payable. With respect to any Event of Default described in clauses (a) or (c) above the Trustee shall, and with respect to any Event of Default described in clause (b) above the Trustee in its sole discretion may, also give such notice to the Successor Agency, and the Owners in the same manner as provided herein for notices of redemption of the Bonds, which shall include the statement that interest on the Bonds shall cease to accrue from and after the date, if any, on which the Trustee shall have declared the Bonds to become due and payable pursuant to the preceding paragraph (but only to the extent that principal and any accrued, but unpaid interest on the Bonds is actually paid on such date.)

This provision, however, is subject to the condition that if, at any time after the principal of the Bonds shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Successor Agency shall deposit with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal and interest (to the extent permitted by law) at the net effective rate then borne by the Outstanding Bonds, and the reasonable fees and expenses of the Trustee, including but not limited to attorneys' fees, and any and all other defaults known to the Trustee (other than in the payment of

principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Successor Agency and to the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Upon the occurrence of an event of default, the Trustee may, with the consent of a majority of the Owners, by written notice to the Successor Agency, declare the principal of the Bonds to be immediately due and payable, whereupon that portion of the principal of the Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, anything in this Indenture in the Bonds to the contrary notwithstanding.

Section 8.2 Application of Funds Upon Acceleration. All of the Pledged Tax Revenues and all sums in the funds and accounts established and held by the Trustee hereunder upon the date of the declaration of acceleration as provided in Section 8.1, and all sums thereafter received by the Trustee hereunder, shall be applied by the Trustee in the order following, upon presentation of the several Bonds, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in exercising the rights and remedies set forth in this Article VIII, including reasonable compensation to its agents, attorneys and counsel including all sums owed the Trustee pursuant to Section 6.6 herein; and

Second, to the payment pro rata of the whole amount then owing and on the respective Series of Bonds (and any refunding bonds payable from Pledged Tax Revenues on a parity with Outstanding Bonds) for principal and interest, with interest on the overdue principal and installments of interest at the net effective rate then borne by the Outstanding Bonds (to the extent that such interest on overdue installments of principal and interest shall have been collected), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest or any Bond over any other Bond.

Section 8.3 Power of Trustee to Control Proceedings. If the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

Section 8.4 Limitation on Owner's Right to Sue. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the

occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provisions of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of and interest and redemption premium (if any) on such Bond as herein provided, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

Section 8.5 Non-waiver. Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, shall affect or impair the obligation of the Successor Agency, which is absolute and unconditional, to pay from the Pledged Tax Revenues and other amounts pledged hereunder, the principal of and interest and redemption premium (if any) on the Bonds to the respective Owners on the respective Interest Payment Dates, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of the Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Owner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by the Health and Safety Code or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If a suit, action or proceeding to enforce any right or exercise any remedy shall be abandoned or determined adversely to the Owners, the Successor Agency and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

Section 8.6 Actions by Trustee as Attorney-in-Fact. Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, provided the Trustee shall have no duty or obligation to enforce any such right or remedy if it has not been indemnified to its satisfaction from loss, liability or any expense including, but not limited to reasonable fees and expenses of its attorneys.

Section 8.7 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Health and Safety Code or any other law.

ARTICLE IX

MISCELLANEOUS

Section 9.1 Benefits Limited to Parties. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the Successor Agency, the Trustee, and the registered Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Successor Agency shall be for the sole and exclusive benefit of the Successor Agency, the Trustee, and the registered Owners of the Bonds.

Section 9.2 Successor is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Indenture either the Successor Agency or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Successor Agency or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.3 Discharge of Indenture. If the Successor Agency shall pay and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

(i) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on all Outstanding Bonds, including all principal, interest and redemption premiums, (if any), or;

(ii) by irrevocably depositing with the Trustee or another fiduciary, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, is fully sufficient to pay all Outstanding Bonds, including all principal, interest and redemption premiums (if any), or,

(iii) by irrevocably depositing with the Trustee or another fiduciary, in trust, Defeasance Securities in such amount as an Independent Certified Public Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds (including all principal, interest and redemption premiums, if any) at or before maturity, and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been given pursuant to Section 2.3(h) or provision satisfactory to the Trustee shall have been made for the giving of such notice then, at the election of the Successor Agency, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Pledged Tax Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the Successor Agency under this Indenture with respect to all Outstanding Bonds shall cease and terminate, except only (a) the obligation of the Trustee to transfer and exchange Bonds hereunder and (b) the obligation of the Successor Agency to pay or cause to be paid to the Owners, from the amounts so deposited with

the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. Notice of such election shall be filed with the Trustee. Any funds thereafter held by the Trustee, which are not required for said purpose, shall be paid over to the Successor Agency.

Section 9.4 Execution of Documents and Proof of Ownership by Owners. Any request, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of Bonds and the amount, maturity, number and date of ownership thereof shall be provided by the Registration Books.

Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Successor Agency or the Trustee in good faith and in accordance therewith.

Section 9.5 Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Successor Agency or the City (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, provided, however, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded.

Section 9.6 Waiver of Personal Liability. No member, officer, agent or employee of the Successor Agency shall be individually or personally liable for the payment of the principal of or interest or redemption premium (if any) on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.7 Destruction of Canceled Bonds. Whenever in this Indenture provision is made for the surrender to the Trustee of any Bonds which have been paid or canceled pursuant to the provisions of this Indenture, the Trustee shall destroy such Bonds and upon written request of the Successor Agency, provide the Successor Agency a certificate of destruction. The Successor Agency shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

Section 9.8 Notices. Any notice, request, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by first class mail, postage prepaid, or sent by telegram or facsimile, addressed as follows:

If to the Successor Agency: Successor Agency of the Dissolved Redevelopment Agency of
the City of Banning
c/o City of Banning
99 E. Ramsey Street
Banning, California 92220
Attention: Executive Director

If to the Trustee: U.S. Bank National Association
633 West Fifth Street, 24th Floor
Los Angeles, California 90071
Attention: Corporate Trust Services

If to the Rating Agency: Standard & Poor's
State & Local Government
55 Water Street
New York, New York 10041

Section 9.9 Partial Invalidity. If any section, paragraph, sentence, clause or phrase of this Indenture shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Successor Agency hereby declares that it would have adopted this Indenture and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Trustee hereunder shall, pending appointment of a successor Trustee in accordance with the provisions of Section 6.1 hereof, be assumed by and vest in the Finance Officer of the Successor Agency in trust for the benefit of the Owners that the Finance Officer in such case shall be vested with all of the rights and powers of the Trustee hereunder, and shall assume all of the responsibilities and perform all of the duties of the Trustee hereunder, in trust for the benefit of the Owners, pending appointment of a successor Trustee in accordance with the provisions of Section 6.1 hereof.

Section 9.10 Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal of the Bonds which remains unclaimed for two (2) years after the date when the payments of such interest, premium (if any) and principal have become payable, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal of such Bonds have become payable, shall be repaid by the Trustee to the Successor Agency as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Successor Agency for the payment of the principal of and interest and redemption premium (if any) on such Bonds.

Section 9.11 Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.12 Governing Law. This Indenture shall be construed and governed in accordance with the laws of the State.

Section 9.13 Payments Due on Other Than a Business Day. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment, with no interest accruing for the period from and after such nominal date, may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided therefore in this Indenture.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the SUCCESSOR AGENCY OF THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF BANNING, has caused this Indenture to be signed in its name by its [Executive Director] and attested by its Secretary, and U.S. Bank National Association, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer hereunto duly authorized, all as of the day and year first above written.

SUCCESSOR AGENCY OF THE DISSOLVED
REDEVELOPMENT AGENCY OF THE CITY OF
BANNING

By: _____
[Executive Director]

ATTEST:

By: _____
Secretary

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

EXHIBIT A

(FORM OF 2015A BOND)

§

UNITED STATES OF AMERICA

STATE OF CALIFORNIA

(COUNTY OF RIVERSIDE)

SUCCESSOR AGENCY OF THE

DISSOLVED COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING

TAX ALLOCATION REFUNDING BONDS, SERIES 2015A

(TAX-EXEMPT)

Interest Rate

Maturity Date

Dated Date

CUSIP

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: DOLLARS

The SUCCESSOR AGENCY OF THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF BANNING, a public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California (the "Successor Agency"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond, unless (i) this Bond is authenticated on an interest payment date, in which event it shall bear interest from such date of authentication, or (ii) this Bond is authenticated prior to an interest payment date and after the close of business on the fifteenth calendar day of the month preceding such interest payment date (a "Record Date"), in which event it shall bear interest from such interest payment date, or (iii) this Bond is authenticated on or before _____ 20__, in which event it shall bear interest from the Dated Date stated above; provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond, until payment of such Principal Sum in full, at the rate per annum stated above, payable semiannually on March 1 and September 1 in each year (each an "Interest Payment Date"), commencing _____, 20__, calculated on the basis of a 360-day year composed of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender of this Bond at the corporate trust office of U.S. Bank National Association, as trustee (the "Trustee"). Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check of the Trustee mailed on the interest payment date by first class mail to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books maintained by the Trustee at the close of business on the Record Date next preceding such interest payment date; provided, however, that upon the written request of any Registered Owner of at least \$1,000,000 in principal amount of Bonds received by the Trustee at least fifteen (15)

days prior to such Record Date, payment shall be made by wire transfer in immediately available funds to an account in the United States designated by such Owner.

This Bond is one of a duly authorized issue of Bonds of the Successor Agency designated as "Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015A (Tax-Exempt)" (the "Bonds"), in an aggregate principal amount of \$[2015A PAR AMOUNT], all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers, maturities, interest rates or redemption and other provisions) and all issued pursuant to the provisions of the Community Redevelopment Law, beginning with Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code of the State of California (the "Health and Safety Code"), and pursuant to an Indenture, dated as of _____ 1, 2015, entered into by and between the Successor Agency and the Trustee (the "Indenture"), authorizing the issuance of the Bonds. No additional bonds, notes or other obligations may be issued on a parity with the Bonds. Reference is hereby made to the Indenture (a copy of which is on file at the office of the Successor Agency) and all indentures supplemental thereto and to the Health and Safety Code for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Pledged Tax Revenues, as that term is defined in the Indenture, and the rights thereunder of the registered owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds shall be and are special obligations of the Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from Pledged Tax Revenues and other funds as hereinafter provided. The Bonds, interest thereon and premium, if any, are not a debt of the City, the County, the State or any of its political subdivisions (except the Successor Agency), and none of the City, the County, the State nor any of its political subdivisions (except the Successor Agency) is liable thereon. The Bonds, interest thereon and premium, if any, are not payable from any funds or properties other than those set forth in this Indenture. None of the members of the Successor Agency Board, or any persons executing the Bonds is liable personally on the Bonds by reason of their issuance.

There has been created and will be maintained by the Successor Agency the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Pledged Tax Revenues shall be deposited and transferred to the Trustee for deposit into the Revenue Fund (as defined in the Indenture) from which the Trustee shall pay the principal of and interest and redemption premium (if any) on the Bonds when due. As and to the extent set forth in the Indenture, all such Pledged Tax Revenues are exclusively and irrevocably pledged to and constitute a trust fund for, in accordance with the terms hereof and the provisions of the Indenture and the Health and Safety Code, the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds.

The Bonds are subject to redemption prior to their maturity as provided in the Indenture. If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 each and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The Trustee shall not be required to register the transfer or exchange of any Bond (i) during the period established by the Trustee for selection of Bonds for redemption or (ii) selected for redemption.

The Successor Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Successor Agency and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Successor Agency and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, reduce the percentage of Bonds required for the written consent to any such amendment or modification or, without its written consent thereto, modify any of the rights or obligations of the Trustee.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the Health and Safety Code and the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Health and Safety Code or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the Trustee's Certificate of Authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Successor Agency of the Dissolved Redevelopment Agency of the City of Banning has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signatures of its Chairman and its Secretary, all as of the Delivery Date.

SUCCESSOR AGENCY OF THE DISSOLVED
COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF BANNING

By: _____
Chairman

By: _____
Secretary

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: ____ __, 20 __

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

(FORM OF ASSIGNMENT)

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within-registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____ attorney, to transfer the same on the
bond register of the Trustee with full power of substitution in the premises.

Dated: _____

Note: The signature(s) on this Assignment must
correspond with the name(s) as written on the face of
the within Bond in every particular without alteration
or enlargement or any change whatsoever.

Signature Guaranteed:

Note: Signature(s) must be guaranteed by
an "eligible guarantor institution."

EXHIBIT B

(FORM OF 2015B BOND)

No. R-__

\$_____

**UNITED STATES OF AMERICA
STATE OF CALIFORNIA
(COUNTY OF RIVERSIDE)**

**SUCCESSOR AGENCY OF THE
DISSOLVED COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING
TAX ALLOCATION REFUNDING BONDS,
SERIES 2015B
(TAXABLE)**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Dated Date</u>	<u>CUSIP</u>
----------------------	----------------------	-------------------	--------------

REGISTERED OWNER: CEDE & CO.

PRINCIPAL SUM: _____ DOLLARS

The SUCCESSOR AGENCY OF THE DISSOLVED REDEVELOPMENT AGENCY OF THE CITY OF BANNING, a public body, corporate and politic, duly organized and existing under and by virtue of the laws of the State of California (the "Successor Agency"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the interest payment date next preceding the date of authentication of this Bond, unless (i) this Bond is authenticated on an interest payment date, in which event it shall bear interest from such date of authentication, or (ii) this Bond is authenticated prior to an interest payment date and after the close of business on the fifteenth calendar day of the month preceding such interest payment date (a "Record Date"), in which event it shall bear interest from such interest payment date, or (iii) this Bond is authenticated on or before _____, 20__, in which event it shall bear interest from the Dated Date stated above; provided, however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the interest payment date to which interest has previously been paid or made available for payment on this Bond, until payment of such Principal Sum in full, at the rate per annum stated above, payable semiannually on March 1 and September 1 in each year (each an "Interest Payment Date"), commencing _____, 20__, calculated on the basis of a 360-day year composed of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender of this Bond at the corporate trust office of U.S. Bank National Association, as trustee (the "Trustee"). Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check of the Trustee mailed on the interest payment date by first class mail to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books maintained by the Trustee at the close of business on the Record Date next preceding such interest payment date; provided, however, that upon the written request of any Registered

Owner of at least \$1,000,000 in principal amount of Bonds received by the Trustee at least fifteen (15) days prior to such Record Date, payment shall be made by wire transfer in immediately available funds to an account in the United States designated by such Owner.

This Bond is one of a duly authorized issue of Bonds of the Successor Agency designated as "Successor Agency of the Dissolved Redevelopment Agency of the City of Banning Tax Allocation Refunding Bonds, Series 2015B (Taxable)" (the "Bonds"), in an aggregate principal amount of \$[2015B PAR AMOUNT], all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers, maturities, interest rates or redemption and other provisions) and all issued pursuant to the provisions of the Community Redevelopment Law, beginning with Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code of the State of California (the "Health and Safety Code"), and pursuant to an Indenture, dated as of _____, 2015, entered into by and between the Successor Agency and the Trustee (the "Indenture"), authorizing the issuance of the Bonds. No additional bonds, notes or other obligations may be issued on a parity with the Bonds. Reference is hereby made to the Indenture (a copy of which is on file at the office of the Successor Agency) and all indentures supplemental thereto and to the Health and Safety Code for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Pledged Tax Revenues, as that term is defined in the Indenture, and the rights thereunder of the registered owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Successor Agency thereunder, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds shall be and are special obligations of the Successor Agency and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from Pledged Tax Revenues and other funds as hereinafter provided. The Bonds, interest thereon and premium, if any, are not a debt of the City, the County, the State or any of its political subdivisions (except the Successor Agency), and none of the City, the County, the State nor any of its political subdivisions (except the Successor Agency) is liable thereon. The Bonds, interest thereon and premium, if any, are not payable from any funds or properties other than those set forth in this Indenture. None of the members of the Successor Agency Board, the Oversight Board, the County Board of Supervisors, or any employee or officer of the County, or any persons executing the Bonds is liable personally on the Bonds by reason of their issuance.

There has been created and will be maintained by the Successor Agency the Redevelopment Obligation Retirement Fund (as defined in the Indenture) into which Pledged Tax Revenues shall be deposited and transferred to the Trustee for deposit into the Revenue Fund (as defined in the Indenture) from which the Trustee shall pay the principal of and interest and redemption premium (if any) on the Bonds when due. As and to the extent set forth in the Indenture, all such Pledged Tax Revenues are exclusively and irrevocably pledged to and constitute a trust fund for, in accordance with the terms hereof and the provisions of the Indenture and the Health and Safety Code, the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Successor Agency shall be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds.

The Bonds are subject to redemption prior to their maturity as provided in the Indenture. If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

If an Event of Default, as defined in the Indenture, shall occur, the principal of all Bonds may be declared due and payable upon the conditions, in the manner and with the effect provided in the

Indenture, but such declaration and its consequences may be rescinded and annulled as further provided in the Indenture.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 each and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor.

The Trustee shall not be required to register the transfer or exchange of any Bond (i) during the period established by the Trustee for selection of Bonds for redemption or (ii) selected for redemption.

The Successor Agency and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Successor Agency and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Successor Agency and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Successor Agency to pay the principal, interest or redemption premiums (if any) at the time and place and at the rate and in the currency provided herein of any Bond without the express written consent of the registered owner of such Bond, reduce the percentage of Bonds required for the written consent to any such amendment or modification or, without its written consent thereto, modify any of the rights or obligations of the Trustee.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the Health and Safety Code and the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Successor Agency, does not exceed any limit prescribed by the Health and Safety Code or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the Trustee's Certificate of Authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Successor Agency of the Dissolved Redevelopment Agency of the City of Banning has caused this Bond to be executed in its name and on its behalf with the manual or facsimile signatures of its Chairman and its Secretary, all as of the Delivery Date.

SUCCESSOR AGENCY OF THE DISSOLVED
REDEVELOPMENT AGENCY OF THE CITY OF
BANNING

By: _____
Chairman

By: _____
Secretary

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: _____, 20__

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Authorized Officer

(FORM OF ASSIGNMENT)

For value received the undersigned hereby sells, assigns and transfers unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within-registered Bond and hereby irrevocably constitute(s) and appoint(s) _____
_____ attorney, to transfer the same on the
bond register of the Trustee with full power of substitution in the premises.

Dated: _____

Note: The signature(s) on this Assignment must
correspond with the name(s) as written on the face of
the within Bond in every particular without alteration
or enlargement or any change whatsoever.

Signature Guaranteed:


Note: Signature(s) must be guaranteed by
an "eligible guarantor institution."

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CITY COUNCIL AGENDA

DATE: October 13, 2015

TO: Honorable Mayor & Banning City Council

FROM: Lona Laymon, City Attorney 

SUBJECT: Village at Paseo San Gorgonio Project: Proposed Transfer of Project Development to Vanir Companies, Extension of Design Review and Second Amendment to Purchase and Sale Agreement Governing Project

INTRODUCTION:

At its last Council meeting, the Council determined to extend the Village at Paseo San Gorgonio Project's ("**Project**") Design Review approvals to October 31, 2015, contingent upon a start of vertical construction by the end of August 2015. The efforts to secure an August 31 construction start date with the original developer JMA Village, LLC ("**JMA**") have been unsuccessful, and JMA has essentially abandoned the Project. JMA has informed staff that it is not in a position to proceed and is no longer responding.

However, in mid-August, the Project's sub-developers for Parcel 1, the Vanir Group of Companies, Inc. ("**Vanir**"), expressed interest in assuming the entire Project. A Council Subcommittee has met with Vanir and the City Attorney's office has been negotiating with Vanir to formulate an acceptable means of transferring all rights and obligations relating to Project development to Vanir. While Vanir's initial proposal for assuming the Project contained certain legal elements that were unacceptable to the Council's subcommittee, Vanir has agreed to "drop" most, if not all, of the conditions to its transfer proposal that the Council subcommittee found objectionable. For example, Vanir's original proposal placed an indemnity obligation upon the City in the event of redevelopment-related litigation but that term has been dropped in the course of negotiations. Attached hereto as Exhibit "A" is a chart summarizing the proposed transfer terms, showing the original proposed terms from Vanir versus the terms that have been finalized with the City Attorneys' office.

RECOMMENDATION:

Recommended Council actions are:

1. Approve the "Master Transfer Agreement and Escrow Instructions" for Project Transfer to Vanir (Exhibit "B") ("**Master Transfer Agreement**"). This action would include approval of the following attendant instruments which are attached to the Master Transfer Agreement:

- a) "Assignment and Assumption Agreement and Consent" approving Vanir's assumption of all rights and obligations in re the Project (attached as Exhibit "B to Master Transfer Agreement);

- b) "Second Amendment to Purchase and Sale Agreement of Real Property and Joint Escrow Instructions" clarifying terms of the original Project, including new timeframes for project build-out (*Exhibit "D-1 and D-2" to Master Transfer Agreement*);
- c) "Completion and Payment Guaranty" by which Vanir absolutely and unconditionally guarantees both (i) repayment of the Note, and (ii) completion of the Project which shall be constructed, completed, equipped and furnished in a good and workmanlike manner free from mechanic liens (*Exhibit "E" to Master Transfer Agreement*); and
- d) "Subordination Agreement" to allow Project construction financing (*Exhibit "C" to Master Transfer Agreement*) to be executed by the City upon certain conditions specified in the Transfer Agreement.

- 2. Extend the existing Design Review expiration date to January 31, 2016.

BACKGROUND:

On May 24, 2011, the City Council adopted Resolution No. 2011-44 adopting an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approving Design Review No. 10-702 and Tentative Parcel Map No. 36285 to construct a mixed-use commercial development, known as the "Village at Paseo San Geronio" project ("**Project**").

On January 24, 2012, the City entered into that certain Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions dated January 24, 2012 ("**Original PSA**") to sell the property described therein ("**Property**") to JMA Village, LLC ("**JMA**") which included detailed specified post-closing obligations respecting the development of the Property. On June 10, 2014, the City Council approved the First Amendment to the Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions with JMA Village, LLC ("**PSA Amendment**"). The Original PSA as amended by the PSA Amendment is hereinafter referred to as the "**Amended PSA**".

On May 1, 2013 the Planning Commission adopted Resolution No. 2013-07 approved a two (2) year time extension for Design Review No. 10-702 until May 24, 2015 so that the discretionary land use entitlement approval would correspond with the Amended PSA.

The entire purchase price for the Property (\$1,020,000) was paid by that certain Promissory Note from Developer to the City in the principal sum of \$1,020,000 ("**Note**") which was secured by a deed of trust against the Property ("**Deed of Trust**"). Pursuant to the terms of the Note, the maturity date was December 14, 2014. However, JMA previously asserted through its legal counsel that, although not formally documented by an amendment to the Note, it was the intention of the parties that the First Amendment also extend the maturity date of the Note which would be August 31, 2015.

JMA previously entered into an agreement with Vanir to form Banning Office Venture LLC whereby JMA owned 49% and Vanir owned 51% ("**Banning Office LLC**"). JMA

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committed to contribute Parcel 1 to Banning Office LLC which would develop the office building on Parcel 1. To date, fee title to Parcel 1 has not been transferred to Banning Office LLC. Banning Office LLC has entered into two (2) leases with the County of Riverside ("**County**") for portions of the office building to be constructed on Parcel 1: (a) one for the probation department, and (b) one for the district attorney's office (jointly the "**County Leases**").

At the City Council meeting on August 25, 2015, the City Council authorized the extension of the current Design Review No. 10-702 to October 31, 2015, upon the condition that by the date of October 31, 2015, we would have definitive documentation for Vanir to essentially "take over" the Project in its entirety and extricate JMA from the Project. The City Attorney's office has been in continuous negotiation with Vanir, and the exhibits attached hereto represent such documentation to the satisfaction of the City Attorneys' office.

The City's Ad Hoc Committee appointed to this Project did meet with Vanir on August 17, 2015. At that time, Vanir's initial proposal for assuming the Project contained certain legal elements that were unacceptable to the Council's subcommittee. However, Vanir has agreed to "drop" most, if not all, of the conditions to its transfer proposal that the Council subcommittee found objectionable. For example, Vanir's original proposal placed an indemnity obligation upon the City in the event of redevelopment-related litigation but that term was dropped in the course of negotiations. Attached hereto as Exhibit "A" is a chart summarizing the proposed transfer terms, showing the original proposed terms by Vanir against the terms that have been negotiated by the City Attorneys' office.

Since the Ad Hoc Committee meeting, the City Attorney's office has negotiated a complex set of documents to memorialize the transfer of the Project to Vanir and extricate JMA from all dealings. Vanir has negotiated a settlement agreement with JMA which will result in the following assignments/transfers to close through escrow concurrently with the Master Transfer Agreement by December 4, 2015:

- Vanir will acquire all JMA's ownership interest in Banning Office LLC making Banning Office LLC a wholly-owned subsidiary of Vanir. This is very beneficial as there will be no need to modify the lease documents existing between Banning Office LLC and proposed lessees (including the County).
- Concurrently, fee title of the Project will be transferred directly to Vanir's now-wholly-owned subsidiary, Banning Office LLC by a grant deed ("**Deed**").
- Concurrently with the transfers described above, JMA will assign to Banning Office LLC all the Project's rights and entitlements, and Banning Office LLC will assume all said Project obligations in the form attached to the Master Transfer Agreement as Exhibit "B" ("**Assignment and Assumption Agreement**").
- Vanir is solely responsible, at its cost and expense, to obtain JMA's execution of the Assignment and Assumption Agreement, the Deed, and all other documents required to effect the transfers.

The transfers from JMA summarized above shall close either prior to or concurrently through escrow with the Master Transfer Agreement on December 4, 2015.

A "Second Amendment to Purchase and Sale Agreement of Real Property and Joint Escrow Instructions" (See Exhibit D-1 and D-2 to the Master Transfer Agreement) clarify the development requirements of the Project, including new timeframes for the Project build-out which are:

- Vertical construction on the *first* Phase shall commence by December 15, 2015.
- Vertical construction on at least a *second* Phase shall commence no later than August 1, 2016.
- Vertical construction on at least a *third* Phase shall commence no later than January 1, 2017.
- Vertical construction on at least a *fourth* Phase shall commence no later than December 1, 2017.
- Completion of all Project improvements by December 1, 2018.

VANIR FINANCIAL SUITABILITY FOR PROJECT TAKE-OVER.

All transfers of the Developer's interests in the Project are subject to the provisions of Section 11.1 of the Original PSA which specify that any transfer proposal shall include the following considerations: (i) whether the completion of the Project is jeopardized; (ii) the financial strength and capability of the proposed assignee to perform Original PSA obligations; (iii) the proposed assignee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (iv) how the proposed assignee will complement the other users and uses in the City of Banning downtown area, whether commercial users or otherwise. To this end, the City Attorney's office has gathered the following information with respect to Vanir Group of Companies, Inc.:

- Vanir Group of Companies, Inc. is the parent company of Vanir Construction Management, Inc. and Vanir Development Company, Inc. Vanir was originally formed 50 years ago in San Bernardino, CA. Vanir currently has over 10 offices in California, and also operates in 10 other states with over 375 professionals including architects, engineers, construction managers, contractors and developers.
- The Vanir companies serve clients in 7 unique market segments: K-12 Education, Higher Education, Healthcare, Justice Facilities, Water/Waste Water, Public Buildings and Transportation.
- Vanir has constructed or renovated public buildings including civic centers, office buildings, libraries, police and fire stations, cultural and arts facilities and community centers. Specific projects constructed by Vanir

include: Sacramento Fire Station No. 52; NASA Jet Propulsion Laboratory and Flight Project Center; City of Temecula – Old Town Theater; Town of Gilbert Public Safety Building; and Manhattan Beach Police & Fire Facility.

- Vanir has also designed, constructed and operated several retail developments for its own project portfolio including the Foothill Village Oaks Retail Center in Roseville, CA, the Lincoln Gateway Center in Lincoln, CA and the Dominguez Plaza in Colton, CA, as well as several build to suit office buildings for the County of Riverside and the County of San Bernardino.
- A review of 3 years of Vanir consolidated financial statements (unaudited) showed a modest profit despite the recession. Vanir's balance sheet showed good cash resources available and significant real property assets and substantial equity. In accordance with accounting standards, Vanir's balance sheet showed real property assets at their original cost. However, supplemental information was provided showing the fair market value of the real estate assets using the lower of assessed value or broker appraisals. Using "fair market value", Vanir has substantial net equity in the mid-9 figure range.

Furthermore, the Transfer Agreement is *directly with the Vanir Group of Companies, Inc.* which is an entity with substantial assets ("**Vanir Parent Company**"). Rather than dealing with a "shell" corporation with limited assets (as was the case with the original JMA deal), the City would be in direct contractual privity with Vanir Parent Company. Although the Property will be vested in Banning Venture LLC, that entity will be a wholly-owned subsidiary of Vanir Parent Company. Furthermore, Vanir Parent Company is full guaranteeing **both** (i) repayment of the Note; and (ii) completion of the Project. pursuant to that certain "Completion and Payment Guaranty" attached as Exhibit "E" to the Master Transfer Agreement.


FISCAL DATA: None foreseeable at this time.

SUBMITTED BY:



Lona Laymon
City Attorney

APPROVED BY:



Dean Martin
Interim City Manager/Interim Administrative Services Director

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ATTACHMENTS

1. Attached hereto as *Exhibit "A"* is a chart summarizing the proposed transfer terms, showing the original proposed terms from Vanir versus the terms that have been finalized with the City Attorneys' office.

2. Attached hereto as *Exhibit "B"* is the Master Transfer Agreement between the City and Vanir negotiated by the City Attorney's office.

RECOMMENDATION:

Recommended Council actions are:

1. Approve the "Master Transfer Agreement and Escrow Instructions" for Project transfer to Vanir (*Exhibit "B"*). This action would include approval of the following attendant instruments:

- a) "Assignment and Assumption Agreement and Consent" approving Vanir's assumption of all rights and obligations in re the Project (attached as *Exhibit "B" to the Master Transfer Agreement*);
- b) "Second Amendment to Purchase and Sale Agreement of Real Property and Joint Escrow Instructions" clarifying terms of the original Project, including new timeframes for project build-out (attached as *Exhibit "D-1 and D-2" to the Master Transfer Agreement*);
- c) "Completion and Payment Guaranty" by which Vanir absolutely and unconditionally guarantees (i) repayment of the Note; and (ii) completion of the Project which shall be constructed, completed, equipped and furnished in a good and workmanlike manner free of mechanic liens (attached as *Exhibit "E" to the Master Transfer Agreement*); and
- d) "Subordination Agreement" to allow Project construction financing (attached as *Exhibit "C" to the Master Transfer Agreement*).

2. Extend the existing Design Review expiration date to January 31, 2016.



COMPARISON OF CURRENT DEAL TERMS TO VANIR'S ORIGINAL 8/17/15 PROPOSAL

VANIR'S 8/17/15 PROPOSAL	CURRENT TERMS IN TRANSFER AGREEMENT
CITY TRANSFER OF JMA AGREEMENTS TO VANIR'S SUBSIDIARY, BANNING OFFICE VENTURE, LLC	
1. Assignment and Assumption of Purchase & Sale Agreement	
a. City and Vanir will negotiate form of agreement in advance of City Council Meeting scheduled for September 8, 2015.	Master Transfer Agreement and related documents negotiated.
b. PSA amended to incorporate modified schedule and targeted completion dates, with phasing <ul style="list-style-type: none"> i. Phase 1, Office – commencement 12/1/15, completion 12/01/16 ii. Phase 2, Retail – commencement 8/01/16, completion 6/01/17 iii. Phase 3, Restaurant – commencement 1/01/17, completion 11/01/17 iv. Phase 4, Mixed Use – commencement 12/01/17, completion 12/01/18 	Schedule confirmed in Second PSA Amendment with commencement of Phase 1 by 12/15/15.
c. Schedule subject to modification if design review not completed and all City entitlements not in hand by November 30, 2015.	Schedule is confirmed in Second PSA Amendment.
d. Any and all JMA defaults shall not be enforced against Vanir entities.	Vanir is assuming JMA obligations. City reserves rights against JMA.
2. Promissory Note and Deed of Trust	
a. City advises that these agreements may not be capable of amendment.	Confirmed.
b. City and Vanir to enter into a separate stand alone Forbearance Agreement as detailed below.	Limited forbearance in Second PSA Amendment subject to certain continuing obligations.
c. Any and all JMA defaults shall not be enforced against Vanir entities.	Vanir is assuming JMA obligations. City reserves rights against JMA.
3. Assignment and Assumption of All Project Entitlements	
a. Vanir defers to City as to mechanism to accomplish transfers.	Provided in Assignment/Assumption Agreement with JMA, Vanir and City.

<p>b. JMA made a request for design review extension prior to expiration</p> <p>i. If design review has not been extended, then it must be completed and all construction permits ready for pickup by November 30, 2015 in order to close construction financing and commence office building construction by December 2015.</p>	<p>Design Review extension to January 31, 2016 to be considered concurrently with approval Transfer Agreement.</p> <p>NOTE: Vanir is providing completion guaranty for <u>entire</u> Project.</p>
c. Vanir reserves the right to revisit Project Conditions of Approval	Vanir agreed to drop.
<p>4. Vanir's agreement to the Assumption of the PSA, Note, Deed of Trust and Entitlements and to the Modified Schedule are all conditional upon Promissory Note Forbearance, County Cooperation and JMA Cooperation, as detailed below.</p>	<p>Transfer Agreement provides for subsidiary (Banning Office Venture) to assume PSA, Note, Deed of Trust and Entitlements. JMA to assign concurrently at Closing.</p> <p>NOTE 1: Vanir has settled with JMA which is to transfer all interests (direct and indirect) in Project to Vanir.</p> <p>NOTE 2: Vanir is executing <u>full payment guaranty</u> of Note.</p> <p>NOTE 3: County leases to be finalized by Vanir and County prior to Closing.</p>
<u>PROMISSORY NOTE FORBEARANCE</u>	
1. Promissory Note and Deed of Trust appear to be in default	Note is due. Confirmed in Transfer Agreement
2. City agrees to forbear on all collection efforts until July 1, 2016	Transfer Agreement provides forbearance on Note to August 1, 2016 subject to certain continuing obligations by Vanir.
3. City will hold Vanir entities harmless from collection efforts by Dept. of Finance.	Vanir agreed to drop.
4. Banning Office Venture, LLC will pay off note on or before July 1, 2016.	Confirmed due by August 1, 2016 in Second Amendment. Note repayment is also <u>guaranteed by Vanir</u> .
5. City will agree to subordinate Note and Deed of Trust to construction financing of office building only. Note will be paid off before other construction phases begin.	Original PSA provided for subordination. Transfer Agreement provides specific conditions to subordination. Note to be paid by 8/1/16. No subordination to construction of other phases.
<u>COUNTY COOPERATION</u>	
1. County will agree to modify Probation Lease to provide for delivery on or before December 1, 2016. County and Vanir will process and execute Probation Lease amendment on or before October 15, 2015.	Extension of Probation Lease in process of approval by County. To be completed by Closing (Dec. 4)

2. County and Vanir will finalize District Attorney Lease providing for delivery on or before December 1, 2016. The Lease will be placed on the Board of Supervisors agenda for approval on or before October 15, 2015. The mitigated negative declaration for the Probation Lease will apply to the District Attorney Lease since they are part of the same building development.	Execution of D.A. Lease in process of approval by County. To be completed by Closing (Dec. 4)
3. Vanir cannot complete the conditions precedent to office construction financing without two signed County leases.	Condition to closing in Transfer Agreement
JMA COOPERATION	
1. Within ten (10) days of City Council approval, JMA will execute Assignment of PSA, Note, Deed of Trust and Entitlements to Banning Office Ventures, LLC, in form acceptable to Vanir and the City.	Vanir has settlement agreement with JMA which includes JMA's assignment of all rights and obligations to Vanir.
2. Within ten (10) days of City Council approval, JMA will execute Grant Deed transferring all parcels within development to Banning Office Venture, LLC.	Vanir has settlement agreement with JMA with transfers to occur concurrently with closing with City.
3. Concurrently, JMA will execute a Membership. Transfer of 49% interest in Banning Office Venture, LLC to Vanir Group of Companies, Inc.	Vanir has settlement agreement with JMA with transfers to occur concurrently with closing with City.
4. JMA will remit interest on the Note from 2012 until effective date of assignment to Vanir's entity, to be held in trust until Dept of Finance is paid.	Interest to accrue at 4% (rate in Note) from 2012 until paid in full.
5. JMA to pay and all amounts due and owing with respect to the Project	Vanir has settlement agreement with JMA with transfers to occur concurrently with closing with City. City only dealing with Vanir.
6. City and Vanir will reserve all rights against JMA and its principals.	No waiver by City of rights against JMA. (NOTE: JMA is a special purpose entity with limited assets.)
Final Note: All of the Modified Deal Terms are interdependent.	All conditions provided in Transfer Agreement



MASTER TRANSFER AGREEMENT AND ESCROW INSTRUCTIONS

This Master Transfer and Escrow Instructions ("**Agreement**") is made this _____ day of _____, 2015 by and between **CITY OF BANNING**, a municipal corporation ("**City**") and **VANIR GROUP OF COMPANIES, INC.**, a California corporation ("**Vanir**"). Fidelity National Title Insurance Company shall act as Escrow Holder under the terms of this Agreement ("**Escrow Holder**").

RECITALS:

- A. City and JMA Village, LLC, a California limited liability company ("**JMA**") entered into that certain Purchase and Sale Agreement of Real Property and Joint Escrow Instructions dated January 24, 2102 ("**PSA**") for the acquisition of certain unimproved real property identified on attached Exhibit A ("**Real Property**").
- B. Pursuant to the original PSA, City sold the Real Property to JMA for consideration consisting of (i) a purchase price of One Million Twenty Thousand Dollars (\$1,020,000) ("**Purchase Price**"), and (ii) certain covenants and obligations with respect to the development of the Real Property.
- C. The City transferred the Real Property to JMA pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("**Official Records**"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records, ("**Deeds**"). As set forth in the Deeds, the Real Property was subject to certain continuing obligations under the PSA ("**Deed Covenants**").
- D. The Purchase Price was paid by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) executed by JMA in favor of City which has become due ("**Note**"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**City Deed of Trust**").
- E. JMA and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("**First Amendment**"). Pursuant to that that certain letter dated October 23, 2014 from Ed Dygert as legal counsel for JMA to Homer Croy as City Manager, JMA acknowledge that the waiver provided in Section 5 of the First Amendment was effective. The PSA as amended by the First Amendment is hereinafter referred to as the "**Amended PSA**".
- F. JMA and Vanir jointly formed Banning Office Venture, LLC, a California limited liability company ("**Banning Office**") for the development of a portion of the Real Property identified as Parcel 1 of the New Map(as defined below) ("**Office Parcel**") with an office building ("**Office Building**").

- G. Banning Office has entered into a lease with the County of Riverside for the lease of approximately fifty percent (50%) of the Office Building for use by the County Probation Department ("**County Lease**") and has won the award for a County lease for the District Attorney's Office to concurrently occupy the Office Building ("**DA Lease**").
- H. The Real Property was subdivided by that certain Parcel Map 36285 which was filed on December 9, 2014 in Book 238 at Pages 24-25 of Parcel Maps of the County of Riverside ("**New Map**"). Concurrently with the recordation of the New Map, the following documents were recorded against the Real Property: (i) Limited Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470137 in the Official Records, and (iii) Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470138 in the Official Records (jointly the "**REAs**"). Concurrently with the New Map, the City executed and delivered (i) that certain Quitclaim Deed recorded on December 9, 2014 as Instrument No. 2014-0470136, and (ii) that certain Vacation of Street or Highway recorded on December 9, 2014 as Instrument No. 2014-0470135, both of which benefit the Real Property and are part of the definition of "**Deeds**".
- I. The City issued that certain Design Approval for the development of the Real Property, Permit No. ____ ("**Design Approval**"). The Design Approval has been extended by the City pursuant to Resolution No. 2015-____ and will expire on October 31, 2015 unless further extended. JMA has secured a City permit for grading and site improvements to the Real Property, and Banning Office has secured a City building permit for the construction of an office building and certain tenant improvements for the County Lease within the Office Building. JMA through its agent Architectural Design & Signs, Inc. applied for that certain Conditional Use Permit No. 15-7002 which is pending approval by the City's Planning Commission. The term "**Entitlements**" shall include all of the foregoing permits, approvals, applications, items and any and all other items and governmental applications or approvals related to the Real Property.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT

1. TRANSFERS; CITY'S APPROVAL OF TRANSFERS.

- 1.1. **Transfers.** Vanir intends to acquire (i) JMA's ownership interest in Banning Office, concurrently with (ii) the transfer of fee title of the Real Property directly to Vanir's wholly owned subsidiary, Banning Office, by a grant deed ("**Grant Deed**") (jointly "**Transfers**"). Concurrently with the Transfers, JMA will assign to Banning Office the Amended PSA, the Deeds and Deed Covenants, the REA's, Note, City Deed of Trust and Entitlements, and Banning Office will assume all said obligations in the form attached as Exhibit B ("**Assignment and Assumption Agreement**"). Vanir is solely responsible, at its cost and expense,

to obtain JMA's execution of the Assignment and Assumption Agreement, the Grant Deed and all other documents reasonably required to effect the Transfers. Escrow Holder is also acting as escrow agent for the Transfers from JMA to Vanir ("**JMA/Vanir Escrow**").

1.2. City's Approval. Pursuant to Section 11 of the Original PSA, a direct or indirect transfer of the Real Property is subject to the written approval of City. City has completed its due diligence and is willing to consent to the Transfers at the Closing (as defined in Section 4) and the extension of the Entitlements, including the Design Approval to January 31, 2016. The City's consent to the Assignment and Assumption Agreement shall be in the form attached as Exhibit B ("**City's Consent**"). At Closing, Escrow Holder shall attach the City's Consent to the original Assignment and Assumption Agreements prior to delivery to the parties and recordation of same.

1.3. Completion Guaranty. Concurrently with the Closing, Vanir shall execute and deliver to Escrow Holder the Completion and Payment Guaranty executed by Vanir in the form attached as "Exhibit E" ("**Guaranty**").

2. COUNTY LEASE EXTENSION. Vanir shall use its best efforts to obtain by December 2, 2015: (i) a written amendment to the County Lease extending the delivery date of the leased premises to the County ("**Lease Extension**") and (ii) County Board of Supervisors approval of the DA Lease. Vanir shall notify City (with a copy to Escrow Holder) in writing when the Lease Extension has been obtained and, upon City's request, will provide a copy to the City.

3. CONSTRUCTION LOAN AND SUBORDINATION OF CITY TRUST DEED.

3.1. Construction Loan. To be recorded concurrently with the Closing, Vanir intends to obtain a construction loan for the construction of the Office Building which loan will be secured by the Real Property ("**Construction Loan**"). The terms of the Construction Loan will be subject to Vanir's reasonable approval. Vanir may, in its discretion, elect to waive the recordation of the Construction Loan concurrently with the Closing in which event (i) the Subordination Agreement (defined in Section 3.2) shall not be required, and (ii) the City's Title Loan Policy (defined in Section 3.2) shall insure the City Trust Deed in first lien position against the Real Property. However, if Vanir waives the recordation of the Construction Loan concurrently with the Closing, the applicable provisions regarding subordination shall be included in the Second Amendment (as defined in Section 4 below), and the City shall be obligated to subordinate to the Construction Loan pursuant to the terms of the Second Amendment.

3.2. Subordination of City Trust Deed.

3.2.1. Subordination Agreement. Pursuant to Section 3.4 of the Original PSA, City may subordinate the City's Trust Deed to the Construction Loan. However, City shall subordinate to the City's Trust Deed provided that: (i) the City has reviewed and approved the Construction Loan documents; (ii)

approved the lender pursuant to Section 11.2 of the Amended PSA; (iii) the proceeds of the Construction Loan will be used solely for the hard and soft costs related solely to the construction of the Office Building; and (iv) the City's Loan Title Policy (defined below) is issued to City concurrently with Closing and at the time of closing of the Construction Loan if they are not concurrent. The City's approvals in (i) and (ii) above shall not be unreasonably withheld, conditioned or delayed. Upon satisfaction of the foregoing, City shall execute and acknowledge and deliver to Escrow Holder the subordination agreement substantially in the form attached hereto as Exhibit C ("**Subordination Agreement**").

3.2.2. City's Loan Title Policy. Within five (5) business days of Opening of Escrow, Fidelity National Title Insurance Company ("**Title Company**") shall provide to City a current preliminary title report ("**PTR**") for the Real Property together with copies of all exceptions and easements plotted. At Closing, the Title Company shall issue an ALTA lender's title insurance policy in favor of City showing title vested in Banning Office in the amount of One Million Twenty Thousand Dollars (\$1,020,000) showing only the following exceptions: (i) non delinquent real property taxes, (ii) exceptions as approved by City in writing, and (iii) the Construction Loan, if any ("**City's Loan Title Policy**").

3.2.3. Waiver. As consideration for the City subordinating the City Trust Deed to the Construction Loan, Vanir (in its capacity as sole member) shall cause Banning Office to (i) waive the purchase money limitations applicable to the Note, and (ii) assume all obligations of Borrower under the Note. Although this provision shall be effective immediately upon the Closing, upon City's request, Vanir will execute such documents as City may request to evidence the forgoing waiver.

4. PSA AMENDMENT. Only if the Closing occurs, Vanir and City desire to amend the Original PSA to, among other things, clarify certain provisions including, but not limited to, the development requirements and deadlines as set forth in that certain Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions attached hereto as attached Exhibit D-1 ("**Second Amendment**"). However, in the event that the Construction Loan is not consummated concurrently with the Closing as set forth in Section 3 above, the form of the Second Amendment shall be that attached hereto as Exhibit D-2.

5. OPENING OF ESCROW. Within three (3) business days of execution and delivery of this Agreement by City, the parties shall open an escrow ("**Escrow**") with Escrow Holder by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed open on the date that (i) a fully executed copy of this Agreement is delivered to Escrow Holder and accepted by Escrow Holder as evidenced by Escrow Holder's execution of this Agreement, and (ii) the JMA/Vanir Escrow has been opened ("**Opening of Escrow**"). If Opening of Escrow does not occur on or before October 30, 2015 for any reason, City may, in its sole discretion, terminate this Agreement upon written notice to Vanir and Escrow Holder.

6. FUNDS AND DOCUMENTS.

6.1. City. City agrees that on or before 12:00 noon one (1) business day prior to the Closing Date, City will deposit or cause to be deposited with Escrow Holder all additional documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including, without limitation:

- a. Three (3) City's Consent (to be attached to the original copies of the Assignment and Assumption Agreement).
- b. Two (2) copies of the applicable version of the Second Amendment pursuant to Section 4.
- c. One (1) copy of the Subordination Agreement.
- d. Such other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

6.2. Vanir. Vanir agrees that on or before one (1) business day prior to the Closing Date, Vanir will deposit with Escrow Holder such funds and other items and instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including, without limitation:

- a. Three (3) copies of the Assignment and Assumption Agreement.
- b. Two (2) copies of the applicable version of the Second Amendment pursuant to Section 4.
- c. One (1) Guaranty executed by Vanir.
- d. Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

7. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

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

- a. City has approved in writing the Construction Loan and the lender as provided in Section 3.2, either as a pre-Closing or post-Closing matter.
- b. The concurrent closing of the JMA/Vanir Escrow and consummation of the Transfers to Vanir as evidenced by (i) the recordation of the Grant Deed conveying title of the Real Property to Vanir; and (ii) the transfer of the ownership interests in Banning Office.

- c. Escrow Holder holds and will deliver to City the City's Loan Title Policy as described in Section 4.2.
- d. Delivery by Vanir of the executed Guaranty.
- e. Escrow Holder holds and will deliver to City all documents accruing to City pursuant to this Agreement.
- f. Vanir is not in default under this Agreement.

7.2. Conditions to Vanir's Obligations. The obligations of Vanir under this Agreement shall be subject to the satisfaction or written waiver, in whole or in part, by Vanir of the following conditions precedent:

- a. The concurrent closing of the JMA/Vanir Escrow and consummation of the Transfers to Vanir as evidenced by the recordation of the Grant Deed.
- b. Vanir has secured the Construction Loan, unless Vanir elects that the Construction Loan will be a post-Closing matter.
- c. The County Lease has been extended and the DA Lease approved as set forth in Section 2.
- d. Escrow Holder holds and will deliver to Vanir the documents accruing to Vanir pursuant to this Agreement.
- e. City is not in default under this Agreement.

8. REPRESENTATIONS & WARRANTIES. Vanir, to the best of its knowledge, makes the following representations and warranties to City, each of which is true in all respects as of the date hereof and shall be true in all respects on the date of Close of Escrow with respect to the Real Property:

- a. The Real Property does not violate any ordinance, rule, law, regulation or order of any government or agency, body or subdivision thereof, or that any investigation has been commenced or is contemplated respecting such possible violations.
- b. There are no pending or threatened lawsuits or claims which would affect the Real Property.
- c. Except for the Construction Loan, the County Lease (as amended) and the DA Lease, there are no contracts, leases, claims or rights materially affecting the Real Property.
- d. No construction or repair work has been done on the Real Property within the six (6) months prior to the Opening of Escrow.

9. CLOSING DATE; TIME IS OF ESSENCE.

9.1. Closing Date. Unless otherwise extended in writing by the parties, Escrow shall close (i) as soon as practicable but, in no event, after December 4, 2015, and (ii) concurrently with the JMA/Vanir Escrow ("**Closing Date**"). The terms "**Close of Escrow**" and/or "**Closing**" are used herein to mean the date that the following are recorded by the Escrow Holder in the Official Records: Grant Deed, the Assignment and Assumption Agreement and, if applicable, both the Construction Loan Trust Deed and the Subordination Agreement. If the Closing does not occur, City retains its rights to pursue its rights and remedies against JMA under the Amended PSA, Deeds and Deed Covenants, City Note, City Deed of Trust, Entitlements and related documents.

9.2. Time is of Essence. City and Vanir specifically understand that time is of the essence. Unless otherwise expressly provided in this Agreement, any reference in this Agreement to time for performance of obligations or to elapsed time shall mean Pacific Standard Time and time periods shall mean consecutive calendar days, months or years, as applicable.

9.3. Delivery of Documents. Immediately following the Closing, Escrow Holder shall deliver the documents as follows:

- a. **To City:** (i) an original Assignment and Assumption Agreement with the City's Consent attached; (ii) an original Second Amendment; (iii) the City Loan Title Policy; and (iv) a conformed copy of all recorded documents including the Grant Deed, the Assignment and Assumption Agreement, and if applicable, the Construction Loan Trust Deed and the Subordination Agreement.
- b. **To Vanir:** (i) an original Assignment and Assumption Agreement with the City's Consent attached; (ii) an original Second Amendment; (iii) a conformed copy of all recorded documents including the Grant Deed, the Assignment and Assumption Agreement, and if applicable, the Construction Loan Trust Deed and the Subordination Agreement.
- c. **To JMA (through the JMA/Vanir Escrow):** an original Assignment and Assumption Agreement with the City's Consent attached.

10. ESCROW PROVISIONS.

10.1. Escrow Instructions. Sections 1 through 7, inclusive, and 9 through 11, inclusive, shall constitute escrow instructions to Escrow Holder. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Holder, but about which Escrow Holder need not be concerned. City and Vanir will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provision upon Escrow Holder's request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. City and Vanir agree to

execute additional instructions, documents and forms provide by Escrow Holder that are reasonably necessary to close Escrow.

10.2. Miscellaneous. Escrow Holder shall deliver the City's Loan Title Policy to the City and instruct the Riverside County Recorder to mail the recorded Grant Deed, Assignment and Assumption Agreement, and Subordination Agreement to Vanir. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in the State of California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be according to that party's instructions.

10.3. Costs. Vanir shall pay all costs and charge in this Escrow including, but not limited to, escrow fees, title premiums, and recording fees.

10.4. Termination of Escrow. If Escrow fails to close as provided above, either party may elect to terminate this Agreement and the Escrow by delivering written notice to the other party and Escrow Holder. Upon such termination of this Agreement and the Escrow not as the result of the breach by either party, Escrow Holder is instructed to return all funds and documents then in Escrow to the respective depositor of the same less payment of its cancellation fees.

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

11. GENERAL PROVISIONS.

11.1. No Assignment. This Agreement may not be assigned without the prior written consent of the other party in that party's sole discretion.

11.2. Binding Effect; Choice of Law. This Agreement shall be binding upon the parties, their successors and assigns and be governed by the laws of the State of California. Any litigation between the parties hereto concerning this Agreement shall be initiated in the Superior Court of the State of California for the County of Riverside.

11.3. Attorney's Fees. In any action between the parties seeking enforcement of any of the terms and provisions of this Agreement, or in connection with the Real Property, the prevailing party in such action shall be entitled, to have and to recover from the other party its reasonable attorney's fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

11.4. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or

unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereof.

- 11.5. Successors in Interest.** The covenants herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.
- 11.6. Final Agreement.** This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter of this Agreement and all prior or contemporaneous agreements, understandings, representations and statements shall be of no force or effect.
- 11.7. Authority.** Each individual executing this Agreement on behalf of Vanir represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors and that this Agreement is binding upon said corporation in accordance with its terms.
- 11.8. Construction.** This Agreement shall be construed according to its fair meaning as if prepared by all parties to this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent. Each provision herein shall be interpreted so as to be consistent with every other provision. The Recitals are incorporated into this Agreement.
- 11.9. Time.** Time is of the essence of this Agreement.
- 11.10. Relationship of Parties.** The relationship of the parties is that of independent contracting parties, and it is expressly understood and agreed that City does not in any way or for any purpose become a partner of Vanir in the conduct of Vanir's business or otherwise, or a joint venturer with Vanir.
- 11.11. Non-Collusion.** No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or "non interest" pursuant to California Government Code Sections 1091 and 1091.5. Vanir represents and warrants that (i) it has not paid or given, and will not pay or give, to any third party including, but not limited to, Vanir or any of its officials, officers, or employees, any money, consideration, or other thing of value as a result or consequence of obtaining this Agreement; and (ii) it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party

including, but not limited to, any official, officer, or employee of City, as a result or consequence of obtaining this Agreement. Vanir is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

11.12. Notices. Wherever in this Agreement it shall be required or permitted that notice and demand be given or served by either party to this Agreement to or on the other, such notice or demand shall be given or served in writing and shall not be deemed to have been duly given or served unless in writing, and personally served or forwarded by certified mail, postage prepaid, addressed as specified below. Either party may change the address set forth below by written notice by certified mail to the other. Any notice or demand given by certified mail shall be effective one (1) day subsequent to mailing.

City: City of Banning
99 E. Ramsey St.
Banning, CA 92220
Attn: City Manager

With a copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 400
Irvine, CA 92612
Attn: Lona Laymon, City Attorney

Vanir: Vanir Group of Companies, Inc.
4540 Duckhorn Drive Suite 100
Sacramento, CA 95834
Attn: President

Banning Office: Banning Office Venture, LLC
4540 Duckhorn Drive, Suite 100
Sacramento, CA 95834
Attn: Manager

With a copy to: Vanir Group of Companies, Inc.
4540 Duckhorn Drive Suite 100
Sacramento, CA 95834
Attn: H. Vincent McLaughlin, Esq.

Escrow Holder: Fidelity National Title Insurance Company
1375 Exposition Blvd., Suite 240
Sacramento, CA 95815
Telephone: (916) 646-6046
Attn: Marja Nickel, Sr. Commercial Escrow Officer

11.13. Not an Offer. The submission of this Agreement and any ancillary documents to Vanir shall not constitute an offer to amend the Original PSA or consent to the Transfers, and City shall have no obligation of any kind, express or implied, to

consent to the Transfers or amend the Original PSA until City has approved, executed and returned to Vanir a fully signed copy of this Agreement and then only to the extent specified in this Agreement.

11.14. Amendments. This Agreement may be modified or amended only in writing executed by both City and Vanir.

11.15. No Waiver. The failure of either party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

11.16. No Third Party Beneficiaries. This Agreement is only between the parties, and is not intended to be nor shall it be construed as being for the benefit of any third party including, but not limited to, JMA.

11.17. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall be deemed but one and the same instrument, and a facsimile copy of such execution shall be deemed an original.

11.18. Exhibits. Exhibits A, B, C, D-1, D-2 and E attached hereto are incorporated herein by reference.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day and year first above written.

CITY:

CITY OF BANNING,
a municipal corporation

By: _____
Debbie Franklin, Mayor
_____, 2015

VANIR:

VANIR GROUP OF COMPANIES,
INC., a California corporation

By: _____
Dorene C. Dominguez
President & Chief Executive Officer

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Lona Laymon
City Attorney

ESCROW HOLDER:

Read and accepted:

Fidelity National Title Insurance Company

By: _____
Marja Nickel
Senior Commercial Escrow Officer

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INTENTIONALLY**

17-41

EXHIBIT A
LEGAL DESCRIPTION OF REAL PROPERTY

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF
BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER
MAP RECORDED IN BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN
THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

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Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF
BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER
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THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

EXHIBIT B

Recording Requested by and
When Recorded Return to:

City of Banning
99 E. Ramsey Street
Banning, CA 92220
City Manager

(Space Above This Line for Recorder's Office Use Only)

ASSIGNMENT AND ASSUMPTION AGREEMENT AND CONSENT

This ASSIGNMENT AND ASSUMPTION AND CONSENT ("**Assignment & Assumption Agreement**") is entered into as of this ____ day of _____, 2015, by and between JMA VILLAGE, LLC, a California limited liability company ("**Assignor**"), and BANNING OFFICE VENTURE, LLC, a California limited liability company ("**Assignee**"). Assignor and Assignee are jointly referred to herein as the "Parties" and each individually as a "Party". The CITY OF BANNING, a California general law municipality ("**City**") is not a Party and is solely consenting to this Assignment & Assumption Agreement as set forth on the Consent attached hereto ("**City Consent**").

RECITALS

- A. City and Assignor executed that certain Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions dated the 24th of January 2012 ("**PSA**") between Assignor as buyer and the City as seller for the conveyance to Assignor certain unimproved real property in the City of Banning bounded on the west by San Geronio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street, which property is more particularly described on Exhibit "A" attached to the Agreement ("**Real Property**").
- B. The City transferred the Real Property to Assignor pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("**Official Records**"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records ("**Deeds**"). As set forth in the Deeds, the Real Property was subject to certain continuing obligations under the PSA ("**Deed Covenants**").
- C. Assignor paid the City the Purchase Price by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) executed by Assignor in favor of City which has become due ("**Note**"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was

recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**City Deed of Trust**").

- D. Assignor and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("**First Amendment**"). Pursuant to that certain letter dated October 23, 2014 from Ed Dygert as legal counsel for Assignor to Homer Croy as City Manager, Assignor acknowledged that the conditions to the waiver in Section 5 of the First Amendment have been satisfied and the waiver was effective. The PSA as amended by the First Amendment is hereinafter referred to as the "**Amended PSA**".
- E. The Real Property was subdivided by that certain Parcel Map 36285 which was filed on December 9, 2014 in Book 238 at Pages 24-25 of Parcel Maps of the County of Riverside ("**New Map**"). Concurrently with the recordation of the New Map, the following documents were recorded against the Real Property: (i) the Limited Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470137 in the Official Records, and (iii) Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470138 in the Official Records (jointly the "**REAs**"). Concurrently with the New Map, the City executed and recorded (i) that certain Quitclaim Deed recorded on December 9, 2014 as Instrument No. 2014-0470136, and (ii) that certain Vacation of Street or Highway recorded on December 9, 2014 as Instrument No. 2014-0470135, both of which benefit the Real Property and are part of the definition of "**Deeds**".
- F. On or about October 21, 2013, JMA VILLAGE, LLC and VANIR GROUP OF COMPANIES, INC. jointly formed Banning Office Venture, LLC (which is Assignee under this Assignment) to develop a portion of the Real Property described as Parcel 1 within the New Map. Assignor has secured a City Design Review permit, and a permit from the City for grading and site improvements to the Real Property, and Assignee has secured a City building permit for the construction of an office building and certain tenant improvements on Parcel 1 of the Real Property. JMA through its agent Architectural Design & Signs, Inc. applied for that certain Conditional Use Permit No. 15-7002 which is pending approval by the City's Planning Commission. The term "**Entitlements**" shall include all of the foregoing permits, approvals, applications, items and any and all other items and governmental applications or approvals related to the Real Property (not just Parcel 1).
- G. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Amended PSA.
- H. Assignor has incurred numerous delays and set-backs in fulfilling its obligations under the Amended PSA. Vanir expressed a willingness to assume Assignor's

interest in Banning Office Venture, LLC and concurrently undertake Assignor's rights and obligations under the Amended PSA and complete full development of the Project described in the Amended PSA. Assignee has demonstrated a level of financial capability and experience to perform the Project under the Amended PSA. Therefore, Assignor now wishes to transfer to Assignee all of Assignor's rights and obligations under the Amended PSA, Deeds and Deed Covenants, REAs, Note, City Deed of Trust, and Entitlements. Assignor and Assignee desire to obtain City's specific consent to such assignment.

NOW, THEREFORE, in consideration of the mutual promises of the Parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. **Effective Date.** This Assignment & Assumption Agreement shall be effective as of the date it is recorded in the Official Records of Riverside County, California ("**Effective Date**").
2. **Representations.** As consideration for the City's Consent, Assignor and Assignee represent and warrant to City that the Recitals are true and correct.
3. **Assignment.** Assignor hereby assigns, sells, and conveys and otherwise transfers to Assignee all of Assignor's interests, rights and obligations under the Amended PSA, the Deeds and Deed Covenants, the REAs, Note, City Deed of Trust, and Entitlements. This Assignment and Assumption Agreement shall be effective as of the Effective Date provided that City consents thereto as evidenced by the attached City Consent. Assignor agrees to promptly execute and deliver to Assignee any additional documents required by the City, Assignee or Assignee's lender to transfer any Entitlements. If any entitlements require the consent of a third party, Assignor shall obtain such consent at its sole cost and expense.
4. **Assumption of Agreement.** Assignee hereby accepts all of Assignor's interests, rights and obligations under the Amended PSA, the Deeds and Deed Covenants, the REAs, Note, City Deed of Trust, and Entitlements, and assumes and agrees to perform all of Assignor's corresponding obligations, terms, covenants, and conditions under said documents on and after the Effective Date.
5. **Due Execution.** The person(s) executing this Assignment on behalf of a Party warrants that (i) such Party is duly organized and existing, (ii) he/she is duly authorized to execute and deliver this Assignment on behalf of said Party, (iii) by so executing this Assignment, such Party is formally bound to the provisions of this Assignment, and (iv) the entering into this Assignment does not violate any provision of any other agreement to which said Party is bound.
6. **Full Force and Effect.** The Parties further agree that, except as specifically otherwise provided or evidenced by a written agreement, the terms of the Amended PSA, Deed Covenants and the REAs remain unchanged and in full

force and effect except as otherwise amended in writing executed by the appropriate parties.

IN WITNESS WHEREOF, the parties have executed and entered into this Assignment & Assumption Agreement as of the date first above written.

Assignor:

JMA Village, LLC, a California limited liability company

By: _____
Mark Frost, as Trustee of the
Mark and Lourdes Frost Family
Trust Dated June 1, 2000
Its: Managing Member

Assignee:

Banning Office Venture, LLC, a California limited liability company

By: _____
Dorene C. Dominguez
Manager

APPROVED AS TO FORM:

VANIR GROUP OF COMPANIES,
INC., a California corporation

By: _____
Dorene C. Dominguez
President & CEO

CITY OF BANNING CONSENT

The City of Banning ("City") hereby consents to the foregoing assignment to Assignee of Assignor's interests, rights and obligations in the Amended PSA, Deeds and Deed Covenants, REAs, Note, City Deed of Trust and Entitlements, and the corresponding acceptance thereof and assumption by Assignee of the interests, obligations, terms, covenants, and conditions made under said documents. City acknowledges that, pursuant to Section 11.1 of the Amended PSA, Assignee has provided the City Attorney's office with the information sufficient to satisfy the following requirements: (i) that completion of the Project will not be jeopardized by the transfer; (ii) that Assignee has the financial strength and capability to perform Assignor's obligations under the Agreement; (iii) that the Assignee has experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (iv) that the Assignee's undertaking of the Amended PSA will complement the other users and uses in the City of Banning downtown area, whether commercial users or otherwise.

CITY:

CITY OF BANNING,
a municipal corporation

By: _____
Debbie Franklin, Mayor
_____, 2015

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Lona Laymon
City Attorney

EXHIBIT B

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

EXHIBIT B

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2015 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

EXHIBIT B

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2015 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

EXHIBIT C

+
RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

CITY OF BANNING
99 E. Ramsey St.
Banning, CA 92220
Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
EXEMPT FROM RECORDING FEES PER GOV. CODE §27383

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT ("**Agreement**") is made this ____ day of _____, 2015, by BANNING OFFICE VENTURE, LLC, a California limited liability company ("**Owner**") and CITY OF BANNING, a municipal corporation ("**Beneficiary**").

RECITALS

- A. Owner owns that certain real property in the City of Banning, County of Riverside State of California legally described on Exhibit A attached hereto and incorporated by reference ("**Real Property**").
- B. Owner executed that certain Trust Deed dated May 3, 2012 in favor of Beneficiary which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**Existing Trust Deed**"). The Existing Trust Deed secures that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) payable with interest as provided therein executed by Owner in favor of Beneficiary which has become due ("**Existing Note**").
- C. Owner has or is about to execute that certain Promissory Note Secured by Trust Deed and Security Agreement ("**New Note**") in the sum of _____ Dollars (\$_____) in favor of the _____ ("**New Lender**") which is secured by that certain Trust Deed with Assignment of Rents, Security Agreement and Fixture Filing of even date with the New Note ("**New Trust Deed**"). The New Loan is subject to the terms of that certain Loan Agreement between New Lender and Owner of even date with the New Note ("**New Loan Agreement**").
- D. New Lender is willing to make the New Loan provided the New Trust Deed is a lien or charge upon the Real Property prior and superior to the Existing Trust Deed and

EXHIBIT C

provided that Beneficiary will specifically and unconditionally subordinate and subject the Existing Trust Deed to the lien or charge of the New Trust Deed in favor of New Lender.

E. It is to the mutual benefit of the parties hereto that New Lender make the New Loan to Owner and Beneficiary is willing that the New Trust Deed, when recorded, constitute a lien or charge upon the Real Property, which is unconditionally prior and superior to the Existing Trust Deed.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce New Lender to make the New Loan, it is hereby declared, understood and agreed as follows:

1. That the New Trust Deed, and any renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Real Property, prior and superior to the Existing Trust Deed is hereby subjected and made subordinate, to the lien or charge of the Existing Trust Deed.
2. That New Lender would not make the New Loan without this Agreement.
3. That this Agreement shall be the whole and only agreement with regard to the subordination of the Existing Trust Deed to the lien or charge of the New Trust Deed in favor of New Lender and shall supersede and cancel, but only insofar as would affect the priority between the Existing Trust Deed and the New Trust Deed, any prior agreements as to such subjection or subordination, including, but not limited to, those provisions, if any, contained in the Existing Trust Deed which provide for the subordination of the Existing Trust Deed to another trust deed(s) or mortgage(s).

Beneficiary declares, agrees and acknowledges that

- a. It consents to and approves (i) all provisions of the New Note, New Trust Deed and New Loan Agreement in favor of New Lender, and (ii) all agreements, including but not limited to, the New Loan Agreement between Owner and Beneficiary for the disbursement of the proceeds of the New Loan.
- b. In making disbursements pursuant to the New Loan Agreement, New Lender is under no obligation or duty to, nor has New Lender represented that it will, see to the application of such proceeds by the person or persons to whom New Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in the New Loan Agreement shall not defeat the subordination pursuant to this Agreement in whole or in part.
- c. It intentionally and unconditionally waives, relinquishes, subject and subordinates the Existing Trust Deed in favor of the lien or charge upon the Real Property to the New Trust Deed in favor of New Lender and understands that in reliance upon, and in consideration of, this waiver, relinquishment, and subordination specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or

EXHIBIT C

entered into but for said reliance upon this waiver, relinquishment, subjection, and subordination.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY INTEREST TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE REAL PROPERTY.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

EXISTING LENDER:

CITY OF BANNING,
a municipal corporation

By: _____
Debbie Franklin, Mayor
_____, 2015

OWNER:

BANNING OFFICE VENTURE, LLC,
a California limited liability company

By: _____
Dorene C. Dominguez, Manager

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Lona Laymon
City Attorney

EXHIBIT C
EXHIBIT "A"
LEGAL DESCRIPTION

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF BANNING,
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN
BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE
COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

EXHIBIT C

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2015 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

EXHIBIT C

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2015 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

SEAL:

EXHIBIT D-1
(If Construction Loan Closes Concurrently)

**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT OF REAL
PROPERTY AND JOINT ESCROW INSTRUCTIONS**

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("**Second Amendment**") is dated this ____ day of _____, 2015 ("**Effective Date**"), by and between BANNING OFFICE VENTURE, LLC ("**Banning Office**"), a subsidiary of VANIR GROUP OF COMPANIES, INC., a California corporation ("**Vanir**") and the CITY OF BANNING, a municipal corporation ("**City**").

RECITALS

- A. City and JMA Village, LLC, a California limited liability company ("**JMA**") entered into that certain Purchase and Sale Agreement of Real Property and Joint Escrow Instructions dated January 24, 2102 ("**PSA**") for the acquisition of certain unimproved real property identified on attached Exhibit A ("**Real Property**").
- B. Pursuant to the original PSA, City sold the Real Property to JMA for consideration consisting of (i) a purchase price of One Million Twenty Thousand Dollars (\$1,020,000) ("**Purchase Price**"), and (ii) certain covenants and obligations with respect to the development of the Real Property.
- C. The City transferred the Real Property to JMA pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("**Official Records**"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records ("**Deeds**"). As set forth in the Deeds, the Real Property was subject to certain continuing obligations under the PSA ("**Deed Covenants**").
- D. The Purchase Price was paid by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) executed by JMA in favor of City which has become due ("**Note**"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**City Deed of Trust**").
- E. JMA and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("**First Amendment**"). Pursuant to that that certain letter dated October 23, 2014 from Ed Dygert as legal counsel for JMA to Homer Croy as City Manager, JMA acknowledge that the waiver provided in Section 5 of the First Amendment was effective. The PSA as amended by the First Amendment is hereinafter referred to as the "**Amended PSA**".

- F. JMA and Vanir Group of Companies, Inc., a California corporation ("**Vanir**") jointly formed Banning Office for the development of a portion of the Real Property, Parcel 1 of the New Map (as defined below) ("**Office Parcel**") with an office building ("**Office Building**").
- G. Banning Office entered into a lease with the County of Riverside for the lease of approximately fifty percent (50%) of the Office Building for use by the County Probation Department ("**County Lease**") and has won the award for a County lease for the District Attorney's Office ("**DA Lease**").
- H. The Real Property was subdivided by that certain Parcel Map 36285 which was filed on December 9, 2014 in Book 238 at Pages 24-25 of Parcel Maps of the County of Riverside ("**New Map**"). Concurrently with the recordation of the New Map, the following documents were recorded against the Real Property: (i) Limited Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470137 in the Official Records, and (iii) Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470138 in the Official Records (jointly the "**REAs**"). Concurrently with the New Map, the City executed and recorded (i) that certain Quitclaim Deed recorded on December 9, 2014 as Instrument No. 2014-0470136, and (ii) that certain Vacation of Street or Highway recorded on December 9, 2014 as Instrument No. 2014-0470135, both of which benefit the Real Property and are part of the definition of "**Deeds**".
- I. The City issued that certain Design Approval for the development of the Real Property, Permit No. ____ ("**Design Approval**"). The Design Approval has been extended by the City pursuant to Resolution No. 2015-____. JMA had secured a City permit for grading and site improvements to the Real Property, and Banning Office has secured a City building permit for the construction of an office building and certain tenant improvements for the County Lease within the Office Building. JMA through its agent Architectural Design & Signs, Inc. applied for that certain Conditional Use Permit No. 15-7002 which is pending approval by the City's Planning Commission. The term "**Entitlements**" shall include all of the foregoing permits, approvals, applications, items and any and all other items and governmental applications or approvals related to the Real Property.
- J. Prior to the Effective Date, Vanir has acquired (i) JMA's ownership interest in Banning Office, concurrently with (ii) the transfer of fee title of the Real Property to Banning Office (jointly "**Transfers**"). Concurrently with the Transfers, JMA assigned the Amended PSA, the Deeds and Deed Covenants, REAs, Note, City Deed of Trust, and Entitlements to Vanir which has assumed all obligations under said documents including the Amended PSA pursuant to that certain Assignment and Assumption Agreement and Consent dated _____, 2015 ("**Assignment and Assumption Agreement**") to which the City has consented.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is

hereby acknowledged, City and Vanir agree as follows:

1. **Amendments to Amended PSA.** For purposes of this Section 1, defined terms shall have the same meaning as set forth in the Amended PSA. The parties agree that the Amended PSA is further amended as follows:

1.1. **Critical Construction Dates.** Section 11.2(a) is amended to provide that the Critical Project construction deadline dates are:

(i) Vertical construction on the Office Parcel shall commence no later than December 15, 2015.

(ii) Vertical construction on at least a second Phase shall commence no later than August 1, 2016.

(iii) Vertical construction on at least a third Phase shall commence no later than January 1, 2017.

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

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

Banning Office and the City acknowledge and agree that the Critical Completion Date for each Project Phase is contingent upon the diligent processing of Project entitlements. Upon submission by Banning Office to the City of requests for entitlements, City agrees to prioritize and diligently process such requests in concert with Vanir to ensure that the Critical Completion Dates are met.

1.2. **Confirmation.** City acknowledges that, in accordance with Section 11.9(b)(3) of the PSA, JMA made diligent good faith efforts regarding investigating a hotel use and it was mutually determined that a hotel use is not practical. Accordingly, the Hotel Parcel is subject to the provisions of Section 11.9(b)(3)(b) as to alternate permissible uses.

1.3. **Fractionalization of Deed of Trust.** The provisions of Section 3.4 are terminated and of no further force or effect.

1.4. **Waiver.** As consideration for the subordination of the Deed of Trust to the new construction loan obtained by Banning Office, Banning Office (i) waives the purchase money limitations applicable to the Note, and (ii) assumes all obligations of Borrower under the Note. Upon City's request, Vanir will execute such documents as may be required to evidence the forgoing waiver.

1.5. **Restrictions on Transfer.** Section 11.1 remains in full force and effect as to Vanir as "Buyer".

The Amended PSA as further amended by this Agreement is hereinafter referred to as the "Second Amended PSA."

2. **Agreement to Forebear.** The parties acknowledge that the Note was due and payable as of December 1, 2014 and, therefore, as of that date commenced to bear interest at the rate of Four Percent (4%) per annum. In order to facilitate Vanir's acquisition of the Real Property and the development of the Project, City agrees to forbear from taking any enforcement actions to which it may be entitled under the City Deed of Trust until August 1, 2016 ("**Forbearance Period**"). This forbearance covenant shall cease, (i) at City's discretion, upon the breach of Vanir of any obligations under the REAs, Deed Covenants or the Second Amended PSA, or (ii) the end of the Forbearance Period, and, in such event, City may proceed to enforce its remedies available under the Note and City Deed of Trust.
3. **Due Execution.** The person(s) executing this Second Amendment on behalf of the Vanir warrant that (i) Vanir is duly organized and existing, (ii) he/she is duly authorized to execute and deliver this Second Amendment on behalf of Vanir, (iii) by so executing this Second Amendment, Vanir is formally bound to the provisions of this Second Amendment, and (iv) the entering into this Second Amendment does not violate any provision of any other agreement to which Vanir is bound.
4. **Full Force and Effect.** The parties further agree that, except as specifically provided in this Second Amendment, the terms of the Amended PSA shall remain unchanged and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

EXHIBIT D-1
(If Construction Loan Closes Concurrently)

IN WITNESS WHEREOF, the parties have executed and entered into this Amendment as of the Effective Date.

CITY:

CITY OF BANNING,
a municipal corporation

By: _____
Debbie Franklin, Mayor
_____, 2015

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Lona Laymon
City Attorney

VANIR:

BANNING OFFICE VENTURE, LLC, a
California limited liability company

By: _____
Dorene C. Dominguez, Manager

APPROVED AS TO FORM:

VANIR GROUP OF COMPANIES,
INC., a California Corporation

By: _____
Dorene C. Dominguez
President & CEO

EXHIBIT D-1
(If Construction Loan Closes Concurrently)

EXHIBIT A
LEGAL DESCRIPTION OF REAL PROPERTY

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

EXHIBIT D-2
(If Construction Loan Does Not Close Concurrently)

**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT OF REAL
PROPERTY AND JOINT ESCROW INSTRUCTIONS**

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("**Second Amendment**") is dated this ____ day of _____, 2015 ("**Effective Date**"), by and between BANNING OFFICE VENTURE, LLC ("**Banning Office**"), a subsidiary of VANIR GROUP OF COMPANIES, INC., a California corporation ("**Vanir**") and the CITY OF BANNING, a municipal corporation ("**City**").

RECITALS

- A. City and JMA Village, LLC, a California limited liability company ("**JMA**") entered into that certain Purchase and Sale Agreement of Real Property and Joint Escrow Instructions dated January 24, 2102 ("**PSA**") for the acquisition of certain unimproved real property identified on attached Exhibit A ("**Real Property**").
- B. Pursuant to the original PSA, City sold the Real Property to JMA for consideration consisting of (i) a purchase price of One Million Twenty Thousand Dollars (\$1,020,000) ("**Purchase Price**"), and (ii) certain covenants and obligations with respect to the development of the Real Property.
- C. The City transferred the Real Property to JMA pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("**Official Records**"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records ("**Deeds**"). As set forth in the Deeds, the Real Property was subject to certain continuing obligations under the PSA ("**Deed Covenants**").
- D. The Purchase Price was paid by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) executed by JMA in favor of City which has become due ("**Note**"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**City Deed of Trust**").
- E. JMA and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("**First Amendment**"). Pursuant to that that certain letter dated October 23, 2014 from Ed Dygert as legal counsel for JMA to Homer Croy as City Manager, JMA acknowledge that the waiver provided in Section 5 of the First Amendment was effective. The PSA as amended by the First Amendment is hereinafter referred to as the "**Amended PSA**".

- F. JMA and Vanir Group of Companies, Inc., a California corporation ("**Vanir**") jointly formed Banning Office for the development of a portion of the Real Property, Parcel 1 of the New Map (as defined below) ("**Office Parcel**") with an office building ("**Office Building**").
- G. Banning Office entered into a lease with the County of Riverside for the lease of approximately fifty percent (50%) of the Office Building for use by the County Probation Department ("**County Lease**") and has won the award for a County lease for the District Attorney's Office ("**DA Lease**").
- H. The Real Property was subdivided by that certain Parcel Map 36285 which was filed on December 9, 2014 in Book 238 at Pages 24-25 of Parcel Maps of the County of Riverside ("**New Map**"). Concurrently with the recordation of the New Map, the following documents were recorded against the Real Property: (i) Limited Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470137 in the Official Records, and (iii) Reciprocal Easement Agreement with Covenants, Conditions and Restrictions recorded on December 9, 2014 as Instrument No. 2014-0470138 in the Official Records (jointly the "**REAs**"). Concurrently with the New Map, the City executed and recorded (i) that certain Quitclaim Deed recorded on December 9, 2014 as Instrument No. 2014-0470136, and (ii) that certain Vacation of Street or Highway recorded on December 9, 2014 as Instrument No. 2014-0470135, both of which benefit the Real Property.
- I. The City issued that certain Design Approval for the development of the Real Property, Permit No. ____ ("**Design Approval**"). The Design Approval has been extended by the City pursuant to Resolution No. 2015-____. JMA had secured a City permit for grading and site improvements to the Real Property, and Banning Office has secured a City building permit for the construction of an office building and certain tenant improvements for the County Lease within the Office Building. JMA through its agent Architectural Design & Signs, Inc. applied for that certain Conditional Use Permit No. 15-7002 which is pending approval by the City's Planning Commission. The term "**Entitlements**" shall include all of the foregoing permits, approvals, applications, items and any and all other items and governmental applications or approvals related to the Real Property.
- J. Prior to the Effective Date, Vanir has acquired (i) JMA's ownership interest in Banning Office, concurrently with (ii) the transfer of fee title of the Real Property to Banning Office (jointly "**Transfers**"). Concurrently with the Transfers, JMA assigned the Amended PSA, the Deeds and Deed Covenants, REAs, Note, City Deed of Trust, and Entitlements to Vanir which has assumed all obligations under said documents including the Amended PSA pursuant to that certain Assignment and Assumption Agreement and Consent dated _____, 2015 ("**Assignment and Assumption Agreement**") to which the City has consented.

NOW, THEREFORE, in consideration of the mutual promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is

hereby acknowledged, City and Vanir agree as follows:

1. **Amendments to Amended PSA.** For purposes of this Section 1, defined terms shall have the same meaning as set forth in the Amended PSA. The parties agree that the Amended PSA is further amended as follows:

- 1.1. **Critical Construction Dates.** Section 11.2(a) is amended to provide that the Critical Project construction deadline dates are:

- (i) Vertical construction on the Office Parcel shall commence no later than December 15, 2015.

- (ii) Vertical construction on at least a second Phase shall commence no later than August 1, 2016.

- (iii) Vertical construction on at least a third Phase shall commence no later than January 1, 2017.

- (iv) Vertical construction on at least a fourth Phase shall commence no later than December 1, 2017.

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

Banning Office and the City acknowledge and agree that the Critical Completion Date for each Project Phase is contingent upon the diligent processing of Project entitlements. Upon submission by Banning Office to the City of requests for entitlements, City agrees to prioritize and diligently process such requests in concert with Vanir to ensure that the Critical Completion Dates are met.

- 1.2. **Confirmation.** City acknowledges that, in accordance with Section 11.9(b)(3) of the PSA, JMA made diligent good faith efforts regarding investigating a hotel use and it was mutually determined that a hotel use is not practical. Accordingly, the Hotel Parcel is subject to the provisions of Section 11.9(b)(3)(b) as to alternate permissible uses.

- 1.3. **Fractionalization of Deed of Trust.** The provisions of Section 3.4 are terminated and of no further force or effect.

- 1.4. **Waiver.** As consideration for the subordination of the Deed of Trust to the new construction loan obtained by Banning Office, Banning Office (i) waives the purchase money limitations applicable to the Note, and (ii) assumes all obligations of Borrower under the Note. Upon City's request, Vanir will execute such documents as may be required to evidence the forgoing waiver.

- 1.5. **Restrictions on Transfer.** Section 11.1 remains in full force and effect as to Vanir as "Buyer".

1.6. Construction Loan; Subordination of City Trust Deed. Vanir intends to obtain a construction loan for the construction of the Office Building and balance of the Project, which loan will be secured by the Real Property ("**Construction Loan**").

1.6.1. Subordination Agreement. City shall subordinate to the City's Trust Deed provided that: (i) the City has reviewed and approved the Construction Loan documents; (ii) approved the lender pursuant to Section 11.2 of the Amended PSA; (iii) the proceeds of the Construction Loan will be used solely for the hard and soft costs related solely to the construction of the Office Building; and (iv) the City's Loan Title Policy (defined below) is issued to City concurrently with recordation of the Subordination Agreement. The City's approvals in (i) and (ii) shall not be unreasonably withheld, conditioned or delayed. Upon satisfaction of the foregoing conditions, City shall execute and acknowledge and deliver to Escrow Holder the subordination agreement substantially in the form attached hereto as Exhibit B ("**Subordination Agreement**").

1.6.2. City's Loan Title Policy. City currently holds a loan title policy which was issued by Fidelity National Title Insurance Company ("**Title Company**") at the closing of the Transfers. At the Loan Closing, the Title Company shall issue a new or updated ALTA lender's title insurance policy in favor of City showing title vested in Banning Office in the amount of One Million Twenty Thousand Dollars (\$1,020,000) showing only the following exceptions: (i) non delinquent real property taxes, (ii) exceptions as approved by City in writing, and (iii) the Construction Loan ("**City's Loan Title Policy**").

1.6.3. Waiver. As consideration for the City subordinating the City Trust Deed to the Construction Loan, Vanir (i) waives the purchase money limitations applicable to the Note, and (ii) assumes all obligations of Borrower under the Note in the event that the Completion Guaranty is invoked. Although this waiver shall occur automatically upon the Loan Closing, upon City's request, Vanir will execute any additional documents as City may request to evidence the foregoing waiver.

The Amended PSA as further amended by this Agreement is hereinafter referred to as the "Second Amended PSA."

2. Agreement to Forebear. The parties acknowledge that the Note was due and payable as of December 1, 2014 and, therefore, as of that date commenced to bear interest at the rate of Four Percent (4%) per annum. In order to facilitate Vanir's acquisition of the Real Property and the development of the Project, City agrees to forbear from taking any enforcement actions to which it may be entitled under the City Deed of Trust until August 1, 2016 ("**Forbearance Period**"). This forbearance covenant shall cease, (i) at City's discretion, upon the breach of Vanir of any obligations under the REAs, the Deed Covenants or the Second Amended PSA, or (ii) the end of the Forbearance Period, and, in such event, City may proceed to enforce its remedies available under the Note and City Deed of Trust.

3. **Due Execution.** The person(s) executing this Second Amendment on behalf of the Vanir warrant that (i) Vanir is duly organized and existing, (ii) he/she is duly authorized to execute and deliver this Second Amendment on behalf of Vanir, (iii) by so executing this Second Amendment, Vanir is formally bound to the provisions of this Second Amendment, and (iv) the entering into this Second Amendment does not violate any provision of any other agreement to which Vanir is bound.
4. **Full Force and Effect.** The parties further agree that, except as specifically provided in this Second Amendment, the terms of the Amended PSA shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have executed and entered into this Second Amendment as of the Effective Date.

CITY:

CITY OF BANNING,
a municipal corporation

By: _____
Debbie Franklin, Mayor
_____, 2015

VANIR:

BANNING OFFICE VENTURE, LLC, a
California limited liability company

By: _____
Dorene C. Dominguez, Manager

ATTEST:

Marie Calderon, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Lona Laymon
City Attorney

APPROVED AS TO FORM:

VANIR GROUP OF COMPANIES,
INC., a California Corporation

By: _____
Dorene C. Dominguez
President & CEO

EXHIBIT D-2
(If Construction Loan Does Not Close Concurrently)

EXHIBIT A
LEGAL DESCRIPTION OF REAL PROPERTY

Real property in the City of Banning, County of Riverside, State of California, described as follows:

PARCELS 1, 2, 3 and 4 OF PARCEL MAP NO. 36285, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 238, PAGE 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Riverside County APNs: 541-181-032; 541-181-033; 541-181-034; and 541-181-035

EXHIBIT D-2
(If Construction Loan Does Not Close Concurrently)

EXHIBIT B
SUBORDINATION AGREEMENT

**(Same form as attached as Exhibit C to Master Transfer Agreement
is to be attached prior to execution)**

EXHIBIT E
COMPLETION AND PAYMENT GUARANTY

THIS COMPLETION AND PAYMENT GUARANTY ("**Guaranty**") is made this ____ day of _____, 2015 ("**Effective Date**") by VANIR GROUP OF COMPANIES, INC., a California corporation ("**Guarantor**") in favor of the CITY OF BANNING, a municipal corporation ("**City**").

RECITALS

- A. City, as seller, and JMA Village, LLC, a California limited liability company ("**JMA**"), as buyer, entered into that certain Purchase and Sale Agreement of Real Property and Joint Escrow Instructions dated January 24, 2102 ("**Original PSA**") for the acquisition of certain unimproved real property located bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the East by Martin Street and to the south by Livingston Street ("**Real Property**"). The PSA contained certain continuing post-closing covenants by JMA for the development of the Real Property as a mixed-use commercial project ("**Project**").
- B. The City transferred the Real Property to JMA pursuant to (i) that certain Grant Deed executed as of April 25, 2012 and recorded on May 3, 2012 as Instrument No. 2012-0201442 in the Official Records of Riverside County ("**Official Records**"), and (ii) that certain Grant Deed dated and recorded on May 3, 2012 as Instrument No. 2012-0201443 in the Official Records ("**Deeds**"). As set forth in the Deeds, the Real Property was subject to the continuing obligations under the Original PSA ("**Deed Covenants**").
- C. The Purchase Price for the Real Property was paid by that certain Promissory Note dated May 3, 2012 in the amount of One Million Twenty Thousand Dollars (\$1,020,000) executed by JMA in favor of City which has become due ("**Note**"). The Note was secured by that certain Deed of Trust dated May 3, 2012 which was recorded against the Real Property on May 3, 2012 as Instrument No. 2012-0201444 in the Official Records ("**City Deed of Trust**").
- D. JMA and City subsequently amended the Original PSA pursuant to that certain First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated June 10, 2014 ("**First Amendment**").
- E. JMA and Guarantor jointly formed Banning Office Venture, LLC, a California limited liability company ("**Banning Office**") for the development of Parcel 1 of Parcel Map No. 36285 of the Real Property with an office building.
- F. Guarantor caused Banning Office to acquire the Real Property from JMA pursuant to that certain Grant Deed dated _____, 2015 which was recorded on _____, 2015 as Instrument No. 2015-_____ in the Official Records and concurrently therewith that certain Assignment and Assumption Agreement to which the City consented which was recorded as Instrument No. 2015-_____ in the Official Records ("**Vanir Acquisition**").
- G. Concurrently with the Vanir Acquisition: (i) Guarantor acquired JMA's interest in Banning Office which became a wholly-owned subsidiary of Guarantor; and (ii) the PSA was further amended by that certain Second Amendment to Purchase and Sale Agreement and Joint Escrow Instructions dated _____, 2015 ("**Second Amendment**") The PSA as amended by the First Amendment and Second Amendment is hereinafter referred to as the "**PSA**".
- H. At the Closing of the Vanir Acquisition, Guarantor desires to transfer the Real Property directly from JMA to Banning Office and concurrently have JMA assign the PSA directly to Banning Office which will assume same and to which the City consents. Guarantor has requested that City consent thereto ("**Banning Consent**") which City is willing to do provided that Guarantor execute this Guaranty in favor of City guaranteeing lien-free completion of

EXHIBIT E

the Project in accordance with the terms and provisions of the PSA and Guarantor's performance of other covenants set forth herein which are material to City.

NOW, THEREFORE, in order to induce City to provide the Banning Consent and in consideration thereof, Guarantor hereby agrees as follows:

1. **Guaranty.** Guarantor hereby absolutely and unconditionally guarantees: (a) completion of the Project which shall be constructed, completed, equipped and furnished in a good and workmanlike manner in accordance with the time and provisions of the PSA ("**Completion of the Project**"), and (b) payment of the Note in the event of default by Banning Office under the Note or City Deed of Trust subject to the applicable provision in the PSA regarding forbearance ("**Payment of the Note**"). All obligations to effect the Completion of the Project are hereinafter referred to as the "**Completion Obligations**". All obligations to effect the Payment of the Note are hereinafter referred to as the "**Payment Obligations**."
2. **Obligations of Guarantor upon Default by Banning Office re: Completion of the Project.** In the event Completion of the Project is not accomplished by Banning Office in accordance with the PSA, Guarantor, promptly upon receipt of written notice thereof from City, shall (i) diligently and expeditiously proceed to cure such default and procure the Completion of the Project at Guarantor's cost and expense free of any mechanic liens; (ii) fully pay and discharge all costs incurred or required to be incurred in connection with the Completion of the Project; and (iii) obtain certificates of occupancy and all other permits and approvals necessary or appropriate for the operation of the Project.
3. **Obligations of Guarantor upon Default by Banning Office re: Payment of the Note.** In the event the Payment Obligations are not satisfied by Banning Office in accordance with the Note and City Deed of Trust, Guarantor, promptly upon receipt of written notice thereof from City, shall immediately satisfy the Note by paying all principal and interest then due under the Note.
4. **Guaranty Absolute.**
 - 4.1. Guarantor guarantees Completion of the Project and Payment of the Note strictly in accordance with the PSA, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of City with respect thereto. The liability of Guarantor under this Guaranty shall be absolute and unconditional irrespective of:
 - a. any lack of validity or enforceability of any portion of the PSA (or any other agreement or instrument relating thereto);
 - b. any change in the time, manner or place of payment of, or in any other term of, all or any of the Completion Obligations or Payment Obligations, or any other amendment or waiver of or any consent to departure from any of the PSA, including, without limitation, changes in the terms of disbursement of the Banning Consent proceeds or repayment thereof, modification to the Plans and Specifications, modifications, extensions (including extensions beyond and after the original term) or renewals of payment dates, changes in interest rate or the advancement of additional funds by City in its discretion;
 - c. any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Completion Obligations or Payment Obligations; or
 - d. any other circumstance which might otherwise constitute a defense available to, or a discharge of, Banning Office as to the Completion Obligations or Payment Obligations, or Guarantor as to this Guaranty.

EXHIBIT E

- 4.2. Notwithstanding any termination of this Guaranty or termination of the PSA or any other agreement evidencing or regarding the Completion Obligations or Payment Obligations, if at any time any payment or performance of any of the Completion Obligations (from any source) or Payment Obligations is rescinded, repaid or must otherwise be returned by City (i) due to or upon the insolvency, bankruptcy or reorganization of Banning Office or Guarantor, or (ii) for any other circumstance, this Guaranty shall continue to be effective or be reinstated, as the case may be, all as though such payment or performance had not occurred.
5. **Remedies.** If Guarantor shall fail to perform the Completion Obligations or Payment Obligations promptly after written notice, City shall have the following remedies:
- a. at its option and without any obligation so to do, to proceed to perform on behalf of Guarantor any of the Completion Obligations, and Guarantor shall, upon demand, pay to City all such sums expended by City in such performance on behalf of Guarantor; and
 - b. from time to time, without first requiring performance on the part of Banning Office and without being required to exhaust any or all security held by City, to require performance by Guarantor of any obligation on the part of Guarantor to be performed pursuant to the terms hereof, by action at law or in equity or both, and further to collect in any such action compensation for all loss, cost, damage, injury and expense sustained or incurred by City as a consequence of such breach.
6. **Subrogation.** Guarantor will not exercise any rights which it may require by way of subrogation under this Guaranty, by virtue of any payment or performance made hereunder or otherwise, until all the Completion Obligations and Payment Obligations shall have been paid or performed in full. If any amount shall be paid to Guarantor on account of such subrogation rights at any time when all the Completion Obligations and Payment Obligations shall not have been paid or performed in full, such amount shall be held in trust for the benefit of City and shall forthwith be paid to City to be credited and applied upon the Completion Obligations or Payment Obligations, whether matured or not, in such order as City, in its sole and absolute discretion, shall determine.
7. **Guaranty Independent; Waivers.**
- 7.1. Guarantor agrees that (i) the obligations hereunder are independent of and in addition to the undertakings of Banning Office pursuant to the PSA, any evidence of Construction Obligations issued in connection therewith, the PSA, Note, City Deed of Trust or any security agreement given to secure the same, any other guarantees given in connection with the Banning Consent and any other obligations of Guarantor to City, (ii) a separate action may be brought to enforce the provisions hereof whether Banning Office is partly in any such action or not, (iii) City may at any time, or from time to time, in its sole discretion (A) extend or change the time of payment and/or performance and/or the manner, place or terms of payment and/or performance of all or any of the Completion Obligations or Payment Obligations; (B) exchange, release and/or surrender all or any collateral security, or any part thereof, by whomsoever deposited, which is now or may hereafter be held by City in connection with all or any of the Completion Obligations or Payment Obligations; (C) sell and/or purchase all or any such collateral at-public or private sale in the manner permitted by law and after giving any notice which may be required, and after deducting all costs and expenses of every kind for collection, sale or delivery, the net proceeds of any such sale may be applied by City upon all or any of the Completion Obligations or Payment Obligations; and (D) settle or compromise with Banning Office, and/or any other person liable thereon, any and all of the Completion Obligations or Payment Obligations, and/or subordinate the payment of same, or any part thereof, to the payment of any other debts or claims, which may at any time be due or owing to City and/or any other person or corporation, and (iv) City shall be under no

EXHIBIT E

obligation to marshal any assets in favor of Guarantor or in payment or satisfaction of any or all of the Completion Obligations or Payment Obligations.

- 7.2. Guarantor hereby waives (i) presentment, demand, protest, notice of acceptance, notice of dishonor, notice of nonperformance and any other notice with respect to any of the Completion Obligations, Payment Obligations and this Guaranty, and promptness in commencing suit against any party thereto or liable thereon, and/or in giving any notice to or making any claim or demand hereunder upon Guarantor; (ii) any right to require City to (A) proceed against Banning Office, (B) proceed against or exhaust any security held from Banning Office, or (C) pursue any remedy in City's power whatsoever; (iii) any defense arising by reason of any disability or other defense of Banning Office or by reason of the cessation from any cause whatsoever of the liability of Banning Office other than full payment or performance of the Completion Obligations and Payment Obligations; (iv) any defense based on any lack of authority of the officers, directors, partners, or agents purporting to act on behalf of Banning Office or any principal of Banning Office or any defect in the formation of Banning Office or any principal of Banning Office; (v) to the fullest extent permitted by law, all rights and benefits under Civ. Code §2809 purporting to reduce a guarantor's obligations in proportion to the principal obligation; (vi) any defense based on the application by Banning Office of the proceeds of the Banning Consent for purposes other than the purposes represented by Banning Office to City or intended or understood by City or Guarantor; (vii) any defense it may acquire by reason of City's election of any remedy against it or Banning Office or both, including, without limitation, election by City to exercise its rights under the power of sale set forth in the PSA, even though Guarantor's right of subrogation may thereby be impaired or extinguished under the anti-deficiency statutes of the State of California; (viii) any defense based on City's failure to disclose to Guarantor any information concerning Banning Office's financial condition or any other circumstances bearing on Banning Office's ability to pay all sums payable under the Note or any of the other Obligations; (ix) any defense based on any statute or rule of law that provides that the obligation of a surety must be neither larger in amount nor in any other respects more burdensome than that of a principal; (x) any defense based on City's election, in any proceeding instituted under the Federal Bankruptcy Code, of the application of Section 1111(b)(2) of the Federal Bankruptcy Code or any successor statute; (xi) any defense based on any borrowing or any grant of a security interest under §364 of the Federal Bankruptcy Code; (xii) any right of subrogation, contribution, or reimbursement against Banning Office, any right to enforce any remedy that City has or may in the future have against Banning Office, any other right that City may now or later acquire against Banning Office that arises from the existence or performance of Guarantor's obligations under this Guaranty or would arise with respect to the Completion Obligations or Payment Obligations, and any benefit of, and any right to participate in, any security for the Completion Obligations now or in the future held by City; (xiii) the benefit of any statute of limitations affecting the liability of Guarantor or the enforcement of the Guaranty, including, without limitation, any rights arising under Code Civil Procedure §359.5; and (xiv) to the fullest extent permitted by law, without limiting the generality of the foregoing or any other provision hereof, all rights and benefits which might otherwise be available to the undersigned under Civil Code §§2810, 2819, 2839, 2845, 2849, 2850, 2899, and 3433.
- 7.3. Guarantor waives all rights and defenses arising out of an election of remedies by City, even though that election of remedies, such as a non-judicial foreclosure with respect to security for a guaranteed obligation, has destroyed Guarantor's rights of subrogation and reimbursement against the principal by the operation of Code Civil Procedure §580d or otherwise. Furthermore, Guarantor understands and acknowledges that if Bank forecloses judicially or non-judicially against any real property security for the Banning Consent, that foreclosure could impair or destroy any ability that Guarantor may have to

EXHIBIT E

seek reimbursement, contribution, or indemnification from Banning Office or others based on any right Guarantor may have of subrogation, reimbursement, contribution, or indemnification for any amounts paid by Guarantor under this Guaranty. By executing this Guaranty, Guarantor freely, irrevocably, and unconditionally:

- a. waives and relinquishes that defense, and agrees that Guarantor will be fully liable for the Completion Obligation and Payment Obligations under this Guaranty even though City may foreclose judicially or non-judicially or exercise any other right against any real property security for the Banning Consent;
 - b. agrees that Guarantor will not assert that defense in any action or proceeding that City may commence to enforce this Guaranty;
 - c. acknowledges and agrees that the rights and defenses waived by Guarantor under this Guaranty include any right or defense Guarantor may have or be entitled to assert based upon or arising out of any one or more of Code Civil Procedure §§580a, 580b, 580d, or 726, or Civil Code §2848; and
 - d. acknowledges and agrees that City is relying on this waiver in issuing the Banning Consent, and that this waiver is a material part of the consideration that City is receiving for issuing the Banning Consent.
8. **Guaranty Does Not Supersede Other Guarantees.** Guarantor's obligations shall be in addition to any obligations of Guarantor under any other guarantees of the Completion Obligations, Payment Obligations and/or any obligations of Banning Office or any other persons or entities heretofore given or hereafter to be given to City, and this Guaranty shall not affect or invalidate any such other guarantees. The liability of Guarantor to City shall at all times be deemed to be the aggregate liability of Guarantor under the terms of this Guaranty and of any other guarantees heretofore or hereafter given by Guarantor to City.
9. **Representations and Warranties.** Guarantor hereby represents and warrants as follows:
 - a. **Power and Authority.**
 - i. Guarantor has the requisite power and authority to own and manage its properties, to carry on its business as now being conducted and to own, develop and operate the Real Property.
 - ii. Guarantor is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.
 - iii. Guarantor is a corporation organized, validly existing in good standing under the laws of California, and qualified to do business in California.
 - b. **Validity of Guaranty.**
 - i. The execution, delivery and performance by Guarantor of this Guaranty (A) are within the power of Guarantor, (B) have received any and all necessary governmental approvals, and (C) will not violate any provision of law, any order of any court or agency of government, or any indenture, agreement or any other instrument to which Guarantor is a party or by which Guarantor or its Real Property is bound, or be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its Real Property or assets.
 - ii. This Guaranty, when delivered to City, will constitute a legal, valid and binding obligation enforceable against Guarantor in accordance with its terms.
 - c. **Financial Statements.**

EXHIBIT E

- i. All Guarantor's financial statements and data that have been made available to City's representative: (A) are complete and correct in all material respects as of the date given; (B) accurately present the financial condition of Guarantor on each date as of which, and the results of Guarantor's operations for the periods for which, the same have been furnished; and (C) have been prepared in accordance with generally accepted accounting principles.
 - ii. All balance sheets and the notes thereto with respect to Guarantor made available to City's representative disclose all materials liabilities of Guarantor, fixed and contingent, as of their respective dates.
 - iii. There has been no adverse change in the financial condition or operations of Guarantor since (A) the date of the most recent financial statement made available to City's representative with respect to Guarantor, or (B) the date of the financial statements made available to City's representative immediately prior to the date hereof, other than changes in the ordinary course of business, none of which changes has been materially adverse individually or in the aggregate.
 - d. **Other Arrangements.** Guarantor is not a party to any agreement or instrument materially and adversely affecting Guarantor's present or proposed business, properties or assets, or operations or conditions (whether financial or otherwise); and Guarantor is not in default in the performance, observance or fulfillment of any of the material obligations, covenants or conditions set forth in any agreement or instrument to which Guarantor is a party.
 - e. **Other Information.** All other reports, papers and written data and information given to City's representative by Guarantor with respect to Guarantor are accurate and correct in all material respects and complete insofar as completeness may be necessary to give City a true and accurate knowledge of the subject matter.
 - f. **Litigation.** There is not now pending against or affecting Guarantor, nor to the knowledge of Guarantor is there threatened, any action, suit or proceeding at law or in equity or by or before any administrative agency that, if adversely determined, would materially impair or affect the financial condition or operations of Guarantor.
 - g. **Taxes.** Guarantor has filed all income tax returns required to have been filed by Guarantor and has paid all taxes that have become due pursuant to such returns or pursuant to any assessments received by Guarantor, and Guarantor does not know of any basis for any material additional assessment against it in respect of such taxes.
- 10. Affirmative Covenants.** Guarantor covenants and agrees that, so long as any part of the Completion Obligations shall remain incomplete, Guarantor will, unless City shall otherwise consent in writing:
- a. **Taxes Affecting Guarantor.** File all applicable income tax returns required to be filed by it and pay before the same become delinquent all taxes that become due pursuant to such returns or pursuant to any assessments received by it.
 - b. **Compliance with Law.** Promptly and faithfully comply with all laws, ordinances, rules, regulations and requirements, both present and future, of every duly constituted governmental authority or agency having jurisdiction that may be applicable to it.
 - c. **Books and Records.** Maintain full and complete books of account and other records reflecting the results of its operations, in form reasonably satisfactory to City, and made available to City's representatives, such information about the financial condition of Guarantor as City shall reasonably request which shall be kept strictly confidential with no copies.

EXHIBIT E

- 11. Amendments, Waivers & Consents.** No amendment or waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by City, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Guarantor shall in any case entitle it to any other or further notice or demand in similar or other circumstances.
- 12. Notices.** All notices that may be required or otherwise provided for or contemplated under the terms of this Guaranty for any party to serve upon or give to any other shall, whether or not so stated, be in writing, and if not so in writing shall not be deemed to have been given, and be either personally served or sent with return receipt requested by registered or certified mail with postage (including registration or certification charges) prepaid in a securely enclosed and sealed envelope, sent to the following addresses:

City:	City of Banning 99 E. Ramsey St. Banning, CA 92220 Attn: City Manager
With a copy to:	Aleshire & Wynder, LLP 18881 Von Karman Avenue, Suite 400 Irvine, CA 92612 Attn: Lona Laymon, City Attorney
Guarantor:	Vanir Group of Companies, Inc. 4540 Duckhorn Drive Suite 100 Sacramento, CA 95834 Attn: President
With a copy to:	Vanir Group of Companies, Inc. 4540 Duckhorn Drive Suite 100 Sacramento, CA 95834 Attn: H. Vincent McLaughlin, Esq.

These addresses may be changed from time to time by written notice to the other party given in the same manner. Any matter served on or sent to Guarantor or City in this manner will be deemed sufficiently given for all purposes on the date three (3) days following the date it was deposited in a United States Post Office, except that notices of changes of address will not be effective until actual receipt.

- 12. No Waiver; Remedies.** No failure on the part of City to exercise and no delay in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall City be estopped to exercise any such right or remedy at any future time because of any such failure or delay; nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.
- 13. Effectiveness.** Subject to the provision of Section 3(b) hereof, this Guaranty shall remain in full force and effect until and including the date upon which Completion of the Project as defined in the PSA shall have occurred, at which time Guarantor's obligations hereunder shall be deemed fully discharged, and Guarantor shall have no further liability under this Guaranty. Upon written request, City shall execute a written confirmation that this Guaranty has terminated in accordance with this provision.
- 14. Subordination.** Any financial rights, debts or obligations of Banning Office now or hereafter held by Guarantor is hereby subordinated to the Construction Obligations of Banning Office to City, and such Construction Obligations of Banning Office to Guarantor shall, if City so

EXHIBIT E

requests, be collected, enforced and received by Guarantor as trustee for City and be paid over to City on account of the Construction Obligations of Banning Office to City, but without reducing or limiting in any manner the liability of Guarantor under the other provisions of this Guaranty.

- 15. No Duty.** Guarantor assumes the responsibility for keeping informed of the financial condition of Banning Office and of all other circumstances bearing upon the risk of nonpayment or nonperformance of the Completion Obligations, and agrees that City shall have no duty to advise Guarantor of any information known to City regarding any such financial condition or circumstances.
- 16. Entire Agreement.** This Guaranty is intended as a final expression of this agreement of guaranty and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between Guarantor and City, no usage of the trade, and no parol or extrinsic evidence of any nature shall be used or be relevant to supplement, explain, contradict or modify the terms and/or provisions of this Guaranty. This Guaranty shall automatically be deemed in effect upon the City's issuance of the Consent.
- 17. Governing Law.** This Guaranty shall be governed by, and construed in accordance with, the laws of the State of California.
- 18. Attorneys' Fees.** In the event of litigation regarding the interpretation or enforcement of the terms of this Guaranty, the losing party shall pay to the prevailing party all costs, including, without limitation, attorneys' fees and expenses..
- 19. Miscellaneous.**
 - 19.1. Time of Essence.** Time is of the essence hereof.
 - 19.2. Partial Invalidity.** If any term, provision, covenant or condition hereof or any application thereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all provisions, covenants and conditions hereof, and all applications thereof not held invalid, void or unenforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.
 - 19.3. Counterpart Execution.** This Guaranty may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of such counterparts taken together shall constitute but one and the same instrument.
 - 19.4. Miscellaneous.** Section headings in the Guaranty are included for convenience of reference only and do not constitute a part of this Guaranty for any other purpose.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Guaranty as of the date first above written.

GUARANTOR:

**VANIR GROUP OF COMPANIES,
INC.,** a California corporation

By: _____

Dorene C. Dominguez
President & Chief Executive Officer

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INTENTIONALLY**

CITY COUNCIL AGENDA

DATE: October 13, 2015

TO: CITY COUNCIL

FROM: Rita Chapparosa, Deputy Human Resources Director
Michelle M. Green, Deputy Finance Director

SUBJECT: Amendment to Government Staffing Services, Inc. Contract

RECOMMENDATION: Authorize the Mayor to execute the attached amendment increasing the Government Staffing Services, Inc. contract by \$20,000 to cover increased compensation for the Interim City Manager as required by GC 21221(h) (law regarding CalPERS retired annuitants).

JUSTIFICATION: GC (Government Code) 21221(h) sets forth the laws regarding CalPERS retired annuitants and how any public agency which is a member of CalPERS can make use of a retired employee on an interim basis. In addition to limiting the number of hours worked and requiring a limited duration for an interim assignment, the agency is required to pay the minimum published hourly rate for the applicable position.

BACKGROUND: Government Staffing Services, Inc. has provided staffing on an interim basis for the City since April, 2014. Effective January 5, 2015, Dean Martin was provided by Government Staffing Services, Inc., after interview and acceptance by the City's then Administrative Services Director (whose departure was imminent), to fill the Administrative Services Director position on an interim basis while a City recruitment was in process. On May 12, 2015, Mr. Martin was appointed by the City Council to serve as the Interim City Manager.

CalPERS learned of the employment of the retired annuitant and conducted an administrative review. It was their determination that the City met all of the retired annuitant guidelines during Mr. Martin's assignment as the Administrative Services Director (January 5, 2015 – May 12, 2015). However, once Mr. Martin was appointed as the Interim City Manager, without an increase in salary, the City was in violation of the law. The requirement with respect to compensation of the retired annuitant was not known, so no adjustment had been made.

CalPERS stated that the City "should" increase Mr. Martin's pay rate to comply with the requirements of the law. However, in this one instance, CalPERS would not implement any punitive actions against the City if we chose not to comply.


Although CalPERS has chosen not to administratively pursue this issue, staff feels that it is still appropriate to increase Mr. Martin's hourly rate retroactive to the date he became

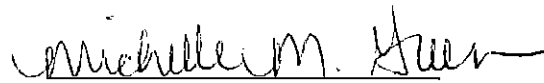
the Interim City Manager. This would allow the City to be in full compliance with the law. In addition, the duties and responsibilities of the Interim City Manager position are substantially more than those expected from the Administrative Services Director position and he should, therefore, be compensated accordingly.

In order to comply with GC 21221(h), staff is now requesting an adjustment to the contract with Government Staffing Services, Inc. by \$20,000 to adjust Mr. Martin's pay to the minimum required as a CalPERS retired annuitant. The adjustment amounts to an increase of \$21.82 to Mr. Martin's hourly rate, retroactive to May 13, 2015.

FISCAL DATA: The \$20,000 will come from personnel savings due to not having permanent staff in the positions of Administrative Services Director and City Manager. FY16 projected net savings (including this adjustment) through mid-November, when Mr. Martin's assignment ends, are expected to be \$148,500.

RECOMMENDED BY:


Rita Chapparosa
Deputy Human Resources


Michelle M. Green
Deputy Finance Director

AMENDMENT #1 TO AGREEMENT FOR MUNICIPAL STAFFING SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES ("Amendment") by and between the **CITY OF BANNING** ("City") and Government Staffing Services, Inc dba MuniTemps (MuniTemps), a California corporation ("Consultant") is effective as of the 14th day of October, 2015.

RECITALS

A. City and Consultant entered into that certain Agreement for Municipal Staffing Services dated May 21, 2015 ("Agreement") on whereby Consultant agreed to provide Staffing Services for the City of Banning.

B. City and Consultant now desire to amend the Agreement to include additional compensation in an amount not to exceed Twenty-one Thousand Dollars and 00/100 (\$21,000.00) to the original Contract Amount and revise the Exhibit "A". The original Exhibit "A" is modified and revised to reflect an hourly rate of \$117.97.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein.

(a) Exhibit "A" to the Agreement is hereby amended to include the additional hourly compensation to be paid directly to the Interim City Manager, Dean Martin, by increasing the contracted rate to be paid to MuniTemps from 96.15 to 117.97.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Municipal Staffing Agreement.

Affirmation of Agreement; Warranty Re Absence of Defaults. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment, Consultant is not in default of any material term of the Agreement and that there have been no

events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

3. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

4. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BANNING, a municipal
corporation

Debbie Franklin, Mayor

ATTEST:

Marie Calderon, City Clerk

CONSULTANT:

Government Staffing Services, Inc

By: _____
Name:
Title:

By: _____
Name:
Title:

Address: P.O. Box 718, Imperial Beach,
CA, 91933 1-866-406-6864

CITY COUNCIL AGENDA

DATE: October 13, 2015
TO: Honorable Mayor and City Council
FROM: Alex Diaz, Chief of Police
SUBJECT: Sex Offenders and Child Offenders Update

BACKGROUND:

In the 1990s, federal and state legislatures enacted various laws intended to protect minors from registered sex offenders. At the federal level, this legislation included Megan's Law, which was adopted in 1996 and created a nation-wide sex offender registry. At the state level, the California legislature adopted a series of regulations on the day-to-day lives of registered sex offenders, codified at California Penal Code §§ 290 et seq., including a voter-approved measure known as "Jessica's Law," codified at California Penal Code § 3003.5 ("Section 3003.5").

Section 3003.5 regulates the residency of registered sex offenders. It specifically prohibits registered sex offenders from residing within two thousand feet of a school or park (Section 3003.5(b)), and expressly permits supplemental local regulation of sex offender residency (Section 3003.5(c).)

In addition, California Penal Code section 653b (Section 653b) regulates loitering by registered sex offenders and provides any 290 registrant who "loiters about any school or public place at or near which children attend or normally congregate" is guilty of a misdemeanor.

After the adoption of those state laws, concerns arose among numerous California cities regarding how local agencies could enforce Megan's Law and Jessica's Law. Due to those concerns, over seventy-five (75) California municipalities, enacted local ordinances further regulating the residency, loitering and other activities of registered sex offenders in their communities.

Recent Court Cases & Legal Challenges Re: Sex Offender Regulations

In the year 2012, a registered sex offender residing in San Diego County initiated the matter of "In re William Taylor et al". The offender sought a court order enjoining the California Department of Corrections and Rehabilitation ("CDCR") from enforcing the residency restrictions set forth in Jessica's Law/Section 3003.5, on the rounds the blanket restriction was unconstitutional. The trial court agreed with the sex offender, and granted the relief sought. The CDCR appealed, and the Court of Appeals, Fourth Appellate District, affirmed the trial court's order in favor of the registered sex offender.

In April 2014, cities enforcing local Ordinances received communication from “The California Reform Sex Offender Laws” (“RSOL”) group. Counsel for RSOL stated that, in light of these recent decisions, they would consider litigation if current city Ordinances remain in place.

The RSOL organization, through a representative plaintiff named Mr. Frank Lindsay, has sued five (5) California cities regarding their sex offender ordinances, including the City of Pomona (on March 24, 2014), City of South Lake Tahoe (on April 1, 2014), National City (on April 4, 2014), the City of Lompoc (on April 21, 2014) and the City of Carson (on May 2, 2014). In response to the court opinions, and the initiation of the In re Taylor case, in the last year approximately twenty-eight (28) cities have either suspended all sex offender regulation enforcement, amended their municipal codes, or repealed their local regulations outright. We are advised that several additional cities are considering action to amend or repeal their codes in the coming months. Approximately eighteen (18) separate lawsuits have been filed against cities which did not amend or repeal their laws to conform to the new appellate decisions.

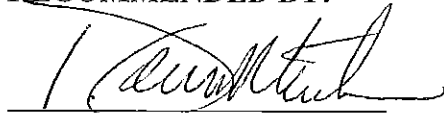
On March 2, 2015, the California Supreme Court ruled in the case of “In re William Taylor et al.” that the blanket restrictions allowed in the penal code were unconstitutional, ruling that each case should be evaluated independently based on the individual defendant in question.

While the case involved local residency requirements in the County of San Diego, the ruling of the California Supreme Court affects the interpretation of the Penal Code throughout the State and any local ordinance with “blanket” residency restrictions for sex registrants.

In light of these recent opinions by our state’s high courts, it is recommended that the City Council allow the Banning Police Department to align with state law and track current state law related to regulations on the residency and activities of registered sex offenders.

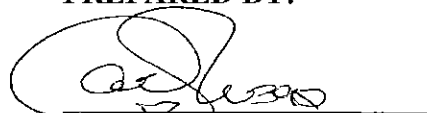
FISCAL DATA: N/A

RECOMMENDED BY:

A handwritten signature in black ink, appearing to read "Dean Martin", written over a horizontal line.

Dean Martin
Interim City Manager

PREPARED BY:

A handwritten signature in black ink, appearing to read "Alex Diaz", written over a horizontal line.

Alex Diaz
Chief of Police

CITY COUNCIL MEETING

DATE: October 13, 2015

TO: City Council

FROM: Art Vela, Acting Director of Public Works

SUBJECT: Resolution No. 2015-92, "Approving an Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. to include Engineering Services"

RECOMMENDATION: The City Council adopt Resolution No. 2015-92:

- I. Approving an Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. of Mission Viejo, California in the amount of \$125,000.00 for Fiscal Year 2015/2016 with the option to renew for three additional years.
- II. Authorizing the Administrative Services Director to make necessary budget adjustments and appropriations and transfers related to the agreement.
- III. Authorizing the Interim City Manager to execute the Professional Services Agreement with Charles Abbott Associates, Inc. for Fiscal Year 2015/2016 with the option to renew for three additional years.

JUSTIFICATION: An amendment to the Professional Services Agreement is necessary in order to provide staff augmentation that will assist in meeting the current demands and operational needs of the Public Works Department.

BACKGROUND: On June 23, 2015 under Resolution No. 2015-60, City Council approved an agreement with Charles Abbott Associates Inc. ("CAA") of Mission Viejo for Building and Safety Services including Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and Building Abatement.

The award of this agreement was approved based on the Request for Proposals ("RFP") process conducted by the Community Development Department. As a result, efforts by the Community Development Department resulted in the City obtaining seven (7) proposals as listed below:

Consultants

- 1) Bureau Veritas North America, Inc., of Costa Mesa, California
- 2) Charles Abbott Associates, Inc., of Mission Viejo, California
- 3) CSG Consultants, Inc., of Santa Ana, California
- 4) HR Green of Orange, California
- 5) Interwest Consulting Group of Palm Spring, California

- 6) JAS Pacific of Upland, California
- 7) Willdan of San Bernardino, California

As part of the selection process, proposals were evaluated and firms were interviewed in categories including 1) team qualification; 2) capabilities of the consulting firm; 3) understanding and approach, and 4) controls of oversight. As a result, CAA earned the highest rated score and was awarded a professional services agreement by City Council.

Currently, there are two Senior Civil Engineering vacancies in the Public Works Department: one was created by the retirement of the City Engineer (position was reclassified to Senior Civil Engineer) and one is temporarily vacant as the incumbent is the Acting Public Works Director/City Engineer. Based on current demands, operational needs and two Senior Civil Engineering vacancies, it necessary for the department to obtain professional engineering/staff augmentation services to continue to meet the needs of the City.

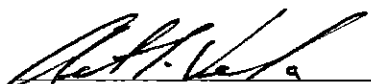
The services to be provided include: plan check of improvement plans, parcel/tract maps, and right-of-way dedications; review of technical reports; preparation of request for proposals for design projects; management of design projects; and preparation of plans and specifications for capital improvement projects including project management.

In an effort to expedite the process, Public Works staff reviewed proposal evaluations for the listed firms as well as resumes of the project team that CAA has put together to provide the requested services to the City. Additionally, the Acting Public Works Director interviewed project team members and determined the proposed team has the experience and knowledge to provide the requested services. Staff also found that the proposed rate schedule is competitive.

Staff respectively requests that the City Council approve an amendment with CAA for Engineering Services in an amount not to exceed \$125,000.00 for Fiscal Year 2015/2016 with the option to renew this portion of the agreement for three (3) additional one year periods for an amount of \$175,000.00 per year upon an annual satisfactory review of engineering services provided and until the two vacancies previously mentioned are filled and as long as salary savings can fund these services.

FISCAL DATA: The Amendment to the Professional Services Agreement with CAA shall be funded by salary savings obtained through vacant positions in the Public Works Department which is estimated to be \$330,000.00 per year.

RECOMMENDED BY:



Art Vela
Acting Director of Public Works

REVIEWED/APPROVED BY:



Dean Martin
Interim City Manager

Attachments:

- | | |
|---|-------------------------|
| 1. City Council Resolution No. 2015-60 | 3. Project Team Resumes |
| 2. Consultant Evaluations Prepared by Interview Committee | 4. Rate Sheet |

RESOLUTION NO. 2015-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CHARLES ABBOTT ASSOCIATES, INC. TO INCLUDE ENGINEERING SERVICES

WHEREAS, on June 23, 2015 City Council approved an agreement with Charles Abbott Inc. of Mission Viejo for Building and Safety Services including Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and Building Abatement; and

WHEREAS, the award of this agreement was approved based on the Request for Proposals ("RFP") process conducted by the Community Development Department which resulted in the City obtaining seven (7) proposals including Bureau Veritas North America, Inc., of Costa Mesa; Charles Abbott Associates, Inc., of Mission Viejo; CSG Consultants, Inc., of Santa Ana; HR Green of Orange; Interwest Consulting Group of Palm Spring; JAS Pacific of Upland; Willdan of San Bernardino; and

WHEREAS, as part of the selection process, proposals were evaluated and firms were interviewed in categories including 1) team qualification; 2) capabilities of the consulting firm; 3) understanding and approach, and 4) controls of oversight and as a result, Charles Abbott Associates, Inc. earned the highest rated score and was awarded a contract by City Council; and

WHEREAS, currently, there are two Senior Civil Engineering vacancies: one was created by the retirement of the City Engineer (position was reclassified to Senior Civil Engineer) and one is temporarily vacant as the incumbent is the Acting Public Works Director/City Engineer and therefore it was determined necessary that the Public Works Department obtain professional engineering services in order to provide staff augmentation to meet the needs of the City; and

WHEREAS, the scope of work for necessary services includes the plan check of improvement plans, parcel/tract maps, and right-of-way dedications; review of technical reports; preparation of request for proposals for design projects; management of design projects; and preparation of plans and specifications for capital improvement projects including project management; and

WHEREAS, Public Works staff reviewed proposal evaluations for the listed firms as well as resumes of the project team that Charles Abbott Inc. has put together to provide the requested services to the Public Works Department; additionally, the Acting Public Works Director interviewed project team members; and

WHEREAS, staff respectfully request that City Council approve an amendment with Charles Abbott Associates, Inc. for engineering services in an amount not to exceed \$125,000.00 for Fiscal Year 2015/2016 with the option to renew this portion of the agreement for three (3) additional one year periods for an amount of \$175,000.00 per year upon an annual

satisfactory review of engineering services provided and until two vacancies in the Public Works Department are filled and as long as salary savings can fund these services; and

WHEREAS, the Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. shall be funded by salary savings obtained through vacant positions in the Public Works Department which amount to approximately \$330,000.00 per year.

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

SECTION 1. The Banning City Council adopts Resolution No. 2015-92 approving an amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. of Mission Viejo, California in an amount "not to exceed" \$125,000.00 for Fiscal Year 2015/2016 with the option to renew this portion of the agreement for three (3) additional one year periods for an amount of \$175,000.00 per year upon an annual satisfactory review of engineering services provided; and

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and appropriations and transfers related to this amendment.

SECTION 3. The Interim City Manager is authorized to execute the Amendment to the Professional Services Agreement with Charles Abbott Associates, Inc. of Mission Viejo, California, in a form approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 13th day of October, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

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

Lona N. Laymon, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-92, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 13th day of October, 2015, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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Attachment 1
City Council Resolution No. 2015-60

RESOLUTION NO. 2015-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE INTERIM CITY MANAGER TO ENTER INTO THE CONTRACT SERVICES AGREEMENT WITH CHARLES ABBOTT ASSOCIATES, INC. FOR BUILDING & SAFETY SERVICES.

WHEREAS, on July 13, 2011, the City Council approved a Contract Services Agreement with Willdan to provide Building & Safety Services for a one (1) year period. Subsequently, on June 12, 2012, the City Council adopted Resolution No. 2012-44 amending the Contract Services Agreement to continue the services of Willdan for an additional three (3) year period until June 30, 2015. As a result, Willdan has provided Building & Safety Services for a four (4) year period. Pursuant to Section 3.24.070(A)(7) (Formal Bid Procedures) of the Banning Municipal Code, *"no professional service contract shall extend for a period of more than five years, including any authorized extensions."* Therefore, the City may desire to consider a new Contract Services Agreement so that the City may maintain its Building & Safety functions. By soliciting proposals at this time, the City can ensure the most efficient and cost effective level of service; and,

WHEREAS, staff prepared and then on March 30, 2015 released a Request for Proposals seeking a professional consulting firm to provide Building & Safety Services to the City in the following areas: Building Official Administrative Services; Public Counter Assistance; Building Permit Plan Checking; Building Inspection Services; and, Building Abatement; and,

WHEREAS, on April 3, 2015, the Request for Proposals was posted on the City's website and published in The Record Gazette; and

WHEREAS, on April 30, 2015, the Community Development Department received seven (7) responses to the Request for Proposals from the following consulting firms:

Consultant	Location
Bureau Veritas North America, Inc.	Costa Mesa, CA
Charles Abbott Associates, Inc.	Mission Viejo, CA
CSG Consultants, Inc.	Santa Ana, CA
HR Green	Orange, CA
Interwest Consulting Group	Palm Springs, CA
JAS Pacific	Upland, CA
Willdan	San Bernardino, CA

WHEREAS, on May 13, 2015, the Community Development Department, represented by an independent committee of three (3) persons, conducted interviews with five (5) of the seven (7) consulting firms. The consulting firms Bureau Veritas North America and JAS Pacific declined to participate in the interview process and, therefore, have been eliminated from consideration of the evaluation process. The rating categories/criteria included: 1) team qualifications; 2) capabilities of the consulting firm; 3) understanding and approach; and, 4) controls of oversight. The following table provides a summary of the interview ratings:

Firm Name	Rater #1	Rater #2	Rater #3	Total
(1) Charles Abbott Associates, Inc.	395	450	410	1,255
(2) Willdan	335	315	340	990
(3) CSG Consultants, Inc.	360	325	295	980
(4) Interwest Consulting Group	335	260	360	955
(5) HR Green	225	180	360	660

WHEREAS, as part of their respective proposals, the consulting firms were requested to provide a proposed fee for the provision of the requested Building & Safety Services. The following table provides a summary of the proposed rates:

Consultant	Hourly Rates	Percentage
Charles Abbott Associates, Inc.		
Building Official	N/A	65% for First \$15,000 of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	N/A	
		55% for Amounts Over \$15,001 of Monthly Fees Collected by City.
CSG Consultants, Inc.		
Building Official	\$110	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	\$75	
Public Counter Assistance	\$55	
HR Green		
Building Official	\$135	Unresponsive Fee Proposal, Requires Costs.
Building Permit Plan Checking	\$95-\$150	
Building Inspection	\$90-\$110	
Public Counter Assistance	\$75	
Interwest Consulting Group		
Building Official	N/A	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	\$55	
Willdan		
Building Official	N/A	75% of Monthly Fees Collected by City.
Building Permit Plan Checking	N/A	
Building Inspection	N/A	
Public Counter Assistance	\$59.00	

WHEREAS, upon a thorough evaluation of the proposals in terms of experience and expertise in correlation with the respective fees, staff concluded that Charles Abbott Associates has submitted the highest qualified team with a competitive fee for the provision of the requested Building & Safety Services. On June 15, 2015, the City's Budget and Finance Committee reviewed and considered staff's recommendation. The following table provides a summary of the cumulative scoring:

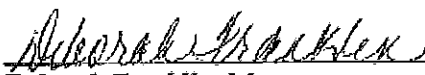
Firm Name	Rating Ranking	Fee Ranking	Total Score
Charles Abbott Associates, Inc.	1	1	2
Willdan	2	2	4
Interwest Consulting Group	4	3	7
CSG Consultants, Inc.	3	4	7
HR Green	5	5	10

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

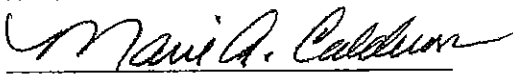
SECTION 1: Authorize the Interim City Manager to execute the Contract Services Agreement with Charles Abbott Associates, Inc. (attached Exhibit "A") to provide Building & Safety Services in the amount not to exceed a fee of 65% of the fees paid for the first \$15,000, 55% of the fees paid in the amounts from \$15,001 to \$30,000, and 50% of the fees paid in the amounts over \$30,001. This authorization will be rescinded if the Contract Services Agreement is not executed by both parties within sixty (60) days of the date of this Resolution.

SECTION 2: Authorize the Interim City Manager to execute the Contract Services Agreement with Charles Abbott Associates, Inc. in the form that is approved by the City Attorney.


PASSED, ADOPTED AND APPROVED this 23rd day of June, 2015.


Deborah Franklin, Mayor
City of Banning, California

ATTEST:


Marie A. Calderon, City Clerk
City of Banning

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


Lona N. Layman, Assistant City Attorney
Aleshire and Wynder, LLP.

CERTIFICATION:

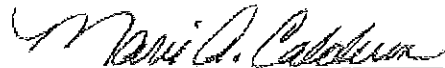
I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-60 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June, 2015, by the following vote, to wit:

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

NOES: None

ABSTAIN: None

ABSENT: None



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

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Attachment 2
Consultant Evaluations by Previous Interview Committee

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: CHARLES ADGOTT ASSOC.

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	Good Experience
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	8	APPEAR TO BE RESPONSIVE TO CITY'S NEEDS
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	14	PROPOSED STAFF LIVE IN THE AREA
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	5	OK
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	5	Good Record
GENERAL NOTES: WILL PRESENT - GOOD HISTORY OF SERVICE WOULD BE A GOOD CHOICE		TOTAL		40
NAME: TROY THOMAS TITLE: BUILDING OFFICER DATE: 8-12-14				

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

CHARLES ABBOTT

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	10	100
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	10	100
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	15	225
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	5	25
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5		

GENERAL NOTES:

TOTAL

NAME:

TITLE:

DATE:

Charles Abbott **CONTRACT**
PLANNER

9/13/15

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: *Charles Abbott*

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	10	
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	9	Firm has staff living in the area.
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	13 10	
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	5	
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	5	
GENERAL NOTES:		TOTAL 42 39		

NAME: *M. Steven* TITLE: *Electric Utility Inspection* DATE: *5-13-15*

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: CSG

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	Good team
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	7	Question Their AVAILABILITY
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	13	Good knowledge of Business & Plan Review Not familiar with the City needs
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	3	Questionable
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	5	Good REFERENCES
GENERAL NOTES:		TOTAL		36

WOULD BE A REASONABLE
CHOICE

NAME: JEFF THOMAS TITLE: BUILDING OFFICIAL DATE: 5-13-15

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

CSG CONSULTANTS

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	15	50
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	15	150
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	150
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	5	25
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5		
GENERAL NOTES:		TOTAL		375

NAME:

MILICA

TITLE:

CONTRACT PLANNER

DATE:

5/13/15

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: *CSG Consultants*

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	5	<i>Current staff is limited.</i>
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	3	
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	4	
GENERAL NOTES:		TOTAL 29		
<p>NAME: <i>M. Steen</i> TITLE: <i>Electric Utility Engineer</i> DATE: <i>5-18-15</i></p>				

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

INTERACTIVE

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	BONNIE OFFICIAL DOES NOT HAVE PLANNED REVIEW COST GENERALLY QUALIFIED
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	9	HAS GOOD HISTORY OF WORK WITH OTHER CITIES
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	NOT CLEAR ON COMMITMENT TO SCHEDULE FOR SERVICES
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	3	OK
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	4	Good REFERENCES
GENERAL NOTES:		TOTAL		34

Possible

NAME: *JEFF THOMAS* TITLE: *BONNIE OFFICIAL* DATE: *5-18-15*

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

INTERWEST

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	5	50
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	5	50
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	150
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	2	10
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5		
GENERAL NOTES:		TOTAL		210

NAME: *OWNER*

TITLE: *CONTRACT*

DATE: *5/13/15*

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: *Interwest Consulting Group*

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM <ul style="list-style-type: none"> - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart 	10	6	
2	FIRMS' CAPABILITIES <ul style="list-style-type: none"> - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements 	10	8	<i>Firm was not clear about having full Time Inspector.</i>
3	PROJECT UNDERSTANDING AND APPROACH <ul style="list-style-type: none"> - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches 	15	13	
4	PROJECT CONTROLS OF OVERSIGHT <ul style="list-style-type: none"> - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff 	5	5	
5	REFERENCES <ul style="list-style-type: none"> - Record of producing a quality product on similar projects on time and within budget 	5	3	
GENERAL NOTES:		TOTAL		
		35		
NAME: <i>M. Freeman</i> TITLE: <i>Electric Utility Inspector</i> DATE: <i>5-13-15</i>				

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: H R GREEN

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM <ul style="list-style-type: none"> - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart 	10	5	NOT COMPLETE REVISED
2	FIRM'S CAPABILITIES <ul style="list-style-type: none"> - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements 	10	4	COULD NOT SATISFY STATE
3	PROJECT UNDERSTANDING AND APPROACH <ul style="list-style-type: none"> - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches 	15	8	TO BEING ON ANSWER - NOT SPECIFIC
4	PROJECT CONTROLS OF OVERSIGHT <ul style="list-style-type: none"> - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff 	5	3	NOT CLEAR
5	REFERENCES <ul style="list-style-type: none"> - Record of producing a quality product on similar projects on time and within budget 	5	3	NOT CLEAR
GENERAL NOTES:		TOTAL		23

NAME: Joe Thomas TITLE: Building Official DATE: 5-13-13

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

HR GREEN

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	5	50
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	5	50
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	5	75
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	1	5
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5		
GENERAL NOTES:		TOTAL		190
<p>NAME: <i>OWNER</i> TITLE: <i>CONTRACT PLANNER</i> DATE: <i>5/13/15</i></p>				

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: *HR Green*

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	5	
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	5	<i>Current staff is limited</i>
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	1	
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	1	
GENERAL NOTES:		TOTAL 22		
<p>NAME: <i>M. Steen</i> TITLE: <i>Electric Utility Inspection</i> DATE: <i>5-13-15</i></p>				

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: WJ LLOM

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	HAVE GOOD EXPERIENCE
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	7	QUESTIONABLE STAFFING
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	11	KNOWLEDGE OF THE WORK BUT ONLY PREVIOUS PM INSPECTIONS
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	4	
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	4	GOOD REFERENCES
GENERAL NOTES:		TOTAL		34

Possibly

NAME: Jeff Thomas TITLE: Building Official DATE: 5-13-

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant:

WILLDAX

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	80
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	8	80
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	10	150
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	1	5
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5		

GENERAL NOTES:

TOTAL

(Handwritten signature and initials)

NAME:

OLIVER
WILLDAX

TITLE:

CONTRACT
PLANNER

DATE:

5/13/15

CONSULTANT EVALUATION FOR BUILDING AND SAFETY SERVICES

Project:

Consultant: *Willdon*

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	COMMENTS
1	PROJECT TEAM - Qualifications and Relevant Individual Experience - Unique qualifications of key members for this project - Time commitment of key members - Organizational Chart	10	8	
2	FIRM'S CAPABILITIES - Demonstrated capability on similar/related projects - Management and other organizational capabilities - Impacts of other on-going projects and priorities - Quality and cost control procedures/policies - Staff availability - Ability to meet the City's insurance requirements	10	5	<i>Currently Willdon Inspectors are not on site for inspection full time</i>
3	PROJECT UNDERSTANDING AND APPROACH - Demonstrated knowledge of the work required - Provided an explanation of the project - Showed familiarity with project area and issues - Explained a logical course of action to meet goal - Had internal measures proposed to meet timely completion - Provided a Project Schedule - Included innovative approaches	15	13	
4	PROJECT CONTROLS OF OVERSIGHT - Ability to the timely response to City requirements - Firm location (work done) & accessibility to City staff	5	3	
5	REFERENCES - Record of producing a quality product on similar projects on time and within budget	5	4	
GENERAL NOTES:		TOTAL		
		38		
NAME: <i>M. Steen</i> TITLE: <i>Electric Utility Inspector</i> DATE: <i>5-13-15</i>				

Attachment 3
Project Team Resumes

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CAA *Charles Abbott Associates, Inc.*

SEPTEMBER 23, 2015



Engineering / Public Works Projects On-Call Services Resumes and Sample Projects

Prepared for

CITY OF BANNING

Art Vela P.E.
Acting Public Works Director
City of Banning
99 E. Ramsey Street
Banning, CA 92220

By
Charles Abbott Associates, Inc.

27401 Los Altos, Suite 220
Mission Viejo, CA 92691
Toll Free: (866) 530-4980
Fax: (949) 367-2852

www.caaprofessionals.com

RON GRIDER, PE, CBO - PROJECT MANAGER

Years of Experience: 32 + Years

Education: B.S., Civil Engineering, California State University Los Angeles

Registration: Civil Engineer: California (C70053), Georgia (PE037018),
Colorado (PE46346) Nevada (018633), Florida (PE78224)

Certification: ICC Certified Building Official (0878901-CB)
ICC Certified Building Inspector (0878901-B5,K1,10)
ICC Certified Electrical Inspector (0878901-K2,E5)
IAEI Certified Electrical Inspector
ICC Certified Mechanical Inspector (0878901-M5,K4,44)
ICC Certified Plumbing Inspector (0878901-P5,K3,34)
ICC Certified Plans Examiner (878901-K6)
ICC Certified Combination Inspector (0878901-K8,K4,C8,50)
ICC Certified Combination Dwelling Inspector (0878901-R5,56)
OES/CALEMA DISASTER SERVICE WORKER (61525)

Mr. Grider, with over 32 years of construction, public works/engineering, and building & safety experience, has held the position of Building Official (Yucaipa, Pomona), County Engineer (Nye County Nevada), Sr. Engineering Manager (Wildomar), City Engineer (Riverdale GA) as well as numerous other positions throughout his career. Ron has a passion for the field of construction and engineering. He is a compassionate leader focused on customer service in the public sector, and is routinely involved in the presentation of building code, engineering principles, and advancing the cause of preventing life loss and protecting property. As Director for CAA, he directs the services CAA provides in building and safety and engineering in California, Nevada and Georgia, as well as quality control and evaluation. Ron has experience in reviewing the project types anticipated, from grading reviews to WQMP's to street improvement plans.

AREA OF RESPONSIBILITY:

City Engineering functions, Administration, Business Development

Building and Civil Plan Review and Inspections

REPRESENTATIVE PROJECT EXPERIENCE:

- Duties and responsibilities consistent with that of City Engineer, administration, implementations of policies and procedures, oversight, bid preparation, project managing, etc.
- Numerous grading plan reviews subdivision and single lot development for projects throughout Yucaipa, Wildomar and Pomona, Nye County, Riverdale GA
- Review of SWPPP's, and WQMP's and related erosion control plans throughout the Cities of Yucaipa, Wildomar and Pomona
- Review of street improvement plans and stormdrain plans for Yucaipa and Wildomar, as well as Forest Park and Riverdale, GA
- Review of Conditions of Approvals, Title Reports, and Tract Maps, in conjunction with project plans for compliance and coordination with such documents
- Managing the daily functions of the department

DANNY CHOW, PE – SR. REGISTERED CIVIL ENGINEER

Years of Experience: 33 +

Education: B.S., Civil Engineering, California State University, Fullerton,
M.S., Civil Engineering, California State University, Fullerton,

Registration: Civil Engineer: California (C 46555), Nevada, Oregon, and
Washington

Certification: OES/CALEMA Disaster Service Worker

Mr. Chow has over 33 years of experience in management, plan review, planning, design, and construction of civil engineering projects. During his 17 years with Charles Abbott Associates, Inc., Danny has been in charge of civil design and plan review staff as well as performing many designs and reviews himself for California and Nevada communities. Danny has managed numerous CIP projects from funding, design, bidding, and construction, through completion for several agencies as project manager and provided the highest level of service to those agencies. His past experience includes street maintenance and rehabilitation, street widening, flood control and storm drains, parking facilities, public transportation facilities, parks and recreations, and other CIP projects, as well as coordination with local, state, and federal agencies.

AREA OF RESPONSIBILITY:

Civil Design & Review- Grading, Street Improvements, Drainage studies, NPDES

REPRESENTATIVE PROJECT EXPERIENCE:

Adobe Road Rehabilitation from Amboy Road to USMC Air Ground Combat Training Center, City of Twenty-nine Palms, San Bernardino County – Mr. Chow is responsible for the preparation of plans, specifications, and estimates of this 3- mile street widening and reconstruction project, which includes pulverization, removal, reconstruction of pavement, curb and gutter, drainage facilities, drywells, and traffic striping and signage. This project is currently in construction (\$4.20 million).

Corwin Road Reconstruction from Highway 18 to Apple Valley Airport, Town of Apple Valley, San Bernardino County – Mr. Chow is responsible for the preparation of plans, specifications, and estimates of this 4.3-mile street widening and reconstruction project, which includes pulverization, removal, reconstruction of pavement, curb and gutter, drainage facilities, parking area, and traffic striping and signage. This project is currently in construction (\$3.05 million).

Navajo Road Widening from Highway 18 to Waalew Road, Town of Apple Valley, San Bernardino County – Mr. Chow was responsible for the preparation of plans, specifications, and estimates of this 4-mile street widening and reconstruction project, which included pulverization, removal, reconstruction of pavement, drainage facilities, drywells, and traffic striping and signage. This project was completed in 2009 (\$2.23 million).

City-Wide Overlay Project, City of Twentynine Palms, San Bernardino County – Mr. Chow was responsible for the preparation of plans, specifications, and estimates of these 16 streets' overlay project, which included pulverization, removal, reconstruction of pavement, and traffic striping and signage. This project was completed in 2007 (\$1.23 million).

Two Mile Road Rehabilitation from Sunrise Road to Adobe Road, City of Twentynine Palms, San Bernardino County – Mr. Chow was responsible for the preparation of plans, specifications, and estimates of this 3-mile street widening and reconstruction project, which included pulverization, removal, reconstruction of pavement, drainage crossings, parking lot, and traffic striping and signage. This project was completed in 2006 (\$1.35 million).

- Pioneer Boulevard Rehabilitation, City of Cerritos: Project Manager for the design of this rehabilitation project.
- Rehabilitation of 153rd, 162nd, and 165th Streets, City of Lawndale: Project Manager on this rehabilitation project.
- Park Avenue Street Rehabilitation, City of Pomona: Project Manager for this 1-mile rehabilitation project.
- Los Angeles Avenue East, City of Moorpark: Project Manager for widening 2 miles of this arterial.
- Las Posas Road Rehabilitation and Median Landscaping, City of Camarillo: Project Manager for this 2-mile road rehabilitation project.
- Manage Design and plan review teams, providing plan review and design for contract cities, Yucaipa, Apple Valley, Twentynine Palms, Yucca Valley, Nye County Nevada, Carson City Nevada
- Numerous other projects

Contract City Engineering: Mr. Chow currently serves as Agency Engineer for the Palms. His responsibilities include:

- Bus Transit Center design and construction management
- Public parking lot design
- Safe Route to Schools sidewalk, bike path, and traffic safety improvements design
- Parks and recreation improvements design including skateboard park, swimming pool reconstruction, ball field lighting, volley ball court, pre-fabricated restrooms, and associated sidewalk and bike path and other facilities

CINDY G. KWONG-LU, PE, LEED AP- REGISTERED CIVIL ENGINEER

Years of Experience: 15 +

Education: B.S., Civil Engineering, University of California, Los Angeles, 1999

Registration: Civil Engineer: California (C 65945)

Certification: LEED Accredited Professional, GBCI No. 10469089

AREA OF RESPONSIBILITY:

Civil Review- Grading, Street Improvements, Drainage, NPDES

Ms. Kwong-Lu has over 15 years of experience in plan review, planning, and design of civil engineering projects. Of her 11 years with Charles Abbott Associates, Inc., she has reviewed many projects in southern California ranging from grading plans (rough and precise) to erosion control, street improvement and parking lot plans. Cindy has been responsible for numerous CIP projects from design, bidding, and construction, through completion for several agencies as design engineer and provided the highest level of service to those agencies. Her past experience includes pavement management and evaluation, street maintenance and rehabilitation, street widening, parking facilities, public transportation facilities, parks and recreation, and other CIP projects, and coordination with local, state, and federal agencies. Most of her experience is in the municipal arena.

Recent Project Experience

The following projects demonstrate Ms. Kwong Lu's breadth and depth of experience related to work in this engagement:

- City of Hidden Hills, Spring Valley Road Slurry Seal: Preparation of plans and specifications for this improvement project, which included the City Hall parking lot.
- City of Hidden Hills, Long Valley Road Overlay: Preparation of plans and specifications, including field survey, pavement evaluation, and striping for Long Valley Road and Highway 101 ramps.
- City of Moorpark, Los Angeles Avenue East Street Widening: Project Engineer for the preparation of street improvement plans, including retaining walls, drainage improvements, and driveway improvements.
- City of Chula Vista, Olympic Parkway Widening: Project Engineer for this street improvement project, including design of retaining walls and sound walls, utility design, drainage, grading, and cost estimates.

JANET SHLIZ, MSCE – PLAN CHECKER/ DESIGNER

Years of Experience: 32 Years

Education: B.S., Civil Engineering, Moldova Polytechnical Institute, 1977
M.S., Civil Engineering, Moldova Polytechnical Institute, 1979

AREA OF RESPONSIBILITY:

Civil Review- Grading, Street Improvements, Drainage, NPDES

Civil Design – Grading, Street Improvements, Drainage

Ms. Shliz has over 32 years of experience in plan review, planning, and design of civil engineering projects. During her 14 years with Charles Abbott Associates, Inc., she has reviewed many projects in Southern California ranging from grading plans (rough and precise) to erosion control, street improvement and parking lot plans. She has spent most of her years with CAA reviewing projects for several of our municipal clients in Southern California, many of which are in San Bernardino, LA and Orange Counties. Janet has designed and reviewed numerous CIP projects from, bidding, and construction, through completion for several agencies. Her past experience includes pavement management and evaluation, street maintenance and rehabilitation, street widening, parking facilities, public transportation facilities, parks and recreation, and other CIP projects, and coordination with local, state, and federal agencies. Most of her experience is in municipal arena.

KEY QUALIFICATIONS:

- Knowledge of Engineering Standards and Practices
- Proficient designer in areas of grading, utilities, drainage, site modeling
- Proficient with AUTOCAD 3D, CIVILCAD 3d Microsoft Office suite,
- Coordination w/ Governing Agencies & Utility coordination
- Point of contact for clients and sub consultants
- Creating Specifications and Construction Cost Estimating
- Familiar with APWA standards State and local construction standards in multiple jurisdictions

MARGARET MONSON – SR. PLAN CHECKER/ DESIGNER

Years of Experience: 27 Years

Education: Golden West Community College- Engineering
Fullerton College – Engineering

Certification: FEMA Elevation Certification
FEMA Managing Flood Plain Development

AREA OF RESPONSIBILITY:

Civil Review- Grading, Street Improvements,

Ms. Monson has over 27 years of experience in management, plan review, planning, and design of civil engineering projects. She has established and developed Public Works and Engineering departments from three employees to nine employees in partnership with the Director of Public Works. She has administered public works contracts and managed contractors. Developed engineering department procedures for three cities. Administered public works projects from concept proposal to the City Council through to project Notice of Completion; provided administrative and technical support and direction to engineers, inspectors, contractors, and maintenance staff. Assisted in the Development of Public Works and Engineering Department budget. Processed CIP and budget revisions through City Manager and Council. Conducted community meetings for resolution of problems and to inform of construction projects affecting them. Prepared Staff reports and powerpoint presentations for City Council and Planning Commission meetings and study sessions. Designed and reviewed many projects in Southern California ranging from grading plans (rough and precise) to erosion control, street improvement lot plans.

KEY QUALIFICATIONS:

- Knowledge of Engineering Standards and Practices
- Performed Construction Management & Field Inspections
- Proficient designer in areas of grading, street improvements, and drainage,
- Proficient with AUTOCAD CIVIL 3D, Microsoft Office suite, Deltek Vision
- Prepare bid-award and design-build contract documents
- Phase 1 Environmental Site Assessment reports
- Coordination w/ Governing Agencies & Utility coordination
- Administration of SWPPP for Private and Federal Contracts
- Familiar with APWA standards and local construction standards in multiple states/jurisdictions
- Oversaw floodplain management; stormwater permitting, inspected facilities
- Grant writing and package submittals to state and federal agencies
- Performed Easement Aquisitions

CRYSTAL CAMMBELL – PLAN CHECKER/ DESIGNER

Years of Experience: 24 Years

Certification: FEMA Elevation Certification
FEMA Managing Flood Plain Development

AREA OF RESPONSIBILITY:

Civil Review- Grading, Street Improvements,

Ms. Cambell has over 24 years of experience in plan review, planning, and design of civil engineering projects. She has designed and reviewed many projects in Southern California and Nevada ranging from grading plans (rough and precise) to erosion control, street improvement and parking lot plans. She has spent most of her years designing for several municipal and private clients in Southern California and Nevada. Crystal has designed and reviewed numerous CIP projects from, bidding, and construction, through completion for several agencies. Her past experience includes project design, specification & contract administration/field inspections for public and private contracts including the National Park Service Boulder Beach campground rehabilitation project, CCWRD Highland Lift Station decommissioning, State of Nevada Division of Public Works (SNDPW) Flamingo DMV rehabilitation project, SNDPW Las Vegas Nursery ADA upgrades, SNDPW Planning & Sewer upgrades at the State of Nevada Mental Health Facilities, Nye County Data Center, Nye County Public Works/Building Department Building, MGM Grand Festival Lot, and New Jerusalem Church. She has with private developers, and has experience in drafting and designing full sets of improvement plans for multi-family subdivisions and private park projects including Buffalo Ranch, North Ranch, River walk Ranch, Lake Mead Ranch, and Durango Ranch. She is experienced in coordinating with surveyors & sub consultants, obtaining project approval from governing agencies, and coordinating with local, state, and federal agencies.

KEY QUALIFICATIONS:

- Knowledge of Engineering Standards and Practices
- Performed Construction Administration & Field Inspections
- Proficient designer in areas of grading, utilities, drainage, site modeling & earthworks calculations
- Diverse Civil Design background in public and private contract civil facilities
- Phase 1 Environmental Site Assessment reports
- Coordination w/ Governing Agencies & Utility coordination
- Administration of SWPPP for Private and Federal Contracts
- Familiar with APWA standards and local construction standards in multiple states/jurisdictions
- Proficient with AUTOCAD 3D, Microsoft Office suite, Deltek Vision

KENNETH BAILEY – ASSOCIATE ENGINEER

Years of Experience: 9 Years

Education: Civil Engineering, University of California, Los Angeles,
Currently pursuing BS. Civil Engineering (Sr. Status)
A.S.: Building Inspection Technology, Butte College, August 2012

Certification: ICC Building Plans Examiner No. 5271146-B3 (renewable)
ICC Building Inspector No. 5271146-10 (renewable)

AREA OF RESPONSIBILITY:

Civil Review- Grading, Street Improvements,

Mr. Bailey has worked in the position of assistant city engineer in the City of Palos Verdes Estates for the past 11 months, where he has performed an array of duties to assist the City Engineer in the day to day operations of the department. Kenneth has over 9 years of experience in plan review and design, pavement management, PW inspections, conditions of approval writing, bid preparation, grant preparation, staff reports and other related task. Kenneth also worked prior with the USDA Forest Service where he conducted pavement condition surveys, determined Pavement Control Indices, created databases for pavement networks using MicroPAVER pavement management software, created deterioration curves for road networks, conducted land surveys, created digital ball bank indicator to create low cost road profiler and edited Contracting Officer Representative online certification module.

Kenneth has worked on many projects ranging from grading plans (rough and precise) to erosion control, as well as street improvement plans. Kenneth has worked on numerous CIP projects from, bidding, and construction, through completion. He has written specifications & performed contract administration/field inspections for public works projects.

KEY QUALIFICATIONS:

- Knowledge of Engineering Standards and Practices
- Performed Construction Administration & Field Inspections
- Proficient reviewer in areas of grading, drainage,
- Pavement Management surveys
- Coordination w/ Governing Agencies & Utility coordination
- Familiar with APWA standards and local construction standards in multiple jurisdictions
- Proficient with AUTOCAD, Microsoft Office suite, MicroPAVER
- Prepares Condition of Approval
- Performed Easement Acquisitions
- Prepared RFP and RFQ's
- Prepared numerous engineering reports and staff reports

AMELIA PAULA PEREIRA, P.L.S.

Years of Experience: 17 +years

Education: B.S., Surveying Engineering - University of Porto, Portugal, 1997

Registration: Licensed Land Surveyor California, 8493
California Land Surveyors Association, 12182

Ms. Pereira serves as a professional land surveyor at CAA. She joined the firm over 4 years ago, continuing a 17-year career of providing land surveying expertise. Her career is based upon a combination of land surveying knowledge with creative, situation-specific solutions to meet the requirements of unique challenges. Ms. Pereira's background includes handling field and office duties for civil engineering/land surveying and private companies, providing her with a broad understanding of the operations, goals, limitations and needs of private development projects as well as public agencies. She has experience in private development projects, both commercial/industrial and residential, both large and small in size, multi-family and single family. She also has experience in the preparation and plan check of land surveying documents and maps such as legal descriptions, Tract and Parcel maps, Records of Survey, Lot Line Adjustments, A.L.T.A. and topography survey maps.

Ms. Pereira has been serving as consulting Engineering Associate for the Town of Apple Valley in San Bernardino County.

Prior to joining CAA, Ms. Pereira held positions as a Land Surveyor with private civil engineering/land surveying firms in Portugal and Southern California, serving the development communities for over 13 years. Her responsibilities included field and office operations, record data research, calculations, boundary establishments, topography and construction surveys, processing through design, plan check to approval and construction of private and public development projects. Her experience varies from the construction of engineering projects including multi-story buildings, bridges, and roadwork layout, to the construction layout of subdivisions throughout Southern California. She is experienced with boundary establishment, Lot Line Adjustments, Record of Surveys, and has performed many topography, construction and A.L.T.A. surveys.

RAE BEIMER, DIRECTOR OF ENVIRONMENTAL SERVICES

Education: B.S., Environmental Science and Policy
California State University, Long Beach

Yrs. Experience: 9+ Years

Certificates: CESSWI, QSP

Ms. Beimer has a solid educational and working background in environmental programs management for both public and private sectors. She currently provides storm water (NPDES) program support to municipal clients in Riverside, San Bernardino, Orange, and Los Angeles Counties. She has extensive program management experience in Total Maximum Daily Load (TMDL) development and compliance, water quality monitoring, municipal staff training, regulatory reporting and analysis, due diligence and environmental assessments, FOG program management, SWPPP/SUSMP reviews and inspections, compliance database development and management, grant research and submittal, GIS compliance applications and inspection program implementation.

REPRESENTATIVE PROJECT EXPERIENCE:

- City of Rancho Santa Margarita, Stormwater Program Management Services: Ms. Beimer, provides on-site program management to the City of Rancho Santa Margarita, services include: Representing the City at all Permit compliance related meetings; Conducts commercial, industrial, municipal, construction site and food service facility inspections; IC/ID investigations; Development of program guidance documents, program manuals, inspection/reporting forms and BMP fact sheets.
- City of Cypress, NPDES Permit Program Management Services: Ms. Beimer administers the City of Cypress NPDES Stormwater Compliance services. In this capacity, Ms. Beimer directly develops and ensures implementation of the City's Industrial/Commercial Facility Inspection and Development Planning programs in accordance with the North Orange County Municipal Stormwater Permit.
- City of Pomona, NPDES Permit Program Management Services: Ms. Beimer directs program support staff in the development and implementation of compliance programs in support of the City's NPDES Permit goals. Ms. Beimer is responsible for directing the City's compliance efforts with the Los Angeles County Municipal Stormwater Permit and the San Gabriel River Metals TMDL.
- City of Hidden Hills, NPDES and AB939 Compliance Services: Ms. Beimer directs program support staff in the development and implementation of compliance programs in support of the City's NPDES Permit and AB939 goals. Ms. Beimer is responsible for directing the City's compliance efforts with the Santa Monica Bay Bacteria TMDL, the Los Angeles River Trash TMDL and the Los Angeles River Metals TMDL, in addition to monitoring the development of the Los Angeles River Bacteria TMDL and Malibu Creek Bacteria Implementation Program.
- City of Moreno Valley NPDES Permit Program Management Services: Ms. Beimer directs program support staff in the development and implementation of compliance programs in support of the City's NPDES Permit goals. Ms. Beimer is responsible for directing the City's compliance efforts with the Riverside County Municipal Stormwater Permit

Project Descriptions

Chapman Heights:

Client: Yucaipa CA
Contact: Ray Casey
909-797-2489

Chapman Heights Development – built in 2000, a nearly 1000 acre residential development which includes a 25 acre shopping center
Responsibility: CAA performed the review for mass grading, precise grading, storm drain, hydrology, street improvement and NPDES.

Yucaipa Uptown:

Client: Yucaipa CA
Contact Ray Casey
909-797-2489

2011/2012-Uptown street improvement project- a redevelopment project which incorporates two intersection change to round-about intersections, street widening and sidewalk improvement
Responsibility: Plan review of street improvement plans, ADA review,

Pahrump Detention Center

Client: Pahrump NV
Contact: Dave Fanning
775-751-6843

Pahrump Detention Center facility – built in 2008 a 160 acre facility for housing inmates

Responsibility: CAA performed the grading review and street improvement review and traffic study review relating to the area surrounding the detention center

Tract 16969

Client: Aliso Viejo CA
Contact: John Whitman
949-425-2500

TRACT 16969, A golf course and residential development project
100-acre, 320-lot single family and 187-unit multi-family residential development project. This project also included a golf course club house, a neighborhood park, a tot lot, and a 1.5-acre recreation area utilizing the retention basin.

Responsibility: Performed review of hydrology study, hydraulics, rough grading plans, precise grading plans, street improvement plans, storm drain plans, and erosion control plans

Jess Ranch

Client: Apple Valley CA
Contact: Brad Miller
760-240-7000

Jess Ranch Market Place (AT BEAR VALLEY ROAD AND JESS RANCH PKWY)

Responsibility: Performed review of hydrology study, hydraulics, rough grading plans, precise grading plans, street improvement plans, storm drain plans, SWPPP, and erosion control plans for this 36-acre commercial development project.

Adobe Road Improvement

Client: Mission Viejo CA
Contact: Chuck Wilson
949-470-3000

Adobe Road Improvement- This project is a 3-mile street widening and reconstruction project, which included pulverization, removal, reconstruction of pavement, curb and gutter, drainage facilities, drywells, and traffic striping and signage.

Responsibility: included providing preliminary investigation, improvement plan review, and construction documentation.

SAMPLE PROJECTS ENGINEERING / PUBLIC WORKS

City of Apple Valley:

Client: Apple Valley CA
Contact: Brad Miller
760-240-7000

Navajo Road Widening – The scope of our services for the Town of Apple Valley included providing preliminary investigation, field reviews, improvement plan review, and construction documentation. This project is a 4-mile street widening and reconstruction project, which included pulverization, removal, reconstruction of pavement, drainage facilities, drywells, and traffic striping and signage.

Twentynine Palms:

Client: 29Palms CA
Contact Richard Pedersen
760-367-6799

Adobe Road Improvements- The scope of our services for the City of Twentynine Palms included providing preliminary investigation, improvement plan review, and construction documentation. This project is a 3-mile street widening and reconstruction project, which included pulverization, removal, reconstruction of pavement, curb and gutter, drainage facilities, drywells, and traffic striping and signage

Tracts 15879,80,83,85,86

Client: Yucaipa CA
Contact: Ray Casey
909-797-2489

TRACT 15879,15880,15883,15885 &15886 Subdivision Development Projects – Performed review of rough grading plans, precise grading plans, street improvement plans, storm drain plans, erosion control plans, SWPPP for single family residential development project. This project also included Chapman heights elementary school.

Low Water Crossings

Client: Yucaipa CA
Contact: Ray Casey
909-797-2489

SIX LOW WATER CROSSINGS

The City constructed six low water crossings throughout the City to deal with street crossings that had long histories of flooding. The CAA team provided design review, managed the project, inspected the project, and worked with the funding process of the project.

Detention Facilities

Client: Yucaipa CA
Contact: Ray Casey
909-797-2489

Three Large Detention projects- with walking trails and site lookout facilities

Responsibility: Performed review of hydrology study, hydraulics, rough grading plans, precise grading plans, participated in the design changes

The Projects listed above are just a few projects picked out to demonstrate the types of project the team has had experience with. These types of projects can be repeated numerous times in various client cities in various topographic, geologic, and climatic areas and regions. Numerous other responsibilities have been performed by the team, from Map checking, to Tract Map processing, right-of-way acquisitions, lot line adjustments, easements and dedications, grant writing and a host of other responsibilities familiar to City Engineering and Public Works functions. I believe you will find the team has just the experience that you require to assist the City in its City Engineering and Public Works endeavors. Other Projects can be provided upon request.



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Attachment 4
Rate Sheets

STANDARD HOURLY RATE SCHEDULE
Effective July 1, 2010

<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>	<u>CLASSIFICATION</u>	<u>HOURLY RATES</u>
Principal Engineer	175.00	Principal Building Official	145.00
City Engineer	165.00	Building Official	122.00
Project Supervisor	145.00	Senior Building Inspector	110.00
Project Manager	135.00	Building Plan Checker	97.00
Project Engineer	130.00	Building Inspector/Plan Checker	90.00
Sr. Registered Engineer	125.00	Code Enforcement Officer	75.00
Senior Design Engineer	115.00	Permit Specialist	66.00
Associate Engineer	110.00		
Assistant/Design Engineer	98.00	Community Development Director	145.00
		Principal Planner	132.00
Senior Traffic Engineer/Manager	150.00	Senior Planner	107.00
Transportation Planner	110.00	Associate Planner	97.00
Traffic Engineer Associate	95.00	Planning Technician	68.00
Sr. Draftsperson (CADD)	90.00	Landscape Director	116.00
Draftsperson (CADD)	80.00	Associate Landscape Architect	95.00
Computer Technician	80.00	City Forester	88.00
Senior Public Works Inspector	95.00	Expert Witness Services	200.00
Public Works Inspector	87.00	Senior Contract Administrator	107.00
3-Person Survey Crew	270.00	Administrative Assistant	57.00
2-Person Survey Crew	210.00	Word Processor	50.00
		Clerical	45.00

The above hourly rates include general and administrative overhead and fees and employee payroll burden.

The above hourly rates are subject to an annual adjustment based upon increases adopted by Charles Abbott Associates, Inc. as reflected in the Consumer Price Index (CPI).

SUMMARY

We are confident that our proposal and approach assures that the expectations of the City are met or exceeded. At the core of our approach is a sincere commitment to serve the City effectively by providing a project team that can integrate its knowledge with sound judgment. We are confident that the end products will serve the City very effectively.

CITY COUNCIL AGENDA

DATE: October 13, 2015

TO: City Council

FROM: Art Vela, Acting Director of Public Works

SUBJECT: Resolution No. 2015-93, "Awarding the Construction Contract for Project No. 2015-01, 'ADA Upgrades at Lions Park' and Rejecting all other Bids"

RECOMMENDATION: Adopt City Council Resolution No. 2015-93:

- I. Awarding the Construction Contract for Project No. 2015-01, "ADA Upgrades at Lions Park " to Leonida Builders Inc. of Glendora, California for an amount of "Not to Exceed" \$368,000.00 and authorize an additional 10% contingency in the amount of \$36,800.00 to cover any unforeseen project conditions.
- II. Authorizing the Administrative Services Director to make the necessary budget adjustments and appropriations for this project.
- III. The City Manager is authorized to execute the contract agreement with Leonida Builders, Inc. of Glendora, California for Project No. 2015-01, "ADA Upgrades at Lions Park".

JUSTIFICATION: Accessibility upgrades at Lions Park are needed in order to obtain compliance with the Americans with Disabilities Act ("ADA"). Leonida Builders, Inc. of Glendora, California is the lowest responsive and responsible bidder to construct Project No. 2015-01, "ADA Upgrades at Lions Park".

BACKGROUND: The City receives Community Development Block Grant (CDBG) funding on an annual basis. Currently, the City has approximately \$436,769.63 in CDBG funds allocated for the Lions Park project which has accumulated since 2013. Typically, the City is required to spend CDBG funding within two (2) years of receiving the funding, therefore it is important that the City spend the CDBG fund balance in order to avoid the forfeiture of a portion of said funds. Additionally, per the settlement agreement, ADA upgrades at Lions Park are to be completed by February 14, 2016.

In order to prepare for the construction phase of this project, a Request for Proposal (RFP) was released in March of 2015 for Design Services for Accessibility Upgrades at Lions Park. In response to the RFP, six (6) proposals were received. Public Works staff assembled a committee consisting of three members and evaluated the proposals based on project approach, technical competency, project team and experience, overall responsive to the RFP and cost. As a result, a Professional Services Agreement was awarded to BOA Architecture in the amount of \$24,600.00.

Upon design completion City staff advertised, as shown in Exhibit "A", the construction of Project No. 2015-01, "ADA Upgrades at Lions Park" on August 18, 2015 and August 26, 2015 in the Press Enterprise. Additionally, this project was advertised in the El Chicano on August 27, 2015 and as required by CDBG guidelines, notifications were mailed informing minority and female-owned businesses of the opportunity. As a result of these efforts, on September 22, 2015, the City Clerk received four (4) bids and publicly opened and read out loud the following results, as shown in Exhibit "B":

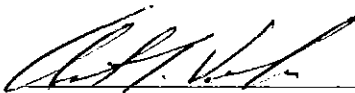
<u>Contractor</u>	<u>Total Bid</u>
1. Leonida Builders, Inc., Glendora, CA	\$368,000.00
2. C.S. Legacy Construction, Inc., Pomona, CA	\$482,271.00
3. Regency-Pacific Development Corp., Beaumont, CA	\$508,000.00
4. New Creation Builders., Bellflower, CA	\$535,350.00

The bid results were transmitted to the Riverside County Economic Development Agency (EDA). The EDA reviewed the submittal of the lowest bidder, Leonida Builders, Inc. for completeness and conformance with regulatory requirements and subsequently the EDA authorized the City to award the project.

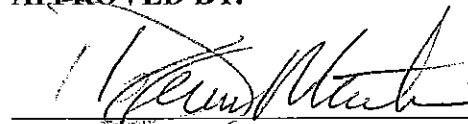
The scope of work includes the reconstruction of an existing ADA parking area; construction of new ADA parking areas; construction of a new accessible path of travel; ADA retrofit of existing park restroom facilities and snack bar; installation of new drinking fountains; replacement of playground equipment; minor restoration and repair including landscape and irrigation systems if damaged during construction; and site cleanup.

FISCAL DATA: The construction contract approval is in the amount of \$368,000.00 and with approval of the 10% contingency in the amount of \$36,800.00 the construction budget for this project amounts to \$404,800.00. The construction of this project will be funded by CDBG funds under Program Nos. 5.BN28-13 and 5-BN.32-15 with approximate funding availability in the amount of \$436,769.63.

RECOMMENDED BY:


Art Vela
Acting Director of Public Works

APPROVED BY:


Dean Martin
Interim City Manager

RESOLUTION NO. 2015-93

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, "AWARDING THE CONSTRUCTION CONTRACT FOR PROJECT NO. 2015-01, ADA UPGRADES AT LIONS PARK AND REJECTING ALL OTHER BIDS"

WHEREAS, per the terms of a Settlement Agreement, accessibility upgrades at Lions Park are needed in order to obtain compliance with the Americans with Disabilities Act; and

WHEREAS, the City receives Community Development Block Grant (CDBG) funding on an annual basis; and

WHEREAS, the City has approximately \$436,769.63 in CDBG funds allocated for the construction of ADA upgrades at Lions Park project which has accumulated since 2013; and

WHEREAS, the City is required to spend CDBG funding within two (2) years of receiving the funding, therefore it is important that the City spend the CDBG fund balance in order to avoid the forfeiture of a portion of said funds and, per the settlement agreement, ADA upgrades at Lions Park are to be completed by February 14, 2016; and

WHEREAS, the project was advertised, as shown in Exhibit "A" in the Press Enterprise and El Chicano newspapers and notifications were mailed informing minority and female-owned businesses of the opportunity; and

WHEREAS, on September 22, 2015, the City Clerk received four (4) bids and publicly opened and read out loud the results as shown in Exhibit "B"; and

WHEREAS, the bid results were transmitted to the Riverside County Economic Development Agency (EDA) and the EDA reviewed the submittal of the lowest bidder, Leonida Builders, Inc. for completeness and conformance with regulatory requirements and subsequently the EDA authorized the City to award the project; and

WHEREAS, a contract in the amount of \$368,000.00 with a 10% contingency in the amount of \$36,800.00 for a total project budget of \$404,800.00 is awarded to Leonida Builders Inc. of Glendora, California; and

WHEREAS, the construction of this project will be funded by CDBG funds under Program Nos. 5.BN28-13 and 5-BN.32-15 with approximate funding availability in the amount of \$436,769.63.

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

SECTION 1. City Council adopts Resolution No. 2015-93, awarding the Construction Contract for Project No. 2015-01, "ADA Upgrades at Lions Park" to Leonida Builders Inc. of Glendora,

California for an amount equal to \$368,000.00, allowing a 10% contingency of \$36,800.00 and rejecting all other bids.

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments and appropriations for this project.

SECTION 3. The City Manager is authorized to execute the construction contract agreement with Leonida Builders Inc. of Glendora, California for Project No. 2015-01, "ADA Upgrades at Lions Park" (Program Nos. 5.BN.28-13 and 5-BN.32-15)."

PASSED, ADOPTED AND APPROVED this 13th day of October, 2015.

Deborah Franklin, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM AND
LEGAL CONTENT:

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-93 was duly adopted by the City Council of the City of Banning at the regular meeting thereof held on the 13th day of October, 2015, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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EXHIBIT "A"

NOTICE INVITING TO BID

PROJECT NO. 2015-01, "ADA UPGRADES AT LIONS PARK"

**PRESS ENTERPRISE
AUGUST 18, 2015 & AUGUST 26, 2015**

**EL CHICANO
AUGUST 27, 2015**

Printed at: 4:17 pm
On: Tuesday, Sep 15, 2015

Ad #: 0010080679
Order Taker: mfinajero

THE PRESS-ENTERPRISE

Classified Advertising
Receipt

1825 Chicago Ave, Suite 100
Riverside, CA 92507
(951) 684-1200
(800) 514-7253
(951) 368-9018 Fax

Date	Payment#	Type	Payment Information Card Holder	Exp.	Approval	Amount
09/15/2015	P1048432	Credit Card	Marie A Calderon	28-JUN-16	nuqrqda	455.40
Total Payments:						455.40

Account Information

Phone #: 951-922-3102
Name: BANNING CITY CLERK
Address: 99 E RAMSEY ST
BANNING, CA 92220

Account #: 1100142835
Client:
Placed By: Holly Stuart
Fax #:

Gross price: \$455.40
Net price: \$455.40
Total Payments: \$455.40

Amount Due: \$0.00

Ad Copy:

NOTICE INVITING TO BID

PROJECT NO. 2015-01, "ADA UPGRADES AT LIONS PARK (BN-02)"

OWNER: City of Banning

PROJECT DESCRIPTION: The bid shall include the reconstruction of existing ADA parking area; construction of new ADA parking areas; construction of a new accessible path of travel; ADA retrofit of existing park restroom facilities; installation of new drinking fountains; minor restoration and repair including landscape and irrigation systems if damaged during construction; and site cleanup. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector.

The proposal for the items above shall include all costs for furnishing all labor, materials, tools, equipment and necessary incidentals to perform the work including, but not limited to mobilization, participation in safety meetings and clean up.

PLANS & SPECS: Specifications will be made available on Tuesday, August 18, 2015, and may be obtained at the city website at <http://www.ci.banning.ca.us/bids.aspx>.

MANDATORY PRE-BID CONFERENCE: Wednesday, September 2, 2015 at 10:00 a.m. at City Hall, 99 E. Ramsey St., Banning, CA, 92220.

REQUIREMENTS: Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid Class A license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award. Bidders must provide a copy at the time of bid showing active registration from the Public Works Contractor Registration online registration at <https://eiling.dir.ca.gov/PWCR/Search>.

FEDERAL FUNDING: This project is being financed with Community Development Block Grant funds from the U.S. Department of Housing and Urban Development (24 CFR Part 570) and subject to certain requirements including: compliance with Section 3 (24 CFR Part 135) Economic Opportunities requirements; payment of Federal Davis-Bacon prevailing wages; Federal Labor Standards Provisions (HUD 4010); Executive Order #11246; and others. Information pertaining to the Federal requirements is on file with the County of Riverside Economic Development Agency.

PREVAILING WAGES: The Federal minimum wage rate requirements, as predetermined by the Secretary of Labor, are set forth in the books issued for bidding purposes, referred to herein as Project Bid Documents (Special Federal Provisions), and in copies of this book which may be examined at the office described above where the project plans, special provisions, and proposal forms may be seen. Addenda to modify the minimum wage rates, if necessary, will be issued to holders of the Project Bid Documents.

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates, including the per diem wages applicable to the work, and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, in the County of Riverside in which the work is to be done, have been determined by the Director of the Department of Industrial Relations, State of California. These wages are set forth in the General Prevailing Wage Rates for this project, available from the California Department of Industrial Relations' Internet web site at www.dir.ca.gov. Future effective prevailing wage rates which have been predetermined, and are on file with the California Department of Industrial Relations, are referenced but not printed in the general prevailing wage rates.

SEALED BIDS DUE: Thursday, September 17, 2015 and Opened Publicly at 11:00 a.m. Pacific Standard time, at the above City Hall address, Attn: City Clerk.

CITY OF BANNING, CALIFORNIA
Dated: 8/12/15

Publication Date: 8/19/2015
8/26/2015

Ad Information

Placement: Public Notice FR
Publication: PE Riverside, PE.com

Start Date: 08/18/2015
Stop Date: 08/26/2015
Insertions: 2 print / 2 online

Rate code: City Ad Lgl-PE
Ad type: C Legal

Size: 3 X 66 LI
Bill Size: 198.00

Amount Due: \$0.00

Proof of Publication

(201.15.5 C.C.P.)q

STATE OF CALIFORNIA.

SS

County of San Bernardino,
I declare under penalty of perjury that:

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to nor interested in the above entitled matter. I am the principal clerk of the printer of the El Chicano Community Newspaper, a newspaper printed and published weekly in the City of San Bernardino, County of San Bernardino and which newspaper has petitioned the Superior Court of said county for determination as a newspaper of general circulation being case no. 154019; dated May, 1, 1972, that the Notice of Application for Determination as a Newspaper of General Circulation and Petition for Determination as a Newspaper of General Circulation, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

August 27, 2015

I certify under penalty of perjury that the foregoing is true and correct.

Dated: August 27, 2015

Signature Denise Berover

El Chicano Newspaper

P.O. Box 110

Colton, CA 92324

Phone (909) 381-9898 • 384-0406 FAX

NOTICE INVITING TO BID PROJECT NO. 2015-01, "ADA UPGRADES AT LIONS PARK [BN-02]"

OWNER: City of Banning

PROJECT DESCRIPTION: The bid shall include the reconstruction of existing ADA parking areas; construction of new ADA parking areas; construction of a new accessible path of travel; ADA retrofit of existing park restroom facilities; installation of new drinking fountains; minor restoration and repair including landscape and irrigation systems if damaged during construction; and site cleanup. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector.

The proposal for the items above shall include all costs for furnishing all labor, materials, tools, equipment and necessary incidentals to perform the work including, but not limited to mobilization, participation in safety meetings and clean up.

PLANS & SPECS: Specifications will be made available on Tuesday, August 10, 2015, and may be obtained at the city website at <http://www.ci.banning.ca.us/bids.aspx>.

MANDATORY PRE-BID CONFERENCE: Wednesday, September 2, 2015 at 10:00 a.m. at City Hall, 69 E. Ramsey St., Banning, CA, 92220.

REQUIREMENTS: Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid Class A license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award. Bidders must provide a copy at the time of bid showing active registration from the Public Works Contractor Registration online registration at <https://ofiling.dir.ca.gov/PWCR/RS> search.

FEDERAL FUNDING: This project is being financed with Community Development Block Grant funds from the U.S. Department of Housing and Urban Development (24 CFR Part 570) and subject to certain requirements including: compliance with Section 3 (24 CFR Part 135) Economic Opportunities requirements; payment of Federal Davis-Bacon prevailing wages; Federal Labor Standards Provisions (HUB 4010); Executive Order #11246; and others. Information pertaining to the Federal requirements is on file with the County of Riverside Economic Development Agency.

PREVAILING WAGES: The Federal minimum wage rate requirements, as predetermined by the Secretary of Labor, are set forth in the books issued for bidding purposes, referred to herein as Project Bid Documents (Special Federal Provisions), and in copies of this book which may be examined at the office described above where the project plans, special provisions, and proposal forms may be seen. Addenda to modify the minimum wage rates, if necessary, will be issued to holders of the Project Bid Documents.

Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates, including the per diem wages applicable to the work and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, in the County of Riverside in which the work is to be done, have been determined by the Director of the Department of Industrial Relations, State of California. These wages are set forth in the General Prevailing Wage Rates for this project, available from the California Department of Industrial Relations' Internet web site at www.dir.ca.gov. Future effective prevailing wage rates which have been predetermined, and are on file with the California Department of Industrial Relations, are referenced but not printed in the general prevailing wage rates.

SEALED BIDS DUE: Thursday, September 17, 2015 and Opened Publicly at 11:00 a.m. Pacific Standard time, at the above City Hall address, Attn: City Clerk.

CITY OF BANNING, CALIFORNIA
Publication Date: 8/27/15
Dated: 8/19/15

Published El Chicano
August 27, 2015 E-7134

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EXHIBIT “B”
BID RESULTS

**SUMMARY OF BIDS RECEIVED
CITY OF BANNING**

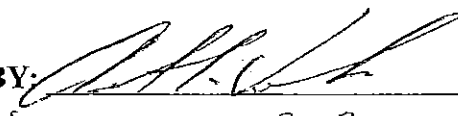
PROJECT NO.: 2015-01

DESCRIPTION: ADA Upgrades at Lions Park (BN-02)

BID OPENING DATE: Sept. 22, 2015 **TIME:** 11:00 a.m.

NAME OF BIDDER:	Addendum 1	Addendum 2	BID BOND	TOTAL BID AMOUNT:
Leonida Builders, Inc. Glendora, CA	✓	✓	✓	\$#1 318,000.00 #2 50,000.00 \$ 368,000.00
New Creation Builders Bellflower, CA	✓	✓	✓	#1 464,000.00 #2 71,350.00 \$ 535,350.00
C.S. Legacy Construction, Inc. Pomona, CA	✓	✓	✓	#1 377,556.00 #2 104,715.00 \$ 482,271.00
Regency-Pacific Development Corp. Beaumont, CA	✓	✓	✓	#1 410,000.00 #2 98,000.00 \$ 508,000.00

VERIFIED BY:


Paris A. Calderon, City Clerk

CITY COUNCIL AGENDA

Date: October 13, 2015

TO: Banning Utility Authority

FROM: Art Vela, Acting Director of Public Works

SUBJECT: Resolution No. 2015-14UA, "Approval to Join the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force"

RECOMMENDATION: Adopt Resolution 2015-14UA:

- I. Approving the City to Join the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force ("BMPTF") and allowing the Mayor to execute Amendment No. 2 (Exhibit "A") to the BMPTF agreement.
- II. Authorizing the Administrative Services Director to make the necessary budget adjustments and appropriations related to Resolution 2015-14UA.

JUSTIFICATION: The City of Banning is required to be in compliance with the requirements of the Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan"), which can be achieved by joining the BMPTF.

BACKGROUND: On January 22, 2004, the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") adopted Resolution No. R8-2004-0001, amending the Basin Plan incorporating an updated Total Dissolved Solids ("TDS") and Nitrogen Management Plan for the Santa Ana Region, updated groundwater subbasins and revised TDS and nitrogen wasteload allocations. The 2004 Basin Plan included anti-degradation water quality objectives which restrict the use of recycle water for irrigation and/or groundwater recharge for certain groundwater management zones including the Beaumont Management Zone ("BMZ").

On September 13, 2010 the Beaumont Cherry Valley Water District, the City of Beaumont and the Yucaipa Valley Water District was issued, by the Regional Board, an *Order Pursuant to Water Code Section 132674 for Technical Reports to Support the Implementation of the Maximum Benefit Objectives for TDS and Nitrate-Nitrogen in the BMZ* ("Order"). The City of Banning, in anticipation of its plans to use recycled water over the BMZ, participated in the preparation of the reports and has been identified as a responsible agency. Participation by the City of Banning in this process ensures that the City will be covered under the updated maximum benefit implementation plan for the BMZ.

On July 10, 2012, City Council approved Resolution No. 2012-10UA, "Authorizing the Implementation of the Regional Maximum Benefit Objectives in the Beaumont Management Zone", attached as Exhibit "B".

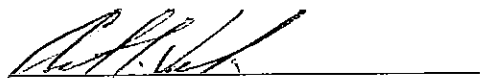
On April 25, 2014 the Santa Ana Regional Water Quality Control Board approved Resolution No. R8-2014-0005, attached as Exhibit "C", amending the Basin Plan to incorporate updated

requirements for the implementation of the BMZ maximum benefit program. Resolution No. R8-2014-0005 was subsequently approved by the State Water Resources Control Board and the California Office of Administrative Law and therefore is in full effect. The new amendment identifies maximum benefit commitments required of the responsible agencies (City of Beaumont, Yucaipa Valley Water District, City of Banning, Beaumont Cherry Valley Water District and San Geronio Pass Water Agency). As part of the commitments the responsible agencies are to determine ambient TDS and nitrate-nitrogen quality of the BMZ every three years (due July 1, 2017) using consistent methods and procedures, as is currently being done by the BMPTF. The BMPTF determination program was reviewed and approved by the Regional Board.

The BMPTF, currently made up of 19 water resource agencies, was formed to oversee and conduct the necessary studies for the Basin Monitoring Program as defined in the Basin Plan, see August 10, 2004 agreement attached as Exhibit "D". The benefits of joining the BMPTF would include: potential cost savings as compared to developing independent studies; consistency in the methodology used to develop the studies; and compliance with the requirements of the Basin Plan.

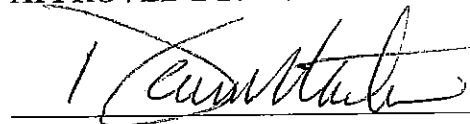
FISCAL DATA: The City of Banning's annual share of the BMPTF expenses is equal to \$13,924.00. An appropriation is required from the Water Fund to Account No. 660-6300-471.41-04 (Licenses, Permits, Fees), which will be used to fund the expense. This amount will be included in future budgets.

RECOMMENDED BY:



Art Vela
Acting Director of Public Works

APPROVED BY:



Dean Martin
Interim City Manager

Attachment:

1. Exhibit "A": Amendment No.2 to the BMPTF Agreement
2. Exhibit "B": Resolution No. 2012-10UA
3. Exhibit "C": Santa Ana Regional Water Quality Control Board approved Resolution No. R8-2014-0005
4. Exhibit "D": BMPTF Agreement

RESOLUTION NO. 2015-14UA

RESOLUTION NO. 2015-14UA, "APPROVAL TO JOIN THE SANTA ANA WATERSHED PROJECT AUTHORITY BASIN MONITORING PROGRAM TASK FORCE"

WHEREAS, on January 22, 2004, the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") adopted Resolution No. R8-2004-0001, amending the Basin Plan incorporating an updated Total Dissolved Solids ("TDS") and Nitrogen Management Plan for the Santa Ana Region, updated groundwater subbasins and revised TDS; and

WHEREAS, on September 13, 2010 the Beaumont Cherry Valley Water District, the City of Beaumont and the Yucaipa Valley Water District was issued, by the Regional Board, an *Order Pursuant to Water Code Section 132674 for Technical Reports to Support the Implementation of the Maximum Benefit Objectives for TDS and Nitrate-Nitrogen in the BMZ*; and

WHEREAS, the City of Banning, in anticipation of its plans to use recycled water over the Beaumont Management Zone ("BMZ"), participated in the preparation of the reports, has been identified as a responsible agency and in doing so ensures that the City will be covered under the updated maximum benefit implementation plan for the BMZ; and

WHEREAS, on July 10, 2012, City Council approved Resolution No. 2012-10UA, "Authorizing the Implementation of the Regional Maximum Benefit Objectives in the Beaumont Management Zone"; and

WHEREAS, on April 25, 2014 the Regional Board approved Resolution No. R8-2014-0005 amending the Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan") to incorporate updated requirements for the implementation of the BMZ maximum benefit program including maximum benefit commitments required of the BMZ responsible agencies (City of Beaumont, Yucaipa Valley Water District, City of Banning, Beaumont Cherry Valley Water District, and San Geronimo Pass Water Agency); and

WHEREAS, as part of the commitments the responsible agencies are to determine ambient TDS and nitrate-nitrogen quality of the BMZ every three years (due July 1, 2017) using consistent methods and procedures, as is currently being done by the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force ("BMPTF"); and

WHEREAS, the BMPTF, currently made up of 19 water resource agencies, was formed to oversee and conduct the necessary studies for the Basin Monitoring Program as defined in the Basin Plan and benefits of joining the BMPTF would include: potential cost savings as compared to developing independent studies; consistency in the methodology used to develop the studies; and compliance with the requirements of the Basin Plan; and

WHEREAS, the City of Banning's annual share of the BMPTF expenses is equal to \$13,924.00.

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

SECTION 1. City Council adopts Resolution 2015-14UA approving the City to Join the Santa Ana Watershed Project Authority Basin Monitoring Program Task Force and allowing the Mayor to execute Amendment No. 2 (Exhibit "A") to the BMPTF agreement

SECTION 2. The Administrative Services Director is authorized to make the necessary budget adjustments, transfers and appropriations related to this resolution.

PASSED, APPROVED, AND ADOPTED this 13th day of October, 2015.

Deborah Franklin, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

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

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

CERTIFICATION:

I, Marie Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2015-14UA, was duly adopted by the Banning Utility Authority of the City of Banning at its Joint Meeting thereof held on the 13th day of October, 2015, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, Secretary
Banning Utility Authority

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Attachment 1: Exhibit “A”

Amendment to the BMPTF Agreement

**AMENDMENT NO. 2
TO
AGREEMENT TO FORM A TASK FORCE
TO CONDUCT A BASIN MONITORING PROGRAM FOR
NITROGEN AND TOTAL DISSOLVED SOLIDS
IN THE SANTA ANA RIVER WATERSHED
(BASIN MONITORING PROGRAM)**

Pursuant to Covenants, Paragraph II.3b. of that certain AGREEMENT entitled, "Agreement to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed" (Basin Monitoring Program), dated August 10, 2004, the TASK FORCE AGENCIES hereby agree to make the following changes:

- I. Add Additional Agencies to the Task Force as follows, subject to the financial contributions as defined in the Basin Monitoring Program Task Force Agreement:
1. City of Banning
 2. Beaumont Cherry Valley Water District
 3. San Bernardino Valley Municipal Water District
 4. San Geronio Pass Water Agency

Except as otherwise expressly amended herein, all of the terms, conditions, and provisions of the Task Force Agreement and as amended under Amendment No. 1, shall continue in full force and effect, and the Additional Agencies agree to comply with and be bound thereto. **Exhibit A –** FY 2015-16 defines the initial contribution of the additional agencies.

This Amendment No. 2 may be executed in original counterparts, which together shall constitute a single agreement document.

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

CITY OF BANNING

BY _____
Mayor Date

BY _____
City Clerk Date

BEAUMONT CHERRY VALLEY WATER DISTRICT

BY _____
President Date

BY _____
Secretary-Treasurer Date

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

CITY OF BEAUMONT

BY: _____
Mayor Date

BY: _____
City Clerk Date

CHINO BASIN WATERMASTER

BY _____
President Date

BY _____
Secretary Date

**COLTON/SAN BERNARDINO REGIONAL TERTIARY TREATMENT AND
WATER RECLAMATION AUTHORITY**

BY _____
President Date

BY _____
Secretary Date

CITY OF CORONA

BY _____
DWP General Manager Date

BY _____
City Clerk Date

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

EASTERN MUNICIPAL WATER DISTRICT

BY _____
President Date

BY _____
Secretary-Treasurer Date

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

BY _____
President Date

BY _____
Clerk of the Board Date

INLAND EMPIRE UTILITIES AGENCY

BY _____
President Date

BY _____
Secretary-Treasurer Date

IRVINE RANCH WATER DISTRICT

BY _____
President Date

BY _____
Secretary-Treasurer Date

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

JURUPA COMMUNITY SERVICES DISTRICT

BY _____
President, Board of Directors Date

LEE LAKE WATER DISTRICT

BY _____
President Date

BY _____
General Manager Date

ORANGE COUNTY WATER DISTRICT

BY _____
President Date

BY _____
General Manager Date

CITY OF REDLANDS

BY _____
Mayor Date

By _____
City Clerk Date

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

CITY OF RIALTO

BY _____
Mayor Date

BY _____
City Clerk Date

CITY OF RIVERSIDE

BY _____
Mayor Date

BY _____
City Clerk Date

SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT

BY _____
President Date

BY _____
Secretary-Treasurer Date

SAN GORGONIO PASS WATER AGENCY

BY _____
Commission Chair Date

BY _____
Secretary-Treasurer Date

IN WITNESS WHEREOF, the parties hereto have executed this *Amendment No. 2 to the Agreement to Form the Basin Monitoring Program Task Force*, on the dates set forth below.

SANTA ANA WATERSHED PROJECT AUTHORITY

BY _____
Commission Chair Date

BY _____
Secretary-Treasurer Date

WESTERN RIVERSIDE COUNTY REGIONAL WASTEWATER AUTHORITY

BY _____
Chair Date

BY _____
Secretary-Treasurer Date

YUCAIPA VALLEY WATER DISTRICT

BY _____
President, Board of Directors Date

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION

BY _____
Executive Officer Date

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Attachment 2: Exhibit “B”

Resolution No. 2012-10UA

RESOLUTION NO. 2012-10 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, "AUTHORIZING THE IMPLEMENTATION OF THE REGIONAL MAXIMUM BENEFIT OBJECTIVES IN THE BEAUMONT MANAGEMENT ZONE"

WHEREAS, the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is charged with maintaining water quality in local groundwater basins, including the Beaumont Management Zone (BMZ); and

WHEREAS, on January 22, 2004, the Regional Board amended the Water Quality Control Plan for the Santa Ana River Basin ("Basin Plan") incorporating an updated Total Dissolved Solids ("TDS") and Nitrogen Management Plan for the Santa Ana Region, updated groundwater subbasins, revised TDS and nitrogen wasteload allocations; and

WHEREAS, the City of Banning participated in the preparation and subsequent submittal of a draft plan entitled "Proposed Regional Implementation of Maximum Benefit Commitments for the BMZ" ("Regional Plan"); and

WHEREAS, on January 23, 2012, the Regional Board sent correspondence confirming that the proposed Regional Plan provided reasonable assurances for the protection of water quality and beneficial use within the BMZ and will maintain maximum benefit water quality objectives of participating agencies pursuant to the Basin Plan adopted by the Regional Board on January 22, 2004.

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

SECTION 1. The Banning Utility Authority adopts Resolution No. 2012-10 UA "Authorizing the Implementation of the Regional Maximum Benefit Objectives in the Beaumont Management Zone."

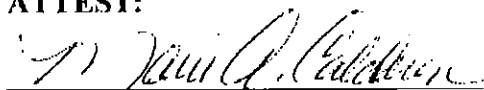
SECTION 2. The City Manager is authorized to finalize and execute the Regional Plan and submit it to the Regional Board.

PASSED, APPROVED and ADOPTED this 10th day of July, 2012.



Don Robinson, Chairman
Banning Utility Authority

ATTEST:



Marie A. Calderon, Secretary
Banning Utility Authority

CERTIFICATION:

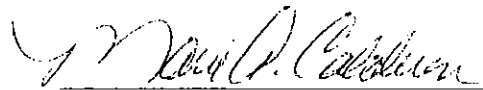
I, Marie A. Calderon, Secretary of the Banning Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2012-10 UA, was duly adopted by the Banning Utility Authority of the City of Banning, California, at a regular meeting thereof held on the 10th day of July, 2012 by the following vote, to wit:

AYES: Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Robinson

NOES: None

ABSENT: None

ABSTAIN: None

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

Marie A. Calderon, Secretary
Banning Utility Authority
City of Banning, California

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Attachment 3: Exhibit “C”

**Santa Ana Regional Water Quality Control Board Resolution No.
R8-2014-0005**

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California Regional Water Quality Control Board
Santa Ana Region

RESOLUTION NO. R8-2014-0005

Resolution Amending the Water Quality Control Plan for the Santa Ana River Basin to Incorporate Updates Related to the Salt Management Plan for the Santa Ana Region

WHEREAS, the California Regional Water Quality Control Board - Santa Ana Region (hereinafter Regional Board), finds that:

1. An updated Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) was adopted by the Regional Board on March 11, 1994, approved by the State Water Resources Control Board (SWRCB) on July 21, 1994, and approved by the Office of Administrative Law (OAL) on January 24, 1995.
2. The Basin Plan identifies the Region's ground and surface waters, designates beneficial uses for those waters, establishes water quality objectives for the protection of those uses, prescribes implementation plans and establishes monitoring and surveillance programs to assess implementation efforts.
3. Section 303(c) of the federal Clean Water Act requires that water quality standards be reviewed on a triennial basis and revised, if appropriate. California Water Code section 13240 provides that Basin Plans must be periodically reviewed and may be revised. The intent of this review is to ensure consideration of the best available science and new data and information.
4. California Water Code section 13140 provides that the State Water Resources Control Board (State Water Board) shall formulate and adopt state policy for water quality control that has statewide applicability.
5. On June 19, 2012, the State Water Board adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy includes a conditional waiver of the requirements to submit a report of waste discharge, obtain waste discharge requirements, and pay fees for discharges from onsite wastewater systems covered by the OWTS Policy. The OWTS Policy was approved by the Office of Administrative Law on November 13, 2012, and became effective on May 13, 2013. The OWTS Policy is applicable statewide.
6. Amendments to the Basin Plan to incorporate a revised Total Dissolved Solids and Nitrogen Management Plan (Salt Management Plan) into the 1995 Basin Plan were approved by the Regional Board on January 22, 2004, by the State Water Resources Control Board on October 1, 2004 and by the Office of Administrative Law on December 23, 2004. The surface water standards provisions of the amendments were approved by the U.S. Environmental Protection Agency on January 20, 2007.
7. The Basin Plan needs to be amended to incorporate the OWTS Policy by reference and to revise the minimum lot size criteria applicable to on-site wastewater treatment systems consistent with the OWTS Policy.
8. A Substitute Environmental Document (SED) was prepared by the State Water Board for the OWTS Policy in accordance with the Water Board's certified regulatory program (Cal.

Code Regs., tit. 23 §§3777-3781). The State Water Board approved the OWTS Policy and the SED on June 19, 2012. The proposed amendment to the Santa Ana Region Basin Plan removes existing Basin Plan provisions regulating onsite systems and incorporates the OWTS Policy. No substantive changes or modifications to the previously approved OWTS Policy are proposed, no substantial changes with respect to circumstances under which the OWTS Policy will be undertaken have occurred and no new information triggers the need for supplemental or subsequent CEQA analysis.

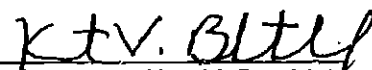
9. This amendment to incorporate the OWTS Policy is completely within the scope of the OWTS Policy as analyzed by the State Water Board in the SED. As such, the recommended actions do not require further environmental review pursuant to the certified regulatory program or CEQA (Pub. Res. Code §21166; Cal. Code Regs. tit. 14, §§15161, 15163).
10. The Salt Management Plan is also amended to recognize the hydrogeological boundary for Yucaipa/Beaumont Plains Management Zones that differs from the legal boundary; to update the Basin Plan language related to the groundwater management zone ambient TDS and nitrate-nitrogen determination; to incorporate a nitrogen loss coefficient for the San Jacinto area groundwater management zones; to update the descriptive language relating to wastewater reclamation; and, to revise the Yucaipa, Beaumont and San Timoteo Management Zones "Maximum Benefit" Programs.
11. Extensive analysis of the Salt Management Plan pursuant to the California Environmental Quality Act (CEQA) was conducted as part of the consideration of that Plan in 2004. This analyses was reviewed for the proposed amendments. An Environmental Checklist was prepared. The proposed changes to the Salt Management Plan would not modify the findings of the prior CEQA analyses, *i.e.*, that potential environmental effects would be less than significant.
12. The proposed amendments do not revise or adopt water quality objectives and, therefore, the Regional Board is not required to consider the factors set forth in Water Code section 13241.
13. The proposed amendments do not contain new scientific elements requiring an independent, external scientific peer review pursuant to Health and Safety Code 57004. Such separate scientific reviews were conducted previously for the OWTS Policy and for the Salt Management Plan provisions.
14. The proposed amendments are consistent with the State's antidegradation policy, State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California". None of the proposed amendments is expected to result in the lowering of water quality. Thus, the proposed amendments conform to the antidegradation policy requirements.
15. The proposed amendments meet the "Necessity" standard of the Administrative Procedure Act, Government Code, Section 11352, subdivision (b). The proposed amendments are required to fulfill the Regional Board's obligation pursuant to the California Water Code to exercise its full power and jurisdiction to protect the quality of waters in the state, including the duties to establish water quality objectives for the reasonable protection of beneficial uses and to identify a program of implementation, including monitoring, needed to achieve those objectives.

16. The Regional Board prepared and distributed a written report (staff report) describing the proposed Basin Plan amendments and the rationale supporting each amendment in accordance with applicable state environmental regulations (Calif. Code of Regulations, Title 23, Section 3775 et seq.).
17. On January 31, 2014, the Regional Board held a Public Hearing to consider the proposed Basin Plan amendments. The Public Hearing was continued to the April 25, 2014 Regional Board meeting. Notice of the Public Hearing was sent to all interested persons and published in accordance with Section 13244 of the California Water Code. The Regional Board considered all testimony offered at the hearing and other written comments submitted by the public before taking any final action.
18. The Basin Plan amendments must be submitted for review and approval by the State Water Resources Control Board (SWRCB), and the Office of Administrative Law (OAL). The surface water components must be approved by USEPA. Once approved by the SWRCB, the amendments are submitted to OAL. The Basin Plan amendments will generally become effective upon approval by OAL; the surface water components become effective upon approval by USEPA. A Notice of Decision will be filed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Sections 13240 et seq. of the California Water Code, the Regional Board, after considering the entire record, including all testimony provided at the public hearing, adopts the amendments to the Water Quality Control Plan for the Santa Ana River Basin as set forth in the Attachment to this Resolution.
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the SWRCB in accordance with the requirements of Section 13245 of the California Water Code.
3. The Regional Board requests that the SWRCB approve the Basin Plan amendments in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and, thereafter, forward the amendments to the OAL and the USEPA for their approval.
4. If during its approval process the SWRCB or OAL determine that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes and shall inform the Regional Board forthwith.
5. The Executive Officer is authorized to transmit payment of the applicable fee as required by the California Department of Fish and Wildlife.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board – Santa Ana Region on April 25, 2014.



Kurt V. Berchtold
Executive Officer

ATTACHMENT TO RESOLUTION NO. R8-2014-0005

(Proposed Basin Plan amendments changes are shown as ~~strikeout~~ for deletions and underline for additions

Chapter 2, Plans and Policies

Page 2-4, Insert under "State Board Policies":

- New and/or revised Statewide Plans and Policies are posted on the State Water Resources Control Board's website at the following link:

http://www.waterboards.ca.gov/plans_policies/

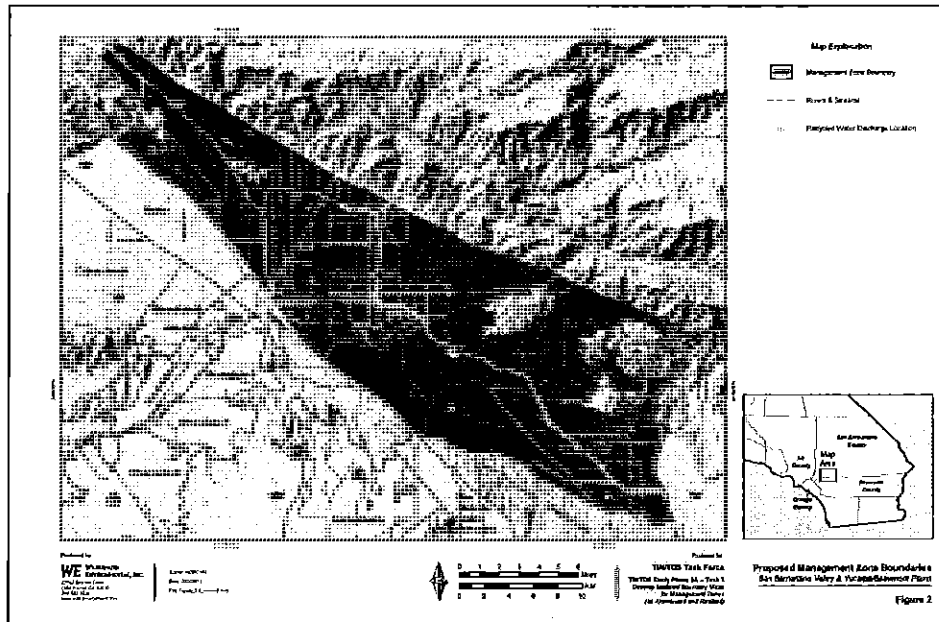
- **Policy on Onsite Wastewater Treatment Systems (Resolution No. 2012-0032, adopted by the State Water Resources Control Board on June 19, 2012)**

This Policy (OWTS Policy) regulates the siting, design, operation, and maintenance of onsite wastewater treatment systems. The Policy implements the California Water Code, Chapter 4.5, Division 7, § 13290-13291.7 by establishing statewide regulations and standards for permitting onsite wastewater systems. The OWTS Policy specifies criteria for existing, new and replacement onsite systems and establishes a conditional waiver of waste discharge requirements for onsite systems that comply with the Policy.

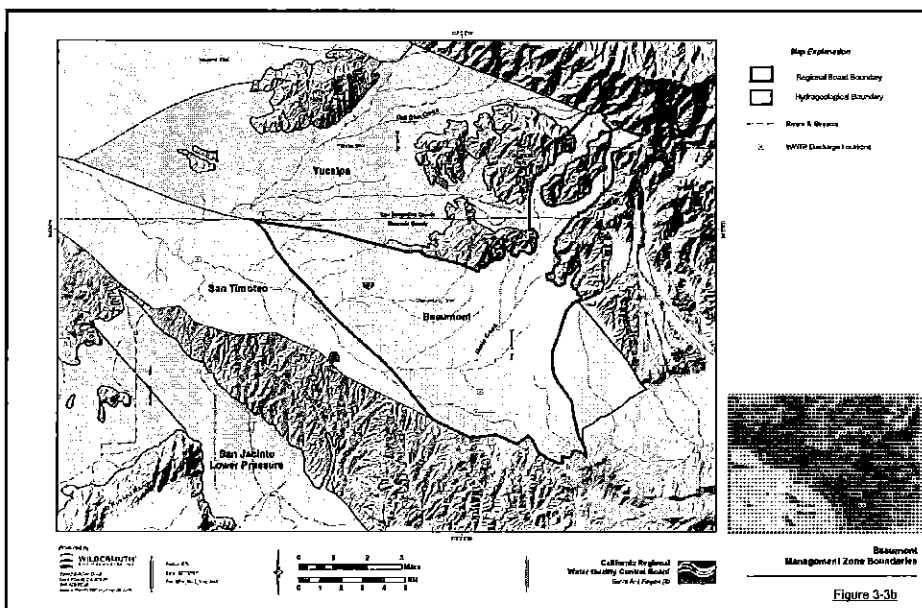
Chapter 3, "Beneficial Uses"

Page 3-12, Figure 3-3; Management Zone Boundaries – San Bernardino Valley and Yucaipa/Beaumont Plains

- Re- number Figure as Figure 3-3a – Legal Boundary



- Number new map as Figure 3-3b – Beaumont Management Zone



- Add the following footnote to the map

The eastern-most boundary of the Beaumont Management Zone is defined by the jurisdictional boundary, established in the California Water Code, between the Santa Ana Regional Water Board (Santa Ana Water Board) and the Colorado River Regional Water Board (Colorado Water Board). This legal boundary separates the two regions based on topography and surface water drainage. However, with respect to groundwater flow and quality, hydrogeological and water quality data indicate that the Beaumont groundwater management zone actually extends to the east of the current legal boundary, into the jurisdictional domain of the Colorado Water Board. The Santa Ana and Colorado Water Boards will work together to coordinate regulatory actions for discharges that occur in this area of the management zone.

Chapter 5, "Implementation"

Page 5-17ff

II.B.1. Salt Assimilative Capacity

Some waters in the Region have assimilative capacity for additions of TDS and/or nitrogen; that is, wastewaters with higher TDS/nitrogen concentrations than the receiving waters are diluted sufficiently by natural processes, including rainfall or recharge, such that the TDS and nitrogen objectives of the receiving waters are met. The amount of assimilative capacity, if any, varies depending on the individual characteristics of the waterbody in question and must be reevaluated over time.

The 2004 adoption of new groundwater management zone boundaries (Chapter 3) and new TDS and nitrate-nitrogen objectives for these management zones (Chapter 4), pursuant to the work of the Nitrogen/TDS Task Force, necessitated the re-evaluation of the assimilative capacity findings initially incorporated in the 1995 Basin Plan. To conduct this assessment, the Nitrogen-TDS study consultant calculated current ambient TDS and nitrate-nitrogen water quality using the same methods and protocols as were used in the calculation of historical ambient quality (see Chapter 4). The analysis focused on representing current water quality as a 20-year average for the period from 1978 through 1997. [Ref. 1]. For each management zone, current TDS and nitrate-nitrogen water quality were compared to water quality objectives (historical water quality)¹. Assimilative capacity was also assessed relative to the "maximum benefit" objectives established for certain management zones. If the current quality of a management zone is the same as or poorer than the specified water quality objectives, then that management zone does not have assimilative capacity. If the current quality is better than the specified water quality objectives, then that management zone has assimilative capacity. The difference between the objectives and current quality is the amount of assimilative capacity available.

Since adoption of the 2004 Basin Plan amendment and per Basin Plan requirements, ambient quality and assimilative capacity findings have been, and will continue to be, updated every

¹ As noted in Chapter 4, ammonia-nitrogen and nitrite-nitrogen data were also included in the analysis, where available. This occurred for a very limited number of cases and ammonia-nitrogen and nitrite-nitrogen concentrations were insignificant.

three years. The updated findings of ambient quality and assimilative capacity will be posted on the Regional Board's web-site and will be used for regulatory purposes.

Tables 5-3 and 5-4 show the water quality objectives and ambient quality for TDS and nitrate-nitrogen, respectively, for each management zone. These tables also list the TDS and nitrate-nitrogen assimilative capacity of the management zones, if any. Of the thirty-seven (37) management zones, twenty-seven (27) lack assimilative capacity for TDS, and thirty (30) lack assimilative capacity for nitrate-nitrogen (this assumes the "maximum benefit" objectives are in effect). five (5) management zones for which there were insufficient data to calculate TDS and/or nitrate-nitrogen water quality objectives and, therefore, assimilative capacity. For regulatory purposes, these 5 management zones are assumed to have no assimilative capacity. Dischargers to these management zones may demonstrate that assimilative capacity for TDS and/or nitrate-nitrogen is available. If the Regional Board approves this demonstration, then the discharger would be regulated accordingly.

- As indicated in Table 5-3, it will be assumed for most regulatory purposes that there is no assimilative capacity for TDS in the Orange County groundwater management zone. The 20 mg/L of management zone-wide TDS assimilative capacity calculated for this zone will be allocated to discharges resulting from groundwater remediation and other legacy contaminant removal projects implemented within the Orange County Management Zone.

[section discussion continues with no further revisions]

Table 5-3
Total Dissolved Solids (TDS) Assimilative Capacity Findings

Management Zone	Water Quality Objective (mg/L)	Current Ambient (mg/L)	Assimilative Capacity (mg/L)
UPPER SANTA ANA RIVER BASIN			
Beaumont — "max benefit" ⁴	330	290	40
Beaumont — "antideg"	230	290	None
Bunker Hill A	310	350	None
Bunker Hill B	330	260	70
Colton	410	430	None
Chino North — "max benefit"	420	300	120
Chino 1 — "antideg"	280	340	None
Chino 2 — "antideg"	250	300	None
Chino 3 — "antideg"	260	280	None
Chino South	680	720	None
Chino East	730	760	None
Cucamonga — "max benefit" ³	380	260	120
Cucamonga — "anti-deg"	240	260	None
Lytle	260	240	20
Rialto	230	230	None
San Timoteo — "max benefit" ³	400	300	100
San Timoteo — "anti-deg"	300	300	None
Yucaipa — "max benefit" ³	370	330	40
Yucaipa — "antideg"	320	330	None
MIDDLE SANTA ANA RIVER BASIN			
Arlington	980	— ¹	None
Bedford	— ¹	— ¹	None
Coldwater	380	380	None
Elsinore	480	480	None
Lee Lake	— ¹	— ¹	None
Riverside A	560	440	120
Riverside B	290	320	None
Riverside C	680	760	None
Riverside D	810	— ¹	None
Riverside E	720	720	None
Riverside F	660	580	80
Temescal	770	780	None
Warm Springs	— ¹	— ¹	None
SAN JACINTO RIVER BASINS			
Canyon	230	220	10
Hemet South	730	1030	None
Lakeview — Hemet North	520	830	None
Menifee	1020	3360	None
Perris North	570	750	None
Perris South	1260	3490	None
San Jacinto Lower	520	730	None
San Jacinto Upper	320	370	None
LOWER SANTA ANA RIVER BASINS			
Irvine	910	910	None
La Habra	— ¹	— ¹	None
Orange County ²	580	560	None ²
Santiago	— ¹	— ¹	None

¹ Not enough data to estimate TDS concentrations; management zone is presumed to have no assimilative capacity. If assimilative capacity is demonstrated by an existing or proposed discharger, that discharge would be regulated accordingly.

² For the purposes of regulating discharges other than those associated with projects implemented within the Orange County Management Zone to facilitate remediation projects and/or to address legacy contamination, no assimilative capacity is assumed to exist.

³ Assimilative capacity created by "maximum benefit" objectives is allocated solely to agency(ies) responsible for "maximum benefit" implementation (see Section VI).

Table 5-4
Nitrate-Nitrogen (NO₃-N) Assimilative Capacity Findings

Management Zone	Water Quality Objective (mg/L)	Current Ambient (mg/L)	Assimilative Capacity (mg/L)
UPPER SANTA ANA RIVER BASINS			
Beaumont — "max benefit" ³	5.0	2.6	2.4
Beaumont — "antideg"	1.5	2.6	None
Bunker Hill A	2.7	4.5	None
Bunker Hill B	7.3	5.5	1.8
Colton	2.7	2.9	None
Chino North — "max benefit" ³	5.0	7.4	None
Chino 1 — "antideg"	5.0	8.4	None
Chino 2 — "antideg"	2.9	7.2	None
Chino 3 — "antideg"	3.5	6.3	None
Chino South	4.2	8.8	None
Chino East	10	29.4	None
Cucamonga — "max benefit" ³	5.0	4.4	0.6
Cucamonga — "anti-deg"	2.4	4.4	None
Lytle	1.5	2.8	None
Rialto	2.0	2.7	None
San Timoteo — "max benefit" ³	5.0	2.9	2.1
San Timoteo — "anti-deg"	2.7	2.9	None
Yucaipa — "max benefit" ³	5.0	5.2	None
Yucaipa — "antideg"	4.2	5.2	None
MIDDLE SANTA ANA RIVER BASINS			
Arlington	10.0	— ⁴	None
Bedford	— ⁴	— ⁴	None
Coldwater	1.5	2.6	None
Elsinore	1.0	2.6	None
Lee Lake	— ⁴	— ⁴	None
Riverside A	6.2	4.4	1.8
Riverside B	7.6	8.0	None
Riverside C	8.3	15.5	None
Riverside D	10.0	— ⁴	None
Riverside E	10.0	14.8	None
Riverside F	9.5	9.5	None
Temescal	10.0	13.2	None
Warm Springs	— ⁴	— ⁴	None
SAN JACINTO RIVER BASINS			
Canyon	2.5	1.6	0.9
Hemet South	4.1	5.2	None
Lakeview — Hemet North	1.8	2.7	None
Menifee	2.8	5.4	None
Perris North	5.2	4.7	0.5
Perris South	2.5	4.9	None
San Jacinto Lower	1.0	1.9	None
San Jacinto Upper	1.4	1.9	None
LOWER SANTA ANA RIVER BASINS			
Irvine	5.9	7.4	None
La Habra	— ⁴	— ⁴	None
Orange County	3.4	3.4	None
Santiago	— ⁴	— ⁴	None

⁴ Not enough data to estimate nitrate-nitrogen concentrations

² Assimilative capacity created by "maximum benefit" objectives is allocated solely to agency(ies) responsible for "maximum benefit" implementation (see Section VI.).

Page 5-25ff**3. Nitrogen Loss Coefficient**

The City of Riverside also presented data to the Task Force regarding nitrogen transformation and losses associated with wetlands. These data support a nitrogen loss coefficient of 50%, rather than 25%, for the lower portions of Reach 3 of the Santa Ana River that overlie the Chino South groundwater management zone. [Ref. 9]. In fact, the data indicate that nitrogen losses from wetlands in this part of Reach 3 can be greater than 90%. However, given the limited database, the Task Force again recommended a conservative approach, i.e., 50% in this area, with confirmatory monitoring.

Eastern Municipal Water District also presented data that support a 60% nitrogen loss coefficient in the San Jacinto Basin [Ref 10F]. This 60% nitrogen loss is only applicable to discharges to the following management zones that overlie the San Jacinto Basin: Perris North, Perris South, San Jacinto Lower Pressure, San Jacinto Upper Pressure, Lakeview-Hemet North, Menifee, Canyon and Hemet South.

Page 5-34ff**5. Wastewater Reclamation**

Wastewater is presently being reclaimed in the Santa Ana Watershed in a number of different ways:

3. Groundwater Recharge by Percolation

This type of reclamation is common throughout the Region. Most wastewater treatment plants that do not discharge directly to the River discharge their effluent to percolation ponds. All of the treated wastewater in the upper Santa Ana Basin that is not directly reclaimed for commercial agricultural and landscape irrigation purposes, or discharged directly to the Santa Ana River, is returned to local or downstream groundwater management zones by percolation. In Orange County, reclaimed water is used for greenbelt and landscape irrigation, and injected into coastal aquifers to control sea water intrusion.

Significant additional reclamation activities are planned in the Region, as reflected in Table 5-7. The Chino Basin Watermaster, Inland Empire Utilities Agency, Yucaipa Valley Water District, the City of Beaumont and the San Timoteo Watershed Management Authority propose to implement extensive groundwater recharge projects using recycled water. To accommodate these projects and other water and wastewater management strategies, these agencies have made the requisite demonstrations necessary to support the "maximum benefit" TDS and nitrate-nitrogen water quality objectives specified in this Plan for certain groundwater management zones (see Chapter 4). The recharge projects will provide reliable sources of additional water supply needed to support expected development within the agencies' areas of jurisdiction. These agencies' "maximum benefit" programs are described in detail in Section VI. of this Chapter.

Significant additional reclamation activities are planned in the Region, as reflected in Table 5-

~~7. The~~ Chino Basin Watermaster, Inland Empire Utilities Agency, Yucaipa Valley Water District, the City of Beaumont and the ~~San Timoteo Watershed Management Authority~~ City of Banning propose to implement extensive groundwater recharge projects using recycled water. To accommodate these projects and other water and wastewater management strategies, these agencies have made the requisite demonstrations necessary to support the "maximum benefit" TDS and nitrate-nitrogen water quality objectives specified in this Plan for certain groundwater management zones (see Chapter 4). The recharge projects will provide reliable sources of additional water supply needed to support expected development within the agencies' areas of jurisdiction. These agencies' "maximum benefit" programs are described in detail in Section VI. of this Chapter.

The Yucaipa Valley Regional Brine line and a reverse osmosis facility at the Water Purification Facility at the Water Purification Facility located at the Wochholz Regional Water Recycling Facility will facilitate groundwater replenishment reuse in the upper groundwater management zones of the Santa Ana Watershed. Treated wastewater will receive extensive advanced treatment, including microfiltration, reverse osmosis and disinfection using ultraviolet light. The recharge of recycled water will enhance both the quality of and quantity of groundwater resources, the major source of water supply in the area.

In Orange County, significant reclamation activities include the implementation of the Groundwater Replenishment System, a joint effort of the Orange County Water District and Orange County Sanitation District. Treated wastewater provided by the Sanitation District will receive extensive advanced treatment, including microfiltration, reverse osmosis, and disinfection using ultraviolet light and hydrogen peroxide. In the first phase of the project, approximately 70, 000 acre-feet per year of highly treated recycled water will be produced and distributed to groundwater recharge facilities and to injection wells used to maintain a seawater intrusion barrier. The System will enhance both the quality and quantity of groundwater resources, the major source of water supply in the area. It will reduce the need for imported water and prevent, or at least delay, the need for an additional ocean outfall for disposal of the wastewater treated by the Sanitation District. Implementation of the GWR System ~~will be phased. Operation of Phase 1 will begin~~ began in 2007. Future phases to expand the capacity of the GWR System are possible planned.

Table 5-7
Wastewater Reclamation

Subbasin (Management Zone) Receiving Reclaimed Water	Source	Amount AF/Y 2010-A ¹	Amount AF/Y 2010-B ²
Beaumont MZ	Beaumont, City of	250	1,500
Yucaipa MZ	Yucaipa Valley Water District	—	6,400
Bunker Hill B MZ	San Bernardino, City of and Colton, City of	117	26,200
Colton MZ	Rialto, City of	200	
Chino North MZ	IEUA RP-1	1,200	48,000
Chino North MZ	IEUA RP-2A	2,470	
Chino North MZ	IEUA RP-4	3,300	
Chino North MZ	California Institute for Men	650	650
Chino North MZ	Upland Golf Course	31	31
Temescal MZ	Corona, City of	1,000	3,100
	TOTAL	9,218	86,000

¹—wastewater reclamation assumed in 2010-A is the same as that assumed in the 1995 Basin Plan when approved in 1994/1995 (also known as Table 5-7)

²—wastewater reclamation assumed in 2010-B as identified by POTWs (see Ref. 3, 5).

Salt Management Plan (Chapter 5)

page 5-38ff

V. Other Projects and Programs

In addition to the regulatory efforts of the Regional Board described in the preceding section, water and wastewater purveyors and other parties in the watershed have implemented, and propose to implement, facilities and programs designed to address salt problems in the groundwater of the Region. These include the construction of brine lines, and groundwater desalters, recycled water demineralization systems, implementation of programs to enhance the recharge of high quality storm water and imported water, where available, and re-injection of recycled water to maintain salt water intrusion barriers in coastal areas. These projects and programs are motivated by the need to protect and augment water supplies, as well as to facilitate compliance with waste discharge requirements.

A. Brine Lines

There are two brine line systems in the Region, the Inland Empire Brine Line, formerly known as the Santa Ana Regional Interceptor (SARI), and the older Chino Basin Non-Reclaimable Line (NRL). These lines are used to transport brine wastes out of the basin for treatment and disposal to the ocean. They are a significant part of industrial waste management and essential for operation of desalters in the upper watersheds.

1. Inland Empire Brine Line

The SARI Inland Empire Brine Line (Brine Line) was constructed and is owned by SAWPA. It is approximately 93 miles of 16 inch to 84 inch pipeline connected to the Orange County Sanitation District treatment facilities. SAWPA owns capacity rights in SARI downstream of Prado Dam. The line extends from the Orange County Line near Prado Dam northeast to the San Bernardino area. The Brine Line has been extended southerly to serve the San Jacinto Watershed. SARI Brine Line Reach 5 extends up the Temescal Canyon from the City of Corona to the Eastern Municipal Water District (EMWD) brine line terminus in the Lake Elsinore area. EMWD's Menifee Desalter and other high salinity discharges from EMWD and Western Municipal Water District now have access to the brine line.

The Brine Line, Reach IVE has been extended to the east about 15 miles from the City of San Bernardino to Yucaipa Water District's Wochholz Regional Water Recycling Facility. The Brine Line will be utilized by Yucaipa Valley Water District and the Mountainview Power Plant for brine disposal.

2. Chino Basin Non-Reclaimable Waste Line

The Chino Basin Non-Reclaimable Waste Line (NRWL) is connected to the Los Angeles County Sanitation District sewer system in the Pomona area. The NRWL, which is owned and operated by Inland Empire Utilities Agency, exports non-reclaimable industrial wastes and brine from the Chino Basin. It extends eastward from the Los Angeles County Line to the City of Fontana. It was originally built to serve industries including the Kaiser Steel Company and Southern California Edison Power Plants.

B. Groundwater Desalters

The studies leading to the development of the TDS/Nitrogen management plan included in this Basin Plan when it was approved in 1995 demonstrated that it was not realistic to achieve compliance with all the nitrogen and TDS objectives for the groundwater subbasins then identified within the Region. Long-term historic land use practices, particularly agriculture, have left an enormous legacy of salts that are now in the unsaturated soils overlying the groundwater subbasins (now, newly defined groundwater management zones). A significant amount of these salts will, over time, degrade groundwater quality. The programs of groundwater extraction, treatment, and replenishment needed to completely address these historic salt loads were shown to far exceed the resources available to implement them.

While the boundaries of the groundwater management zones have been revised and new TDS and nitrate-nitrogen water quality objectives established, the salt legacy problem remains. The construction and operation of groundwater desalters to extract and treat poor quality groundwater continues to be an essential component of salt management in the Region. Such projects will be increasingly important to protect local water supplies and to provide supplemental, reliable sources of potable supplies.

A number of groundwater desalters have already been constructed, and more are planned. These facilities are described below.

1. Upper Santa Ana Basin

In the Upper Santa Ana Basin, the Santa Ana Watershed Project Authority constructed and operates the Arlington desalter, which is now owned and operated by Western Municipal Water District. This desalter, with a capacity of about 7 MGD, treats water extracted from the Arlington Management Zone, which was heavily impacted by historic agricultural activities.

In the Chino Basin, the Chino Desalter Authority operates the Chino 1 desalter, which is planned for expansion from 8 MGD to 13 MGD capacity. Additional desalters and desalter capacity will be constructed as part of a "maximum benefit" proposal by the Chino Basin Watermaster and the Inland Empire Utilities Agency (see Section VI., Maximum Benefit Implementation Plans for Salt Management).

The City of Corona began operation of the Temescal desalter in late 2001 with product water. ~~The desalter has a capacity of 10 MGD. In 2004, the City is currently expanding expanded~~ the desalter plant capacity by adding a fourth train to increase the product water capacity by 5 MGD for a current total of 15 MGD. It is expected to be operational in early 2004. The product water is used to supplement current other municipal supplies as a blending source. The improved TDS quality of these supplies is an important part of the City's efforts to assure compliance with waste discharge requirements.

In the San Timoteo Watershed areas, desalters will be implemented as necessary for the Yucaipa and Beaumont areas, as discussed in detail in Section VI., Maximum Benefit San Timoteo Watershed Salt Management Plan.

2. San Jacinto Watershed

EMWD operates the Menifee desalter, which has a capacity of about 3 MGD. Product water is

added to the EMWD municipal supply system, and the waste brine is discharged to a non-reclaimable waste disposal system that is ultimately connected to the SAWPA SARI system. The desalter extracts groundwater from the Perris South and Meniffee Management Zones, both of which are adversely affected by historic salt loads contributed largely by agricultural activities.

EMWD plans to construct a desalter with capacity of about 4.5 MGD to treat poor quality water extracted from the Perris South and Lakeview/Hemet North Management Zones. The purpose of this facility is to stop subsurface migration of poor quality groundwater from the Perris South Management Zone into the Lakeview/Hemet North Management Zone.

3. Orange County

The Tustin ~~Seventeenth Street Desalter Nitrate Removal project~~, which began operation in 1996 ~~reduces high nitrate and TDS concentrations from groundwater pumped by Tustin's Seventeenth Street wells, adding~~ approximately 3,000 acre-feet of water annually to Tustin's domestic water supply. ~~A second facility, Tustin's Main Street Treatment Plant, began operating in 1989 with a yield of 2,000 acre-feet per year. The plant reduces nitrate levels from groundwater produced by Tustin's Main Street wells. Treatment systems employing reverse osmosis and ion exchange, are operating at two wells that had been shut down because of excessive nitrate concentrations. The Orange County Water District and Irvine Ranch Water District (IRWD) are moving forward with~~ cooperated to build the Irvine Desalter, a dual-purpose regional groundwater remediation and water supply project located in the City of Irvine and its sphere of influence. The project consists of an extensive seven-well groundwater extraction and collection system, a treatment system, a five-mile brine disposal pipeline, a finished water delivery system, and ancillary facilities. While providing approximately ~~6,700~~ 8,000 acre-feet per year to IRWD for potable and non-potable supply, the desalter ~~will extract and treat~~ brackish groundwater and captures an overlapping regional plume of TCE-contaminated groundwater demonstrated to have originated from the former U.S. Marine Corps Air Station-EI Toro.

C. Recharge of ~~Stormwater~~ Storm Water and/or Imported Water

The Orange County Water District, San Bernardino Valley Water Conservation District and other agencies in the Region operate extensive facilities designed to enhance the capture and recharge of high quality ~~stormwater~~ storm water. More such facilities are planned as part of "maximum benefit" proposals by the Chino Basin Watermaster/Inland Empire Utilities Agency, Yucaipa Valley Water District, San Timoteo Watershed Management Authority and ~~the City of Beaumont~~ and agencies implementing the maximum benefit programs in the San Timoteo watershed (Section VI., Maximum Benefit Implementation Plans for Salt Management). These proposals also include efforts to import and recharge high quality State Water Project water, when it is available. These activities increase both the quantity and quality of available groundwater resources.

D. Sea Water Intrusion Barriers

The Orange County Water District operates advanced facilities designed to provide significantly enhanced tertiary treatment of secondary treated municipal wastewater from the Orange County Sanitation District's (Sanitation District) Fountain Valley Reclamation Plant No. 1. The recycled water is injected into a series of wells located along Ellis Avenue in the City of Fountain Valley to maintain the Talbert Gap Seawater Intrusion Barrier. The

treatment facility, currently known as Water Factory 21, will be supplanted by the Groundwater Replenishment System (GWRS) being was constructed jointly by Orange County Water District and the Sanitation District (see preceding section on wastewater reclamation).

Page 5-43ff

V. Salt Management Plan – Monitoring Program Requirements (insert at end of section)

Subsequent to the approval of the Region's Salt and Nutrient Management Plan in 2004, a new task force, the "Basin Monitoring Program Task Force" (BMPTF) was formed to implement the requisite nitrogen/TDS monitoring and analyses programs described previously. SAWPA serves as the administrator for the BMPTF.

The Task Force includes the following agencies:

- Eastern Municipal Water District
- Inland Empire Utilities Agency
- Orange County Water District
- City of Riverside
- Lee Lake Water District
- Elsinore Valley Municipal Water District
- Irvine Ranch Water District
- Colton/San Bernardino Regional Tertiary Treatment and Wastewater Reclamation Authority
- Chino Basin Watermaster
- Yucaipa Valley Water District
- City of Beaumont
- City of Corona
- City of Redlands
- City of Rialto
- Jurupa Community Services District
- Western Riverside Co Regional Wastewater Authority

The Santa Ana Regional Water Quality Control Board and SAWPA are also signatories to the BMPTF agreement.

As indicated above (Section V.A and V.B), the task force agencies are required to conduct the following investigations:

1. Recomputation of the Ambient Water Quality – every three years
2. Preparation of a Water Quality Report for the Santa Ana River – annually

Declaration of Conformance

Another major activity that the BMPTF completed in March 2010 was the development of a "Declaration of Conformance" for approval by the Regional Board and the State Water Resources Control Board. With the Declaration, the Task Force and Regional Board declared conformance with the then-new State Board Recycled Water Policy requirements for the completion of a salt and nutrient management plan for the Santa Ana Region, and other requirements of this Policy. This finding of conformance was based on the work of the Nitrogen/TDS Task Force. That work resulted in the 2004 adoption of Basin Plan amendments to incorporate a revised salt and nutrient management plan for the Region

(Resolution No. R8-2004-0001). Further, the Declaration documented conformance with the emerging constituents monitoring requirements in the Policy through the "Emerging Constituents Sampling and Investigation Program", submitted to the Regional Board on an annual basis by the Emerging Constituents Program Task Force. The Sampling and Investigation Program will be reviewed annually and revised as necessary and will integrate the State Board's recommendations when they become available. Finally, the Declaration of Conformance documents the analyses and procedures that will be used to streamline the permitting process for recycled water projects, as required by the Policy.

The Declaration of Conformance was formally adopted by resolution of the Regional Board on March 18, 2010 (Resolution No. R8-2010-0012) and formally submitted to the State Board on April 12, 2010.

Salt Monitoring Cooperative Agreement

In January, 2008 the Regional Board entered into a Cooperative Agreement with several water and wastewater agencies in the Santa Ana River Watershed to analyze and report the amount of salt and nitrates entering local groundwater aquifers as a consequence of recharging imported water in the region. The "Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Use of Imported Water in the Santa Ana River Basin" is Attachment A to Resolution No. R8-2008-0019.

As with the BMPTF effort underwritten by local stakeholders, the Cooperative Agreement obligates signatories to assess current groundwater quality every three years. In addition, the signatories have agreed to estimate every six years the changes that are likely to occur in groundwater quality as a result of on-going and expected projects that recharge imported water. By emphasizing the use of "real-time" monitoring, rather than complex fate and transport models, the Regional Board is better able to evaluate the effects of these recharge projects.

The parties of the Cooperative Agreement execute the terms of the agreement through a workgroup that meets regularly under the administration of SAWPA. As the informal administrator, SAWPA assists in coordination among the signatories of the necessary basin salinity monitoring and modeling reports, along with final compilation and submittal of the reports to the Regional Board by the deadlines defined in the agreement.

Page 5-59ff,**VI. Maximum Benefit Implementation Plans for Salt Management****B. Salt Management – San Timoteo Watershed****1. San Timoteo and Yucaipa Management Zone – Yucaipa Valley Water District**

Two sets of objectives have been adopted for the San Timoteo and Yucaipa Management Zones; the "maximum benefit" objectives and objectives based on historic ambient quality ("antidegradation" objectives) (see Chapter 4). The application of the "maximum benefit" objectives relies on the implementation by the Yucaipa Valley Water District (YVWD) (and in the case of the San Timoteo Management Zone, by the City of Beaumont/STWMA (see discussion below)) of a specific program of projects and requirements [Ref. 10D]. This program is a part of a watershed-scale water resources management plan designed by YVWD and other members of the San Timoteo Watershed Management Authority (STWMA) (the City of Beaumont, the Beaumont-Cherry Valley Water District and the South Mesa Water Company) to assure reliable supplies to meet present and anticipated demands. The projected water demands for the Yucaipa area for the year 2030 require approximately an additional 10,000 AF/Y of supplemental water, including State Water Project water, water imported from local sources, recharged storm water and recycled water. YVWD is in the process of implementing the water resources management plan, which includes enhanced recharge of stormwater and recycled water, optimizing direct use of recycled and imported water, and conjunctive use.

In addition to its water supply responsibilities, YVWD provides sewage collection and treatment services within its service area. YVWD operates a wastewater treatment facility that currently discharges tertiary treated wastewater to San Timoteo Creek, Reach 3. This unlined reach of the Creek overlies and recharges the San Timoteo groundwater management zone.

Table 5-9a identifies the projects and requirements that must be implemented by YVWD to demonstrate that water quality consistent with maximum benefit to the people of the state will be maintained. An implementation schedule is also specified. The Regional Board will revise YVWD's waste discharge requirements to require that these commitments be met. It is assumed that maximum benefit is demonstrated, and that the "maximum benefit" water quality TDS and nitrate-nitrogen objectives apply to the Yucaipa and San Timoteo Management Zones, as long as the schedule is being met². If the Regional Board determines that the maximum benefit program is not being implemented effectively in accordance with the schedule shown in Table 5-9a (and in the case of the San Timoteo Management Zone, the commitments and schedule shown in Table 5-10a (see next section)), then maximum benefit is not demonstrated and the "antidegradation" TDS and nitrate-nitrogen objectives apply. In this situation, the Regional Board will require mitigation for TDS and nitrate-nitrogen discharges affecting these management zones that took place in excess of limits based on the "antidegradation" objectives. As for Chino Basin Watermaster and Inland Empire Utilities Agency, discharges in excess of the antidegradation objectives that must be considered for mitigation include both recycled water and imported water, at TDS concentrations in excess of the antidegradation objectives. Mitigation by groundwater extraction and desalting must be adjusted to address concentrations of salt and nitrogen in the basin, not simply salt load.

² Application of "maximum benefit" objectives for the San Timoteo Management Zone is also contingent on the timely implementation of the commitments by the City of Beaumont and the San Timoteo Watershed Management Authority which are discussed in the next section.

Table 5-9a

Yucaipa Valley Water District Maximum Benefit Commitments

Description of Commitment	Compliance Date— as soon as possible, but no later than
<p>1. Surface Water Monitoring Program</p> <p>a. Submit Draft Monitoring Program to Regional Board</p> <p>b. Implement Monitoring Program</p> <p>c. Quarterly data report submittal</p> <p>d. Annual data report submittal</p>	<p>a. January 23, 2005</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p> <p>c. April 15, July 15, October 15, January 15</p> <p>d. February 15th</p>
<p>2. Groundwater Monitoring Program</p> <p>a. Submit Draft Monitoring Program to Regional Board</p> <p>b. Implement Monitoring Program</p> <p>c. Annual data report submittal</p>	<p>a. January 23, 2005</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p> <p>c. February 15th</p>
<p>3. Desalter(s) and Brine Disposal Facilities</p> <p>a. Submit plan and schedule for construction of desalter(s) and brine disposal facilities. Facilities are to operational as soon as possible but no later than 7 years from date of Regional Board approval of plan/schedule.</p> <p>b. Implement the plan and schedule</p>	<p>a. Within 6 months of either of the following:</p> <p>i. When YVWD's effluent 5-year running average TDS exceeds 530 mg/L; and/or</p> <p>ii. When volume weighted average concentration in the Yucaipa MZ of TDS exceeds 360 mg/L</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p>
<p>4. Non-potable water supply</p> <p>Implement non-potable water supply system to serve water for irrigation purposes. The non-potable supply shall comply with a 10-year running average TDS concentration of 415 mg/L or less</p>	<p>December 23, 2014</p>

Description of Commitment	Compliance Date — as soon as possible, but no later than
<p>5. Recycled water recharge</p> <p>The recharge of recycled water in the Yucaipa or San Timoteo Management Zones shall be limited to the amount that can be blended with other recharge sources to achieve a 5-year running average equal to or less than the "maximum benefit" objectives for TDS and nitrate-nitrogen for the relevant Management Zone(s).</p> <p>a. Submit baseline report of amount, locations, and TDS and nitrogen quality of stormwater/imported water recharge.</p> <p>b. Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations. For stormwater recharge used for blending, submit documentation that the recharge is the result of YVWD-enhanced recharge facilities/programs</p>	<p>Compliance must be achieved by end of 5th year after initiation of recycled water use/recharge operations.</p> <p>a. Prior to initiation of construction of basins/other facilities to support enhanced stormwater/imported water recharge.</p> <p>b. Annually, by January 15th, after initiation construction of facilities/implementation of programs to support enhanced recharge.</p>
6. Ambient groundwater quality determination	July 1, 2005 and every 3 years thereafter
7. Replace denitrification facilities (necessary to comply with TIN waste load allocation specified in Table 5-5)	New facilities shall be operational no later than December 23, 2007
<p>8. YVWD recycled water quality improvement plan and schedule</p> <p>a. Submit plan and schedule</p> <p>b. Implement plan and schedule</p>	<p>a. 60 days after the TDS 12-month running average effluent quality equals or exceeds 530 mg/L for 3 consecutive months and/or the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once replacement denitrification facilities are in place)</p> <p>b. Upon approval by Regional Board</p>
9. Remove/reduce the discharge of YVWD effluent from the unlined portion of San Timoteo	

Description of Commitment	Compliance Date—as soon as possible, but no later than
<p>—Creek</p> <p>a. Submit proposed plan/schedule</p> <p>b. Implement plan/schedule</p>	<p>a. June 23, 2005</p> <p>b. Upon Regional Board approval</p>
<p>10. Construct the Western Regional Interceptor for Dunlap Acres</p> <p>a. Submit proposed construction plan and schedule. The schedule shall assure the completion of construction as soon as possible but no later than January 1, 2010.</p> <p>b. Implement plan and schedule</p>	<p>a. June 23, 2005</p> <p>b. Upon Regional Board approval</p>

A. Description of Yucaipa Valley Water District Commitments

1. ~~Surface Water Monitoring Program (Table 5-9a, #1)~~

The YVWD shall develop and submit for Regional Board approval a surface water monitoring program for San Timoteo Creek and the Santa Ana River Reaches 4 and 5. The monitoring program must be implemented within 30 days of Regional Board approval of the monitoring plan, and six months of data must be generated prior to the implementation of any changes made to the effluent discharge points and before any recycled water is used in the Yucaipa or San Timoteo Management Zones.

At a minimum, the surface water monitoring program shall include the collection of monthly measurements of TDS and nitrogen components in San Timoteo Creek and Santa Ana River, Reaches 4 and 5 (see Table 5-9b). Data reports shall be submitted to the Regional Board's Executive Officer by April 15, July 15, October 15 and January 15 each year. An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted by February 15th of each year.

2. ~~Groundwater Monitoring Program (Table 5-9a, #2)~~

The purpose of the Groundwater Monitoring Program is to identify the effects of the implementation of the San Timoteo and Yucaipa Management Zones maximum benefit water quality objectives on water levels and water quality within the San Timoteo and Yucaipa Management Zones. Prior to discharge of recycled water to the San Timoteo and/or Yucaipa Management Zones, YVWD shall submit to the Regional Board for approval a groundwater monitoring program to determine ambient water quality in the San Timoteo and Yucaipa Management Zones. The groundwater monitoring program must be implemented within 30 days of approval by the Regional Board.

An annual report, including all raw data and summarizing the results of the approved groundwater monitoring program, shall be submitted to the Regional Board by February 15th of each year.

3. ~~Desalters and Brine Disposal (Table 5-9a, #3)~~

~~YVWD anticipates that demineralization of groundwater or recycled water will be necessary in the future. YVWD is committed to construct and operate desalting and brine disposal facilities when:~~

- ~~1) The 5-year running average TDS concentration in recycled water produced at the YVWD wastewater treatment plant exceeds 530 mg/L; or~~
- ~~2) The volume-weighted TDS concentration in the Yucaipa Management Zone reaches or exceeds 360 mg/L~~

~~The construction of these facilities will be in accordance with a plan and schedule submitted by YVWD and approved by the Regional Board. The schedule shall assure that these facilities are in place within 7 years of Regional Board approval. These facilities shall be designed to stabilize or reverse the degradation trend evidenced by effluent and/or management zone quality.~~

4. ~~Non-potable water supply distribution system (Table 5-9a, #4)~~

~~A key element of the YVWD's water resources management plan is the construction of a non-potable supply system to serve a mix of recycled water and un-treated imported water for irrigation uses. The intent of blending these sources is to minimize the impact of recycled water use on the Yucaipa and San Timoteo Management Zones.~~

~~Parts of this system are under design and construction. A higher proportion of State Project water will be used in wet, surplus years, while larger amounts of recycled water will be used in dry, deficit years. YVWD will produce a non-potable supply with a running ten-year average TDS concentration for the Yucaipa Management Zone of 415 mg/L.~~

Table 5—9b

Surface Water Monitoring Sites for Monitoring Water Quality and Quantity
Yucaipa Valley Water District

Site Name	Discharge	Owner	Type	Discharge Monitoring	Water Quality
Monitoring				Frequency	Period
Period	Analyses			Frequency	
11057500, Gage	San Timoteo Creek	USGS	Total Discharge	Bi-weekly	Jan-Dec
Dec TDS, TIN, Physical				Bi-weekly	Jan-Dec
At Barton Rd.	San Timoteo Creek	YVWD	Total Discharge	Bi-weekly	Jan-Dec
TDS, TIN, Physical				Bi-weekly	Jan-Dec
At San Timoteo	San Timoteo Creek	YVWD	Total Discharge	Bi-weekly	Jan-Dec
TDS, TIN, Physical				Bi-weekly	Jan-Dec
Canyon Rd.					
Above confluence	San Timoteo Creek	YVWD	Total Discharge	Bi-weekly	Jan-Dec
TDS, TIN, Physical				Bi-weekly	Jan-Dec
Yucaipa Creek					
Above YVWD	San Timoteo Creek	YVWD	Total Discharge	Bi-weekly	Jan-Dec
TDS, TIN, Physical				Bi-weekly	Jan-Dec
Discharge					
11059300 Gage	Santa Ana River	USGS	Total Discharge	Bi-weekly	Jan-Dec
Dec TDS, TIN, Physical				Bi-weekly	Jan-Dec
At Waterman Ave	Santa Ana River	YVWD	Total Discharge	Bi-weekly	Jan-Dec
TDS, TIN, Physical				Bi-weekly	Jan-Dec
Recharged to	State Water Project	YVWD	Total Discharge	Monthly	Jan-Dec
Dec TDS, Nitrate-N				Monthly	Jan-Dec
Yucaipa MZ					
Recharged to	Storm water	YVWD	Total Discharge	Monthly	Jan-Dec
Dec TDS, Nitrate-N				Monthly	Jan-Dec
Yucaipa MZ					

5. Recycled Water Use (Table 5-9a, # 5)

The use and recharge of recycled water within the Yucaipa Management Zone is a critical component of the YVWD water management plan and is necessary to maximize the use of the water resources of the Yucaipa area. The demonstration of "maximum benefit" and the continued application of the "maximum benefit" objectives depends on the combined recharge (recycled water, imported water, storm water) to the Yucaipa Management Zone of a 5-year annual average (running average) TDS concentration of 370 mg/L and nitrate-nitrogen concentration of 5 mg/L. If recycled water recharge in the proposed San Timoteo Management Zone is pursued, then the application of the "maximum benefit" objectives will depend on the combined recharge to that Zone of 5-year annual average (running average) concentrations of 400 mg/L or

less TDS, and 5 mg/L or less nitrate-nitrogen.

To meet this requirement, YVWD will establish a fund to purchase imported water from local sources and/or the State Water Project and will recharge water with a TDS concentration less than 300 mg/L (recent long term historical average of water delivered from the State Project). YVWD will also pursue implementation, with the City of Yucaipa and the San Bernardino County Flood Control District, of the *Yucaipa Water Capture and Resource Management Complex* by December 31, 2010.

Accordingly, the use of recycled water for groundwater recharge in the Yucaipa or San Timoteo Management Zone shall be limited to the amount that can be blended in the management zone on a volume-weighted basis with other sources of recharge to achieve 5-year running average concentrations less than or equal to the "maximum benefit" objectives for the affected groundwater management zone. The 25% nitrogen-loss coefficient will be applied in determining the amount of recharge of other water sources that must be achieved to meet the 5-year running average nitrogen concentrations.

6. Ambient Groundwater Quality Determination (Table 5-9a, #6)

By July 1, 2005, and every three years thereafter, YVWD shall submit a determination of ambient TDS and nitrate-nitrogen quality in the San Timoteo and Yucaipa Management Zones. This determination shall be accomplished using methodology consistent with the calculation (20-year running averages) used by the Nitrogen/TDS Task Force to develop the TDS and nitrate-nitrogen "antidegradation" water quality objectives for groundwater management zones within the region. [Ref. 1].

7. Replacement of Denitrification Facilities (Table 5-9a, #7)

YVWD shall replace existing denitrification facilities to provide effluent total inorganic nitrogen quality (6 mg/L) needed to assure compliance with the "maximum benefit" nitrate-nitrogen objective of the San Timoteo and Yucaipa Management Zones (see Wasteload Allocation section of this Chapter). A maximum three-year schedule for completion of these facilities will be required. This schedule will be specified in a revised NPDES permit for YVWD's discharges to San Timoteo Creek.

8. YVWD Recycled Water Management (Table 5-9a, #8)

YVWD expects to limit the TDS concentration in its effluent to less than or equal to 540 mg/L by using a low TDS source water supply for potable uses, selective desalting of either source water and/or recycled waters, and minimizing the TDS waste increment. YVWD is currently constructing a 12-MGD treatment plant to treat and serve State Project Water. The plant will also be able to treat low TDS Mill Creek and Santa Ana River water. When necessary, YVWD will construct desalters to reduce either the TDS concentration in water supplied to customers or the TDS concentration in the effluent. YVWD will also use best efforts to enact ordinances and other requirements to minimize the TDS use increment.

Within 60 days after the YVWD 12-month running average concentration for TDS equals or exceeds 530 mg/L for 3 consecutive months, or the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once replacement denitrification facilities are in place), YVWD shall submit to the Regional Board a plan and time schedule for implementation of measures to insure that the average agency wastewater effluent quality does not exceed 540 mg/L and 6 mg/L for TDS and TIN, respectively. The plan and schedule are to be implemented upon approval by the Regional Board.

9. Relocation of San Timoteo Creek Discharge (Table 5-9a, #9)

YVWD has established the goal of eliminating its discharge to the unlined reach of San Timoteo Creek by 2008. First priority will be given to the direct reuse and limited recharge of this recycled water in the YVWD service area (principally the area overlying the Yucaipa Management Zone). The District may construct a pipeline to convey the recycled water to the San Jacinto watershed for reuse. The District is also planning the construction of a pipeline to convey recycled water downstream to the lined reach of the Creek (Reach 1A) to minimize recycled water effects on the San Timoteo Management Zone. In the long term, discharges

to this area of the Creek are likely to be infrequent and limited to the wintertime, when the recycled water cannot be used in the YVWD (or potentially, the San Jacinto) service areas. However, YVWD is obligated to maintain flows in the Creek to support existing riparian habitat (State Board Order No. VW-26) and may need to continue recycled water discharges at some level. Groundwater and imported State Project water may also be used as alternative water sources.

Whole or partial removal of the discharge from the unlined reach of San Timoteo Creek would improve the quality of groundwater in the San Timoteo Management Zone and supplement recycled water supplies available for reuse elsewhere in the service area.

By June 23, 2005, YVWD shall submit a proposed plan and schedule to remove/reduce the discharge of recycled water to the unlined reach of San Timoteo Creek. The plan and schedule shall be implemented upon Regional Board approval.

10. Construction of Western Regional Interceptor (Table 5-9a, # 10)

YVWD will construct the Western Regional Interceptor to provide wastewater collection and treatment services to Dunlap Acres in order to mitigate what has been identified as a poor quality groundwater area due to prior agricultural use and existing septic systems. The Dunlap Acres area was inadvertently omitted from the Yucaipa-Calimesa septic tank subsurface disposal system prohibition established by the Regional Board in 1973. The interceptor includes the construction of a major wastewater interceptor pipeline, a force main and pump station. YVWD committed to complete construction of these facilities prior to 2010. Regional Board action may be necessary to require connection of properties to the wastewater collection system, when it is completed.

By June 23, 2005, YVWD shall submit a plan and schedule for construction of the Interceptor. The Interceptor is to be complete no later than January 1, 2010. YVWD shall implement the plan and schedule upon Regional Board approval.

B. Implementation by Regional Board

1. Revision to Yucaipa Valley Water District NPDES Permit

To implement the "maximum benefit" objectives, the Regional Board will revise the NPDES permit for YVWD wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

The discharge limits for TDS and TIN will be specified as an annual volume-weighted average not to exceed 540 mg/L TDS and 6 mg/L TIN. These limits are based on the "maximum benefit" wasteload allocations shown in Table 5-5. A schedule not to exceed December 23, 2007 for compliance with this TIN limit shall be included in the permit. This schedule will enable YVWD to replace its existing denitrification facilities. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative limits are also specified in Table 5-5. Compliance schedules for these alternative limits will be specified in YVWD's waste discharge requirements, as necessary.

YVWD will be required to implement measures to improve effluent quality when the 12-month running average effluent TDS quality equals or exceeds 530 mg/L for 3 consecutive months, and/or when the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once replacement denitrification facilities are in place).

YVWD's waste discharge requirements will require that recycled water used for recharge shall be limited to the amount that can be blended with other water sources, such as stormwater or imported water, to achieve 5-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the affected management zone (Yucaipa or San Timoteo). Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water

recharge in these management zones.

The effluent limits for YVWD, which establish an upper limit on TDS and TIN concentrations of recycled water discharged in the Yucaipa and/or San Timoteo Management Zones, are a cornerstone of the maximum benefit demonstration. The cap on effluent TDS and TIN concentrations provides a controlling point for management of TDS and nitrogen water quality. YVWD will be required to initiate the building of a desalter and brine disposal line when the 5-year running average TDS in YVWD's effluent reaches 530 mg/L, or when the volume-weighted-average TDS concentration in the Yucaipa Management Zone reaches 360 mg/L. YVWD will immediately implement a salt management program to reduce the salts entering the District's wastewater treatment plant. This salt management program will include: 1) provision of incentives for the removal of on-site regenerative water softeners and the use of off-site regenerative systems; and 2) percolation of State Water Project water into the Yucaipa Management Zone when State Water Project water has low TDS. Implementing these measures will assure that the groundwater quality remains at or below the Yucaipa Management Zone objective of 360 mg/L TDS. Maintenance of this ambient groundwater quality is necessary, in turn, to assure that YVWD's wastewater treatment facility is able to meet the effluent TDS limits. Yucaipa Management Zone groundwater is a significant component of the water supplied in YVWD's service area, and its quality thus has an important effect on effluent quality. Poor ambient quality will preclude YVWD from meeting effluent limits without desalting.

YVWD will be required to submit proposed plans and schedules for the removal/reduction of its wastewater discharges from the unlined reach of San Timoteo Creek and for the construction of the Western Regional Interceptor. YVWD's revised permit will also reflect the surface and groundwater monitoring program requirements described above. This includes the determination of ambient quality in the San Timoteo and Yucaipa Management Zones.

2. Review of Project Status

No later than 2005, and every three years thereafter (to coincide with the Regional Board's triennial review process), the Regional Board intends to review the status of the activities planned and executed by the YVWD to demonstrate maximum benefit and justify continued implementation of the "maximum benefit" water quality objectives. This review is intended to determine whether the commitments specified above and summarized in Table 5-9a are met. As indicated above, if, as a result of this review, the Regional Board finds that the YVWD commitments are not met and after consideration at a duly noticed Public Hearing, the Regional Board will make a finding that the lowering of water quality associated with TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives) is not of maximum benefit to the people of the state. By default, the scientifically-derived "antidegradation" objectives for the San Timoteo (300 mg/L for TDS, 2.7 mg/L for nitrate-nitrogen) and Yucaipa (320 mg/L for TDS and 4.2 mg/L for nitrate-nitrogen Management Zones would become effective (see Chapter 4).

Furthermore, in the event that the projects and actions specified in Table 5-9a are not implemented, the Regional Board will require that the YVWD mitigate the adverse water quality effects, both on the immediate and downstream waters, that resulted from the recycled water discharges based on the "maximum benefit" objectives.

2. San Timoteo and Beaumont Management Zones— City of Beaumont and San Timoteo Watershed Management Authority (STWMA)

As shown in Chapter 4, two sets of TDS and nitrate-nitrogen objectives have been adopted for both the San Timoteo and Beaumont Management Zones: the "maximum benefit" objectives and objectives based on historic ambient quality (the "antidegradation" objectives). The application of the "maximum benefit" objectives for these Management Zones is contingent on the implementation of commitments by the City of Beaumont/STWMA (and, in the case of the San Timoteo Management Zone, by the Yucaipa Valley Water District (YVWD; see preceding discussion)) to implement a specific water and wastewater resources management program [Ref. 10E]. This program is part of a coordinated effort by the member agencies of STWMA to develop and implement projects that will assure reliable water supplies to meet rapidly increasing demands in this area. The San Timoteo Watershed Management Program (STWMP) developed by STWMA entails enhanced recharge of native and recycled water, maximizing the direct use of recycled water, optimizing the direct use of imported water, recharge and conjunctive use.

Wastewater collection and treatment services in the STWMA service area are provided by the City of Beaumont, as well as YVWD. Beaumont discharges tertiary-treated wastewater to Coopers Creek, a tributary of San Timoteo Creek, Reach 3. This unlined reach of the Creek overlies and recharges the San Timoteo groundwater management zone.

Table 5-10a identifies the projects and requirements that must be implemented by Beaumont/STWMA to demonstrate that water quality consistent with maximum benefit to the people of the state will be maintained. STWMA, acting for all its member agencies, has committed to conduct the regional planning and monitoring activities necessary to implement these "maximum benefit" commitments, and the San Timoteo Watershed Management Program as a whole. Table 5-10a also specifies an implementation schedule. The Regional Board will revise the City of Beaumont's waste discharge requirements and take other actions as necessary to require that these commitments be met. It is assumed that maximum benefit is demonstrated, and that the "maximum benefit" water quality TDS and nitrate-nitrogen objectives apply to the Beaumont and San Timoteo Management Zones, as long as the schedule is being met³. If the Regional Board determines that the maximum benefit program is not being implemented effectively in accordance with the schedule shown in Table 5-10a (and in the case of the San Timoteo Management Zone, the commitments and schedule shown in Table 5-9a (see preceding section)), then maximum benefit is not demonstrated, and the "antidegradation" TDS and nitrate-nitrogen objectives apply. In this situation, the Regional Board will require mitigation for TDS and nitrate-nitrogen discharges affecting these management zones that took place in excess of limits based on the "antidegradation" objectives.

³ Application of "maximum benefit" objectives for the San Timoteo Management Zone is also contingent on the timely implementation of the commitments by the Yucaipa Valley Water District which are discussed in the preceding section.

Table 5-10a

City of Beaumont and San Timoteo Watershed Management Authority
Maximum Benefit Commitments

Description of Commitment	Compliance Date — as soon as possible, but no later than
<p>1. Surface Water Monitoring Program</p> <p>a. Submit Draft Monitoring Program to Regional Board</p> <p>b. Implement Monitoring Program</p> <p>c. Quarterly data report submittal</p> <p>d. Annual data report submittal</p>	<p>a. January 23, 2005</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p> <p>c. April 15, July 15, October 15, January 15</p> <p>d. February 15th</p>
<p>2. Groundwater Monitoring Program</p> <p>a. Submit Draft Monitoring Program to Regional Board</p> <p>b. Implement Monitoring Program</p> <p>c. Annual data report submittal</p>	<p>a. January 23, 2005</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p> <p>c. February 15th</p>
<p>3. Desalter(s) and Brine Disposal Facilities</p> <p>a. Submit plan and schedule for construction of desalter(s) and brine disposal facilities. Facilities are to be operational as soon as possible but no later than 7 years from date of Regional Board approval of plan/schedule.</p> <p>b. Implement the plan and schedule</p>	<p>a. Within 6 months of either of the following:</p> <p style="padding-left: 40px;">i. When Beaumont's effluent 5-year running average TDS exceeds 480 mg/L; and/or</p> <p style="padding-left: 40px;">ii. When volume weighted average concentration in the Yucaipa MZ of TDS exceeds 320 mg/L</p> <p>b. Within 30 days from Regional Board approval of monitoring plan</p>

Description of Commitment	Compliance Date—as soon as possible, but no later than
<p>4. Non-potable water supply</p> <p>Implement non-potable water supply system to serve water for irrigation purposes. The non-potable supply shall comply with a 10-year running average TDS concentration of 390 mg/L or less</p>	<p>December 23, 2014</p>
<p>5. Recycled water recharge</p> <p>The recharge of recycled water in the Beaumont or San Timoteo Management Zones shall be limited to the amount that can be blended with other recharge sources to achieve a 5-year running average equal to or less than the “maximum benefit” objectives for TDS and nitrate-nitrogen for the relevant Management Zone(s).</p> <p>a. Submit baseline report of amount, locations, and TDS and nitrogen quality of stormwater/imported water recharge.</p> <p>b. Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations. For stormwater recharge used for blending, submit documentation that the recharge is the result of City of Beaumont/STWMA enhanced recharge facilities/programs</p>	<p>Compliance must be achieved by end of 5th year after initiation of recycled water use/recharge operations.</p> <p>a. Prior to initiation of construction of basins/other facilities to support enhanced stormwater/imported water recharge.</p> <p>b. Annually, by January 15th, after initiation construction of facilities/implementation of programs to support enhanced recharge.</p>
<p>6. Ambient groundwater quality determination</p>	<p>July 1, 2005 and every 3 years thereafter</p>
<p>7. Replace denitrification facilities (if necessary to comply with TIN wasteload allocation specified in Table 5-5)</p>	<p>Compliance with 6 mg/L TIN limitation to be achieved by December 23, 2007</p>
<p>8. City of Beaumont recycled water quality improvement plan and schedule</p> <p>a. Submit plan and schedule</p>	<p>a. 60 days after the TDS 12-month running average effluent quality equals or exceeds 480 mg/L for 3 consecutive months and/or the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once facility/operational changes needed to achieve 6 mg/L TIN are in place)</p>

Description of Commitment	Compliance Date — as soon as possible, but no later than
b. — Implement plan and schedule	b. — Upon approval by Regional Board
9. Remove/reduce the discharge of Beaumont's effluent — from the unlined portion of San Timoteo — Creek a. — Submit proposed plan/schedule b. — Implement plan/schedule	a. June 23, 2005 b. Upon Regional Board approval

A. Description of City of Beaumont, San Timoteo Watershed Authority Commitments

1. Surface Water Monitoring Program (Table 5-10a, #1)

The City of Beaumont and the STWMA shall develop and submit for Regional Board approval a surface water monitoring program for San Timoteo, Little San Geronio and Noble Creeks at the locations listed in Table 5-10b. The monitoring program must be implemented within 30 days of Regional Board approval of the monitoring plan, and six months of data must be generated prior to the implementation of any changes to the effluent discharge points and before any recycled water is used in the Beaumont or San Timoteo Management Zones.

At a minimum, the surface water monitoring program shall include the collection of monthly measurements of TDS and nitrogen components at locations in San Timoteo, Little San Geronio and Noble Creeks (see Table 5-10b). Data reports shall be submitted to the Regional Board's Executive Officer by April 15, July 15, October 15 and January 15 each year. An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted February 15th of each year.

2. Groundwater Monitoring Program (Table 5-10a, #2)

The purpose of the groundwater monitoring program is to identify the effects of the implementation of the Beaumont and San Timoteo Management Zone maximum benefit TDS and nitrate-nitrogen water quality objectives on water levels and water quality within the Beaumont and San Timoteo Management Zones. Prior to discharge of recycled water to the Beaumont and/or San Timoteo Management Zone, the City of Beaumont and the STWMA shall submit to Regional Board for approval a groundwater monitoring program to determine ambient water quality in the Beaumont and San Timoteo Management Zones. The groundwater monitoring program must be implemented within 30 days of approval by the Regional Board.

An annual report, including all raw data and summarizing the results of the approved groundwater

monitoring program, shall be submitted to the Regional Board by February 15th of each year.

3. ~~Desalters and Brine Disposal (Table 5-10a. #3)~~

~~The City of Beaumont and the STWMA shall construct and operate desalting facilities and brine disposal facilities when:~~

- ~~a. The 5-year running average TDS concentration in recycled water produced at the City of Beaumont wastewater treatment plant exceeds 480 mg/L, or~~
- ~~b. The volume-weighted TDS concentration in the Beaumont Management Zone equals or exceeds 320 mg/L.~~

~~The construction of these facilities will be in accordance with a plan and schedule submitted by Beaumont/STWMA and approved by the Regional Board. The schedule shall assure that these facilities are in place within 7 years of Regional Board approval. These facilities shall be designed to stabilize or reverse the degradation trend evidenced by effluent and/or management zone quality.~~

Table 5 — 10b

Surface Water Monitoring Sites for Monitoring Water Quality and Quantity
City of Beaumont & San Timoteo Watershed Management Authority

Site Name	Discharge	Owner	Type	Discharge	Monitoring	Water Quality Monitoring
				Frequency	Period	Frequency Period
Analyses						
Above confluence TIN, Physical With Coopers Cr.	San Timoteo Creek	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Bi-weekly Jan-Dec TDS,
Near Hinda TIN, Physical Sec.35 T2S,R2W	San Timoteo Creek	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Bi-weekly Jan-Dec TDS,
Above confluence TIN, Physical With San Timoteo Creek	Coopers Creek	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Bi-weekly Jan-Dec TDS,
At Freeway 10 TIN, Physical	Little San Gorgonio Cr.	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Bi-weekly Jan-Dec TDS,
At Freeway 10 TIN, Physical	Noble Creek	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Bi-weekly Jan-Dec TDS,
Recharged to Nitrate-N Beaumont MZ	State Water Project	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Monthly Jan-Dec TDS,
Recharged to Nitrate-N Beaumont MZ	Storm water	Beaumont & STWMA	Total Discharge	Bi-weekly	Jan-Dec	Monthly Jan-Dec TDS,

4. Non-potable water supply distribution system (Table 5-10a, #4)

Like YVWD, the City of Beaumont is constructing a non-potable water system that will convey untreated State Project water and recycled water for irrigation within its service area. The intent of blending these sources is to minimize the impact of recycled water use on groundwater quality in the proposed Beaumont and San Timoteo Management Zones. A higher proportion of State Project water will be used in wet, surplus years, while larger amounts of recycled water will be used in dry, deficit years.

5. Recycled Water Use (Table 5-10a, #5)

The use of recycled water within the Beaumont Management Zone is a critical component of the City of Beaumont and STWMA water management plan and is necessary to maximize the use of the water resources of the Beaumont area.

The demonstration of "maximum benefit" and the continued application of the "maximum benefit" objectives depends on the combined recharge (recycled water, imported water, storm water) to the Beaumont Management Zone of a 5-year annual average (running average) TDS concentration of 330 mg/L and a nitrate-nitrogen concentration of 5 mg/L. If recycled water recharge in the San Timoteo Management Zone is pursued, then the application of the "maximum benefit" objectives will depend on the combined recharge to that Zone of 5-year annual average (running average) concentrations of 400 mg/L or less TDS, and 5 mg/L or less nitrate-nitrogen.

To comply with this requirement, the STWMA member agencies are developing plans to recharge and store State Project water in the proposed Beaumont Management Zone. The Beaumont-Cherry Valley Water District (BCVWD) is developing a new 80-acre groundwater recharge project that will increase storm water recharge in the Beaumont Basin by 4,100 acre-ft/yr. This facility will also be used to recharge State Water project water. The City of Beaumont is also developing storm water recharge in facilities in newly developing areas, which is expected to result in the recharge of an additional 2,400 acre-ft/yr of stormwater runoff.

Accordingly, the use of recycled water for use or recharge in the Beaumont or San Timoteo Management Zone shall be limited to the amount that can be blended on a volume-weighted basis with other sources of recharge to achieve 5-year running average concentrations less than or equal to the "maximum benefit" objectives for the affected groundwater management zone. The 25% nitrogen loss coefficient will be applied in determining the amount of recharge of other water sources that must be achieved to meet the 5-year running average nitrogen concentrations.

6. Ambient Groundwater Quality Determination (Table 5-10a, #6)

By July 1, 2005, and every three years thereafter, the City of Beaumont and STWMA shall submit a determination of ambient TDS and nitrate-nitrogen quality in the Beaumont and San Timoteo Management Zones. This determination shall be accomplished using methodology consistent with the calculation (20-year running averages) used by the Nitrogen/TDS Task Force to develop the TDS and nitrate-nitrogen "antidegradation" water quality objectives for groundwater management zones within the region [Ref. 1].

7. Replacement/modification of denitrification facilities (Table 5-10a, #7)

The City of Beaumont has committed to produce recycled water with a 12-month average TIN concentration of 6 mg/L or less by 2008. This may be accomplished via operational changes, or may require the installation/modification of facilities. This TIN effluent quality is specified in the TIN wasteload allocation (see Table 5-5) and is necessary to assure compliance with the proposed "maximum benefit" nitrate-nitrogen objective for the Beaumont and San Timoteo Management Zones (5 mg/L). An appropriate schedule, not to exceed December 23, 2007 for compliance with this effluent limit will be specified in a revised NPDES permit for the City.

8. ~~City of Beaumont Wastewater Management (Table 5-10a, #8)~~

~~Beaumont expects to limit the TDS concentration in its effluent to less than or equal to 490 mg/L by using a low TDS source water supply for potable uses, selective desalting of either source water and/or recycled waters, and minimizing the TDS waste increment.~~

~~Within 60 days after the Beaumont 12-month running average concentration for TDS equals or exceeds 480 mg/L for 3 consecutive months, or the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once facility/operational changes needed to achieve 6 mg/L TIN are in place), the City of Beaumont shall submit to the Regional Board a plan and time schedule for implementation of measures to insure that the average agency wastewater effluent quality does not exceed 490 mg/L and 6 mg/L for TDS and TIN, respectively. The plan and schedule are to be implemented upon approval by the Regional Board.~~

9. ~~Relocation of San Timoteo Creek Discharge (Table 5-10a, #9)~~

~~Like YVWD, Beaumont has established the goal of eliminating its discharge to the unlined reach of San Timoteo Creek by 2008 to minimize the impacts of these discharges on the San Timoteo Management Zone. The STWMP anticipates that Beaumont's recycled water will be almost completely reused within the Beaumont area for landscape irrigation, habitat enhancement, and potentially for groundwater recharge. Like YVWD, Beaumont and STWMA are also considering the export of a portion of Beaumont's surplus recycled water to the San Jacinto basin, where the TDS objectives are higher than those for the Beaumont Management Zone and recycled water demands are greater than supplies. Some limited recycled water discharge to Coopers Creek and thence /San Timoteo Creek may need to be continued to support existing riparian habitat.~~

~~Whole or partial removal of the discharge from the unlined reach of San Timoteo Creek would improve the quality of groundwater in the San Timoteo Management Zone and supplement recycled water supplies available for reuse elsewhere in the service area.~~

~~By June 23, 2005, Beaumont/STWMA shall submit a proposed plan and schedule to remove/reduce the discharge of recycled water to the unlined reach of San Timoteo Creek. The plan and schedule shall be implemented upon Regional Board approval.~~

B. ~~Implementation by Regional Board~~

1. ~~Revision of City of Beaumont NPDES Permit~~

~~To implement the "maximum benefit" objectives, the Regional Board will revise the NPDES permit for the City of Beaumont wastewater discharge to reflect the commitments described above, as appropriate. This includes the following:~~

~~The discharge limits for TDS and TIN will be specified as an annual volume-weighted average not to exceed 490 mg/L TDS and 6 mg/L TIN. These limits are based on the wasteload allocation shown in Table 5-5. A schedule not to exceed December 23, 2007 for compliance with this TIN limit shall be included in the permit. This schedule will enable Beaumont to make the necessary facility/operational changes. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative limits are also specified in Table 5-5. Compliance schedules for these alternative limits will be specified in Beaumont's waste discharge requirements, as necessary.~~

~~Beaumont will be required to implement measures to improve effluent quality when the 12-month running average effluent TDS quality equals or exceeds 480 mg/L for 3 consecutive months, and/or when the 12-month running average TIN concentration equals or exceeds 6 mg/L in any month (once the facility/operational changes necessary to assure compliance with the 6 mg/L limit are in place).~~

Beaumont's waste discharge requirements will require that recycled water used for recharge shall be limited to the amount that can be blended with other water sources, such as stormwater or imported water, to achieve 5-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the affected management zone (Beaumont or San Timoteo).

The effluent limits for the City of Beaumont, which establish an upper limit on TDS and TIN concentrations of recycled water discharged in the management zones, are a key part of the maximum benefit demonstration. The cap on effluent TDS and TIN concentrations provides a controlling point for management of TDS and nitrogen water quality. The City of Beaumont has committed to initiate the building of a groundwater desalter and brine disposal line when the TDS in the City's effluent reaches 480 mg/L. Further, the City will immediately implement a salt management program to reduce the salts entering the City's wastewater treatment plant. This salt management program will include: 1) provision of incentives for the removal of on-site regenerative water softeners and the use of off-site regenerative systems; and 2) percolation of State Water Project water into the Beaumont Management Zone when State Water Project water has low TDS. Implementing these measures will assure that the groundwater quality remains at or below the Beaumont management zone objective of 330 mg/L TDS. Maintenance of this ambient groundwater quality is necessary, in turn, to assure that the City's wastewater treatment facility is able to meet the effluent TDS limits. Beaumont Management Zone groundwater is a component of the water supplied to the City and its quality thus has an important effect on the effluent quality. Poor ambient quality will preclude the City from meeting effluent limits without desalting.

Beaumont will be required to submit a proposed plan and schedule for the removal/reduction of its wastewater discharges from the unlined reach of San Timoteo Creek. Beaumont's revised permit will also reflect the surface and groundwater monitoring program requirements described above. This includes the determination of ambient quality in the San Timoteo and Beaumont Management Zones.

2. Review of Project Status

No later than 2005, and every three years thereafter (to coincide with the Regional Board's triennial review process), the Regional Board intends to review the status of the activities planned and executed by the City of Beaumont and STWMA to demonstrate maximum benefit and justify continued implementation of the "maximum benefit" water quality objectives. This review is intended to determine whether the commitments specified above and summarized in Table 5-10a are met. As indicated above, if, as a result of this review, the Regional Board finds that the City of Beaumont and STWMA commitments are not met and after consideration at a duly noticed Public Hearing, the Regional Board will make a finding that the lowering of water quality associated with TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives) is not of maximum benefit to the people of the state. By default, the scientifically derived "antidegradation" objectives for the Beaumont and San Timoteo Management Zones would become effective (230 mg/L TDS and 1.5 mg/L nitrate-nitrogen for the Beaumont Management Zone; 300 mg/L TDS and 2.7 mg/L nitrate-nitrogen for the San Timoteo Management Zone (see Chapter 4).

Furthermore, in the event that the projects and actions specified in Table 5-10a are not implemented, the Regional Board will require that the City of Beaumont and STWMA mitigate the adverse water quality effects, both on the immediate and downstream waters, that resulted from the recycled water discharges based on the "maximum benefit" objectives. As for CBW/EUA and YVWD, discharges in excess of the antidegradation objectives that must be considered for mitigation include both recycled water and imported water, at TDS concentrations in excess of the antidegradation objectives. Mitigation by groundwater extraction and desalting must be adjusted to address concentrations of salt and nitrogen in the basin, not simply salt load.

Page 5-59ff.**B. Salt Management – San Timoteo Watershed**

The 2004 amendments to the Basin Plan established both "antidegradation" and "maximum benefit" nitrogen and TDS objectives for the Yucaipa, San Timoteo and Beaumont Groundwater Management Zones (see Chapter 4). These Groundwater Management Zones are within the San Timoteo Watershed. The agencies that proposed the "maximum benefit" objectives committed to implement specific programs of projects and actions that were also identified in the 2004 Salt Management Plan incorporated in the Basin Plan. These programs were intended to assure that water quality consistent with the maximum benefit to the people of the state would be maintained with the application of the "maximum benefit" objectives. These commitments included the implementation of surface and groundwater monitoring programs, use of recycled water supplies for non-potable uses and construction and operation of desalting facilities to manage recycled water quality.

In 2014 amendments to the Salt Management Plan, changes to these "maximum benefit" commitments and the parties responsible for them were made based on a regional strategy for the San Timoteo Watershed [Ref 10D] developed and proposed by the Yucaipa Valley Water District, the City of Beaumont, the City of Banning, Beaumont-Cherry Valley Water District and the San Geronio Pass Agency. The Regional Strategy initially addressed the Maximum Benefit program in the Beaumont Groundwater Management Zone; however, in order to have a consistent approach throughout the San Timoteo Watershed, the Regional Strategy approach was expanded to the San Timoteo and Yucaipa Groundwater Management Zones. The goal of this strategy is to assure reliable water supplies to meet present and anticipated demands. The "maximum benefit" commitments of each responsible agency are described below and shown in Tables 5-9a (Yucaipa Groundwater Management Zone), 5-9b (San Timoteo Groundwater Management Zone) and 5-9c (Beaumont Groundwater Management Zone). These commitments must be implemented by the responsible agencies in accordance with the prescribed schedule in order to assure that water quality consistent with maximum benefit to the people of the state will be maintained.

The Regional Board will revise waste discharge requirements as appropriate to require implementation of these commitments. For each groundwater management zone, it is assumed that maximum benefit is demonstrated, and that the "maximum benefit" water quality TDS and nitrate-nitrogen objectives apply as long as the commitments and schedule applicable to that groundwater management zone are satisfied. If the Regional Board determines that any or all of the maximum benefit programs are not being implemented effectively in accordance with the schedule(s) shown in Tables 5-9a through 5-9c, then maximum benefit is not demonstrated and the "antidegradation" TDS and nitrate-nitrogen objectives apply. In this situation, the Regional Board will require mitigation for TDS and nitrate-nitrogen discharges to the affected groundwater management zone that took place in excess of limits based on the "antidegradation" objectives for that Groundwater Management Zone. As specified for Chino Basin Watermaster and Inland Empire Utilities Agency (see Section VI.A, above), discharges in excess of the antidegradation objectives that must be considered for mitigation include both recycled water and imported water at TDS concentrations in excess of the antidegradation objectives. Mitigation by groundwater extraction and desalting must be adjusted to address concentrations of salt and nitrogen in the basin, not simply salt load.

1. Yucaipa Groundwater Management Zone - Yucaipa Valley Water District

The application of the "maximum benefit" objectives established for the Yucaipa Groundwater Management Zone relies on the implementation by the Yucaipa Valley Water District (YVWD) of the specific program of projects and requirements shown in Table 5-9a. These "maximum benefit" commitments were updated and revised in 2014 based on YVWD's ongoing activities to implement the 2004 program and the regional strategy YVWD helped to develop. The projected water demands for the Yucaipa area for the year 2030 require approximately an additional 10,000 AF/Y of supplemental water, which may include State Water Project water, water imported from local sources, recharged storm water and recycled water. The goal is to meet these demands through implementation of the "maximum benefit" commitments, which include enhanced recharge of storm water and recycled water, optimizing direct use of recycled and imported water, desalting of wastewater and/or groundwater and conjunctive use.

In addition to its water supply responsibilities, YVWD provides sewage collection and treatment services within its service area. YVWD operates a wastewater treatment facility that currently discharges tertiary treated wastewater to San Timoteo Creek, Reach 3. This unlined reach of the Creek overlies and recharges the San Timoteo Groundwater Groundwater Management Zone (see 2. San Timoteo Groundwater Management Zone – Yucaipa Valley Water District and the City of Beaumont). In response to commitments in the 2004 Salt Management Plan, YVWD has taken steps to improve recycled water quality, including the installation of new denitrification facilities and the design and construction of the Yucaipa Valley Regional Brineline and reverse osmosis treatment systems at the Wochholz Regional Water Recycling Facility. The desalting facilities are expected to be complete by June 30, 2015.

Dilution of recycled water with water to meet the 370 mg/L TDS concentration and the 5 mg/L nitrate-N concentration recycled water recharge and direct use requirements will be limited to new water recharge such as reverse osmosis permeate (diluent), imported water or new storm water. New storm water recharge is defined as storm water recharged in quantities greater than historical amounts (net increase) over the groundwater management zone since January 1, 2004. January 2004 corresponds to the month and year when the Regional Board authorized the original maximum benefit objectives and compliance commitments by adopting Resolution No. R8-2004-0001.

Table 5-9a

Yucaipa Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agency – Yucaipa Valley Water District

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<u>1. Surface Water Monitoring Program</u> <u>a. Submit Draft Revised Monitoring Program to Regional Board</u> <u>b. Implement Revised Monitoring Program</u> <u>c. Submit Draft Revised Monitoring Program(s) (subsequent to that required in "a", above) to Regional Board</u> <u>d. Implement Revised Monitoring Program (s)</u> <u>e. Annual data report submittal</u>	<u>a. (**30 days from Regional Board approval of BPA)</u> <u>b. Upon Executive Officer approval</u> <u>c. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u> <u>d. Upon Executive Officer approval</u> <u>e. April 15th</u>
<u>2. Groundwater Monitoring Program</u> <u>a. Submit Draft Revised Monitoring Program(s)</u> <u>b. Implement revised monitoring plan(s)</u> <u>c. Annual data report submittal</u>	<u>a. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u> <u>b. Upon Executive Officer approval</u> <u>c. April 15th</u>
<u>3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal Facilities</u> <u>Complete construction of Desalter and Brine Disposal Facilities</u>	<u>June 30, 2015 (or as provided by the Executive Officer - see text below)</u>
<u>4. Non-potable water supply</u> <u>Implement non-potable water supply system to serve water for irrigation purposes and/or direct non-potable reuse. The non-potable supply used in the Yucaipa Groundwater Management Zone shall comply with a 10-year running average TDS concentration of 370 mg/L or less, and in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the nitrate-nitrogen shall be</u>	<u>June 30, 2015</u>

Table 5-9a

Yucaipa Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agency – Yucaipa Valley Water District

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p>less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</p> <p><u>5. Recycled water recharge</u></p> <p>The recharge of recycled water in the Yucaipa Groundwater Management Zone shall be limited to the amount that can be blended with other recharge sources or reverse osmosis diluent to achieve a 10-year running average equal to or less than the 370 mg/L "maximum benefit" TDS objective and less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</p> <p>c. <u>Submit for Executive Officer approval, a proposed methodology for computing baseline and "new" storm water recharge.</u></p> <p>The methodology will be posted for public comment for 30 days. If there are significant comments received, the Executive Officer will present the report to the Regional Board for its consideration at a regularly scheduled meeting.</p> <p>b. <u>Submit baseline report of amount, locations, and TDS and nitrogen quality of water/imported water recharge per the approved methodology (#5a).</u></p> <p>c. <u>Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations. For storm water recharge used for blending, submit documentation that the recharge is the result of YVWD enhanced recharge facilities/programs</u></p>	<p>Compliance must be achieved by end of 10th year after initiation of recycled water use/recharge operations.</p> <p>b. <u>6 months prior to initiation of construction of any basin/other facility to support enhanced storm water/imported water recharge.</u></p> <p>c. <u>1 year from Executive Officer approval of methodology.</u></p> <p>c. <u>Annually, by April 15th, after construction of facilities/implementation of programs to support enhanced recharge.</u></p>
<p><u>6. Antidegradation Objectives Salt Mitigation Plan</u></p> <p>a. <u>Submit a proposed Salt Mitigation Plan and Implementation Schedule</u></p> <p>b. <u>Implement Salt Mitigation Plan</u></p>	<p>a. <u>Within (**1 year from OAL approval of BPA)</u></p> <p>b. <u>Within 30 days of Regional Board finding that maximum benefit no longer being achieved</u></p>
<p><u>7. Ambient groundwater quality determination</u></p>	<p><u>July 1, 2014 and every 3 years thereafter</u></p>

A. Description of Yucaipa Valley Water District Commitments for the Yucaipa Management Zone

1. Surface Water Monitoring Program (Table 5-9a, # 1)

A surface water monitoring program was developed, approved and implemented in response to the maximum benefit commitments initially incorporated in the Basin Plan in 2004 (Resolution No. R8-2004-0001). The Regional Board approved the Surface Water Monitoring Program in 2005 (Resolution No. R8-2005-0065). Subsequently, the need to revise the monitoring program was recognized and appropriate amendments were adopted in 2014 (Resolution No. R8-2014-0005). These include the requirement that by (**30 days from Regional Board approval of the BPA**), YVWD shall submit a revised surface water monitoring program to the Regional Board for approval. The monitoring program must be implemented upon Executive Officer approval.

It is expected that the monitoring program will be reviewed as it is implemented over time, and that further updates may be necessary. YVWD committed to review the surface water monitoring program (and the groundwater monitoring program, see #2, below) as part of the determination of ambient groundwater quality, which occurs every three years pursuant to Basin Plan requirements (see #6, below). Though considered unlikely, it is possible that more frequent review and revision of these monitoring programs may be necessary. Accordingly, the Basin Plan requires review of the surface water monitoring program in coordination with the ambient quality determination and, further, that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring is to be implemented upon Executive Officer approval.

An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted by April 15th of each year.

2. Groundwater Monitoring Program (Table 5-9a, #2)

In response to the maximum benefit program requirements established in 2004 (Resolution No. R8-2004-0001), in 2005, YVWD submitted a proposed groundwater monitoring program. The Regional Board approved a groundwater monitoring program to determine ambient water quality in the Yucaipa Groundwater Management Zone (Resolution No. R8-2005-0065). The purpose of the groundwater monitoring program is to identify the effects of the implementation of the Yucaipa Groundwater Management Zone maximum benefit water quality objectives on water levels and water quality within the Yucaipa Groundwater Management Zone. The groundwater monitoring program has been implemented since 2005 and must continue to be implemented.

The existing groundwater monitoring implemented by YVWD to comply with the Maximum Benefit program authorized by the 2004 amendments to the salt management plan shall be continued into the future until a new monitoring plan is approved by the Executive Officer. Any new monitoring plan developed by YVWD shall preserve the geospatial distribution of groundwater wells and the sampling of those wells utilized in the existing Regional Board-approved maximum benefit monitoring program.

As noted above, the groundwater monitoring program will be reviewed as part of regular ambient groundwater quality determinations and may be revised. Once again, more frequent review and revision may be necessary as the monitoring program is implemented over time.

Accordingly, the Basin Plan requires that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring program is to be implemented upon Executive Officer approval.

An annual report, including all raw data and summarizing the results of the approved groundwater monitoring program, shall be submitted to the Regional Board by April 15th of each year.

3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal (Table 5-9a, #3)

YVWD anticipated that demineralization of groundwater or recycled water would be necessary in the future to protect the Yucaipa Groundwater Management Zone and has constructed desalting and associated brine disposal facilities. YVWD shall ensure that the planned demineralization system is operational by June 30, 2015. The Executive Officer may extend this compliance date upon submittal of compelling evidence that the extension is warranted and would not compromise timely implementation of the other maximum benefit program commitments identified in Table 5-9a.

4. Non-potable Water Supply Distribution System (Table 5-9a, # 4)

A key element of YVWD's water resources management plan is the construction of a non-potable supply system to serve a mix of recycled water, diluent from the Wochholz Regional Water Recycling Facility and un-treated imported water, treated backwash water from the Yucaipa Valley Regional Water Filtration Facility and/or storm water for irrigation uses and other direct non-potable reuse. The intent is to minimize the use of potable water for non-potable uses. For use in the Yucaipa Groundwater Management Zone, YVWD will produce a non-potable supply with a running 10-year average TDS concentration equal to or less than 370 mg/L and, in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the 10-year running average nitrate-nitrogen concentration shall comply with 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to assure that the "maximum benefit" objective of 5 mg/L will be met). To meet this "maximum benefit" objective, YVWD will blend the recycled water with other water sources or desalt the recycled water.

Compliance with the non-potable water supply TDS and/or nitrate-nitrogen objective shall be measured in the non-potable water system as a weighted 10-year average of all water sources added to that system and used within the Yucaipa Groundwater Management Zone.

As part of the Maximum Benefit Annual Report, YVWD shall report on the TDS and nitrogen quality and quantity of all sources of non-potable water and summarize the annual and 10-year annual weighted TDS and nitrogen average concentrations utilized in the Yucaipa Groundwater Management Zone.

5. Recycled Water Recharge (Table 5-9a, # 5)

The use and recharge of recycled water within the Yucaipa Groundwater Management Zone are necessary to maximize the use of the water resources in the Yucaipa area. The demonstration of "maximum benefit" and the continued application of the "maximum benefit" objectives are contingent on the recharge of recycled water to the Yucaipa Groundwater Management Zone of a 10-year annual average (running average) TDS concentration of 370 mg/L and nitrate-nitrogen concentration of 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to

assure that the "maximum benefit" objective of 5 mg/L will be met). These concentrations may be achieved by desalting or other treatment of the recycled water, and/or by blending the recycled water with other sources, such as imported water, storm water and reverse osmosis permeate diluent.

Compliance with these concentrations shall be measured at the point of discharge(s) to the recharge facility as a weighted average concentration of the recycled water and other sources, if any, used for blending.

As part of the Maximum Benefit Annual Report, YVWD shall report on the TDS and nitrogen quality and quantity of all sources of recharged water and summarize the annual and 10-year running annual weighted TDS and nitrogen average concentrations recharged to the Yucaipa Groundwater Management Zone.

6. Antidegradation Salt Mitigation Plan (Table 5-9a, #6)

Within (**1 year of approval by OAL of the BPA**), YVWD shall submit a Salt Mitigation Plan to mitigate excess salt loading above the antidegradation water quality objectives. The Salt Mitigation Plan shall provide a conceptual framework for mitigation projects should the Regional Board make a finding that the lowering of water quality associated with the "maximum benefit" TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives) is not of maximum benefit to the people of the state. The Salt Mitigation Plan must be implemented within 30 days of a Regional Board finding that maximum benefit is no longer being achieved.

7. Ambient Groundwater Quality Determination (Table 5-9a, # 6)

By July 1, 2014, and every three years thereafter, YVWD shall submit a determination of ambient TDS and nitrate-nitrogen quality in the Yucaipa Groundwater Management Zone. This determination shall be accomplished using methodology consistent with the calculation (20-year running averages) used by the Nitrogen/TDS Task Force to develop the TDS and nitrate-nitrogen "antidegradation" water quality objectives for groundwater Management Zones within the region. [Ref. 1].

B. Implementation by Regional Board

1. Revision to Yucaipa Valley Water District NPDES Permit

To implement the "maximum benefit" objectives, the Regional Board will revise the waste discharge and producer/user reclamation requirements permit for YVWD wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

For surface water discharges that affect the Yucaipa Groundwater Management Zone discharge limits for TDS and TIN will be specified as an annual volume-weighted average not to exceed 370 mg/L TDS and 6.7 mg/L TIN. These limits are based on the "maximum benefit" objectives of the Yucaipa Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative objectives are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in YVWD's waste discharge requirements, as necessary and appropriate.

YVWD's waste discharge and producer/user reclamation requirements will require that the recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as storm water, imported water or reverse osmosis diluent, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Yucaipa Groundwater Management Zone. The use of recycled water for irrigation and other direct re-use purposes in the Yucaipa Groundwater Management Zone shall be limited to the amount that can be blended with other water sources, such as storm water, imported water or reverse osmosis diluent, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Yucaipa Groundwater Management Zone. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the Yucaipa Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

2. Review of Project Status

The Regional Board intends to review periodically YVWD's implementation of the maximum benefit program commitments described above and summarized in Table 5-9a. This review is intended to determine whether the commitments are met, and whether the application of the "maximum benefit" objectives continues to be justified. As indicated above, if, as a result of this review, the Regional Board finds that the YVWD commitments are not met, then the Regional Board may make the finding that the "maximum benefit" objectives are not consistent with the maintenance of water quality that is of maximum benefit to the people of the state, and that the more stringent "antidegradation" objectives for the Yucaipa Management Zone (320 mg/L for TDS and 4.2 mg/L for nitrate-nitrogen; see Chapter 4) must apply instead for regulatory purposes. In the event that the Regional Board makes these determinations, the Regional Board will require that the YVWD implement the Salt Mitigation Plan (see commitment # 6) and mitigate the adverse water quality effects, both on the immediate and downstream waters, which resulted from recycled water discharges based on the "maximum benefit" objectives.

2. San Timoteo Groundwater Management Zone – Yucaipa Valley Water District and the City of Beaumont

The application of the "maximum benefit" objectives established for the San Timoteo Groundwater Management Zone relies on the implementation by both the Yucaipa Valley Water District (YVWD) and the City of Beaumont of the specific program of projects and requirements shown in Table 5-9b [Ref. 10D]. Since the Salt Management Plan was amended in 2004 to incorporate "maximum benefit" commitments applicable to the San Timoteo Management Zone, both YVWD and the City of Beaumont have been engaged in implementing those commitments.

As discussed above, YVWD operates a wastewater treatment facility that discharges a portion of its treated effluent to San Timoteo Creek, Reach 3, which overlies and recharges the San Timoteo Groundwater Management Zone. Similarly, the City of Beaumont provides sewage collection and treatment services within its service area, and a portion of the treated wastewater discharged to Reach 3 of San Timoteo Creek, also recharges the San Timoteo Groundwater Management Zone. Surface water discharges by both YVWD and the City affect groundwater quality in the San Timoteo Groundwater Management Zone. Consistent with the 2004 "maximum benefit" commitments, both the District and the City must identify and implement an acceptable plan to address the adverse water quality impacts of their wastewater discharges.

Dilution of recycled water with water to meet the 400 mg/L TDS concentration and the 5 mg/L nitrate-N concentration recycled water recharge and direct use requirements will be limited to new recharge such as reverse osmosis permeate (diluent), imported water or new storm water. New storm water recharge is defined as storm water recharged in quantities greater than historical amounts (net increase) over the groundwater management zone since January 1, 2004. January 2004 corresponds to the month and year when the Regional Board authorized the original maximum benefit objectives and compliance commitments by adopting Resolution No. R8-2004-0001.

Table 5-9b

San Timoteo Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agencies – Yucaipa Valley Water District and the City of Beaumont

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<u>1. Surface Water Monitoring Program</u> <u>a. Submit Draft Revised Monitoring Program to Regional Board</u> <u>b. Implement Revised Monitoring Program</u> <u>c. Submit Draft Revised Monitoring Program(s) (subsequent to that required in "a", above) to Regional Board</u> <u>d. Implement Revised Monitoring Program(s)</u> <u>e. Annual data report submittal</u>	<u>a. (**30 days from Regional Board approval of BPA)</u> <u>b. Upon Executive Officer approval</u> <u>c. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Regional Board Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u> <u>d. Upon Executive Officer approval</u> <u>e. April 15th</u>
<u>2. Groundwater Monitoring Program</u> <u>a. Submit Draft Revised Monitoring Program(s)</u> <u>b. Implement revised monitoring plan(s)</u> <u>c. Annual data report submittal</u>	<u>a. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Regional Board Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u> <u>b. Upon Executive Officer approval</u> <u>c. April 15th</u>
<u>3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal Facilities</u> <u>Complete construction of Desalter and Brine Disposal Facilities</u>	<u>June 30, 2015 (or as provided by the Executive Officer - see text below)</u>

Table 5-9b

San Timoteo Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agencies – Yucaipa Valley Water District and the City of Beaumont

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p>4. <u>City of Beaumont, Wastewater and/or Groundwater Desalter(s) and Brine Disposal Facilities</u></p> <p>a. <u>Submit detailed plan and schedule for construction of desalter(s) and brine disposal facilities. Facilities are to operational as soon as possible but no later than 5 years from date of Executive Officer approval of plan/schedule or as provided by the Executive Officer (see text below).</u></p> <p>b. <u>Implement the plan and schedule</u></p>	<p>a. <u>January 30, 2015</u></p> <p>b. <u>Upon Executive Officer approval</u></p>
<p>5. <u>YVWD, City of Beaumont Non-potable water supply</u></p> <p><u>Implement non-potable water supply system to serve water for irrigation purposes and direct non-potable reuse. The non-potable supply used in the San Timoteo Groundwater Management Zone shall comply with a 10-year running average TDS concentration of 400 mg/L or less, and in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the nitrate-nitrogen shall be less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</u></p>	<p><u>December 31, 2015</u></p>
<p>6. <u>Recycled water recharge/habitat maintenance discharge</u></p> <p><u>The recharge of recycled water in the San Timoteo Groundwater Management Zone or discharge to San Timoteo Creek to maintain the riparian habitat shall be limited to the amount that can be blended with other recharge sources or reverse osmosis diluent to achieve a 10-year running average equal to or less than the 400 mg/L "maximum benefit" TDS objective and less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</u></p> <p>a. <u>Submit for Executive Officer approval, a proposed methodology for computing baseline and new storm water recharge.</u></p> <p><u>The methodology will be posted for public comment for 30 days. If there are significant comments received, the Executive Officer will present the report to the Regional Board for its consideration at a regularly scheduled meeting.</u></p> <p>b. <u>Submit baseline report of amount, locations, and TDS and</u></p>	<p><u>Compliance must be achieved by end of 10th year after initiation of recycled water use/recharge operations.</u></p> <p>a. <u>6 months prior to initiation of construction of anybasin/other facility to support enhanced storm water/imported water recharge.</u></p> <p>b. <u>1 year from Executive Officer approval of methodology.</u></p>

Table 5-9b

San Timoteo Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agencies – Yucaipa Valley Water District and the City of Beaumont

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p>nitrogen quality of "new" storm water/imported water recharge per the approved methodology (#6a).</p> <p>c. <u>Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations. For storm water recharge used for blending, submit documentation that the recharge is the result of YVWD and/or City of Beaumont enhanced recharge facilities/programs.</u></p>	<p>c. <u>Annually, by April 15th, after construction of facilities/implementation of programs to support enhanced recharge.</u></p>
<p>7. <u>Improve quality of surface water discharges to the San Timoteo Groundwater Management Zone</u></p> <p>a. <u>Submit plan and schedule to comply with underlying San Timoteo Groundwater Management Zone Maximum Benefit TDS and nitrate-nitrogen water quality objectives</u></p> <p>b. <u>Implement upon approval</u></p>	<p>a. <u>(*30 days from Regional Board approval of BPA*)</u></p> <p>b. <u>Upon Executive Officer approval</u></p>
<p>8. <u>Antidegradation Objectives Salt Mitigation Plan</u></p> <p>a. <u>Submit a proposed Salt Mitigation Plan and Implementation Schedule</u></p> <p>b. <u>Implement Salt Mitigation Plan</u></p>	<p>a. <u>Within (**1 year from OAL approval of BPA)</u></p> <p>b. <u>Within 30 days of Regional Board finding that maximum benefit no longer being achieved</u></p>
<p>9. <u>Ambient groundwater quality determination</u></p>	<p><u>July 1, 2014 and every 3 years thereafter</u></p>

A. Description of Yucaipa Valley Water District (YVWD), City of Beaumont Commitments for the San Timoteo Management Zone

1. Surface Water Monitoring Program (Table 5-9b, # 1)

A surface water monitoring program was developed, approved and implemented in response to the maximum benefit commitments initially incorporated in the Basin Plan in 2004 (Resolution No. R8-2004-0001). The Regional Board approved the Surface Water Monitoring Program in 2005 (Resolutions No. R8-2005-0065 and R8-2005-0066). Subsequently, the need to revise the monitoring program was recognized and appropriate amendments were adopted in 2014 (Resolution No. R8-2014-0005). These include the requirement that by (*30 days from

Regional Board approval of the BPA**), YVWD and the City of Beaumont shall submit a revised surface water monitoring program to the Regional Board for approval. The monitoring program must be implemented upon Executive Officer approval.

It is expected that the monitoring program will be reviewed as it is implemented over time, and that further updates may be necessary. YVWD and the City of Beaumont committed to review the surface water monitoring program (and the groundwater monitoring program, see #2, below) as part of the determination of ambient groundwater quality, which occurs every three years pursuant to Basin Plan requirements (see #6, below). Though considered unlikely, it is possible that more frequent review and revision of these monitoring programs may be necessary. Accordingly, the Basin Plan requires review of the surface water monitoring program in coordination with the ambient quality determination and, further, that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring is to be implemented upon Executive Officer approval.

An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted by April 15th of each year.

2. Groundwater Monitoring Program (Table 5-9a, #2)

In response to the maximum benefit program requirements established in 2004 (Resolution No. R8- 2004-0001), in 2005, YVWD and the City of Beaumont submitted a proposed groundwater monitoring program. The Regional Board approved a groundwater monitoring program to determine ambient water quality in the Yucaipa and San Timoteo Groundwater Management Zones (Resolutions No. R8-2005-0065 and R8-2005-0066). The purpose of the groundwater monitoring program is to identify the effects of the implementation of the San Timoteo Groundwater Management Zone "maximum benefit" water quality objectives on water levels and water quality within the San Timoteo Groundwater Management Zone. The groundwater monitoring program has been implemented since 2005. YVWD and the City of Beaumont have since installed additional wells as part of revised groundwater monitoring workplans to ensure adequate data are collected for ambient quality determination. The workplans were approved in 2009 (Resolution No. R8-2009-0034 for YVWD and R8-2009-0035 for the City of Beaumont).

The existing groundwater monitoring implemented by the City of Beaumont and YVWD to comply with the Maximum Benefit program authorized by the 2004 amendments to the salt management plan shall be continued into the future on a cooperative basis until a new monitoring plan is approved by the Executive Officer. Any new monitoring plan developed by the City of Beaumont and/or YVWD shall preserve the geospatial distribution of groundwater wells and the sampling of those wells utilized in the existing Regional Board-approved maximum benefit monitoring program.

As noted above, the groundwater monitoring program will be reviewed as part of regular ambient groundwater quality determinations and may be revised. Once again, more frequent review and revision may be necessary as the monitoring program is implemented over time. Accordingly, the Basin Plan requires that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring program is to be implemented upon Executive Officer approval.

An annual report, including all raw data and summarizing the results of the approved

groundwater monitoring program, shall be submitted to the Regional Board by April 15th of each year.

3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal (Table 5-9b, #3)

YVWD anticipated that demineralization of groundwater or recycled water would be necessary in the future to protect the San Timoteo Groundwater Management Zone and has planned and designed desalting and associated brine disposal facilities. YVWD shall ensure that the planned desalter system is operational by June 30, 2015. The Executive Officer may extend this compliance date upon submittal of compelling evidence that the extension is warranted and would not compromise timely implementation of the other maximum benefit program commitments identified in Table 5-9b.

4. City of Beaumont Wastewater and/or Groundwater Desalter(s) and Brine Disposal (Table 5-9b, #4)

The City of Beaumont shall construct and operate desalting facilities and brine disposal facilities to improve recycled water quality and/or other sources of non-potable supply. A detailed desalter/brine line plan and schedule shall be submitted by January 30, 2015. The schedule shall assure that these facilities are in place within 5 years of Executive Officer approval. The Executive Officer may extend this compliance date upon submittal of compelling evidence that the extension is warranted and would not compromise timely implementation of the other maximum benefit program commitments identified in Table 5-9b.

5. YVWD/City of Beaumont Non-potable Water Supply Distribution System (Table 5-9b, # 5)

Both YVWD and the City of Beaumont are planning for the construction of a non-potable supply system to serve a mix of recycled water, un-treated imported water, reverse osmosis permeate (diluent) and/or storm water for irrigation uses and direct non-potable reuse. The intent is to minimize the use of potable water for non-potable uses. Both YVWD and/or the City of Beaumont will produce a non-potable supply for use within the San Timoteo Groundwater Management Zone with a running ten-year average TDS concentration of 400 mg/L. and, in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the 10-year running average nitrate-nitrogen concentration shall comply with 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to assure that the "maximum benefit" objective of 5 mg/L will be met). To meet this "maximum benefit" objective, YVWD/City of Beaumont will blend the recycled water with other water sources or desalt the recycled water.

Compliance with the non-potable water supply TDS and/or nitrate-nitrogen objective shall be measured in the non-potable water system as a weighted 10-year average of all water sources added to that system and used within the San Timoteo Groundwater Management Zone.

As part of the Maximum Benefit Annual Report, YVWD and the City of Beaumont shall report on the TDS and nitrogen quality and quantity of all sources of non-potable water and summarize the annual and 10-year annual weighted TDS and nitrogen average concentrations utilized in the San Timoteo Groundwater Management Zone.

6. Recycled Water Recharge/ Riparian Habitat Maintenance Discharge (Table 5-9b, #6)

The use and recharge of recycled water within the San Timoteo Groundwater Management Zone or the discharge of recycled water to San Timoteo Creek to maintain the riparian habitat

and the demonstration of "maximum benefit" are contingent on the recharge/discharge of recycled water as a 10-year annual average (running average) TDS concentration of 400 mg/L and nitrate-nitrogen concentration of 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to assure that the "maximum benefit" objective of 5 mg/L will be met). These concentrations may be achieved by desalting or other treatment of the recycled water, and/or by blending the recycled water with other sources, such as imported water, reverse osmosis permeate (diluent) and/or storm water.

Compliance with these concentrations shall be measured at the point of discharge(s) to the recharge facility or at the end of pipe for a recycled water discharge as a weighted average concentration of the recycled water and other sources, if any, used for blending.

As part of the Maximum Benefit Annual Report, YVWD and/or the City of Beaumont shall report on the TDS and nitrogen quality and quantity of all sources of recharged water and summarize the annual and 10-year annual weighted TDS and nitrogen average concentrations recharged to the San Timoteo Groundwater Management Zone.

7. Improve Surface Water Discharge Quality to the San Timoteo Groundwater Management Zone (Table 5-9b, #7)

YVWD and the City of Beaumont wastewater discharges to the unlined reach of San Timoteo Creek impact the quality of the San Timoteo Groundwater Management Zone. In order to protect underlying groundwater Management Zone quality, by (*30 days from Regional Board approval of this Basin Plan amendment), the City of Beaumont and YVWD shall submit a proposed plan and schedule to improve the quality of wastewater discharged to the portion of San Timoteo Creek overlying the San Timoteo Groundwater Management Zone in order to assure compliance with the Groundwater Management Zone "maximum benefit" objectives. A contingency plan and schedule to meet the "antidegradation" objectives for the Groundwater Management Zone shall also be identified and implemented upon a finding by the Regional Board that "maximum benefit" is not demonstrated and that the "antidegradation" objectives apply. The plan must be implemented upon Executive Officer approval.

8. Antidegradation Objectives Salt Mitigation Plan (Table 5-9b, #8)

Within (**1 year of approval by OAL of the BPA**), YVWD and the City of Beaumont shall submit a Salt Mitigation Plan to mitigate excess salt loading above the antidegradation water quality objectives. The Salt Mitigation Plan shall provide a conceptual framework for mitigation projects should the Regional Board make a finding that the lowering of water quality associated with the "maximum benefit" TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives) is not of maximum benefit to the people of the state. The Salt Mitigation Plan must be implemented within 30 days of a Regional Board finding that maximum benefit is no longer being achieved.

9. Ambient Groundwater Quality Determination (Table 5-9b, # 8)

By July 1, 2014, and every three years thereafter, YVWD and the City of Beaumont shall submit a determination of ambient TDS and nitrate-nitrogen quality in the San Timoteo Groundwater Management Zone. This determination shall be accomplished using methodology consistent with the calculation (20-year running averages) used by the Nitrogen/TDS Task Force to develop the TDS and nitrate-nitrogen "antidegradation" water quality objectives for groundwater Management Zones within the region. [Ref. 1].

B. Implementation by Regional Board**1. Revision to Yucaipa Valley Water District NPDES Permit**

To implement the "maximum benefit" objectives, the Regional Board will revise the waste discharge requirements and producer/user reclamation requirements for the YVWD wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

For surface water discharges that affect the San Timoteo Groundwater Management Zone, discharge limits for TDS and TIN will be specified as an annual volume-weighted average at the end of pipe not to exceed 400 mg/L TDS and 6.7 mg/L TIN. These limits are based on the "maximum benefit" objectives of the San Timoteo Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative objectives are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in the YVWD's waste discharge requirements, as necessary and appropriate.

YVWD's waste discharge requirements will require that any planned recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as storm water, reverse osmosis permeate (diluent) or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the San Timoteo Groundwater Management Zone. The use of recycled water for irrigation and other direct re-use shall be limited to the amount that can be blended with other water sources, such as storm water, reverse osmosis permeate (diluent), or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the San Timoteo Groundwater Management Zone.

Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the San Timoteo Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

2. Revision to the City of Beaumont NPDES Permit

To implement the "maximum benefit" objectives, the Regional Board will revise the waste discharge requirements for the City of Beaumont's wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

For discharges to the San Timoteo Groundwater Management Zone, discharge limits for TDS and TIN will be specified as an annual volume-weighted average not to exceed 400 mg/L TDS and 6.7 mg/L TIN to be determined at the end of pipe. These limits are based on the "maximum benefit" objectives of the San Timoteo Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative limits are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in the City's waste discharge requirements, as necessary and appropriate.

The City of Beaumont's waste discharge requirements will require that any planned recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the San Timoteo Groundwater Management Zone. The use of recycled water for irrigation and other direct reuse shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the San Timoteo Groundwater Management Zone.

Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the San Timoteo Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

3. Review of Project Status

The Regional Board intends to review periodically YVWD's and the City of Beaumont's implementation of the maximum benefit program commitments described above and summarized in Table 5-9b. This review is intended to determine whether the commitments are met, and whether the application of the "maximum benefit" objectives continues to be justified. As indicated above, if, as a result of this review, the Regional Board finds that the YVWD and/or the City of Beaumont commitments are not met, then the Regional Board may make the finding that the "maximum benefit" objectives are not consistent with the maintenance of water quality that is of maximum benefit to the people of the state, and that the more stringent "antidegradation" objectives for the San Timoteo Groundwater Management Zone (300 mg/L for TDS and 2.7 mg/L for nitrate-nitrogen; see Chapter 4) must apply instead for regulatory purposes. In the event that the Regional Board makes these determinations, the Regional Board will require that YVWD and/or the City of Beaumont, either individually or collectively, implement the Salt Mitigation Plan (see commitment # 8) and mitigate the adverse water quality effects, both on the immediate and downstream waters, which resulted from recycled water discharges based on the "maximum benefit" objectives.

3. Beaumont Groundwater Management Zone – Yucaipa Valley Water District, the City of Beaumont, the City of Banning, Beaumont Cherry Valley Water District, San Geronio Pass Agency

The application of the "maximum benefit" objectives established for the Beaumont Groundwater Management Zone is contingent on the implementation of commitments by the YVWD, the City of Beaumont, the City of Banning, Beaumont Cherry Valley Water District (BCVWD), and the San Geronio Pass Water Agency (Pass Agency) to implement a specific water and wastewater resources management program identified in the Regional Strategy [Ref. 10D]. This program is part of a coordinated effort by these agencies to develop and implement projects that will assure reliable water supplies to meet rapidly increasing demands in this area. The Regional Strategy entails enhanced recharge of native and recycled water, maximizing the direct use of recycled water, optimizing the direct use of imported water, recharge and conjunctive use. The maximum benefit commitments identified in the Regional Strategy for the Beaumont Groundwater Management Zone will be implemented by the City of Beaumont, BCVWD, YVWD, the Pass Agency and the City of Banning. The Regional Strategy forms the basis for the Beaumont Groundwater Management Zone maximum benefit program discussed below.

Wastewater collection and treatment services are provided by the City of Beaumont, the City of Banning, as well as YVWD. The City of Beaumont discharges tertiary treated wastewater to Cooper's Creek, a tributary of San Timoteo Creek, Reach 3. This unlined reach of the Creek overlies and recharges both the Beaumont and San Timoteo Groundwater Management Zones. The City of Banning does not currently utilize recycled water in the Beaumont Management Zone. The City of Banning has selected to participate in the Maximum Benefit program and commitments if it becomes necessary to use recycled water.

Table 5-9c identifies the projects and requirements that must be implemented by the cities of Beaumont and Banning, YVWD, BCVWD, and the Pass Agency to demonstrate that water quality consistent with maximum benefit to the people of the state will be maintained with the applications of the "maximum benefit" objectives. Table 5-9c also specifies an implementation schedule. The Regional Board will revise waste discharge requirements for the City of Beaumont and YVWD, and will work with the Colorado River Water Board to ensure discharges from the City of Banning comply with the maximum benefit requirements. The Regional Board will also consider issuance of waste discharge requirements for BCVWD and take other actions as necessary to require that these commitments be met by the responsible parties.

Dilution of recycled water with water to meet the 330 mg/L TDS concentration and the 5 mg/L nitrate-N concentration recycled water recharge and direct use requirements will be limited to new water recharge such as reverse osmosis permeate (diluent), imported water or new storm water. New storm water recharge is defined as storm water recharged in quantities greater than historical amounts (net increase) over the groundwater management zone since January 1, 2004. January 2004 corresponds to the month and year when the Regional Board authorized the original maximum benefit objectives and compliance commitments by adopting Resolution No. R8-2004-0001.

Table 5-9c
Beaumont Groundwater Management Zone
Maximum Benefit Commitments

**Responsible Agencies – Yucaipa Valley Water District, City of Beaumont, City of Banning, San Geronio
 Pass Water Agency, Beaumont Cherry Valley Water District**

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p><u>1. Surface Water Monitoring Program</u></p> <p><u>a. Submit Draft Revised Monitoring Program to Regional Board</u></p> <p><u>b. Implement Revised Monitoring Program</u></p> <p><u>c. Submit Draft Revised Monitoring Program(s) (subsequent to that required in "a", above) to Regional Board</u></p> <p><u>d. Implement Revised Monitoring Program (s)</u></p> <p><u>e. Annual data report submittal</u></p>	<p><u>a. (**30 days from Regional Board approval of BPA)</u></p> <p><u>b. Upon Executive Officer approval</u></p> <p><u>c. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Regional Board Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u></p> <p><u>d. Upon Executive Officer approval</u></p> <p><u>e. April 15th</u></p>
<p><u>2. Groundwater Monitoring Program</u></p> <p><u>a. Submit Draft Revised Monitoring Program(s)</u></p> <p><u>b. Implement revised monitoring plan(s)</u></p> <p><u>c. Annual data report submittal</u></p>	<p><u>a. Every three years, in coordination with ambient water quality determination (#6, below) or more frequently upon notification of the need to do so from the Regional Board Executive Officer and in accordance with the schedule prescribed by the Executive Officer</u></p> <p><u>b. Upon Executive Officer approval</u></p> <p><u>c. April 15th</u></p>
<p><u>3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal Facilities</u></p> <p><u>Complete construction of Desalter and Brine Disposal Facilities</u></p>	<p><u>June 30, 2015 (or as provided by the Executive Officer - see text below)</u></p>
<p><u>4. City of Beaumont, Wastewater and/or Groundwater Desalter(s) and Brine Disposal Facilities</u></p> <p><u>a. Submit detailed plan and schedule for construction of desalter(s) and brine disposal facilities. Facilities are to operational as soon as possible but no later than 5 years from date of Executive Officer approval of plan/schedule or as</u></p>	<p><u>a. January 30, 2015</u></p>

Table 5-9c
Beaumont Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agencies – Yucaipa Valley Water District, City of Beaumont, City of Banning, San Geronio Pass Water Agency, Beaumont Cherry Valley Water District

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p><u>provided by the Executive Officer (see text below).</u></p> <p>b. <u>Implement the plan and schedule</u></p>	<p>b. <u>Upon Executive Officer approval</u></p>
<p>5. <u>City of Banning, Wastewater and/or Groundwater Salt Mitigation Plan</u></p> <p>a. <u>Submit detailed plan and schedule for achieving compliance with the maximum benefit objectives.</u></p> <p>b. <u>Implement the plan and schedule</u></p>	<p>a. <u>6 months prior to initiation of the use recycled water application or recharge</u></p> <p>b. <u>Upon Executive Officer approval</u></p>
<p>6. <u>Non-potable recycled water supply</u></p> <p><u>YVWD, the City of Beaumont, the City of Banning (at the onset of recycled water use in the Beaumont Basin), BCVWD and the Pass Agency shall implement non-potable water supply systems (utilizing recycled water) to serve water for irrigation purposes and direct non-potable reuse. The non-potable supplies used in the Beaumont Groundwater Management Zone shall comply with a 10-year running average TDS concentration of 330 mg/L or less and, in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the nitrate-nitrogen shall be less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</u></p>	<p><u>December 31, 2015</u></p>
<p>7. <u>Recycled water recharge</u></p> <p><u>The recharge of recycled water in the Beaumont Groundwater Management Zone shall be limited to the amount that can be blended with other recharge sources or reverse osmosis diluent to achieve a 10-year running average equal to or less than the 330 mg/L "maximum benefit" TDS objective and less than or equal to the 5 mg/L nitrate-nitrogen "maximum benefit" objective (taking the nitrogen loss coefficient into consideration).</u></p> <p><u>Submit documentation of amount, TDS and nitrogen quality of all sources of recharge and recharge locations.</u></p> <p><u>For any discharger proposing to utilize "new" storm water as a blending source, the following steps must be followed:</u></p> <p>a. <u>Submit for Executive Officer approval, a report that identifies the methodology used in calculating baseline (2004) and "new" storm water (post 2004) recharge. The report shall identify the amount, locations, TDS and nitrogen quality of storm water recharge and any imported water recharge. Further, the report shall identify the manner in which the enhanced storm</u></p>	<p><u>Compliance must be achieved by end of 10th year after initiation of recycled water use/recharge operations.</u></p> <p><u>Annually, by April 15th, after initiation construction of facilities/implementation of programs to support enhanced recharge.</u></p> <p>a. <u>6 months prior to initiation of construction of any basins/other facilities to support enhanced storm water/imported water recharge</u></p>

Table 5-9c
Beaumont Groundwater Management Zone
Maximum Benefit Commitments

Responsible Agencies – Yucaipa Valley Water District, City of Beaumont, City of Banning, San Geronio Pass Water Agency, Beaumont Cherry Valley Water District

<u>Description of Commitment</u>	<u>Compliance Date – as soon as possible, but no later than</u>
<p><u>water/imported water recharge facility will assure, individually or with other facilities, compliance with the 330 mg/L TDS and 5 mg/L nitrate-nitrogen 10-year running average "maximum benefit" objective.</u></p> <p><u>The report will be posted for public comment for 30 days. If there are significant adverse comments received on this report, the Executive Officer will present the report to the Regional Board for its consideration at a regularly scheduled meeting.</u></p> <p><u>b. Submit 5-year plan for implementation of additional storm water recharge facilities to ensure compliance with the 330 mg/L TDS and the 5 mg/L 10-year running average "maximum benefit" objective.</u></p>	<p><u>b. Submit as part of each Report of Waste Discharge (ROWD)</u></p>
<p><u>8. Antidegradation Salt Mitigation Plan</u></p> <p><u>a. Submit a proposed Salt Mitigation Plan and Implementation Schedule</u></p> <p><u>b. Implement Salt Mitigation Plan</u></p>	<p><u>a. Within (**1 year from OAL approval of BPA)</u></p> <p><u>b. Within 30 days of Regional Board finding that maximum benefit no longer being achieved</u></p>
<p><u>9. Ambient groundwater quality determination</u></p>	<p><u>July 1, 2014 and every 3 years thereafter</u></p>

A. Description of Yucaipa Valley Water District (YVWD), City of Beaumont, Beaumont Cherry Valley Water District (BCVWD), City of Banning, San Geronio Pass Water Agency (Pass Agency) Commitments for the Beaumont Management Zone

1. Surface Water Monitoring Program (Table 5-9c, # 1)

A surface water monitoring program was developed, approved and implemented in response to the maximum benefit commitments initially incorporated in the Basin Plan in 2004 (Resolution No. R8-2004-0001). The Regional Board approved the Surface Water Monitoring Program in 2005 (Resolution No. R8-2005-0066). Subsequently, the need to revise the monitoring program was recognized and appropriate amendments were adopted in 2014 (Resolution No. R8-2014-0005). These include the requirement that by (**30 days from Regional Board approval of the BPA**), YVWD BCVWD, the Pass Agency, the City of Beaumont and the City of Banning shall submit a revised surface water monitoring program to the Regional Board for approval. The monitoring program must be implemented upon Executive Officer approval.

It is expected that the monitoring program will be reviewed as it is implemented over time, and that further updates may be necessary. YVWD, the City of Beaumont, the City of Banning, the Pass Agency and BCVWD committed to review the surface water monitoring program (and the groundwater monitoring program, see #2, below) as part of the determination of ambient groundwater quality, which occurs every three years pursuant to Basin Plan requirements (see #6, below). Though considered unlikely, it is possible that more frequent review and revision of these monitoring programs may be necessary. Accordingly, the Basin Plan requires review of the surface water monitoring program in coordination with the ambient quality determination and, further, that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring program is to be implemented upon Executive Officer approval.

An annual report summarizing all data collected for the year and evaluating compliance with relevant surface water objectives shall be submitted by April 15th of each year.

2. Groundwater Monitoring Program (Table 5-9c, #2)

In response to the maximum benefit program requirements established in 2004 (Resolution No. R8- 2004-0001), a proposed groundwater monitoring program was submitted in 2005. The Regional Board approved a groundwater monitoring program to determine ambient water quality in the Beaumont Groundwater Management Zone (Resolution No. R8-2005-0066). The purpose of the Groundwater Monitoring Program is to identify the effects of the implementation of the Beaumont Groundwater Management Zone maximum benefit water quality objectives on water levels and water quality within the Beaumont Groundwater Management Zone. The groundwater monitoring program has been implemented since 2005 and YVWD, the City of Beaumont, the City of Banning, the Pass Agency and BCVWD must continue to implement that program.

The existing groundwater monitoring implemented by the City of Beaumont and YVWD to comply with the Maximum Benefit program authorized by the 2004 amendments to the salt management plan shall be continued into the future on a cooperative basis by all of the maximum benefit partners until a new monitoring plan is approved by the Executive Officer. Any new monitoring plan developed shall preserve the geospatial distribution of groundwater wells and the sampling of those wells utilized in the existing Regional Board-approved maximum benefit monitoring program.

As noted above, the groundwater monitoring program will be reviewed as part of regular ambient groundwater quality determinations and may be revised. Once again, more frequent review and revision may be necessary as the monitoring program is implemented over time. Accordingly, the Basin Plan requires that draft revised monitoring programs be submitted upon notification by the Regional Board's Executive Officer of the need to do so. The schedule for the submittal will be prescribed by the Executive Officer. Any such revision to the monitoring program is to be implemented upon Executive Officer approval.

An annual report, including all raw data and summarizing the results of the approved groundwater monitoring program, shall be submitted to the Regional Board by April 15th of each year.

3. YVWD Wastewater and/or Groundwater Desalter(s) and Brine Disposal (Table 5-9c, #3)

YVWD anticipated that demineralization of groundwater or recycled water would be necessary in the future to protect the Beaumont Groundwater Management Zone and has constructed desalting and associated brine disposal facilities. YVWD shall ensure that the planned desalter system is operational by June 30, 2015. The Regional Board may extend this compliance date upon submittal of compelling evidence that the extension is warranted and would not compromise timely implementation of the other maximum benefit program commitments identified in Table 5-9a.

4. City of Beaumont Wastewater and/or Groundwater Desalter(s) and Brine Disposal (Table 5-9c, #4)

The City of Beaumont shall construct and operate desalting facilities and brine disposal facilities to improve recycled water quality and/or other sources of non-potable supply. A detailed desalter/brine line plan and schedule shall be submitted by January 30, 2015. The schedule shall assure that these facilities are in place within 5 years of Executive Officer approval. The Executive Officer may extend the compliance date upon submittal of compelling evidence that the extension is warranted and would not compromise timely implementation of the other maximum benefit program commitments identified in Table 5-9c.

5. City of Banning Salt Mitigation Plan (Table 5-9c, #5)

The City of Banning shall submit a plan and schedule to improve recycled water quality and/or other sources of non-potable supply. The plan and schedule shall be submitted 6 months prior to the initiation of recycled water application or recharge and must be implemented upon Executive Officer approval.

6. Non-potable Recycled Water Supply Distribution System (Table 5-9c, # 6)

A key element of resources management plan in areas overlying the Beaumont Groundwater Management Zone is the construction of a non-potable supply system to serve a mix of recycled water and un-treated imported water and/or storm water for irrigation uses and direct non-potable reuse. The intent is to minimize the use of potable water for non-potable uses. YVWD, the City of Beaumont and the City of Banning will produce a non-potable supply with a running ten-year average TDS concentration for the Beaumont Groundwater Management Zone of 330 mg/L and, in addition, for any non-irrigation reuse that has the potential to affect groundwater quality, the 10-year running average nitrate-nitrogen concentration shall comply with 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to assure that the "maximum benefit" objective of 5 mg/L will be met). To meet this "maximum benefit" objective, YVWD, the City of Beaumont and the City of Banning, BCVWD and San Geronio Pass Agency will blend the recycled water with other water sources or desalt the recycled water as needed.

Compliance with the non-potable water supply TDS and nitrate-nitrogen objective shall be measured in the non-potable water system as a weighted 10-year running average of all water sources added to that system and used within the Beaumont Groundwater Management Zone.

As part of the Maximum Benefit Annual Report, YVWD, BCVWD, the Pass Agency, the City of Beaumont and the City of Banning shall report on the TDS and nitrogen quality and quantity of all sources of non-potable water and summarize the annual and 10-year annual weighted TDS

and nitrogen average concentrations utilized in the Beaumont Groundwater Management Zone.

7. Recycled Water Recharge (Table 5-9c, # 7)

The use and recharge of recycled water within the Beaumont Groundwater Management Zone are necessary to maximize the use of the water resources of the Beaumont area. The demonstration of "maximum benefit" and the continued application of the "maximum benefit" objectives are contingent on the recharge of recycled water to the Beaumont Groundwater Management Zone of a 10-year annual average (running average) TDS concentration of 330 mg/L and nitrate-nitrogen concentration of 6.7 mg/L (taking the 25% nitrogen loss coefficient into account to assure that the "maximum benefit" objective of 5 mg/L will be met). These concentrations may be achieved by desalting or other treatment of the recycled water, and/or by blending the recycled water with other sources, such as imported water and/or storm water.

Compliance with these concentrations shall be measured at the point of discharge(s) to the recharge facility as a weighted average concentration of the recycled water and other sources, if any, used for blending.

As part of the Maximum Benefit Annual Report, YVWD, BCVWD, the Pass Agency, the City of Beaumont and the City of Banning shall report on the TDS and nitrogen quality and quantity of all sources of recharged water and summarize the annual and 10-year annual weighted TDS and nitrogen average concentrations recharged to the Beaumont Groundwater Management Zone.

8. Antidegradation Objectives Salt Mitigation Plan (Table 5-9c, #8)

Within (**1 year of approval by OAL of the BPA**), YVWD, BCVWD, the Pass Agency, the City of Beaumont and the City of Banning shall submit a Salt Mitigation Plan to mitigate excess salt loading above the antidegradation water quality objectives. The Salt Mitigation Plan shall provide a conceptual framework for mitigation projects should the Regional Board make a finding that the lowering of water quality associated with the "maximum benefit" TDS and nitrate-nitrogen water quality objectives that are higher than historical water quality (the "antidegradation" objectives) is not of maximum benefit to the people of the state. The Salt Mitigation Plan must be implemented within 30 days of a Regional Board finding that maximum benefit is no longer being achieved.

9. Ambient Groundwater Quality Determination (Table 5-9c, # 8)

By July 1, 2014, and every three years thereafter, YVWD, BCVWD, the Pass Agency, the City of Beaumont and the City of Banning shall submit a determination of ambient TDS and nitrate-nitrogen quality in the Beaumont Groundwater Management Zone. This determination shall be accomplished using methodology consistent with the calculation (20-year running averages) used by the Nitrogen/TDS Task Force to develop the TDS and nitrate-nitrogen "antidegradation" water quality objectives for groundwater Management Zones within the region. [Ref. 1].

B. Implementation by Regional Board**1. Revision to Yucaipa Valley Water District NPDES Permit**

To implement the "maximum benefit" objectives, the Regional Board will revise the waste discharge requirements and producer/user reclamation requirements for the YVWD wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

For any surface water discharges that affect the Beaumont Groundwater Management Zone, discharge limits for TDS and TIN will be specified as an annual volume-weighted average at the end of pipe not to exceed 330 mg/L TDS and 6.7 mg/L TIN. These limits are based on the "maximum benefit" objectives of the Beaumont Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative objectives are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in the YVWD's waste discharge requirements, as necessary and appropriate.

YVWD's waste discharge requirements will require that any planned recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as new storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone. The use of recycled water for irrigation and other direct re-use shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone.

Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the Beaumont Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

2. Revision to the City of Beaumont NPDES Permit

To implement the "maximum benefit" objectives, the Regional Board will revise the waste discharge requirements and producer/user reclamation requirements for the City of Beaumont wastewater discharges to reflect the commitments described above, as appropriate. This includes the following:

For surface water discharges that affect the Beaumont Groundwater Management Zone, discharge limits for TDS and TIN will be specified as an annual volume-weighted average at the end of pipe not to exceed 330 mg/L TDS and 6.7 mg/L TIN. These limits are based on the "maximum benefit" objectives of the Beaumont Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative objectives are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in the City of Beaumont's waste discharge requirements, as necessary and appropriate.

The City of Beaumont's waste discharge requirements will require that any planned recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone. The use of recycled water for irrigation and other direct re-use shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone.

Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the Beaumont Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

3. Revision of City of Banning NPDES Permit

Discharges from the City of Banning are currently regulated by the Colorado River Water Board. To implement the "maximum benefit" objectives, the Santa Ana Water Board will work with the Colorado River Water Board to revise the NPDES permit for the City of Banning's wastewater discharge to reflect the commitments described below, as appropriate.

For any surface water discharges that affect the Beaumont Groundwater Management Zone, discharge limits for TDS and TIN will be specified as an annual volume-weighted average at the end of pipe not to exceed 330 mg/L TDS and 6.7 mg/L TIN. These limits are based on the "maximum benefit" objectives of the Beaumont Groundwater Management Zone shown in Table 4-1 and take the nitrogen loss coefficient into account. Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified and will apply should the Regional Board find that maximum benefit is not demonstrated. These alternative objectives are also specified in Table 4-1. Compliance schedules for these alternative limits will be specified in the City of Banning's waste discharge requirements, as necessary and appropriate.

The City of Banning waste discharge requirements will require that any planned recharge of recycled water shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone. The use of recycled water for irrigation and other direct re-use shall be limited to the amount that can be blended with other water sources, such as storm water or imported water, to achieve 10-year running average concentrations equal to or less than the "maximum benefit" TDS and nitrate-nitrogen objectives for the Beaumont Groundwater Management Zone.

Alternative TDS and nitrate-nitrogen limitations based on the "antidegradation" objectives will also be specified for recycled water recharge and re-use in the Beaumont Groundwater Management Zone and will apply if the Regional Board finds that the maximum benefit commitments are not met.

4. Review of Project Status

The Regional Board intends to review periodically YVWD, the City of Beaumont, the City of

Banning, BCVWD and the Pass Agency's implementation of the maximum benefit program commitments described above and summarized in Table 5-9c. This review is intended to determine whether the commitments are met, and whether the application of the "maximum benefit" objectives continues to be justified. As indicated above, if, as a result of this review, the Regional Board finds that the commitments are not met, then the Regional Board may make the finding that the "maximum benefit" objectives are not consistent with the maintenance of water quality that is of maximum benefit to the people of the state, and that the more stringent "antidegradation" objectives for the Beaumont Groundwater Management Zone (230 mg/L for TDS and 1.5 mg/L for nitrate-nitrogen; see Chapter 4) must apply instead for regulatory purposes. In the event that the Regional Board makes these determinations, the Regional Board will require that YVWD, the City of Beaumont, the City of Banning, BCVWD and the Pass Agency, either individually or collectively, implement the Salt Mitigation Plan (see commitment # 6) and mitigate the adverse water quality effects, both on the immediate and downstream waters, which resulted from recycled water discharges based on the "maximum benefit" objectives.

Page 5-90ff

Insert the following language

Minimum Lot Size Requirements and Exemption Criteria for New Developments Using On-Site Septic Tank-Subsurface Leaching/Percolation Systems

[These Requirements shall sunset no later than May 13, 2018. If a Local Agency Management Plan (LAMP) developed pursuant to the State Water Resources Control Board's Onsite Wastewater Treatment System Policy is approved prior to that date, the LAMP shall supersede these requirements as of the date of approval.]

Page 5-204ff

Update the Chapter 5 references as follows:

REFERENCES:

1. Wildermuth Environmental, Inc., TIN/TDS – Phase 2A of the Santa Ana Watershed, Development of Groundwater Management Zones, Estimation of Historic and Current TDS and Nitrogen Concentrations in Groundwater, Final Technical Memorandum," July 2000.
2. Wildermuth Environmental, Inc., "Santa Ana Watershed Data Collection and Management Program, Final Technical Memorandum," October 2001.
3. Wildermuth Environmental, Inc., "TIN/TDS Study - Phase 2B of the Santa Ana Watershed, Wasteload Allocation Investigation Memorandum," October 2002.
4. Wildermuth Environmental, Inc., Memo to TIN/TDS Task Force, "Transmittal of Final Tables, Figures and CD in Support of Basin Plan Amendments – TIN/TDS Study," October 2002.
5. Wildermuth Environmental, Inc., "June 2003 Addendum TIN/TDS Study – Phase 2B of the Santa Ana Watershed Wasteload Allocation Investigation," July 2003
6. California Regional Water Quality Control Board – Santa Ana Region, "Guidelines for Sewage Disposal from Land Developments," January 1979.
7. State Water Resources Control Board, "Order No. 73-4, Rancho Caballero Decision," April 1972.
8. Department of Water Resources, "Mineral Increases from Municipal Use of Water in the Santa Ana River Basin," Memorandum Report, June 1982.
9. City of Riverside, Memo from Rod Cruze to TIN/TDS Task Force," Nitrogen Loss Assumptions for Reach 3 of the Santa Ana River," April 2002.
- 10A. ~~California Regional Water Quality Control Board – Santa Ana Region, Staff Report, "Santa Ana River at Prado Dam, Results of Annual Water Quality Sampling for 2002", April 2003. Santa Ana Watershed Project Authority,~~
- 10B. Chino Basin Watermaster, Letter to Gerard Thibeault, "Chino Basin Watermaster Proposal for New Total Dissolved Solids (TDS) and Nitrogen Water Quality Objectives for the Chino and Cucamonga Basins Based on Maximum Beneficial Use," December 2002.
- 10C. Chino Basin Watermaster, "Chino Basin Optimum Basin Management Plan," 1999.
- 10D. ~~Yucaipa Valley Water District, Letter to Gerard Thibeault, "Yucaipa Valley Water District Proposal for New Total Dissolved Solids (TDS) and Total Inorganic Nitrogen Water Quality Objectives for the San Timoteo and Yucaipa Management Zones Based on Maximum Beneficial Use," January 2002.~~ City of Banning, Beaumont Cherry Valley Water District, San Gorgonio Pass Water Agency, Yucaipa Valley Water District, (2011), Proposed Regional Implementation of Maximum Benefit Commitments for the Beaumont Management Zone. Preliminary Draft

- 10E. San Timoteo Watershed Management Agency, Letter to Gerard Thibeault, "Revised San Timoteo Watershed Management Agency Proposal for New Total Dissolved Solids (TDS) and Total Inorganic Nitrogen Water Quality Objectives for the Beaumont, San Timoteo and Yucaipa Management Zones Based on Maximum Beneficial Use," December 2002 (Revised November 11, 2003).
- 10F. Daniel B. Stephens & Associates. (2007), Quantification of Nitrogen Removal Under Recycled Water Ponds, Prepared for Eastern Municipal Water District.

Attachment 4: Exhibit “D”

BMPTF Agreement

**AGREEMENT TO FORM A TASK FORCE
TO CONDUCT A
BASIN MONITORING PROGRAM FOR
NITROGEN AND TOTAL DISSOLVED SOLIDS
IN THE SANTA ANA RIVER WATERSHED
(BASIN MONITORING PROGRAM)**

THIS AGREEMENT is made and entered into this 10 th day of August, 2004 by and among the following entities, which are hereinafter sometimes referred to collectively as "TASK FORCE AGENCIES" or individually as TASK FORCE AGENCY" ("AGREEMENT"). This AGREEMENT is also by and between the Santa Ana Watershed Project Authority ("SAWPA") and the TASK FORCE AGENCIES as to SAWPA's role as Task Force Administrator. The following public agencies are the "TASK FORCE AGENCIES":

Orange County Water District	Inland Empire Utilities Agency
Eastern Municipal Water District	City of Rialto
City of Corona	Elsinore Valley Municipal Water District
City of Riverside	Colton/San Bernardino Regional Tertiary
Yucaipa Valley Water District	Treatment and Wastewater Reclamation
Lee Lake Water District	Authority
Chino Basin Watermaster	Jurupa Community Services District
City of Redlands	City of Beaumont
San Timoteo Watershed Management	Irvine Ranch Water District
Authority	Western Riverside County Regional
	Wastewater Authority

I. RECITALS

A. Background. In December 1995, the Nitrogen TDS Task Force, consisting of 22 water resource agencies in the Santa Ana Watershed, was formed to oversee a study to evaluate the impacts of Total Inorganic Nitrogen (TIN) and Total Dissolved Solids (TDS) on water resources in the Santa Ana River Watershed. The study was completed in mid-2003. On January 22, 2004, the Santa Ana Regional Water Quality Control Board ("RWQCB") incorporated the results of the Nitrogen TDS Task Force study into a Basin Plan Amendment for Nitrogen and TDS and adopted the Basin Plan Amendment. The TASK FORCE AGENCIES were named in that Basin Plan Amendment as responsible for conducting various monitoring programs and analyses to support the results defined in the Basin Plan Amendment. The monitoring programs and analyses are described as follows:

a. TDS/Nitrogen Monitoring Program for Santa Ana River Reaches 2, 4 and 5. The implementation of a TDS/Nitrogen monitoring program for the Santa Ana River Reaches 2, 4 and 5 is necessary to assure compliance with both surface water objectives of the defined river reaches and groundwater objectives underlying the river reaches to protect downstream

Orange County groundwater. Compliance with the Reach 2 TDS objective can be determined by evaluation of data collected by the Santa Ana River Watermaster, Orange County Water District, the United States Geological Survey, and others.

b. Watershed-wide TDS/Nitrogen Groundwater Monitoring and Ambient Groundwater Quality Update Program. The implementation of a watershed-wide TDS/Nitrogen groundwater monitoring program is necessary to assess current water quality, to determine whether TDS and Nitrate-Nitrogen water quality objectives for management zones are being met or exceeded, and to update assimilative capacity findings. Groundwater monitoring is also needed to fill data gaps for those management zones with insufficient data to calculate TDS and Nitrate-Nitrogen historical quality and current quality. Groundwater monitoring is needed to assess the effects of publicly-owned treatment plants ("POTW") discharges to surface waters on affected groundwater. The determination of current ambient groundwater quality throughout the watershed will be conducted and reported by July 1, 2005.

The RWQCB has indicated that the watershed-wide TDS/Nitrogen monitoring program should be conducted every three years to determine the current ambient groundwater quality in the watershed for TDS and Nitrogen. The SAR Reaches 2, 4 and 5 monitoring programs shall be conducted annually. The results of all monitoring programs defined in annual reports will be submitted to the RWQCB.

B. The Purpose of the Task Force Agreement. The purpose of this Task Force Agreement is to form a task force to oversee and conduct the necessary studies for the Basin Monitoring Program as defined in the RWQCB's Basin Plan Amendment. The Task Force is proposed to consist of the TASK FORCE AGENCIES to direct the study and fund it on an equitable basis to be determined by the Task Force.

C. Memorandum of Agreement on Nitrogen Loss Monitoring Program. Some of the TASK FORCE AGENCIES have entered into a separate agreement to conduct a one year Nitrogen Loss Monitoring Program in the Santa Ana River Watershed which, while related to the work in this AGREEMENT, is to be funded separately by those TASK FORCE AGENCIES who are parties to that Agreement, and shall be governed separately by the parties to that Agreement.

II. COVENANTS

NOW, THEREFORE; in consideration of the foregoing recitals and mutual covenants contained herein, the TASK FORCE AGENCIES agree as follows:

1. Creation of a Task Force.

There is hereby created a "Task Force to conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed" initially consisting of the TASK FORCE AGENCIES and other entities as more specifically provided for in paragraph 3 below.

2. Purpose of the Task Force.

The purpose of the Task Force is to provide oversight and supervision of the work that is described herein.

3. Membership and Organization.

a. Regular Members. Concurrently with the execution of this AGREEMENT, each of the TASK FORCE AGENCIES shall appoint one regular representative to the Task Force and one alternate representative to act in the absence of the regular representative. The representatives must be vested with the authority to act on behalf of the appointing TASK FORCE AGENCY, but only as provided for in this AGREEMENT. No actions by the TASK FORCE AGENCIES shall bind the TASK FORCE AGENCIES, except as explicitly provided for in this AGREEMENT. The identity of the appointed representatives shall be promptly communicated in writing to SAWPA. The representatives shall serve at the pleasure of the appointing TASK FORCE AGENCY and may be removed at any time, with or without cause; provided, however, that the TASK FORCE AGENCIES acknowledge and agree the continuity of representation on the Task Force is important to the overall effectiveness of the Task Force, and the TASK FORCE AGENCIES further agree to ensure such continuity whenever possible.

b. Additional Agencies. The TASK FORCE AGENCIES acknowledge and agree that the effectiveness of the Task Force may be improved by the inclusion of other public agencies as additional TASK FORCE AGENCIES to the Task Force. Such public agencies may join the Task Force on such written terms and conditions as are acceptable to all TASK FORCE AGENCIES of the Task Force, including, but not limited to, agreed-upon cash contributions for past, present, and/or future work, of the Task Force. The inclusion of such public agencies as additional TASK FORCE AGENCIES to the Task Force shall be effected by a written amendment to this AGREEMENT signed by all TASK FORCE AGENCIES. Such additional TASK FORCE AGENCIES shall appoint their Task Force representatives and alternates as provided in Section 3.a. above or in said written amendment.

c. Advisory Members. The Task Force may, from time to time, seek the advice and counsel of regulatory or special interest agencies, which agencies may serve as Advisory Members to the Task Force. Such Advisory Members shall have no obligation to provide funding and no voting privileges. The California Regional Water Quality Control Board, Santa Ana Region, is hereby appointed as an Advisory Member of the Task Force. Additional Advisory Members may be appointed by a majority vote of the Task Force representatives.

d. Committees. The Task Force may establish committees, consisting of members who shall be selected by, and serve at the pleasure of the Task Force.

e. Task Force Administrator. SAWPA, acting through its Planning Department staff, is hereby appointed as the Task Force Administrator for purposes of this Task Force Agreement. SAWPA shall have the following administrative responsibilities and shall be reimbursed for time expended on behalf of the Task Force at SAWPA's rate for salary, overhead, burden (as shown in Exhibit "A"), and cost of materials, and including costs for:

- (1) Organizing and facilitating Task Force meetings;
- (2) Secretarial, clerical, and administrative services;
- (3) Management of Task Force funds and provide annual reports of Task Force assets and expenditures;
- (4) Hire Task Force-authorized consultants.
- (5) Hire SAWPA-approved consultant to provide technical review of Watershed-wide TDS/nitrogen groundwater monitoring program

SAWPA, as the Task Force Administrator, will act as the contracting party for the benefit of Task Force, for contracts with all Task Force consultants or contractors. SAWPA will not contract, direct, instruct, or guide such consultants or contractors on behalf of the Task Force or use funds provided by the Task Force without approval of, or guidance from, the Task Force representatives in accordance with Sections 3.f(2), 5 and 6 of this AGREEMENT. SAWPA will provide project management for work performed by such consultants or contractors.

f. Meetings of the Task Force.

(1) Frequency and Location. The first Task Force meeting shall be held at the office of SAWPA, at which time the Task Force shall agree upon the time and place of holding its regular meetings. Special meetings may be called at the request of the Task Force Administrator or by a majority of the Task Force representatives. All meetings of the Task Force or its Committees shall be noticed and conducted in compliance with California's Open Meeting Laws.

(2) Quorum. A majority of the representatives of the Task Force shall constitute a quorum. Actions of the Task Force shall be passed and adopted upon the affirmative vote of a majority of the Task Force. Each TASK FORCE AGENCY shall have one vote. The Task Force may adopt such additional rules and regulations as may be required for the conduct of its affairs so long as such rules and regulations do not conflict with this AGREEMENT and applicable law.

(3) Meeting Minutes. SAWPA shall keep, or cause to be kept, minutes of the Task Force meetings including any handout materials used. Copies of the meetings and handouts will be delivered to the Task Force representatives, each TASK FORCE AGENCY, and the Advisory Members.

(4) Task Force Chair. At the first official meeting of the Task Force following execution of this AGREEMENT by all TASK FORCE AGENCIES a chair shall be selected by the Task Force representatives. The term of the chair shall be one year and shall be rotated among the Task Force representatives.

4. Duties of the Task Force.

a. Conduct Watershed-wide TDS/Nitrogen Groundwater Monitoring and Ambient Groundwater Quality Update Program. Hire consultant to perform, authorize, direct, and supervise the "project scope of work". The first component of the scope of work is described in that certain report entitled, "RWQCB Basin Plan Amendment Required Monitoring and Analyses, Recomputation of Ambient Water Quality for the Period 1984 to 2003, Final Work Plan" dated February 2004 (hereafter "Study"), which is incorporated herein by this reference. The determination of current ambient groundwater quality throughout the watershed will be conducted and reported by July 1, 2005. An update and recomputation of the ambient water quality will be conducted every three years thereafter by the Task Force.

b. Conduct TDS/Nitrogen Monitoring Program for Santa Ana River, Reaches 2, 4, and 5. Hire consultant to implement a monitoring program and prepare annual reports that will provide an evaluation of compliance with the TDS and Nitrogen objectives for Reaches 2, 4 and 5 of the Santa Ana River. The reports will be provided to the RWQCB by April 15th of each year.

c. Termination of Projects or Studies. The TASK FORCE AGENCIES hereby agree that the Task Force shall have the discretion to terminate its projects or studies in the event a consensus of the TASK FORCE AGENCIES cannot be maintained during the course of the Task Force projects or studies.

5. Budgets.

On or before January 1st of each year, SAWPA shall prepare and submit a Task Force budget for the next fiscal year to the Task Force and TASK FORCE AGENCIES. The proposed budget shall include all anticipated costs and fees for the scope(s) of work developed by the Task Force for the next fiscal year. Costs shall include costs and fees for any consultants or contractors to be hired by SAWPA to complete the anticipated scopes of work, any equipment or materials to be purchased, and any other direct costs. SAWPA shall include as a separate item in such proposed budgets costs of SAWPA administrative services. The proposed budget shall include a detailed description of all work to be accomplished with the budget. The budgets shall also set forth the funds to be deposited with SAWPA consistent with the budgeted costs and fees for that fiscal year. Each TASK FORCE AGENCY shall approve and pay, in advance on or before January 1st of each year, its pro-rata share of the Task Force proposed budget for the next fiscal year. The pro-rata share of such costs and fees for each TASK FORCE AGENCY will be as described in EXHIBIT "B", attached hereto and made a part of this AGREEMENT. Said EXHIBIT "B" shall be renewed each fiscal year to reflect the final budget and the participating TASK FORCE AGENCIES of that fiscal year, and any other factor that may affect the pro-rata share of such costs and fees for each TASK FORCE AGENCY for that fiscal year. EXHIBIT "A" includes by its attachment the funding sources for Fiscal Year (July 1st to June 30th) 2004-2005, and a budget for that fiscal year shall be adopted by the Task Force and TASK FORCE AGENCIES after this AGREEMENT has been fully executed. In the event that any TASK FORCE AGENCY withdraws from the Task Force, the budget then in effect shall be adjusted in order to provide for any funding shortfall caused by such withdrawal.

6. Contracting.

Upon Task Force approval, SAWPA shall hire consultants and contractors, as necessary, to complete the scope of work that has been funded by TASK FORCE AGENCIES each fiscal year. SAWPA shall not obligate funds that have not been delivered to SAWPA by the TASK FORCE AGENCIES.

7. Duration of Agreement.

This AGREEMENT shall not terminate unless by mutual agreement of the TASK FORCE AGENCIES provided that all debts and liabilities of the Task Force are satisfied. Notwithstanding the foregoing, each TASK FORCE AGENCY reserves the right to terminate at anytime, upon sixty (60) days' written notice to the Task Force. Task Force projects and studies already undertaken on behalf of TASK FORCE AGENCIES at the time of withdrawal by a TASK FORCE AGENCY shall be fully funded by the TASK FORCE AGENCIES, including the withdrawing TASK FORCE AGENCY, at the time projects or studies are approved by the Task Force for implementation. A withdrawing TASK FORCE AGENCY shall not be entitled to any refund for programs or studies already underway. Any refund of surplus funds due to the withdrawing TASK FORCE AGENCY shall be paid sixty (60) days after completion of tasks, projects and studies undertaken or in progress.

8. Ownership of Documents.

All work or deliverables produced, including originals prepared by anyone in connection with, or pertaining to, the work of the Task Force, shall become the property in whole and in part of TASK FORCE AGENCIES, individually and collectively. Provided, however, that any withdrawn TASK FORCE AGENCY shall only be entitled to such work or deliverables if the withdrawn TASK FORCE AGENCY has fully contributed funds for such work or deliverables.

9. Assignment.

No right, duty or obligation of whatever kind or nature created herein shall be assigned without the prior written consent of all TASK FORCE AGENCIES.

10. Effective Date.

This Task Force Agreement shall become effective when it has been executed by a majority of the TASK FORCE AGENCIES pursuant to authorization by each TASK FORCE AGENCY's Board of Directors.

11. Counterparts.

This AGREEMENT may be executed in original counterparts, which together shall constitute a single agreement.

12. Independent Contractor Status.

This AGREEMENT is not intended and shall not be construed so as to create the relationship of agent, servant, employee, partnership, joint venture or association, as between the TASK FORCE AGENCIES.

13. Waiver Of Rights.

The failure by the TASK FORCE AGENCIES or SAWPA to insist upon strict performance of any of the terms, covenants or conditions of this AGREEMENT shall not be deemed a waiver of any right or remedy that TASK FORCE AGENCIES and SAWPA may have, and shall not be deemed a waiver of the right to require strict performance of all the terms, covenants and conditions of this AGREEMENT thereafter, nor a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of this AGREEMENT.

14. Severability.

If any part of this AGREEMENT is held, determined or adjudicated to be illegal, void or unenforceable by a court of competent jurisdiction, the remainder of this AGREEMENT shall be given effect to the fullest extent reasonably possible.

15. Amendment.

It is mutually understood and agreed that no addition to, alteration of, or variation of the terms of this AGREEMENT, nor any oral understanding or agreement not incorporated herein, shall be valid unless made in writing and signed and approved by all TASK FORCE AGENCIES and SAWPA.

16. Entire Agreement.

This document sets forth the entire Agreement between and among the TASK FORCE AGENCIES and SAWPA.

17. Availability Of Funds.

The obligation of each TASK FORCE AGENCY is subject to the availability of funds appropriated by each TASK FORCE AGENCY for the purposes herein. Any obligation for the future payment of money beyond the current fiscal year is conditioned on the governing body of each TASK FORCE AGENCY providing adequate appropriations in the adopted budgets for those subsequent fiscal years. This condition applies to but is not be limited to the obligations of the TASK FORCE AGENCIES under section 3.e (Task Force Administrator), and section 5 (Budgets) of this AGREEMENT. Based on the financial constraints imposed by this Section 17, the TASK FORCE AGENCIES understand that SAWPA is under no duty to perform any services under this AGREEMENT until and unless the each TASK FORCE AGENCY has approved the fiscal year budget under Section 5, and has appropriated and deposited with SAWPA, the necessary monies to fund the approved budget. Any failure by one or more of the TASK FORCE AGENCIES to appropriate and deposit monies with SAWPA to fund the budget will necessarily delay the performance of the services by SAWPA contemplated by this AGREEMENT, and SAWPA shall not be held responsible or liable for any such delay or costs incurred from such a delay.

18. Indemnity and Insurance.

a. SAWPA shall require all consultants or contractors performing work or services for the Task Force to indemnify and hold harmless SAWPA and the TASK FORCE AGENCIES from any and all claims, damages, lawsuits, fines, penalties, including attorneys' fees and costs, arising from or related to the works or services provided by such consultants

or contractors. Such contractors or consultants shall also maintain the following insurances and keep certificates of such insurances on file with SAWPA, on behalf of the Task Force:

(1) **Workers Compensation Insurance.** A program of Workers Compensation insurance or a state approved self-insurance program shall be in an amount and form to meet all applicable requirements of the Labor Code of California, covering all persons and entities providing services on behalf of the consultant or contractor and all risks of such persons or entities under this AGREEMENT.

(2) **Comprehensive General and Automobile Liability Insurance.** Comprehensive personal injury and property damage liability coverage shall include contractual coverage and automobile liability, if applicable, and including coverage for owned, hired and non-owned vehicles. The policy shall have a combined single limit for bodily injury and property damage of at least \$1,000,000.00. SAWPA and the TASK FORCE AGENCIES shall be named as additional insureds on the policy providing such coverage, and any right of subrogation shall be waived.

(3) **Professional Liability Insurance.** Professional liability insurance shall include limits of at least \$1,000,000.00 per claim or occurrence, unless such coverage is waived by the Task Force representatives.

b. Nothing in this AGREEMENT is intended to create, nor shall anything herein be construed as creating, any rights in, benefits for or obligations to, any person or entity other than SAWPA and the TASK FORCE AGENCIES.

19. **Nondiscrimination.**

SAWPA shall ensure that during the term of this AGREEMENT it and any consultant retained by it shall not discriminate on the grounds of race, religion, creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any other condition related thereto, marital status, sex, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code, in the performance of this AGREEMENT and shall also comply with the applicable provisions of the Americans with Disabilities Act.

20. **Warranty of Authority.**

Each of the individuals executing this AGREEMENT represent and warrant that she or he has the legal power, right and actual authority to bind their respective TASK FORCE AGENCIES to the terms and conditions of this AGREEMENT. Each individual executing this AGREEMENT further represents and warrants that the AGREEMENT has been approved by his or her respective TASK FORCE AGENCIES' governing board.

21. **Dispute Resolution.**

Any dispute which may arise by and between the parties to this AGREEMENT shall first be submitted to non-binding mediation, conducted by a neutral, impartial mediation

service that the parties mutually agree upon in writing. Any dispute not resolved by such mediation shall be submitted to binding arbitration conducted by a neutral, impartial arbitration service that the parties mutually agree upon in writing. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. Upon a showing of good cause, the arbitrator may permit limited discovery in the arbitration proceeding. If any party commences legal action or arbitration arising out of or in connection with this Project Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and litigation expenses from the losing party.

IN WITNESS WHEREOF, SAWPA and the TASK FORCE AGENCIES have executed this AGREEMENT on the date set forth below.

ORANGE COUNTY WATER DISTRICT

DATE 9-1-04

BY [Signature]
President

DATE 9-1-04

BY [Signature]
~~Secretary~~ General Manager

APPROVED AS TO FORM

By [Signature]
General Counsel for
Orange County Water District

INLAND EMPIRE UTILITIES AGENCY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

EASTERN MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

service that the parties mutually agree upon in writing. Any dispute not resolved by such mediation shall be submitted to binding arbitration conducted by a neutral, impartial arbitration service that the parties mutually agree upon in writing. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. Upon a showing of good cause, the arbitrator may permit limited discovery in the arbitration proceeding. If any party commences legal action or arbitration arising out of or in connection with this Project Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and litigation expenses from the losing party.


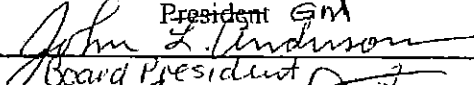
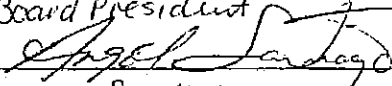
IN WITNESS WHEREOF, SAWPA and the TASK FORCE AGENCIES have executed this AGREEMENT on the date set forth below.

ORANGE COUNTY WATER DISTRICT

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

INLAND EMPIRE UTILITIES AGENCY

DATE 9/8/04 BY 
President SM

Board President
DATE _____ BY 
Secretary

EASTERN MUNICIPAL WATER DISTRICT

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

service that the parties mutually agree upon in writing. Any dispute not resolved by such mediation shall be submitted to binding arbitration conducted by a neutral, impartial arbitration service that the parties mutually agree upon in writing. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. Upon a showing of good cause, the arbitrator may permit limited discovery in the arbitration proceeding. If any party commences legal action or arbitration arising out of or in connection with this Project Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and litigation expenses from the losing party.

IN WITNESS WHEREOF, SAWPA and the TASK FORCE AGENCIES have executed this AGREEMENT on the date set forth below.

ORANGE COUNTY WATER DISTRICT

DATE _____ BY _____
President


DATE _____ BY _____
Secretary

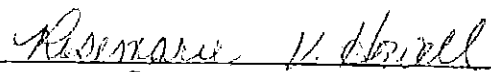
INLAND EMPIRE UTILITIES AGENCY

DATE _____ BY _____
President

DATE _____ BY _____
Secretary

EASTERN MUNICIPAL WATER DISTRICT

DATE 8/23/04 BY 
President

DATE 08/23/04 BY 
Secretary

CITY OF RIALTO

DATE _____

BY Joe Sampson
Mayor *Pro Tem*

DATE _____

BY Berlene G. McFarlane
City Clerk

CITY OF CORONA

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIALTO

DATE _____

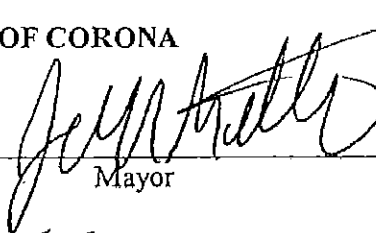
BY _____
Mayor

DATE _____

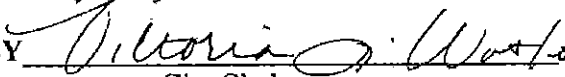
BY _____
City Clerk

CITY OF CORONA

DATE 8/4/04

BY 
Mayor

DATE 8/4/04

BY 
City Clerk

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIALTO

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF CORONA

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE 9-13-04

BY W Ben Wicks
President

DATE 9/14/04

BY Aileen Quintana
Secretary

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIALTO

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF CORONA

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

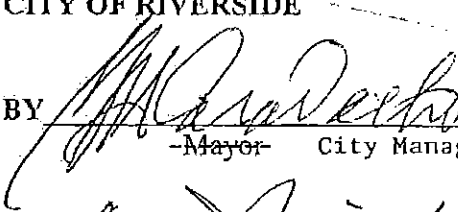
BY _____
President

DATE _____

BY _____
Secretary

CITY OF RIVERSIDE

DATE 09-02-2004

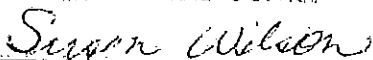
BY  _____
~~Mayor~~ City Manager

DATE 09-02-2004

BY  _____
City Clerk

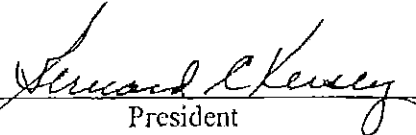
APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY

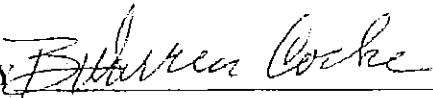


COLTON/SAN BERNARDINO REGIONAL
TERTIARY TREATMENT AND WASTEWATER
RECLAMATION AUTHORITY

DATE 9-13-04

BY 
President

DATE 9/14/04

BY 
Secretary

YUCAIPA VALLEY WATER DISTRICT

DATE _____

BY _____
President, Board of Directors

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY _____
President, Board of Directors

LEE LAKE WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

COLTON/SAN BERNARDINO REGIONAL
TERTIARY TREATMENT AND WASTEWATER
RECLAMATION AUTHORITY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

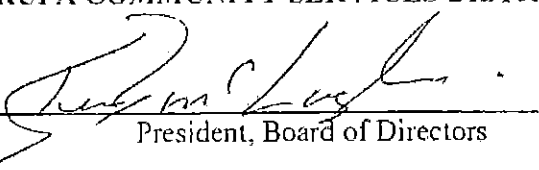
YUCAIPA VALLEY WATER DISTRICT

DATE _____

BY _____
President, Board of Directors

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY  _____
President, Board of Directors

LEE LAKE WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY _____
President, Board of Directors

LEE LAKE WATER DISTRICT

DATE 7/26/04

BY 
President

DATE 7/20/04

BY 
Secretary

CITY OF BEAUMONT

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF BEAUMONT

DATE 7/31/04

BY [Signature]
Mayor

DATE 9/30/04

BY [Signature]
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF REDLANDS

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF BEAUMONT

DATE _____

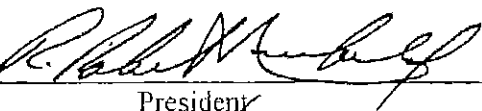
BY _____
Mayor

DATE _____

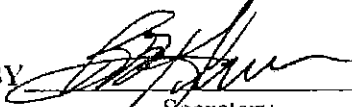
BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY  _____
President

DATE _____

BY  _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF REDLANDS

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF BEAUMONT

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

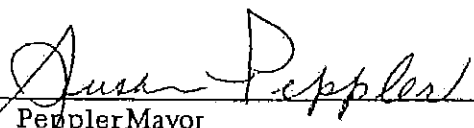
BY _____
President

DATE _____

BY _____
Secretary

CITY OF REDLANDS

DATE 11/2/04

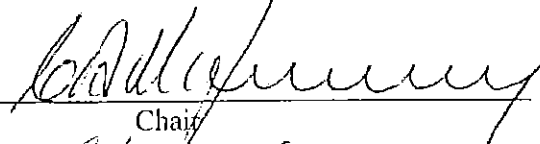
BY 
Susan Peppler Mayor

DATE 11/2/04

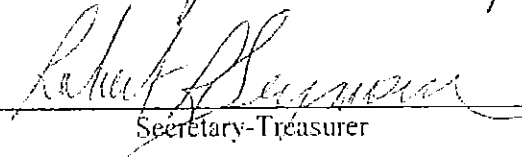
BY 
Lorrie Poyzer City Clerk

WESTERN RIVERSIDE COUNTY REGIONAL
WASTEWATER AUTHORITY

DATE _____

BY 
Chair

DATE _____

BY 
Secretary-Treasurer

SAN TIMOTEO WATERSHED MANAGEMENT
AUTHORITY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

WESTERN RIVERSIDE COUNTY REGIONAL
WASTEWATER AUTHORITY

DATE _____

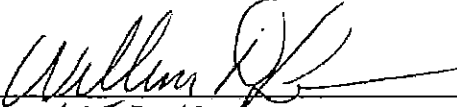
BY _____
Chair

DATE _____


BY _____
Secretary-Treasurer

SAN TIMOTEO WATERSHED MANAGEMENT
AUTHORITY

DATE 9/28/04

BY 
Vice President

DATE 9/28/04

BY 
Secretary

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

WESTERN RIVERSIDE COUNTY REGIONAL
WASTEWATER AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

SAN TIMOTEO WATERSHED MANAGEMENT
AUTHORITY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE 8-10-04

BY S. R. Al Lopez
Chair

DATE 8-10-04

BY Ed. [Signature]
Secretary-Treasurer

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EXHIBIT A

Overhead and burden are included in all rates. Labor for SAWPA staff shall be billed at the rates in Table 1 below for FY 04-05. Rates will be adjusted annually based on SAWPA annual budget. Materials purchased to provide administrative services that are not shown in Table 1 below shall be billed at direct cost with no additional fees or mark-ups.

Table 1 SAWPA Rate Sheet	
Item	Rate
Planning Manager	\$117.09/hour
Watershed Planner	\$ 75.60/hour
Sr. Administrative Assistant	\$ 55.65/hour
Administrative Assistant II	\$ 43.11/hour
Administrative Assistant I	\$ 44.34/hour
Controller	\$ 88.65/hour
Senior Accounting Technician	\$ 50.89/hour
Automobile Travel	Federal mileage rate for automobile travel to meeting locations.
Out of Town travel (when air travel or overnight stay is required)	Direct cost of air travel plus direct cost of lodging and meals.

**AMENDMENT NO. 1
TO
AGREEMENT TO FORM A TASK FORCE
TO CONDUCT A
BASIN MONITORING PROGRAM FOR
NITROGEN AND TOTAL DISSOLVED SOLIDS
IN THE SANTA ANA RIVER WATERSHED
(BASIN MONITORING PROGRAM)**

Pursuant to Paragraph II.15 of that certain AGREEMENT entitled, "Agreement to Form a Task Force to Conduct a Basin Monitoring Program for Nitrogen and Total Dissolved Solids in the Santa Ana River Watershed", dated August 10, 2004, the TASK FORCE AGENCIES hereby agree to make the following changes:

1. Under I. Recitals B. The Purpose of the Task Force Agreement shall be revised to read as follows:

The purpose of this AGREEMENT is to form a task force to oversee and conduct the studies for the Basin Monitoring Program as described in the RWQCB's Basin Plan Amendment **and perform other related cooperative studies as agreed to by the TASK FORCE AGENCIES.** The Task Force is proposed to consist of the TASK FORCE AGENCIES to direct the study and fund it on an equitable basis to be determined by the TASK FORCE AGENCIES.

2. The TASK FORCE AGENCIES hereby amend Paragraph II. 4 (Duties of the Task Force) of the Task Force Agreement to include the following tasks to be funded by the TASK FORCE AGENCIES and authorize the Task Force Administrator to conduct such tasks.

- d. Conduct Santa Ana River (SAR) Wasteload Allocations and other related studies

Hire a consultant to perform updates to the SAR Wasteload Allocation Report, work with the RWQCB staff and TASK FORCE AGENCIES on appropriate model runs to be used for new RWQCB Basin Plan Amendments for the SAR Wasteload Allocation and provide appropriate input for new Basin Plan Amendment language as needed. Additional studies may also be conducted to support the purposes of the TASK FORCE AGENCIES as directed by a consensus of the TASK FORCE AGENCIES.

Except as otherwise expressly amended herein, all of the terms, conditions, and provisions of the AGREEMENT shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the dates set forth below.

CITY OF BEAUMONT

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CHINO BASIN WATERMASTER

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

**COLTON/SAN BERNARDINO REGIONAL
TERTIARY TREATMENT AND WASTEWATER
RECLAMATION AUTHORITY**

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF CORONA

DATE _____

BY _____
DWP General Manager

DATE _____

BY _____
City Clerk

EASTERN MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

ELSINORE VALLEY MUNICIPAL WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

INLAND EMPIRE UTILITIES AGENCY

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

IRVINE RANCH WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

JURUPA COMMUNITY SERVICES DISTRICT

DATE _____

BY _____
President, Board of Directors

ORANGE COUNTY WATER DISTRICT

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

CITY OF RIALTO

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF RIVERSIDE

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

CITY OF REDLANDS

DATE _____

BY _____
Mayor

DATE _____

BY _____
City Clerk

**SAN TIMOTEO WATERSHED MANAGEMENT
AUTHORITY**

DATE _____

BY _____
President

DATE _____

BY _____
Secretary

SANTA ANA WATERSHED PROJECT AUTHORITY

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

**WESTERN RIVERSIDE COUNTY REGIONAL
WASTEWATER AUTHORITY**

DATE _____

BY _____
Chair

DATE _____

BY _____
Secretary-Treasurer

YUCAIPA VALLEY WATER DISTRICT

DATE _____

BY _____
President, Board of Directors

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