AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

March 22, 2016
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 Scheduled Meeting of the Banning Utility Authority.

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

I. CALL TO ORDER

- Invocation – Rev. Daniel Pedraza, First Hispanic Baptist Church
- Pledge of Allegiance
- Roll Call – Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE

PUBLIC COMMENTS – *On Items Not on the Agenda*

A five-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. (Usually, any items received under this heading are referred to staff 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.

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.

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

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

V. 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: To approve Consent Items 1 through 3
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 – 02/23/16 *(Closed Session)* **1**
2. Approval of Minutes – Regular Meeting – 02/23/16 . . . . . **3**
3. Report of Investments for January 2016. . . . . **47**
4. Contracts Approved Under the City Manager's Signature Authority **55**
5. Adoption of Resolution No. 2016-22, Approving the Tentative Agreement For a Successor Memorandum of Understanding (Deal Points) and the Memorandum of Understanding Between the City of Banning and the Banning Police Officers Association for the period March 28, 2016 Through March 27, 2019 . . . . . **59**

- **Open for Public Comments**
- **Make Motion**

VI. PUBLIC HEARINGS

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

1. Adopt Ordinance No. 1493; and Resolution No. 2015-96 – Billboard or Outdoor Advertising Signs Zone Text Amendment No. 15-97505 . . . . . **131**

Staff Report – Brian Guillot, Acting Community Development Director
Recommendations: 1) Conduct the public hearing; 2) Introduce Ordinance No. 1493; and 3) Adopt Resolution No. 2015-96.

Mayor asks the City Clerk to read the title of Ordinance No. 1493

"An Ordinance of the City Council of the City of Banning, California, Approving Categorical Exemption and Zone Text Amendment No. 15-97505 Amending the Sign Regulations of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Allow the Relocation of Existing Billboards or Outdoor Advertising Signs in Accordance with the Outdoor Advertising Act."

Motion: I move to waive further reading of Ordinance No. 1493.
(Requires a majority vote of Council)
Motion: I move that Ordinance No. 1493 pass its first reading.

Motion: That the City Council adopt Resolution No. 2015-96, Establishing Design Guidelines for Billboard or Outdoor Advertising Sign Relocation Agreements in Accordance with the Sign Regulations of the Zoning Ordinance and the Outdoor Advertising Act.

2. Resolution No. 2016-16, Requesting a twelve (12) month extension for Tentative Tract Map No. 33013, located at the northeast corner of 22nd Street and Westward Avenue; APN 538-272-00 ..... **257**
Staff Report – Brian Guillot, Community Development Director

Recommendations: **1) Conduct the public hearing on the extension of time for Tentative Tract Map No. 33013; and 2) Adopt Resolution No. 2016-16, Approving a Twelve (12) Month Extension of Time for Tentative Tract Map No. 33013 (TTM 33013).**

3. Resolution No. 2016-17, Requesting a twelve (12) month extension for Tentative Parcel Map No. 33326, located generally north of Sun Lakes Boulevard and east of Highland springs Avenue; APN 419-140-057..... **315**
Staff Report – Brian Guillot, Community Development Director

Recommendations: **1) Conduct the public hearing on the extension of time for Tentative Parcel Map No. 33326; and 2) Adopt Resolution No. 2016-17, Approving a Twelve (12) Month Extension of Time for Tentative Parcel Map No. 33326 (TPM 33326).**

VII. REPORTS OF OFFICERS

1. Ad Hoc Committee Regarding Animal Control..... **371**
Staff Report – Alex Diaz, Chief of Police

Recommendation: **Adopt Resolution No. 2016-18, establishing an Ad Hoc Committee for the purposes of reviewing the current City animal control and animal control services of other similar communities, and making recommendations to the City Council.**

2. Resolution No. 2016-20, Amendment to Project No. 2014-02EL-Downtown Underground Project Phase 3 ..... **377**
Staff Report – Fred Mason, Electric Utility Director

Recommendations: 1)**Adopt Resolution No. 2016-20, Amending the Construction Contract for Project No. 2014-02EL, Downtown Underground Project-Phase 3/ Purchase Order No. 026719 to include additional funds in an amount not to exceed $76,350.50 including taxes; and 2) Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers to fund this amendment.**

3. Resolution No. 2016-10, Awarding Contract Service Agreements for Grant Writing Services 393
Staff Report – Brian Guillot, Community Development Director

Recommendation: **Adopt Resolution No. 2016-10, Awarding Contract Service Agreements for Grant Writing Services as a short list consisting of California Consulting, TKE Engineering, and Evan Brooks Associates.**

4. Resolution No. 2016-14, Approving the Purchase of a New Dump Truck from RWC Group of Whittier, CA in the amount of $121,662.62 557
Staff Report – Art Vela, Public Works Director

Recommendations: 1)**Adopt Resolution No. 2016-14, Approving the Purchase of a new 2016 Dump Truck from RWC Group, of Whittier, CA in the amount $121,662.62; and 2) Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations, and transfers related to the purchase of the dump truck.**

5. Resolution No. 2016-19, General Plan Annual Progress Report for Calendar Year 2015 581
Staff Report – Brian Guillot, Community Development Director

Recommendation: **Adopt Resolution No. 2016-19, Approving the General Plan Annual Progress Report for Calendar Year 2015; and, direct staff to file it with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).**

6. Approve Consultant Contract, Not to Exceed $8,000, with National Demographics, Inc. to Conduct Studies and Recommend Action Relating to Legal Challenge to an A-Large Electoral System 727
Staff Report – Michael Rock, City Manager

Recommendations: **A) Review and approve a not to exceed Consultant Contract with National Demographics, Inc. to conduct studies and recommend action relating to legal challenge to an at-large electoral system; and B) Direct work to begin immediately to evaluate legal options and risks associated with threat of litigation regarding the City's at-large electoral system.**

7. Consideration of Removal and Replacement of Planning Commission David Ellis pursuant to Banning Municipal Code Section 2.28.020(c) and Section 6.4 (c) of the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings for the City of Banning 775
Staff Report – Michael Rock, City Manager

Recommendation: **At the request of the Mayor this item is being brought to the full City Council for the consideration of removing Planning Commissioner and Chair David Ellis pursuant to the Banning Municipal Code (BMC) Section 2.28.020(c) and under Section 6.4 (c) of the Manual of Procedural Guidelines for the Conduct of City Council and Commission Meetings.**

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

VIII. SCHEDULED MEETINGS

BANNING UTILITY AUTHORITY (BUA)

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

REPORTS OF OFFICERS

1. Adopt Resolution No. 2016-03 UA, Awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services **781**
   Staff Report – Art Vela, Acting Public Works Director

Recommendations: **1) Adopt Resolution No. 2016-03 UA, Approving a Professional Services Agreement with Stoel Rives, LLP of Sacramento, CA in the amount of $110,000.00 for Legal Counsel Services; 2) Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement for Legal Counsel Services; and 3) Authorize the City Manager to execute the Professional Services Agreement with Stoel Rives, LLP for Legal Counsel Services.**

2. Adopt Resolution No. 2016-04 UA, Awarding a Construction Agreement for Project No. 2015-01W, Water Main Improvements on Hargrave Street to Tri-Star Contracting II, Inc. in the amount of $510,993.50 and establishing a total project budget of $562,092.85 . . . . . **859**
   Staff Report – Art Vela, Acting Public Works Director

Recommendations: **1) Adopt Resolution No. 2016-04 UA, Approving a Construction Agreement for Project No. 2016-01W, Water Main Improvements on Hargrave Street to Tri-Star Contracting II, Inc. of Desert Hot Springs, CA in the amount of $510,993.50 and a 10% contingency in the amount of 451,099.35 to cover unforeseen conditions; 2) Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2015-01W, Water Main Improvements and to approve change order within the 10% Contingency; and 3) Authorize the City Manager to execute the Construction Agreement with Tri-Star Contracting II, Inc. for Project No. 2015-01W, Water Main Improvements.**

BUA ADJOURNMENT - Next regular meeting: Tuesday, April 12, 2016 at 5:00 p.m., Banning City Hall Council Chambers.

BANNING FINANCING AUTHORITY (BFA) – no meeting.

RECONVENE REGULAR CITY COUNCIL MEETING

IX. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Discussion of vacant properties on Ramsey Street where people are discarding furniture.
2. Housing Element *(2016)*
3. Strategic Planning Workshop (Goal Setting) - March 29, 2016

(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 Friday, 8 a.m. to 5 p.m.

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

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

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

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

02/23/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on February 23, 2016 at 4:00 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: Michael Rock, City Manager
Anthony R. Taylor, City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Fred Mason, Electric Utility Director
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

Mayor Welch opened the item for public comments on the closed session items. There were no members of the public in attendance so public comments was closed.

CLOSED SESSION

City Attorney Taylor announced that there are three items for closed session as follows: Anticipated litigation pursuant to Government Code Section 54956.9 (d)(4) (one potential case); labor negotiations pursuant to Government Code Section 54957.6 with City represented by City Manager Michael Rock and negotiations are with the Banning Police Offices Association (BPOA); and public employee appointments pursuant to Government Code Section 54957(b) Titles: Community Development Director, and Public Works Director/City Engineer.

Meeting went into closed session at 4: 01 p.m. and recessed at 4:55 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:55 p.m.

Marie A. Calderon, City Clerk

THIS PAGE LEFT BLANK INTENTIONALLY

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

02/23/16
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Welch on February 23, 2016 at 5:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Michael Rock, City Manager
Anthony R. Taylor, City Attorney
Rochelle Clayton, Administrative Services Dir./Deputy City Manager
Alex Diaz, Police Chief
Arturo Vela, Acting Public Works Director
Fred Mason, Electric Utility Director
Brian Guillot, Acting Community Development Director
Tim Chavez, Battalion Chief
Sonja De La Fuente, Executive Assistant/Deputy City Clerk
Marie A. Calderon, City Clerk

The invocation was given by Father Bill Dunn, Vicar, St. Stephens Episcopal Church. Councilmember Peterson led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney Taylor said there were three items on for Closed Session as he previously announced and those included: Conference with legal counsel anticipated litigation – one item; conference with labor negotiators with City being represented by Michael Rock and the employee associating being the Banning Police Officers Association; and public employee appointments for the Community Development Director and Public Works Director/City Engineer. Each of those items were discussed in closed session and there is no reportable action on those items.

PUBLIC COMMENTS/CORRESPONSENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Rev. Bill Dunn with St. Stephens Episcopal Church addressed the Council regarding the cold weather initiative-emergency housing or potential for it for those in our community who are

homeless. They would like to state their support and thanks for this Council even entertaining the possibility of this for some of the good hard work that the Faith In Action Group has been undertaking to try to be part of the solution and not part of the problem. They know that there are a variety of options that have been pursued and there are pros and cons for each but they want to give the Council their strongest encouragement and whatever the Council decides especially if it looks like using the Hacienda, they stand ready and willing to help with this not only with their prayers but with their substance. They have people ready to make soup and to do all kinds of activities and he also speaks for other congregations in this area when he says that they are ready to partner with the City and be ready. He thanks the Council for their efforts.

David Ellis, citizen addressed the Council stating that three of them have made it in the Banning Informer again and Mr. Miller and Mr. Peterson were not. After reading those stories and conversing with 80 plus community members they have come up with a legacy of the Banning City Council and again, this is minus Councilmembers Miller and Peterson. They came to the conclusion that the legacy of the Banning City Council is one of ignorance (lack of knowledge or education), bias (prejudice and favor or against one thing, one person, one group compared to another, usually in a way to be unfair) corruption (lack of integrity or honesty, especially susceptible to bribery, use of position of trust for un-honest gain, and violates duty). In one way or another we need to make a change.

Inge Schuler, resident addressed the Council stating that again she wants the Council to initiate a forensic audit for the utility department. She has been saying this at almost every Council Meeting and she always hears that they will get back to her and she hasn't heard anything. Are we planning this or is this just a dead issue? She also mentioned the problem that we have with developers in this town and specifically on what is going on across the street from city hall. Vanir seems to be in default as of January 1, 2016. There is no evidence to be seen of a construction effort and she understands that no permits have been pulled, the note has not been paid. She looked at the contract last week and it specifies that the City can pursue several avenues if the company does not perform and can foreclose, charge interest; is any of this being done. She is sure if the shoe was on the other foot the corporation would have us in court already. We are in the unenviable position to attract mediocre developers falling for their promises. How do you plan to remedy the situation after we have been through the same scenario for five years with Pearlman? Here we are into the first year with the new guy who is pulling the same stuff. Are we learning something?

Diane Box, resident thanked Art Chacon from Code Enforcement for handling some other complaints made last week and for the progress. We need to get them help. Blight brings crime; they need some assistance. She proposed that instead of fixing parking lots we open another position in Code Enforcement to at least catch them up or even temporary help or give more authority to volunteers allowing them to post, write citations for trash, abandoned cars, etc. so maybe we can get this city cleaned up and then they can be proactive instead of being reactive and save our homeowners from their property values plummeting. How about using some of the funds from the Robertson's tax to hire somebody; where is that money going. Or maybe all the funds from all the property owners that would have paid for our street sweeper that we haven't had in five years; where is that money. Stop making this a criminal paradise with bail bonds, courthouses, homeless camps; let the churches help; there are resources for them. We do not

need to use any parks where our kids play for the people who we have no idea who they are. They are living it up at the Lincoln center; why move. Is that what you are proposing to do to our parks and community by moving the homeless in there? Why is Banning catering to the criminals and homeless again by not taking care of the citizen's concerns? What is this she is hearing that the City had a scoping meeting and did not inform the people in the neighborhood that it directly effects? Read your mission statement again. Our mission as a City is to provide a safe, pleasant, and prosperous community in which to live, work and play. We will achieve this in any cost effective, citizen-friendly and open manner. She doesn't see anything in there about homeless camps; just citizens. Are you providing any of that? A Mr. Steven Douglas addressed the Council on February 9th asking for our community center and he gets placed on the agenda; one person, at one time, at one meeting. She recalls being here six times in regards to the street sweeper, getting help for code enforcement and many numerous things and nothing has happened. Is Mr. Douglas even a resident; or he must live in Sun Lakes? How about doing something for your actual citizens or better yet, your employees.

Jerry Westholder, resident addressed the Council stating that he read the Banning Informer's article finding out that the developer had made contributions to Mr. Moyer, Mr. Welch and Ms. Franklin and they were the three that seemed to vote for the project and he finds that very interesting and very bothersome that there would be that kind of influence in a situation like this. It is also interesting to note that when he ran for election last time he was falsely accused that he took money from Mr. Lloyd Fields who by the way gave him a letter that he documented that he would ask for no favors and people saying that he is trying to destroy our city. He thinks that he doesn't need to destroy our city; people are already doing it with their decisions. Also our local paper had an article about the Chamber of Commerce with District Attorney, Michael Hestrin speaking about AB 109 and Prop 47 some things that both he and Councilmember Peterson brought to the attention of this Council and were laughed at, told that they were lying and exaggerating but here we have our own District Attorney telling us that AB 109 hit us very hard and we cannot hold anyone for low-level crimes. On a positive note Banning had a 3% decrease in property crimes however, violent crimes scored 56%. We have a chance to reinstate and do something positive with the property downtown for our community instead of additional law enforcement for felons and people who are on probation. He is not against helping the homeless and doesn't want anyone to misinterpret what he is about to say but he has an article from a friend in Hemet and he didn't have any specific statistics but what he hears is that they are fielding 20 to 30 calls for service daily for vagrancy issues involving homeless. They have a higher number of homeless people than the Pass Area (122 documented). As for a warming center, the past few years this has been done by the Salvation Army but the program was suspended because of the lack of participation. Banning and Beaumont sites have a warming center. Banning had one 25 years ago at the Armory and he was told that they had strict rules that had to be enforced every day. He is not saying that a warming center is not a worthy humanitarian thing to do but homeless people most likely will be dropped off here from out of our area if they decide to open one. They need to consider resident restrictions, area restrictions to keep agencies and private people from dropping off people here from all over the place. If we are going to encounter things like this, we need to do it with an educated mind.

Steven Douglas, 4690 Elsie Lee Circle, addressed the Council stating that he has lived in the community for 46 years and he loves this town. He thanked the Council for working with Faith

in Action (FIA) to find a solution or at least a step in the right direction. The option discussed and placed on the table at their last FIA meeting on Feb. 18, the voucher system, seems a logical way to go. They will work together with the City to improve this and see if they can get this in gear. As they expressed to the City the FIA is committed to securing their own facility within the already zoned areas of the city of Banning. For those concerned citizens a shelter within the city is needed but not in these areas with the close proximity of the schools, parks, pool and families due to the presence of the homeless people. It should be noted that the homeless people are and will be in these same areas. He has children and grandchildren, as well as, hundreds of friends with thousands of family members and he is very confident that their efforts in Faith in Action will always have the safety of our community at the forefront. They ask all citizens within our community to work with them to ensure the safety, warmth, hunger needs, entertainment, and growth of all of us.

Rosa Gascoigne, 1685 Camoustie, addressed the Council stating that she is a member of Faith in Action and she was here two weeks ago and thought it was agreed that the matter of the homeless was going to be on the agenda. She said that this is the United States of America and not a third-world country. We have a moral responsibility to help the homeless. We cannot look the other way and pretend that they do not exist. It is inhumane to leave them on the streets when it is so cold and raining. Let's work together and find a solution.

Mary Hamlin, 1433 Snead, addressed the Council stating that several issues were raised in a recent Letter to the Editor of the Record Gazette about the emergency shelter for homeless. She said that Carol's Kitchen operates two days a week at the community center and some of the same people that it serves will be the same people who need an emergency shelter. Homeless people are already in the neighborhood; this is not a new issue. As for putting any child or person in harm's way not every homeless person is a threat to society. Not every homeless person has a criminal past, has addition issues or is mentally ill. Having an emergency shelter will take people out of harm's way by creating a safe environment where they can be protected. She agrees that the community center is not a permanent answer; it is only a temporary solution. Yes, we do need a permanent facility. Let's work together to find a solution instead of providing criticism with no suggestions for a solution and unnecessary alarmism.

Rick Pippenger, resident of Banning for 35 years addressed the Council stating that he is glad she brought up the thing about Carol's Kitchen. Carol's Kitchen is probably a very nice entity and they work out of the community center and so do a lot of other agencies that have the pancake breakfast and things like that but for anybody else it makes it very, very hard. There is only one refrigerator up and they have a padlock on it and there are two closets and both of those are padlocked. Back to the homeless, he had a rental that was supposedly becoming vacant a little while back and the tenant wouldn't move and the sheriff came out and the tenant still didn't move and she had a bunch of homeless people living with her and once they did get her out and all of the trash out of the house they continued to come back. In the meantime someone stole a thousand dollar stove out of the house and the neighbor next to him got hit two nights in a row and the Banning Police Department responded in a very good manner but he really is not enthused about the homeless.

Dorothy Familetti-McLean, resident addressed the Council stating that healing minister, Dr. Jeff Backer will be speaking on Miracles for the Taking and Faith Builders Family Church, 55 S. First Street, Banning this Wednesday, Thursday and Friday at 7 p.m. and all are welcome. She said that the Banning Stagecoach Association is have a bowling benefit at Canyon Lanes, 49750 Seminole Dr., Cabazon this Saturday, Feb. 27th from noon to 3 p.m. and the cost is $20.00 and includes three games and shoes and there will also be raffle prizes. Come and support this signature event. Tickets may be purchased from association members or at the Canyon Lanes on Saturday. She also addressed the emergency homeless shelter at the Banning Community Center (see Exhibit "A" attached).

Ellen Carr, resident announced that it is not a good thing when you don't want your pet to drop them off at her house; it is a very bad thing. Unfortunately, anyone that is here or listening on TV is probably not the audience that she needs to be speaking to but she has to say this, please don't put your animals at her house. She comes out into her front yard and sometimes she finds puppies and dogs. For instance, a week ago yesterday she went out and she saw a big bag of cat food leaning against her gate and thought it was great that somebody donated some food so she walked to the side of her porch and then she saw this big litter box and a jug of litter and a white cardboard cat carrier and thought people donated these things but in the cardboard cat carrier was a humongous Maine Coon cat. So she took the cat and this is one angry animal which was stuffed into this cat carrier so please just don't dump animals off at Ellen's (Tender Loving Critters). She is not a shelter; she is a house and does the best that she can. It isn't fair to the animals. When you adopt an animal or however you get your animal, it is a lifetime commitment for the animal and not a convenience for you. You can do it, it takes effort and your animal's life depends on it.

Gary Hironimus submitted and item to be read during public comments which the City Clerk read regarding Vanir (see Exhibit "B" attached).

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

CORRESPONDENCE: None

PRESENTATIONS:

1. Introduction of New Employees

Alex Diaz, Chief of Police introduced -Daniel Deusenberry, Police Officer. Officer Deusenberry comes to us from a very distinguished career with the U. S. Marine Corp. He served in the Marine Corp from May 2005 to May 2009 and during that time in 2008 in was deployed to Afghanistan in Support of Operation Enduring Freedom. He is married to his wife Amber and they have three children. Officer Deusenberry is honored to have the privilege of servicing the City of Banning.

Art Vela, Acting Public Works Director introduced three new members to their Water Division staff: 1) Caleb Naasz was born and raised in the Hemet/San Jacinto area and he is married with

two teenage boys and he has a multitude of experience in the maintenance and construction field. He has worked with the City now for a little over a year. During that year he has proven to be an asset to the Water Division; 2) Ernie Floyd was born in Long Beach and was relocated to Banning at the age of 2 where he was then a member of the graduating class of Banning High School 1995. He has three sons and his family enjoys camping, softball, baseball and golf. Ernie comes from the Beaumont/Cherry Valley Water District and he brings a lot of experience and currently holds certificates in the Distribution-Grade 2 Class, as well as, Treatment-Grade 1; and Anthony Brenneisen was born in Redlands and graduated from Banning High School in 2012. He currently lives in Banning with his parents and little brother and is attending Mt. San Jacinto Community College with the goal of obtaining an Associates of Science Degree in Water Technology. He brings a lot of knowledge and experience in working with heavy machinery and he gained his experience in working with the U. S. Forest Service and the County of Riverside.

APPOINTMENTS

1. Southern California Association of Governments (SCAG) Appointment for Delegate and Alternate Representative to the SCAG 2016 Regional Conference and General Assembly – May 5-6, La Quinta, CA.

Mayor Welch said that right now we are represented at SCAG by Councilwoman Debbie Franklin and she is also been elected and moved to the committee level at SCAG on the Community Education and Development Committee and she has been representing us as a City. He would like to recommend that they continue that relationship by having her as the delegate and would also like to ask Mayor Pro Tem Moyer to be the alternate representative. Both Council Members accepted the appointments and there was consensus by the Council.

2. Planning Commission Appointment
(Staff Report – Brian Guillot, Acting Community Development Director)

Acting Director Guillot gave the staff report on this item as contained in the agenda packet.

Motion Franklin/Moyer that the City Council appoints Richard Krick to fill the vacant position on the Planning Commission with his term to expire on February 23, 2020. Motion carried, all in favor.

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

City Council
Councilmember Moyer –

- This coming Friday the intersection of Ramsey and Sunset will be totally closed from 9 a.m. to 3 p.m. They will be doing the final paving.

Councilmember Miller –

- He is sure everyone here is somewhat concerned about the fact that there is Chromium-6 in our water. Our City has been very aware and very concerned about minimizing the effect and the two worst wells, as he understands it, are near Sun Lakes and they have been changed so that the water from those wells goes towards the golf courses but they really

were not quite certain what water concentration of chromium actually exists. Most likely it is highest in Sun Lakes so he took samples of water from various areas in Sun Lakes and had it analyzed. He took water from the south clubhouse again, which is most likely one of the highest concentrations in the city and the concentration there was only 12 parts per billion and the requirement of the State is 10 parts per billion so even there we are at just about the correct value. At the north clubhouse the value measured was 15 parts per billion and again, very, very close to the amount legally required by the State. We are still working on methods of improving the amount at the wells but he thinks that is good news that the amount of Chromium-6 actually reaching our homes is rather small. For those people who are really concerned about Chromium-6 we also tested bottled water, Nestle's water, and that actually has no chromium measurable and tested water from a Whirlpool unit that can be purchased from any hardware store (reverse osmoses type) and again that also is very effective and it has a zero concentration of chromium. So if you are very concerned there are methods which are expensive to make sure that you have no chromium in the water that you are drinking. But again, the water that is coming into our system, at least in Sun Lakes which is probably the highest concentration, that just about satisfies what we have as a requirement from the State.

Councilmember Franklin –

- It was mentioned earlier in regards to the lot sizes at the Council's last meeting that her measurements were wrong; you are right. Her husband did check her and wished that they only had 7,000 square feet. She wanted to let the public know that she accepts the fact that she was wrong on that number.
- They did have several meetings in the last several weeks regarding water and they know that the President signed the Antiquities Act and they did have some concern as to whether or not that would impact our work on the flume. They had a phone conversation that included the Forest Service, as well as, FERC and that question was specifically asked and were told that it does not impact the flume through the different efforts that they have had with staff and our lobbyist. We have been able to make sure that the flume has been excluded from the Antiquities Act of properties. Some other water meetings that she has attended include the Beaumont Cherry Valley Water District, as well as, the San Gorgonio Pass Water Agency. There are a lot of issues that have been coming up especially because we are in a drought year so we are going to be talking about some of those issues. The Water Alliance meeting will be held tomorrow and every water district in our area is represented and they have asked everybody to bring forth their issues and in talking with staff the issues she will be bringing forward on behalf of the City as a water agency is securing a reliable source of water connection to the State Water Pipeline and an agreed upon allocation plan that has to do with the amount of State water that we get from the San Gorgonio Pass Water Agency. The meeting is open to the public and starts at 5 p.m.
- There is a meeting on March 10th at the Beaumont Cherry Valley Water District at 6 p.m. and it is open to the public and the Council has been invited to attend and will discuss some of the issues that we are having with securing water in the area.

Mayor Welch –

- On March 6, 2016 the VFW located in Beaumont that services the whole Pass Area is cordially inviting everyone to attend their Desert Edge Veterans of Foreign Wars Post 233's

Annual Community Awards Ceremony. It will be held at the Sun Lakes Country Club Main Ballroom at 2 p.m. He encouraged everyone to attend because the VFW certainly recognizes people throughout the Pass Area that help our veterans.

City Committee Reports - None
Report by City Attorney - None

Report by City Manager

- In regards to the emergency homeless shelter the City did look into the use of the Community Center as an emergency shelter for the homeless and after consulting with the City's risk management consultant it was determined that there would be considerable risk to the City if it were used as an emergency shelter from both personal injury and property liability risk. The Banning Faith In Action has created a guide book that defines emergency cold weather shelter as follows: The Cold Weather Shelter will only be in operation if the temperature at Weather.com is 38 degrees or lower with less than a 50% chance of rain or when the temperature is 42 degrees or lower with a 50% or greater chance of rain. Faith in Action is actively working on creating a non-profit and securing an emergency permanent shelter facility in the city of Banning and is planning to have their plan ready for next cold season. The City contacted the County of Riverside and they do not have any funds budgeted for this fiscal year for a hotel voucher program. The City Council could consider a not-to-exceed amount for a hotel voucher program at the next regular Council Meeting to be used only until such time as the Faith in Action facility is up and running and only if the criteria for emergency cold weather shelter is met as he just discussed. The City is moving forward and is trying to help with this issue and there are a lot of great community members that are involved and we thank them for their efforts.
- The City received a $1,082,000 dollar grant for Bicycle and Safe Route to Schools. The State funded grant will provide new bicycle lanes and pedestrian improvements along Ramsey Street from Highland Springs easterly all the way to downtown - Class 2 and Class 3 bike lanes. Also on Wilson and San Gorgonio Streets there will be Safe Route to Schools improvements with new stripping and yellow crosswalks with thermoplastic – Class 2 and Class 3 bike lanes.
- Sunset Avenue will be closed, all the freeway on and off ramps, and the entire intersection at Sunset and Ramsey will be closed from 9 a.m. to 3 p.m. on Friday, February 26th in order to allow crews to safely pave the new roadway. The roadway is expected to open in early March 2016 and the ribbon cutting is on March 10th.

CONSENT ITEMS

Councilmember Peterson pulled Consent Item No. 3.

1. Approval of Minutes – Special Meeting – 02/09/16 *(Closed Session)*

Recommendation: That the minutes of the Special Meeting of February 9, 2016 be approved.

2. Approval of Minutes – Regular Meeting – 02/09/16

Recommendation: That the minutes of the Regular Meeting of February 9, 2016 be approved.

4. Ratify the Appointment of Brian Guillot as the Community Development Director and Authorize the City Manager to Sign the Community Development Director Employment Agreement.

Recommendation: That the City Council ratify the appointment of Brian Guillot as the Community Development Director and authorize the City Manager to sign the Community Development Director employment agreement on behalf of the City.

5. Ratify the Appointment of Arturo Vela as the Public Works Director/City Engineer and Authorize the City Manager to Sign the Public Works Director/City Engineer Employment Agreement.

Recommendation: That the City Council ratify the appointment of Arturo Vela as the Public Works Director/City Engineer and authorize the City Manager to sign the Public works director/City Engineer employment agreement on behalf of the City.

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

Motion Moyer/Franklin to approve Consent Items 1, 2, 4, and 5. Motion carried, all in favor.

3. Ordinance No. 1495 – Second Reading: Ordinance No. 1495, An Ordinance of the City Council of the City of Banning, California, Adopting a Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program; Approving Tentative Tract Map No. 15-4501 (TTM 36939) to Subdivide A 34.6 Acre Site to Create 98 Numbered Lots for Single-Family Residential Development and Three (3) lettered Lots; and, Zone Change No. 15-3501 Amending the Zoning Map to Eliminate the RL-10,000 Overlay Affecting the Western Portion of the Site to Low Density Residential (LDR, 0 to 5 Units per Acre).

Mayor Welch opened the item for public comments.

Inge Schuler, resident addressed particularly the three Council Members who voted to approve this last time and said please do not continue to delude yourselves that you are acting to want is the best for Banning. That phrase is sounding more and more hollow as you proceed to muck things up. The project you approve is not enhancing the city. Instead we are looking at a bunch of unfinished developments after the lots have been degraded and abandoned throughout the city. Councilmember Miller made a passionate plea to you at the last Council Meeting to insist on better mapping with larger lots. People move to Banning because they want to move away from congested housing. The issue of realistic lot size when Council Member Franklin insisted on her lot being a comfortable 7,000 square feet which she confused that with a third of an acre is around 13,000 square feet roughly double of the lots proposed for this new development. Our own new City Manager is equally in need of an education about lot sizes when he reputedly voiced to at least three people that 10,000 square feet is an acre. How can we let folks like that make informed decisions about housing developments and lot sizes. The entire 98 home development is based on a fraudulent premise at least three versions of a mitigated negative

declaration. That type of document is supposed to be unique for a community and this one is definitely not uniquely created for Banning. In regards to the issue of bias contributions received by Council Members Franklin, Moyer and Welch from Diversified Pacific to the amount range of $500 to $2,500 did not required them to recuse themselves from voting on the project. However, ethical behavior would have encouraged at least to question the entire content of the mitigated negative declaration and to continue the discussion of the ordinance until the document could be adjusted to apply to Banning.

Ellen Carr said the thing she is concerned about is the water situation. We are in a drought and we are going to double the number of houses which means that area is going to use twice as much water. She gave up her front yard, back yard and a lot of other things for the drought and you are not encouraging this sacrifice. We need to think about the water and all these extra houses are going to use a lot of water and that is her concern. Let's save some water; this is for generations to come. We need the water for what we have right now and we are adding more and more and we are not getting any more water; where is El Nino. She doesn't think this is a good idea.

David Ellis resident said that this is exactly what the 80 plus people were talking about when they referred to ignorance for the three voting members. They referred to corruption and to bias. A lot of people stood up and spoke about this project. You had a seasoned real estate broker explain how money could be made on a project like this with bigger homes. Ignorance; it's terrible. Bias; it's terrible. You have got to quit this folks and start thinking about the community and the oath that you took to take care of the people of this community instead of yourselves; it is not right. He said that he wanted to bring his grandchildren and introduce the three of you to them so that they can meet the people who are ruining this town for generations to come. That is the opinion of 80 plus people.

Jerry Westholder said he was fortunate enough to live in one of the nicer areas of Banning with a large lot in Mt. Air Estates. The interesting thing that concerns him about Banning is that a former Mayor's lives in their neighborhood and she is moving. One of our community leaders Amy Herr of the Boys and Girls Club has her house for sale and she moved to Beaumont. These things concern him and we want to build smaller homes for convenience; he doesn't see how this is helping our city. It kind of reminds him of what happened years ago in England when England was very excited in Parliament that they had laid a transatlantic cable from England all the way to Africa and they held a big hoorah and Winston Churchill got to the mike and said that this indeed is a glorious day for England and we have done sometime that has never been done before. It is a marvelous accomplishment of new technology but who are we going to talk to. Who are going to buy these homes?

Gary Hironimus – City Clerk read his public comments in regards to Tract 36939 (see Exhibit "B" attached).

Mayor Welch asked for comments from the Council.

Councilmember Miller said he wanted to comment and make his statement and go through all the details of why he thinks this should not be approved. We have a chance this time to reverse

that error. First of all the willingness of the Council at the last meeting to change our zoning rules so easily would suggest that the reason we had the zoning rules first was determined by the Council just throwing darts blindfolded at a map and therefore the zoning is unimportant and could be changed without any care whatsoever. That seems to be the attitude that was present last time. Nothing can be further from the truth. There was great thought put into the zoning that we have now and great thought should be put into any change. At this time Councilmember Miller read from his statement in regards to this project (See Exhibit "C" attached).

Councilmember Peterson said he also has a lot to say. Before he gets started into his long speech so you will know exactly where he is going, for the public, he went on-line and he pulled the staff report from the agenda from the City of Jurupa Valley and on the agenda for April 16, 2015 was Agenda Item 15.A, Public Hearing for Master Application No. 1463 and the applicant for that number is Habitat for Humanity out of Riverside. That is important because that is the number that was on all of our documents that came out to the public and it says on the site map for the project that is in question and it says at the top, "Habitat for Humanity (MA 1463) and it is for their Mitigated Negative Declaration. He also has a document from the Board of Commissioners for the Housing Authority for the County of Riverside and all these documents he has submitted to the City Clerk and will be attached to the minutes so that you will be able to see them on-line. This is also a recommendation that was approved by the Board of Commissioners for Master Application 1463. Keep that in mind because that is the number and that is basically what it said in all of our documents that was passed to us to this Council for approval. He displayed the cover sheet for the Mitigated Negative Declaration for the City of Jurupa Valley Master Application 1463. Some of the other things he will be talking about is CEQA and what is a Negative Declaration and also during his speech he will be talking about an emergency ordinance, Interim Urgency Ordinance No. 1373, which was a Warehouse Moratorium in Banning that was approved in 2007. At this time Councilmember Peterson read from his statement in regards to this project (See Exhibit "D" attached).

Councilmember Peterson asked the City Attorney if there is an indemnification clause in this Mitigated Negative Declaration and has he actually reviewed the Mitigated Negative Declaration in its entirety.

City Attorney Taylor said to answer the first questions raised by Councilmember Peterson, there is in paragraph one of the Conditions of Approval a very detailed indemnity provision and that is something he reviewed before the last Council meeting. He again met with Brian Guillot today and he confirmed that the provision is there in full force and effect so there is a full indemnity provision. To elaborate, it means that if there is any third-party environmental challenge raised to this particular environmental document, the City's legal fees and defense costs will be paid for by the developer. The actual environmental document in this matter was reviewed by his office after it was generated. It is something that he would actually like to correct in the future as a practice to have these documents reviewed earlier on. Obviously, he is started out here in month two as City Attorney and did not have the benefit of looking at this document before he started. His understanding from the comments that they received the last time from staff and the consultant is that the issues that were raised were corrected and shown on the document and the consultant is standing behind the document as a sufficient environmental document in this matter. It is ultimately within the Council's discretion. The Council is required to make certain

findings in this ordinance and the Council does have to find that this document sufficiently analyzed the big picture environmental issues here and there is not a fair argument that a higher level of environmental review should be done such as an environmental impact report.

Councilmember Peterson continued his statement in regards to the possibility of groups such as Cherry Valley Acres and Neighbors (CVAN) challenging this environmental report should this Council pass this particular Mitigated Negative Declaration. He would like to say, "Sometimes Mayor, noting is always better than something".

Councilmember Peterson said he wanted to talk about what a CEQA is because some people may not know. But in going over several documents and particularly what David Heiss wrote about contracts in the last paper it has nothing to do with a contract; it is a declaration. He went on-line and has the Mitigated Negative Declaration's Technical Advice Booklet from the Governor's Office and there is nothing in there about plagiarism. He also looked at the laws of Section 15070 to 15075 and decision to prepare a Mitigated Negative Declaration when, how and why you would do it and again there is nothing about plagiarism. But a Negative Declaration is a document that takes upon completion of an initial study that there is no substantial evidence that the project may have a significant effect on the environment. His only problem with that is that in our declaration there is no evidence there that it is true and correct. There is nothing there to convince him that the information contained in that document was made specific to our project and is specific to the project in Jurupa Valley. David Heiss also talked about that they don't plagiarize. They do create boilerplate and templates and you can go on-line and download a template and he got one for the City of San Jose, the University of California has templates, there are various agencies that have templates but it doesn't contain information in the template for another city or another project. So when he looks at our Mitigated Negative Declaration and on every page it represents information specific to another project, another city and it is evidence in fact that it is and the fact that this document could be challenged by CVAN and get us into another litigation because it is not specific, he worries about that. He thinks that this Council should not pass it and there is no reason as to why the overlay should be removed and we should create more sustainable, affordable housing on 7,000 square foot lots; there is no justification for it. There is all the justification in the world to keep this a rural environment and not pollute it with crammed in houses. And furthermore, there is reason here that the Mitigated Negative Declaration is incorrect and therefore he would like to see this whole thing be rejected.

Councilmember Franklin said that she stands by her comments other than her math errors at the last meeting. She thinks that they have to look at a couple of things in regards to future development and one is conservation. She said that she likes large lots and she doesn't want anyone to thinks that she doesn't; obviously she lives on a big one. The issues that we have going forward are not the issues of the past. We have young people moving out of Banning into Beaumont because they cannot find the homes that they want here. Young people do not want to spend their Saturday's working on large lots. They want to spend time with their kids. We have to look at not only conservation but what will young people buy and they are not buying large lots in Banning right now. She is speaking from attending multiple meetings about demographics, where people are moving, and what people are looking for and when she hears people across Southern California talking about what is the market, as well as, when she is

talking to young people that want to live in Banning and are saying that they cannot find what they want here; she listens to that because young people are moving out of Banning.

Councilmember Moyer said that Mr. Miller alluded to him a couple of times in his reading and he would like to respond. One, he called him cavalier and saying that we can just change the housing element and so forth. He said he didn't believe he did that. He believes that he asked a question as to whether we could adjust from one lot to another because when they took the Housing Element they took the vacant space in town and applied things to it and he was under the impression that when the Housing Element was finally approved that it could in fact, if we decided to change one area, we could offset it with another. He said he asked that question and he was told yes, you can make some adjustments. It was not a cavalier move; it was a question. The thing about the playground was discussed in some length. The current residents who are right next door to this project have the same playground that this community would have. They would have to cross Wilson Street and he showed a lot of concern about that and he wanted a controlled intersection so that we could make sure that kids can cross Wilson Street safely. It was said that he was totally unconcerned about the accuracy of the report. He intentionally asked the Acting Director if he felt that the information was true and correct and in fact, he did. So he didn't just take that at face value. Finally, he was accused of coming here with an assumption that he was going to approve the project. He came here with an open mind. The Planning Commission approved this project and sent it to the Council for approval and so that was big on his list. Again, the law as he understands it means that we really have to have a real legal reason to deny it and he could not see one. Not who contributed to his campaign, not coming here with an assumption that he was going to vote yes, he voted on the fact that we had no real legal reason to deny it and that the Planning Commission in fact, approved it.

Councilmember Miller said that he was so amazed that it seems that we are not going to have any change in vote. But again, let's all just recognize that we have Banning as a low income city because what this simple project asks is that we take away from the few areas still left that we can have larger homes for higher income people and lower it to lower income people. Now, Councilmember Franklin said that is what young people want now. There is going to be a lot more development in Banning. The whole southern side is going to be developed and we know what the project for that is going to be. That is going to be lower income housing; reasonable housing. This area specifically was set aside for higher income housing and if we take that away, we take away one of the few chances we had to have Banning as a good city instead of a low income city but our Council doesn't want that. They want a low income city and why he doesn't know but at least there are two of them who still have the dream that Banning can be better than it is now.

Mayor Welch said that he started his journey with this City some twelve years ago on the City Council and watched developers come to our community and propose large property housing and it was on our south side and it was a beautiful project with ranch type homes and it is still there. There has not been one person on this Council including his very well-read and well-spoken colleagues on the dais that have said anything about "affordable housing". What we get mixed up a lot of the times and he thinks the people that want to do this could make it work very well, is affordable housing suggests government subsidy homes. What the State of California has identified as "affordable houses" start at $250,000. He doesn't understand why we overuse and

misuse that term. We have heard from some realtors here in town and it is a 50/50 split. There are realtors in town that say we need larger lots, much larger lots, and larger homes to sell. We don't have any to sell, large or small. We talk about industry coming here whether it is factories or whether it is warehousing which is now titled "logistic centers", and talking about major, major employment. Has anybody ever looked at the pay scale or logistic or warehousing employees? They are middle class just like the rest of us. The other thing is that he has heard comments about where he lives in Sun Lakes and he has been there 21 years and he has lived in 7 states in this United States and he can honestly say it's one of the best places he has ever lived. It is one of the most giving groups that any community could ever invite them to be a part of. Is everyone there rich? Not by a long shot. They are everyday people that has earned their right to buy a house in a gated-community that has amenities. They are the largest single supporter of families in need, businesses, and health-care in the city of Banning and the only thing they get is "we hope it is not like Sun Lakes"; what a ridiculous comment. There is not one of us up here on the Council that doesn't want to see this city prosper but you start somewhere and you get employment into this town. We talk about low income and the reason we are there is that we do not have employment but you don't get to where you want to go by taking one side of the fence and not wanting to budge to make the whole apple grow. In regards to businesses downtown we have been fighting this as a community for many, many years. It is nothing new but it all centers around two things in his opinion, having people who really care about their community and having the employment for people to want to live and stay here. This is a start, it is not an end project. But to say we need half million dollar homes and upward in this community until we show that we can support the businesses and the job market, he thinks, we are ahead of ourselves. Absolutely we should have some of those but not tomorrow morning. The other thing that he has found since he has been involved in this City government since 2003 he has found a real, genuine group of people, not all of them, that care for your city yet, we keep saying City don't do this and don't do that and we are blaming someone else. Look in the mirror and say what have I done to help my neighbor into the future? He said that he thanked all of the people who contributed to his campaign and a majority of them were residents of Banning. The other thing that got him was that he had a non-profit organization that gave him $500 dollars, Table of Plenty; somebody can't read. The check was made out from Art Welch to Table of Plenty at the end of the campaign so report the truth and not rumors.

Councilmember Peterson said that is true, Art donated $500; he didn't receive $500. He said that the Mayor talked about that we have to start somewhere. Well, we don't start by reducing what we already got. He thinks that we start where we already have 7,000 square foot lots. He thinks that there are about ten different areas here where we have 7,000 square foot lots. There are ten areas where it is already zoned for high density and we also have some that are smaller lots.

Director Guillot said that the project before Council is all zoned low density residential (LDR). The only constraint on it is on the western half is the minimum lot size of 20,000 square foot. So if you look at our Zoning Map we have quite a large area of LDR zoning which is the 7,000 square foot lots. High density is usually considered high density like apartments.

Councilmember Peterson said that we have lots here in town or areas where we can build 7,000 square foot homes. He doesn't see the need to take what we have and reduce it down to more. He doesn't know who Debbie Franklin talks to or she is always coming in here and saying the

people I talk to want less but everybody that he talks to are here and everybody he talks to want larger lots and everybody he talks to even about the Rancho San Gorgonio Project want horse property, bigger lots and he hasn't had one person come to him saying I want a tiny house on a tiny lot. He said in starting somewhere; start somewhere else. As far as Sun Lakes, none of the Council has said anything about Sun Lakes. He likes Sun Lakes and there are a lot of good people in there and that is not even the issue. He wished the rest of our city looked like Sun Lakes but that has to happen beginning at the Council level and the blight in the city ends up going away. He heard the City Manager talk tonight about making bike lanes from Highland Springs to downtown and this is the first he has heard of it but once again, how come nothing comes from Hargrave west, or how come there is nothing that goes down San Gorgonio where the kids are going to school, and why is it always from Highland Springs easterly, but that is a different subject. You are making it a decision that is going to affect people in generations to come long after we are dead and buried. He doesn't think that we need to continue to shrink the size of things; force the stuff on the generations to come. He said that Debbie Franklin has been on this Council her third election and he thinks what is different today than when she came on this Council in 2006 other than the City is deeper in debt because they went through the redevelopment funds. He wants to see something positive and he doesn't want to take what we got and destroy what we got anymore. This project across the street is another example.

There was Council and staff dialogue regarding the density level of this project.

Councilmember Miller said that he is a very simple person and there is no calculation here. This right now is zoned for 10,000 square foot lots and the only thing we have before us is to lower it to 7,000 square foot lots and the argument is made that we need this and we have to lower it so people will buy these lots. He said that Diversified Pacific is not just building these lots. They are going to build the entire area south of Westward Street and there are going to be so many 7,000 square foot lots there. Why take these few lots that are saved for higher income people and start there. There is no reason whatsoever for this Council to say let's destroy that one little area when we have so many other areas that will be built at 7,000 square foot.

Mayor Welch called for a motion.

Motion Moyer/Franklin that Consent Item No. 3 be approved that Ordinance No. 1495, pass its second reading and be adopted. Motion carried with Council Members Miller and Peterson voting no.

REPORTS OF OFFICERS

1. Resolution No. 2016-15, Amending the job description and title for the Customer Services Manager Position, and minimum qualifications of the job description for the Purchasing Manager position under the Classification and Compensation Plan for the City of Banning.
   (Staff Report – Rochelle Clayton, Administrative Services Dir./Deputy City Manager)

Director Clayton gave the staff report on this item as contained in the agenda packet.

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

Motion Franklin/Moyer to adopt Resolution No. 2016-15, amending the Classification and Compensation Plan for the City of Banning, to change the minimum qualifications section of the Purchasing Manager job description; change the title and job description for the Customer Services Manager position to Customer Service and Billing Manager, and the applicable sections of the description; and authorize the City Manager to direct staff to recruit the Customer Service and Billing Manager position upon approval. No change was made to the salary ranges. Motion carried, all in favor.

2. Animal Control Services Update
(Staff Report – Alex Diaz, Chief of Police)

Sgt. Fisher gave the staff report on this item as contained in the agenda packet.

Chief Diaz said introduced Beaumont Police Chief Sean Thuilliez who is here to answer any questions in reference to the services that they currently provide to the City and also introduced Dr. Allan Drusys, Chief Veterinarian for the County of Riverside and Frank Corvino, Deputy Director of Animal Services for the County of Riverside who are here to answer any questions the Council may have in reference to their services.

Councilmember Moyer said it says in the report that at the present time the City of Beaumont has only billed us through August of 2015 and do they normally run that far behind in their billing. He would also like to know on an annual basis what the City of Banning is paying the City of Beaumont.

Chief Thuilliez said as of right now they have billed through August of 2015 and it is not their normal practice. There have been some staffing shortages in the City of Beaumont and they reorganized the police department and city hall when he assumed the role as the Police Chief absorbing code enforcement and some other staff. It should be reconciled in the next few weeks or so but to date they are still on track to probably bill somewhere around the $150,000 dollar mark.

Councilmember Moyer asked because they only come out during normal business hours what if something happens on a Sunday afternoon, are people stuck?

Chief Thuilliez said actually the contract is 7-days a week, 7 a.m. to 5 p.m. and in the contract there is a provision for emergency after hour service.

Councilmember Franklin said she happened to be at the Beaumont City Council meeting in July where Ramona, the humane society that you were using, said that the cost of their services did not go up but your charges to Banning went up.

Chief Thuilliez explained that in the six years that they have shared this contract with Banning in 2010 it was somewhere in the $30 dollar range, in 2012 it was analyzed and raised to $50 but in April of 2015, and he actually did the study himself, on their total budget of animal control they

saw that they were losing significant revenues so what he did was to look at the total calls for service of Beaumont, Banning and Calimesa and saw that Banning was using 34% of the services but were only contributing 20% into the cop at $50 dollars per call service. It is not a good partnership that is sustainable and so they kept playing with the numbers that they charge and what they found was that $75 dollars came out to just about near perfect that Banning contribute 34% into the equation and you are using that service. They don't project any cost increases because the only thing that would drive that up would be salary and their employees have just signed an MOU that calls for no salary increases over the next few years so they project that they will be able to stay at this for at least three more years.

Councilmember Franklin asked if he had an idea of what the actual unit cost is per time you do a rescue.

Chief Thuilliez said that they believe the average per call cost is $75.00 and that is not just the officer but they track the vaccinations, rabies, licensing, and the revenue that they collect from the residents and is turned over fully back to the City of Banning.

Chief Diaz clarified some of the information that was on the presentation in regards to the $1.1 million and also the $710,000 dollar figure stating that back in 2007the Banning Police Department was tasked into looking for a firm that would come out and do an assessment of the animal control center as it was after the flood and those were the figures that they provided back in 2007.

Councilmember Peterson said he doesn't know how much a dog catcher would be per hour, nor does he know what the City's contributions are to a salary but he would say that a dog catcher drives around for $15 an hour and just double his salary at $30 an hour on 2,080 hours per year with benefits and everything he is guesstimating $62,000 a year. We could put two employees out there for $124,000 and even add a third employee but for $124,000 a year he knows where he can buy a truck for $30,000 and we could do our own and have 16 hours a day for dog catching. How many times have we had an officer injured on duty because of these dog catching roles?

Chief Diaz said that Sgt. Fisher was bitten. Councilmember Peterson asked what is done with snakes. Sgt. Fisher said that catch them with a catch pole.

Councilmember Peterson said he doesn't understand why the City is putting police officers into a position of snake catching, dog catching, cat catching and all this in their job description. We have other things for the cops to be doing besides tending animals. He doesn't know what it would cost but like he said why couldn't we have a couple of employees do dog catching work and even part-time and still utilize Ramona. He said that he happened to go to the animal center a couple of weeks ago and he has to say that he was absolutely appalled by the way it looks. He saw absolutely no signs of where floods had gone through except for the front where a French drain could be installed and the water diverted. He doesn't understand why the City since 2010 has allowed a piece of City property to go in such a deteriorated state; it's absolutely almost criminal. With a good cleaning that place could be back up and running. He is sure there could be some volunteers around that would be more than happy to get our animal shelter back up and running. He is sickened by what he saw out there and that is just not good that the City would

allow the people's assets to deteriorate into that shape. He suggested an ad hoc committee get going quickly and see what you can do but our cops have no business rounding up animals.

Chief Diaz said he wanted to clarify that Beaumont does offer the after-hours services but you have to understand that sometimes our officers are encountered in situations where action has to be taken there and now and they have no choice.

Dr. Allan Drusys, Chief Veterinarian for Riverside County addressed the Council clarifying one thing in the staff report that the quote of $382,000 for the County's cost to provide service is not really that much. They have a per animal in-pound fee that is charged at each shelter and it varies from shelter to shelter because of the demographics of the area but for the San Jacinto Shelter that charge would be $81.00 per animal and that is based on the prior year's in-pounds. He said that an animal control officer, the truck, all the gear, the training is a charge to the contract cities that is adopted by ordinance by the Board of Supervisors and that current charge is $127,000 approximately. That includes everything except overtime for one officer. He said that their relationship with the other contract cities they all have provisions for overtime and there are situations where overtime would be warranted. They back up city contracts with the officers from the unincorporated areas so there would always be someone in the area, even at 8 a.m. on a Sunday that would be able to respond to a call based on a set priority list that the city would provide the department. Dr. Drusys went over the services that are offered at the shelter in San Jacinto. They provided services from the San Jacinto Shelter for the cities of Menifee, Perris (unincorporated area), Hemet and the San Jacinto area. He said with him tonight is Frank Corvino, Deputy Director for Shelter and Field Services and if there is any very specific questions related to the animal control officers and the like, he is prepared to answer them. He said the County is also in a position to provide additional services should the City so desire and he went over those additional services.

Councilmember Peterson said how much do they pay their dog catcher?

Frank Corvino answered that their ACO's (Animal Control Officers) generally start around $16.00 an hour and then the pay scale steps up from there. But as Dr. Drusys said their fee is all-inclusive which includes basically everything you can think of that the ACO would need during the year is included in that cost, as well as, the in-pound costs per animal for their shelter. If they have to hold an animal for an animal cruelty case for an extended period of time, there is no additional cost to the City. It is that one set in-pound fee and the rest whether it is medical care or just housing of the animal or anything else that has to be done is included.

Mayor Welch opened the item for public comments.

Steven Douglas asked if the public would be invited to be on this ad hoc committee because he remembers the day that we had 24-hour a day service with our own in-house with two different agencies on-call all the time and the shelter was only closed on Sunday and Mondays. He would love to be part of this committee.

Diane Box said clarified that nobody said anything about Sun Lakes people being bad. They were saying what Sun Lakes wants, Sun Lakes gets. They are good people and maybe we can

get them on board with this animal control issue. She agrees with animal control that it shouldn't take four hours for them to respond to an animal call. When she looked into applying four years ago it was $12.50 an hour so she doesn't know if they raised the rates in Beaumont since then but it was $12.50. She said in going back to Banning police department if you guys do it right, your citizens will help you.

Tiffany Kennedy Hines said she was wondering if anyone has taken the time to think about the process. She said that she grew up in Banning and Beaumont and remembers the old shelter and it is an atrocity. Animal sheltering is more than just putting a roof over an animal's head and she hopes that the Council all realizes this. There is vetting that needs to take place, there is finding rescues, finding a doctor, doing adoption events, having volunteers, and having resources. There is so much that is involved in running an animal shelter; it is not just a roof over their heads. If you go into this thinking you are just going to put a roof over these animal's heads, you are going to do nothing but euthanize these animals constantly. And if you are planning on these animal owners coming to get their dogs in the time frame specified, most of the time they don't show up which leaves the shelter scurrying to find adopters and rescue for these animals to keep them from being euthanized. She is just hoping that when this committee is formed that they take into consideration the needs of the animal and what goes on in an animal shelter. She would love to see every city with their own animal shelter but it can be the best thing for your city or it can be the absolute worst. She said that she is a registered nurse and spends 24/7 advocating for animals. She networks to rescues, tries to return the animals back to their owners, tries to find adoptions, and she volunteers at the San Jacinto County Shelter. It is an amazing facility and the animals are very well cared for and vetted. She said just so when you go into this project, you know it is not just going in and cleaning the floors and putting a roof over an animal's head; that is not what it consists of and she just wanted everybody to be aware of that.

Ruth Cannon said that she spoke to the Council before regarding a dog attack that she experienced so she is here on the same issue because living in Banning has been both a blessing and a curse with regard to living in a great neighborhood with neighbors who really care about her and then seeing it in some ways start to look like it is crumbling around the edges. One of things that she can tell the Council from the experience of someone where the rubber meets the road in an animal control situation having both Beaumont Animal Control show up and the Banning PD was useful because of having to deal with the human element of the owners is crucial. If we do undertake to reconsider this contract with Beaumont she wanted to make sure that it is said that we need to empower animal control officers adequately to have both adequate communication with police power to deal with the owners in cases where there is criminal activity going on. She urged a reconsideration of the contract with Beaumont because of the very limited timeframe availability and the resident training that would have to take place because previous times when has had to call animal control about other loose animals or bats encountering her dog, she gets told that they can't help her right now, please can Beaumont. If it were after hours she would be calling Beaumont and be redirected back to Banning. A smoother integration between the police force, animal control and code enforcement would be crucial for any reconsideration of the animal control situation going forward.

John Norvell addressed the Council stating that he has lived in this community since he was a kid and with this project itself he just believes that we should have our own animal control here

and not just for the reason of having animal control in the city but also the timely manner of picking up animals and to have a police officer doing something that they shouldn't really be doing takes away from everything else when we can have somebody else who does this and just this. How far away from this city are they taking these animals and not just that, but the owners have to go that far also to get their animals from a shelter but if you had it here people can have time to get their animals or notice that they are gone before having to go to San Jacinto or anywhere else they decide to take the animal for somebody to have to get them. He has been trying to get this going for years now and he doesn't understand where the outsourcing comes when you have people who want to do stuff who live here in the city themselves.

Don Smith said that in the 1980's the police department was our animal control and much like Don Peterson just said some people didn't necessarily think they were the best suited organization to do that job but that they might have better things to do. The City decided to contract with a non-profit SPCA organization to do that and it cost us a little bit more money if you didn't figure, how police time we were paying for to do that. But this organization over years managed to lower our kill rate to approaching zero. In part it did that because you are right that it is not just housing, you have to have a lot of volunteers. Bill Bellamy and the SPCA organization had a lot of volunteers. Mr. Bellamy had a weekly television show that he put on to adopt dogs, every week they were off-site somewhere trying to get dogs adopt, had a spay/neuter clinic set up on site in our animal control shelter, additions were made to the animal control shelter to take care of more animals and then in 1997 the City Council decided to cancel his contract and go with another non-profit who provided adequate service at a lesser rate but we got less service. When that went away we went with the County for a while and the County's new facilities all over the county are wonderful. They are state-of-the-art places to house the dogs but none of them are in the Pass Area and in his experience when we were using the County the service we got here was awful. We then went to Beaumont and service is better but we still have a problem in that our animals are being taken to San Jacinto and if we want them back, it takes a lot of effort from a lot of citizens in town that maybe don't have adequate transportation to get there. The best case scenario is to do something in a joint powers authority like we are doing now probably to equalize the cost but while doing that if we could find a way to use our local shelter; best case scenario altogether. He looks forward to the ad hoc coming up with creative solutions to get our animal shelter back open.

Ellen Carr, Tender Loving Critters Animal Rescue said that the group that Don Smith was referencing was actually called Inland Empire SPCA and Tender Loving Critters is a DBA. We started out as Inland Empire SPCA back in the 80's and when all the hoopla hit the fan in 1997 it was a very hard time for the city because you had various groups and everybody was fighting. The Inland Empire SPCA ran an excellent shelter and like it was said the euthanasia rate was just about zero. She started volunteering probably 1998 so she remembers on Friday nights going to the Redlands Street Fair for adoptions, and remembers having adoptions in front of Albertsons. She said that when the County took over she was very happy with the service that utilized the shelter. They did a lot of really good things and had very good people running the shelter. She would like to see the shelter up and running again because all of this going to Ramona is unacceptable. Once animal control has the animals and they get taken to Ramona she doesn't think a whole lot of them come back. She has had that experience with a few cats that were micro-chipped that turned up missing and she explained the situation with Ramona. We need

something here in town so that people have access. When Beaumont first approached us about animal control Chief Coe said that when we get the animals we are going to set them up by city hall or by the police department and keep them there for a few days so that people can come and find their animals; that doesn't happen.

Chief Diaz said that their goal is to create the ad hoc committee and they are not experts in animal control and obviously Beaumont and the County have the expertise. They would like to create this ad hoc committee as soon possible, however they would like to get some recommendations from the Council as to what direction and why type of structure for that type of ad hoc committee.

Mayor Welch recommended to the Council that they have at least two members of the Council as part of this ad hoc committee and that the ad hoc committee be made up of our own police department and representation from Beaumont and Calimesa, the County, and a couple of our citizens who have some background, thoughts or expertise in animal care being part of it. He asked Councilmembers Peterson and Moyer to be part of this ad hoc committee.

There was some further Council dialogue as to the make-up of the ad hoc committee.

Chief Diaz said since Councilmembers Peterson and Moyer will be on the committee are they open to allowing Beaumont and the County coming in and giving presentations with updated numbers at least at the initial meeting. Both Councilmember agreed that was okay but not part of the ad hoc.

Councilmember Franklin recommended including Dr. John McQuown on the ad hoc committee who as a local veterinarian who would have some input.

City Manager Rock suggested that whatever they come up with tonight that it be brought back to the Council with a resolution to create the ad hoc committee and define clearly what that ad hoc committee will be and what the parameters of that group will be so it is clear what their mission is and that ultimately they would report back to Council with a very comprehensive report with options for the Council to consider.

Chief Diaz said that they would have that resolution and report at the next Council meeting and like to get the ad hoc committee started as soon as possible.

There was consensus of the Council to bring this item back to the next regular meeting to approve a resolution to create the ad hoc committee so that they can get started.

SCHEDULED MEETINGS

BANNING UTILITY AUTHORITY (BUA) – no meeting

BANNING FINANCING AUTHORITY (BFA) – no meeting.

ITEMS FOR FUTURE AGENDAS

New Items –

1. Possibility of Canceling March 8, 2016 City Council Meeting

City Manager Rock said that it has come to their attention as they started speaking with each other that the Mayor, the City Manager, and one of the department heads will be in Washington, DC and another Councilmember will just be coming back at the time of the next Council meeting. So for the March 8th Council Meeting on the staff side they do not have anything that needs immediate attention to bring to the Council so he would recommend canceling the meeting.

Motion Peterson/Franklin to cancel the regular City Council Meeting for March 8, 2016. Motion carried, all in favor.

Mayor Welch said that the next regular City Council Meeting will be held on March 22, 2016.

Pending Items – City Council

1. Discussion of vacant properties on Ramsey Street where people are discarding furniture.
2. Housing Element *(2016)*
3. Strategic Planning Workshop (Goal Setting) - March 29, 2016

(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 8:00 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.

To: Banning City Council
From: Dorothy Familetti-McLean
February 23, 2016

Dear Mayor and Council Members:

At your last council meeting some members of the audience brought up the possibility of having an emergency homeless shelter at the Banning Community Center. It was even mentioned that the Police Chief was in favor of this. Someone was misinformed. This emergency shelter at the Community Center is NOT in the best interest of the community. Yes, homeless people definitely need shelters when the weather is extreme, but the Community Center is in the center of a residential area where children of all ages walk to school. In addition, the people visiting the Senior Center would be affected. Find another place for it.

The plan was for the shelter to be open 9 p.m. to 6:30 a.m. when the people who stayed there would be let out. Where would these people go at 6:30 a.m.??? Would they hang around the Community Center? Go to the nearby parks, schools,? Walk the neighborhoods? None of this would be acceptable. The Banning Armory was not a possibility because it was too close to schools and homes. So is the the Community Center.

The Record Gazette had an article last week about the Riverside District Attorney Michael Hestrin who spoke during a Chamber breakfast. He said, "A lot of homeless have mental health issues or drug problems." Council members, please, please take all this into account before you decide to O.K. a homeless shelter. Would you want it near where you live? I think not! Neither does anyone else.

I realize that this may not be an issue at this time, but I am speaking so that in the future, you will take what was said into account.

Thank you.

Exhibit "A"
23
reg.mtg.-02/23/16

Rec'd 2/23/16 MK

Marie Calderon

From: Gary Hironimus
Sent: Tuesday, February 23, 2016 1:19 PM
To: Marie Calderon
Subject: Council meeting

Marie,

Please read this letter during the public comments section of tonight's council meeting:

Paseo San Gorgonio

Back in August, I stated at the council meeting that Vanir was no different than Pearlman and would continue to jerk the city around. But despite the objections of numerous people in attendance, the Council decided to transfer the property to Vanir and continue their game. Vertical construction of Phase 1 was to commence no later than Dec 15, 2015. Yet here we are, more than 2 months past that deadline, and not only has NO construction begun, but Vanir hasn't even pulled permits, and is now proposing major changes (again) to the project to cater to the County. Building re-arrangement, high block walls, electric gates, even **razor wire**!...yeah, that will certainly look wonderful for our downtown "jewel", won't it? Perhaps we should just move the prison to that location as well. I'm actually surprised that Vanir hasn't yet suggested that. Next month, perhaps? Just when is the City Council going to put it's foot down and do the right thing by stopping this debacle? How many times does the public have to say "I told you so"?

Next; Tract 36939, on tonight's Consent Calendar

How can someone who is responsible for spending millions of tax payer dollars have such a poor grasp of math that she could actually make the statements that Debbie Franklin did during the February 9 council meeting? 7000 square feet is NOT 1/3 of an acre; on the contrary, it is less than half that at under 1/6 of an acre. If you want to see what a 7000 square foot lot looks like, just drive by and take a look at the 2 houses on the west side of 16th St at the corner of Williams. They are so close to the street that a full size pickup cannot even be parked in the driveway unless the gate is left open and the vehicle extends onto the sidewalk. And no, you will NOT fit a front yard, side yard, back yard, patio, and 20 fruit trees on either of those lots, Debbie. The fact that you think otherwise demonstrates why you shouldn't be making decisions on land use or money.

Zone Change No 15-3501, reducing the lot sizes and removing the RL-10,000 zoning overlay for Tract 36939 at Sunset & Wilson, which is part of tonight's consent calendar, should never have been made. I am constantly amazed that while we have a General Plan and every lot in the city falls into a specific zoning category according to that plan, the council thinks nothing of changing them every time a project comes up. Why bother having the zoning requirements or General Plan at all? Of course, receiving campaign contributions from the developer or his associates has nothing to do with that, does it?

Gary Hironimus

Exhibit "B"
24
reg.mtg.-02/23/16

EXHIBIT "C"

This ordnance is a change in the zoning of part of our city to permit a new development with smaller lots, and more houses than the current zoning permits. To put it as simply as I can, we have to decide whether to go along with the developer who wants us to change our city zoning ordnance so he can build what he wants, obviously to make the most money for himself, or to decide to stick with our city's plan to have what we had already decided what was best for our city.

In the discussion at the lest council meeting, I heard not a single word from any Councilmember who voted for this project as to why this zoning change is in the best interest of our city in the long run. All I heard were discussions of minor points in the project's design.

It was apparent that the discussion by the three councilmember's who voted for the project started with the assumption "whatever the developer want, the developer gets". And that is how the vote ended. Why should discussion and decision making start and end with that assumption?

The zoning plan for the city was not made in an erratic and haphazard procedure, but rather is the result of a painstaking, exhausting, extensive review and careful decision making process, and the current zoning plan for our city is the result of years of such discussions.

Has the Council already forgotten that the State has promulgated zoning rules that have been so harmful and difficult for Banning to comply with, that the city was unable to satisfy these zoning rules for years? That failure to produce what is called the Housing Element, - the zoning for our city - that would satisfy the State for years resulted in our city being forbidden to apply for any housing grants from the State. The State also added penalties to those zoning requirements as a result of this inaction by previous Councils.

One of the major accomplishments of this council (before Councilmember Moyer was elected) was the development of zoning rules that **did** satisfy the State, preventing the State from adding additional penalties.

Has the Council so easily forgotten the fact that this auditorium was filled to standing room only by residents outraged by the zoning demands placed on us by the Sate? Those demands required us to reduce the amount of land for future development for larger lots. Speaker after speaker came before this council and begged that we ignore the State's order for rezoning to higher density, smaller lot sizes, and keep Bunning's seem-rural areas. Finally, Councilmember Welch correctly said that we had no choice in our rezoning to satisfy the Sate, and emphasized that necessity by ending with: "the State has put a gun to our heads". I added "and the State is ready to pull the trigger".

Councilmember Franklin emphasized the importance of that zoning regulation after it was passed by pointing out that the passage of that zoning regulation would now permit us to apply for grants, and stop further State penalties.

So what does this prove? It absolutely demonstrates that our zoning rules are not a random, haphazard idea that should be changed at a whim, to satisfy a developer. Zoning changes require great thought and care, equal to that put into the original rules.

For any city to be successful, it must attract a mix of individuals from low to higher income. That mix is necessary for the healthy growth of our city. The final Housing Element - the zoning which was so long in approval, tried to satisfy as best it could the effort to attract this range of individuals. The State only has an interest in developing housing for low-income individuals. It was up to us to arrange for areas which would accommodate more expensive homes.

To so easily abandon one of those areas, as this new zoning approval does, violates the efforts we have put into our total plan. It was cavalierly said at the last meeting that after giving this developer what he want in this rezoning, we my be able to change some other zoning area to make up for this action. Our painful work on getting the Housing Element approved by the State shows that no zoning change should be done without extremely careful consideration of the total effect on the city, and not performed piecemeal as an inconsequential action. The residents of our city at those previous meetings spoke emphatically that **they do not** want our city split into smaller slices. We should remember what they pleaded with us to do about the future appearance of our city.

Councilmember Franklin once said that people were afraid to come to the Council meetings. No, they are not afraid! Unfortunately, they have learned the lesson that the majority of this Council does not listen to them, so why come.

What also amazed me at the last meeting was the complete kow-towing to the wishes of the developer by the majority of this Council, and the abject willingness to permit the developer free rein to deny any attempts to improve the project for the betterment of the city. Many problems were mentioned.

Playground

There was discussion of the lack of a nearby playground for the future residents. The developer said he did not intend to build one, and that was the end of it. The developer asked for this zoning change, and the Council can make any demands it wishes as a condition of that zone change. Why was a playground at the very least not a condition for the zone change?

Fault area

There was brief discussion of the fact that the developer wanted the city to take over maintenance of the fault-line area behind the development. The majority of the Council accepted the developer's demand that the city accept this as our responsibility. Why did the Council members not discuss whether such a responsibility was in the best interest of the city? Since the developer did not want that responsibility, I doubt that this will be a positive activity for the city to accept, yet there was no discussion as to why the city should bear that responsibility permanently, what the legal and fiscal results of this acceptance are, and why the city should even consider it at all.

35 foot height

Councilmember Franklin asked the developer if the height limit for the buildings was 35 feet. I do not recall the developer denying that. Why was here no further discussion as to the details of the project? That is an extraordinary height for a single family home. Is here an intent to have three storey homes?

Home Sizes

There was a brief discussion of the size of the homes to be built, but there was no requirement whatever with respect to his critical factor. Does not home size affect the acceptability of this change?

Negative Environmental Declaration

Councilman Peterson spent a considerable time pointing out the errors in the Negative Declaration, which claims thee are no environmentally important effects of this project. While it is standard practice to use significant parts of

previous reports in preparing a new Environmental report, it is mandatory that the final report accurately reflect the actual conditions of this particular project. The number of citations referring to other cities and other entities leaves doubt as to whether this report was prepared for this project with sufficient care. Yet the three members voting to approve this project did not ask one question regarding this report.

Franklin's size comparison

What was most astounding, however, was Councilmember Franklin's statement that her home was 1/3 acre or 7000 sq ft comparable to the size of the lots being requested in the zoning change. Her home lot size is indeed nearly 1/3 of an acre, but is actually 13500 sq. ft. She proceeded to use the incorrect number of 7000 sq. ft. to justify her argument that the lot sizes in this project were big enough since her home had trees and enough land for children to play.. Councilmember Franklin has been on the Council for 11 years, and has been involved in many zoning, construction, and development decisions. It is difficult to imagine that she does not know how large an acre is. However, since she used that incorrect number in her decision regarding the acceptability of this project, it should be clear that this vote should be rescinded, and the entire project reevaluated.

What can the future of our city be when we have, and has had, council members that have had so little faith in its future of our city that they considered having a sludge plant here to burn all of Orange County's human waste, refused to recognize the economic benefit of having Wall-mart and its draw of other tax producing businesses here, considered that a probation office is the only thing our downtown is capable of supporting, and believes our city will never have residents with enough income to buy reasonable size homes? Can our city survive under the council philosophy that "something is better than nothing" for our city instead of "our city deserves the best"?

When Councilmember Franklin was mayor, she had the opportunity to talk about Banning on NPR. In that interview she described Banning as a low income city. While that may be accurate, is that the image that we want to spread nationwide? I would certainly would not have said that. I would have emphasized he national beauty, the closeness to the cultural events of the L.A. basin, and the semi-urban appearance of so much of our city.

Why does that difference matter? Because that difference inn mind set of

these concepts and approach to our city's future is of significant importance. Should we be satisfied with Banning remaining a low income city? I believe this city has he potential to improve and attract higher income residents as well.

This development is the battleground of those different ideals for this city. The city manager in a recent town hall stated that Don and I are anti-development. That is completely untrue. I was first approached to run for this office by then Council man John Machisic because I vigorously opposed residents who voiced objection to the Pardee development, and I emphasized how we must develop to obtain the property and sales taxes needed to maintain the city functions. But unlike Beaumont, which has staked out virtually unlimited land area, we are landlocked and must use our available land wisely.

We should not be ready to accept developers ideas instead of our own as to how our city should look in the future. Again, if our zoning is to be changed, we need to do it ourselves, in a thoughtful manner. I know it is hard for the three council members who voted for this project on the first reading to reject it after accepting campaign contributions from the developer, but it can be done. I ask the Council to also have high hopes for our city, and maintain this area for future better projects that it is currently planned for.

Recently, a few Councilmembers have said that, I am Anti-Growth, and that I do not want to see anything new in the City. I guess this "Anti-Growth tag came about after I opposed the downsizing of 10,000 sf lots to 7,000 sf lots in a new housing development being built by Diversified Pacific in the area of Wilson and Sunset. I believe the majority of the People living in Banning enjoy the rural environment, and contrary to what Council Member Franklin believes, Sustainable and Affordable housing on small lots is not the best way to achieve growth. It will eventually lead to overcrowding, and an inter-city project environment.

Nevertheless, a few weeks ago, Councilmember Miller and I had a meeting with our new City Manager, and we happened to discuss this project. The City Manager told Council member Miller and I that, we were in the minority on this project, but he happened to agree with us.

Although, the City Managers opinion is nothing more than that, he did say, the 10,000 sf lots should remain, and we should try to keep the larger lots. So it makes me wonder, since the City Manager's opinion parallels mine. Does this make the City Manager Anti-Growth?

Fortunately for me, and unlike my collogues, I do not believe **"Something is better than nothing".**

Let me give you the "All Time" example of "Anti-Growth". In 2007, Mr. Lloyd Fields sold 90+ acres of land to First Industrial Realty Trust. First Industrial Realty had secured financing with the California Teachers Retirement System, and the land went in to escrow.

The project was comprised of warehouses and retail store fronts that, began east of Hathaway and proceeded easterly along Ramsey Street and ending at the Morongo Reservation. It is estimated that, 500 jobs would have been created with this project, not to mention Business licenses, utilities, sales tax, and property tax based on developed land instead of vacant land. Furthermore, the project would have been the catalyst to begin development on the East side.

However, the City Council of 2007, which included Council Member Debbie Franklin voted to approve an **"Interim Urgency Ordinance No. 1373",** a warehouse moratorium in Banning, which blocked the entire development. (A warehouse moratorium, really? Like Banning has too many warehouses, right?) Anyway, after

enumerable meetings with the City Manager, and the Tribe, representatives from First Industrial Realty Trust gave up, they pulled out of escrow and the project died. It should be noted that, the land remains undeveloped today. Oh, and by the way: This moratorium also killed the development of 3 million square feet of warehouses on the O'Donnell Property, and on property south of I-10 that is owned by the Messenger Group. In my opinion, this was the death of Banning. Instead of warehouses and more than a 1,000 jobs, we got a Court House and Government buildings, with no local jobs.

I would like to speak more, on how the Tribe pressured the City to block these developments, all because they didn't want the warehouses built next to the reservation, but at this point it really doesn't matter.

What does matter is, the Thousands of Dollars the Morongo Tribe contributes to certain Council Members at every election, like Council member Franklin, Councilmember Moyer and Mayor Welch. It should be noted that, our newest council member, Councilman George Moyer was given a $5,200.00 contribution from the Morongo Tribe during the last election. BTW, and just so the public knows, Council Member Franklin and Mayor Welch are the City's representatives to the Tribe.

And now that, I am talking about contributions, I would like to point out the contributions made by Diversified Pacific, or from their Officers to, our sitting elected officials. Looking over the Form 460's of Campaign Contributions received by Council Members Franklin, Moyer and Mayor Welch, it was noted that all three of them received contributions from individuals affiliated with Diversified Pacific. For document verification, the public can view their 460's on the Banning Informer. Com.

At the City Council meeting held on February 9th, 2016, Mr. Peter Patasi introduced Nolan Leggio, as the Assistant Planner for the project's developer Diversified Pacific. Nolan's father Christopher, has been listed as a member of Diversified Pacific's Finance Committee. Nolan's Uncle Mark Leggio (Christopher's brother) was convicted of Criminal Campaign Money Laundering in 2009, and received a 180 day jail sentence. The laundered money was used to fund former Banning Mayor Brenda Salas Freeman.

This being said, when it came time for Council Member Franklin, Council Member Moyer and Mayor Welch to vote on a Diversified Pacific project, the 3 of them approved the project without hesitation. In spite of testimony from the public, who stated, they are against the project for many reasons, and a known plagiarized and fraudulent document that, is not specific to this project. The document given to our Planning Commission still possessed the Master Application Number assigned to the Habitat for Humanity for their project in Jurupa Valley.

Furthermore, several local realtors spoke about the reduced lot sizes, and pointed out that, there is NO need for more small houses on small lots. However, there is a critical shortage of large homes on large lots in Banning. What is it that these politicians don't hear? Did their campaign contributions influence their decision? I guess we will never know..... But when their vote defies reason, doesn't it make you wonder?

When Council Member Miller and I ran for Office in 2012, we each had a single donor. We each received a single contribution from a SINGLE LAND OWNER IN BANNING that IS NOT a Developer, but a LAND OWNER. Furthermore, during the last three years, there have been no issues before the Council that would have benefited this single donor.

Council Member Miller and I have not received any contributions from Special Interest Groups, unlike our colleagues Council members Franklin and Moyer, and Mayor Welch who have received more than $25,000.00 from special interest groups in the last two elections. Special Interest groups like: Pardee Homes, Builders Associations, Unions, Diversified Pacific and its Officers, the Morongo Tribe, and the list goes on.

So, my colleagues and the local pundits may continue to call Council Member Miller and I "Anti-Growth", and "Negative", but no one can ever call us bought, or corrupt.

I would also like to remind the Public of a project that occurred several years ago on the Banning Bench. It seems that, an Environmental Report for a housing project was challenged, which ultimately ended up in court. After several years of litigation, the City ended up paying over two million dollars in judgement and legal fees. I also believe Council Member Debbie Franklin voted to approve the questionable Environmental document. BTW, the legal fees had to be paid from

the General Fund. So, one question: Is there an indemnification clause in this MND? Has the City Attorney reviewed this document in its entirety?

In case the Public does not know, there are many group available to challenge environmental reports. One such local group is Cherry Valley Acres and Neighbors (CVAN). These groups are watch dogs for the rights of the people and the environment. Should this Council pass this particular MND, I believe they are inviting a lawsuit against the city. CVAN has sued three local projects, with two of them in Banning.

I would like to say to our Mayor: **"Sometimes Nothing is Better than Something"**.

Once again, I recommend that this project be denied, and the 10,000 sf over-lay remain in place, as the City has no need for more 7,000 sf lots.

City of Jurupa Valley

STAFF REPORT

DATE: APRIL 16, 2015

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: GARY S. THOMPSON, CITY MANAGER
BY: THOMAS G. MERRELL, AICP, PLANNING DIRECTOR

SUBJECT: AGENDA ITEM NO. 15.A

PUBLIC HEARING FOR MASTER APPLICATION (MA) NO. 1463 (GPA1403, CZ1404, TTM36720, & SDP31456) TO ALLOW 26 AFFORDABLE SINGLE-FAMILY HOMES ON 5.3 ACRES AT THE TERMINUS OF AMARILLO STREET & NORTHERLY OF MISSION BLVD. (APN: 169-100-055; 169-070-035; 169-100-057) (APPLICANT: HABITAT FOR HUMANITY - RIVERSIDE)

RECOMMENDATION

1. That the City Council adopt Resolution No. 2015-18, entitled:

   A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR A RESIDENTIAL SUBDIVISION OF APPROXIMATELY 5.3 GROSS ACRES LOCATED AT THE TERMINUS OF AMARILLO STREET AND NORTH OF MISSION BOULEVARD, AND APPROVING GENERAL PLAN AMENDMENT NO. 1403, TENTATIVE TRACT MAP NO. 36720, AND SITE DEVELOPMENT PERMIT NO. 31456 TO PERMIT THE SUBDIVISION OF APPROXIMATELY 5.3 GROSS ACRES LOCATED AT THE TERMINUS OF AMARILLO STREET AND NORTH OF MISSION BOULEVARD INTO 26 AFFORDABLE, SINGLE-FAMILY RESIDENTIAL LOTS AND 3 OPEN SPACE LOTS FOR VETERANS LIVING IN THE COUNTY OF RIVERSIDE

2. That the City Council conduct a first reading and introduce Ordinance No. 2015-07, entitled:

Exhibit "D"
34
reg.mtg.-02/23/16

FORM APPROVED COUNTY COUNSEL
BY: GREGORY P. PRIAMOS DATE 6/3/15

SUBMITTAL TO THE BOARD OF COMMISSIONERS
HOUSING AUTHORITY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

265A

FROM: Housing Authority

SUBMITTAL DATE:
June 4, 2015

SUBJECT: Adoption of Resolution Number 2015-003, Approving the Disposition and Development Agreement by and between the Housing Authority of the County of Riverside and Habitat for Humanity Riverside, Inc. to Convey Property Known as Assessor's Parcel Numbers 169-100-055, 169-100-057 and 169-070-035 Located in the City of Jurupa Valley for the Jurupa Valley Enriched Veterans Neighborhood Project and Affirming the Adopted Initial Study Checklist/ Mitigated Negative Declaration Under City of Jurupa Valley Master Application 1463, District 2, [$0]

RECOMMENDED MOTION: That the Board of Commissioners:

1. Affirm the Board of Commissioners has reviewed and considered the Initial Study Checklist/ Mitigated Negative Declaration Under City of Jurupa Valley Master Application 1463 (attached) for the Jurupa Valley Enriched Veterans Neighborhood Project adopted by the City of Jurupa Valley and finds that no new environmental documentation is required as it pertains to the Disposition and Development Agreement because all potentially significant effects of the project were adequately analyzed as they pertain to the authority of the Housing Authority of the County of Riverside(Housing Authority) acting as a Responsible Agency;

(Continued)

Robert Field
Executive Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	$ 0	$ 0	$ 0	$ 0	Consent ☐ Policy ☒
NET COUNTY COST	$ 0	$ 0	$ 0	$ 0	

SOURCE OF FUNDS: N/A

Budget Adjustment: No
For Fiscal Year: 2014/15

C.E.O. RECOMMENDATION: APPROVE

BY: Rohini Dasika

County Executive Office Signature

MINUTES OF THE HOUSING AUTHORITY BOARD OF COMMISSIONERS

☐ Positions Added ☐ Change Order
☐ A-30 ☐ 4/5 Vote

Prev. Agn. Ref.: 3-33 of 3/26/13; 10-3 of 8/20/13; 10-3 of 1/28/2014

District: 2

Agenda Number: 10-1

Exhibit "D"
35
reg.mtg.-02/23/16

Initial Study Checklist/ Mitigated Negative Declaration

City of Jurupa Valley Master Application 1463:

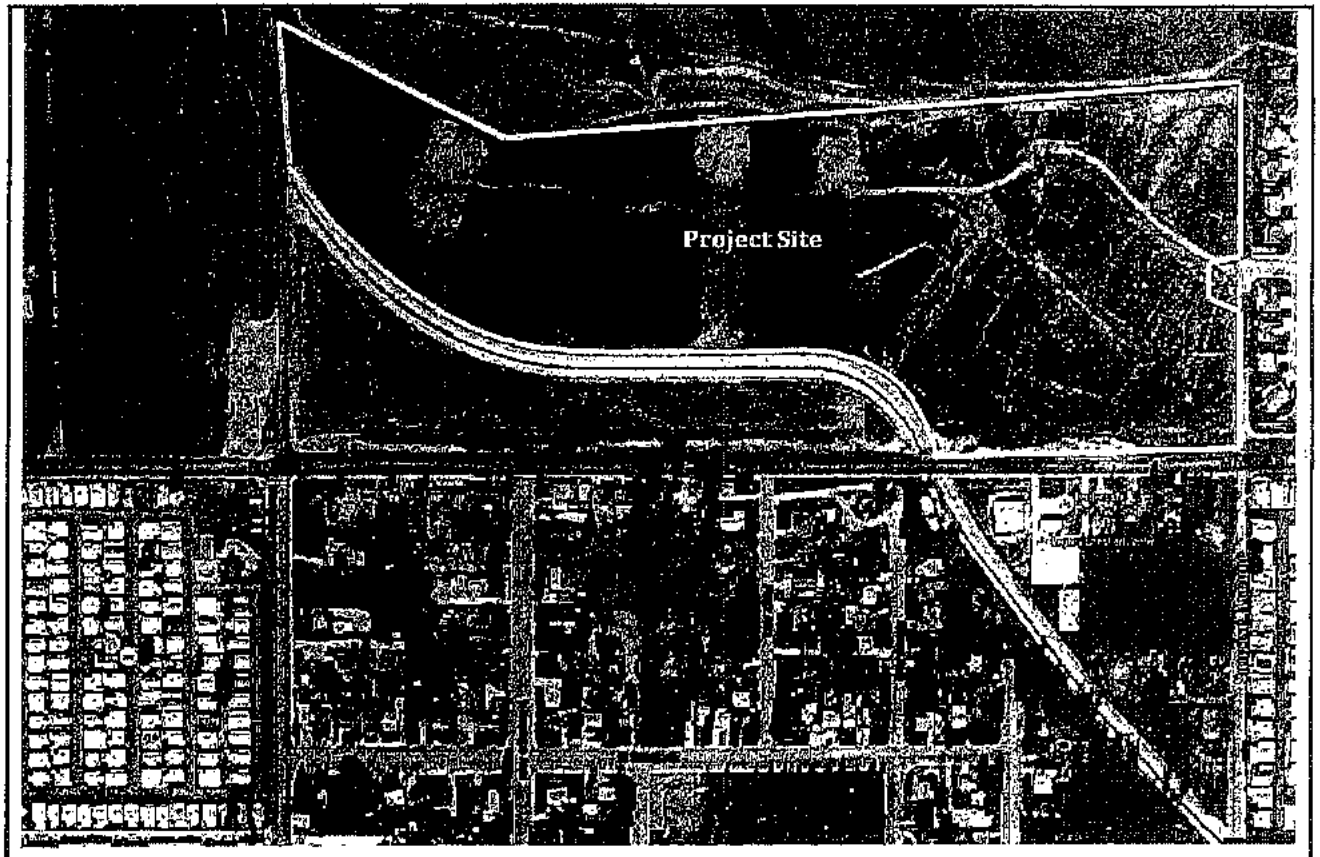
General Plan Amendment 1403
Change of Zone 1404
Tentative Tract Map 36720
Site Development Permit 31456
for
Property Located 420 feet North of Mission Boulevard at the Terminus of Amarillo Street.

City of Jurupa Valley
8304 Limonite Avenue Suite "M"
Jurupa Valley, CA 92509
Contact: Annette Tam, Associate Planner
(951) 332-6464
Atam@jurupavalley.org

Applicant:

Habitat for Humanity
2180 Iowa Avenue
Riverside, CA 92506
Contact: Kathy Michalak
(951)787-6754 Ext. 115
KMichalak@habitatriverside.org

Public Review Draft: December 29, 2014



Charlie Kien MA 14112	Location Map/Aerial Photo APN 182-361-009	Exhibit 1

MASTER Account Number: BANNING

Exhibit "D"
37
reg.mtg.02/23/16

From: "John Atwell" <jatwell@firstindustrial.com>
Subject:
Date: July 6, 2007 5:12:37 PM PDT
To: "Lloyd Fields" <dlfbh@sbcglobal.net>
1 Attachment, 1.4 MB

Lloyd, we received some tough news today from the city of Banning. They recently passed this ordinance which is putting a temporary moratorium on warehouses in the city. We met with the head of planning today and I would like to update you after you have had a chance to review this new ordinance. I will call you this weekend.

John C. Atwell
Director of Development-West Region
First Industrial Realty Trust, Inc.
114 Pacifica Court, Suite 220
Irvine, CA 92618
949-486-1970 ext 113
949-838-6308 cell
949-486-1971 fax
949 486 1984 direct



Interim Urge....pdf (1.4 MB)

Exhibit "D"
38
reg.mtg.-02/23/16

INTERIM URGENCY ORDINANCE

ORDINANCE NO. 1373

EXHIBIT "1"

232

Exhibit "D"
39
reg.mtg.-02/23/16

ORDINANCE NO. 1373
INTERIM URGENCY ORDINANCE

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADOPTING AND IMPOSING A TEMPORARY MORATORIUM ON THE APPROVAL OF SELF-STORAGE FACILITIES AND WAREHOUSE USES WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the City of Banning has consistently worked to encourage economic development and to maintain the economic vitality of the community by encouraging development that provides significant tax revenue to the City and that provides significant employment opportunities for City residents wherever possible; and

WHEREAS, the City of Banning has attempted to balance various land uses to accomplish these goals; and

WHEREAS, the City of Banning has formally set forth standards for development within the policies and provisions of the General Plan adopted by the City in January 2006, and in its zoning ordinance; and

WHEREAS, at the present time it appears to the City Council that certain areas that have been designated for industrial uses, which include self-storage facilities and warehouses, are disproportionate to the current need for such uses which offer little in the way of tax revenue generation for the City or employment for City residents; and

WHEREAS, the Land Use Element of the General Plan states that the City must carefully consider compatibility with adjacent lands when designating appropriate lands for warehousing and distribution. (General Plan, p. III-20.); and

WHEREAS, the Land use Element of the General Plan indicates that the City should have commercial lands that provide a broad range of products and services to the City and which increase the City's revenues, as well as provide a range of employment opportunities. (General Plan, p. III-19.); and

WHEREAS, Government Code Section 65030 declares that the intent of the State Legislature to use California's land resources in ways which are economically and socially desirable in an attempt to improve the quality of life in California. To that end, the State Legislature has also declared that land use decisions should be made with full knowledge of other economic implications. (Government code Section 65030.2.); and

WHEREAS, the Economic Development Element of the General Plan indicates that the City will pursue retail commercial developments which reduce the current retail sales leakage

and will take a proactive role in attracting businesses that generate employment opportunities and contribute to City General Fund revenues. (General Plan, p III-41 to 42.); and

WHEREAS, the Vision Statement of the General Plan indicates that the City should have a healthy, well developed industrial base which provides quality jobs for the City residents (General Plan, p I-1); and

WHEREAS, continuing to permit self-storage and warehouse facilities areas where commercial development would better serve the community and is economically viable would be contrary to the policy directives and other provisions of the current General Plan; and

WHEREAS, the approval under current conditions of additional self-storage and warehouse facilities in areas where commercial development is more desirable and achievable would create irreversible negative impacts on the community; and

WHEREAS, certain self-storage and warehouse developments are being proposed on sites that are more suitable for commercial development but that are currently zoned for industrial uses including self- storage and warehouse facilities; and

WHEREAS, the City Council at its meeting on June 12, 2007 directed staff to immediately undertake a study to determine the impacts on the City and the General Fund of proposed self-storage and warehouse development within the City to determine whether amendment of the General Plan and zoning ordinance is required to achieve the economic policy goals of the City; and

WHEREAS, the City needs to study and analyze possible changes to its General Plan and Zoning Ordinance in order to address proper locations for warehouses and self-storage facilities to adopt reasonable regulations and appropriate development standards so as to prevent possible land use inconsistencies and incompatibilities; and

WHEREAS, there is an immediate threat to the public health, safety and welfare, and Government Code Section 65858 authorizes the City Council to adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with General Plan, specific plan and Zoning proposals which the City is considering or studying or intends to study within a reasonable time.

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

(a) The recitals set forth above are hereby adopted as findings of the City Council; and

(b) The current balance of industrial and commercial uses within the City contains a disproportionate number of potential areas for self-storage and warehouse uses in that there are currently 289 acres of potential commercial retail/office opportunities compared with 687 acres of properties capable of accommodating warehouses/storage facilities; and

(c) The continued development of additional self-storage and warehouse uses within the

City poses an immediate threat to the public health, safety and welfare by permanently limiting the amount of commercial development that might occur in locations now zoned for such uses without appropriate changes to the General Plan and Zoning Ordinance; and

(d) The immediate threat of adverse impacts to the public health, safety, and welfare that would result from allowing development of additional self-storage and warehouse within areas appropriate for commercial development that would generate both additional tax revenues and employment opportunities for city residents at the present time justifies adoption of an interim urgency moratorium ordinance, even though such an ordinance may temporarily limit self-storage and warehouse uses in the region; and

(e) In order to sustain the policies of the General Plan and to allow the City appropriate time to complete an impact study relating to self-storage and warehouse uses and alternative commercial opportunities for development and to adopt, if necessary, amendments to the General Plan and Zoning Ordinance to assure adequate infrastructure and public services, a temporary moratorium on approval of self-storage and warehouse uses must be enacted.

SECTION 2: Pursuant to the authority granted to the City Council by California Government Code Section 65858 to protect the health, safety and general welfare of the residents of the City of Banning, the City Council hereby enacts as an interim urgency measure a moratorium on approval of self-storage and warehouse uses in the Business Park and Industrial Zones of the City to take effect immediately upon the adoption of this ordinance as follows:

Moratorium on Self-Storage and Warehouse Facility Approvals

(a) No applications for the construction of any self-storage or warehouse use in Business Park and Industrial Zones shall be approved during the term of this interim urgency ordinance. Self-storage shall mean a space or place that is solely used to house goods, materials and/or personal property for more than 24 hours. Warehouse shall mean a space or place that is solely used to house goods and/or materials. Facilities that have point of sale purchase shall not be considered warehouses.

(b) No permit or approval shall be issued for any subdivision (including parcel maps and condominium maps), site development permits, use permits, design review permits, variances, grading permits, building permits, building plans, or any other type of land use, zoning, or building permit or approval for the development of structures for any self-storage or warehouse facility during the term of this interim urgency ordinance.

SECTION 3: Pursuant to Government code § 65858(a), this Ordinance shall take effect immediately but shall be of no further force and effect forty-five (45) days from its date of adoption, unless the City Council, after notice and public hearing as provided under Government Code § 65858(a) and adoption of the findings required by Government Code § 65858(c), subsequently extends this Ordinance.

SECTION 4: Pursuant to Government Code § 65858(d), ten (10) days prior to the expiration or any extension of this Interim Ordinance, the City Council will issue a written report describing the measures taken to alleviate the conditions which led to the adoption of this Interim Ordinance.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect immediately and shall be in effect for a period of 45 days.

PASSED, APPROVED AND ADOPTED this 26th day of June, 2007.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen LLP
City Attorney
City of Banning, California

ATTEST:

Marie Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Interim Urgency Ordinance No. 1373 is the actual Ordinance adopted by the City Council and was introduced and finally passed at a regular meeting of the City Council on the 26th day of June, 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon
City Clerk of the City of Banning

CITY OF BANNING
CITY COUNCIL REPORT

TO:	**City Council**
FROM:	**Michael Rock, City Manager**
PREPARED BY:	**Michelle Green, Deputy Finance Director** **Melissa Elizondo, Accountant**
MEETING DATE:	**March 22, 2016**
SUBJECT:	**Report of Investments for January 2016**

RECOMMENDATION:

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

JUSTIFICATION:

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

BACKGROUND/ANALYSIS:

This report includes investments on hand at the end of January 2016. As of January 31, 2016, the City's operating funds totaled $76,213,587. Included in Successor Agency operating funds is $866,463 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Summary Schedule.

As of January 31, 2016 approximately 40% of the City's unrestricted cash balances were invested in investments other than LAIF.

The January Investment Report includes the following documents:

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

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

FISCAL DATA:

The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) was increased to 0.446% in January. The average rate for all investments in January was 0.385%.

PREPARED BY:

Michelle M. Green
Deputy Finance Director

REVIEWED BY:

Rochelle Clayton
Administrative Services Director

APPROVED BY:

Michael Rock
City Manager

Summary Schedule of Cash and Investments

Operating Funds				
Petty Cash			Amount	
			4,205	
		Interest		
Bank Accounts		Rate	Amount	
Wells Fargo Bank		0.180% *	2,626,752	
Bank of America-Airport		0.020%	9,415	
Bank of America-Parking Citations		0.020%	4,555	
Bank of America-CNG Station		0.020%	4,894	
	Money Market and Bank Account Sub-Total			2,645,617
Government Pools				
Account #1 Operating Amount	43,307,192			
Account #1 CRA Bond Cash Bal.	866,463			
Local Agency Investment Fund: Account #1		0.446%	44,173,655	
Account #2 Sucessor Agency Cash Bal	0			
Local Agency Investment Fund: Account #2		0.446%	0	
	Government Pool Sub-Total			44,173,655
	Operating Cash Balance			**46,823,477**
Restricted Operating Funds				
Riverside Public Utilities- Highmark U.S. Government Money Market Fund		0.110%		**1,247,695**
Calfornia ISO Corp- Union Bank				**109,587**
Worker's Compensation Program- (PERMA)				**1,964,413**
Other Investments				
Investments-US Bank/Piper Jaffray - See Page 2		0.304%		**26,068,416**
	Operating Funds Total			**76,213,587**

Fiscal Agent		
	Amount	
US Bank	30,285,589	
Fiscal Agent Total		**30,285,589**

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

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Date	Discount or (Premium) Amortization	Market Value
Bank Accounts								
2,626,752	Wells Fargo Bank-Operating	n/a	0.18%	daily	varies	2,626,752	n/a	2,626,752
9,415	Bank of America-Airport	n/a	0.02%	daily	varies	9,415	n/a	9,415
4,555	Bank of America-Parking Citations	n/a	0.02%	daily	varies	4,555	n/a	4,555
4,894	Bank of America-Parking Citations	n/a	0.02%	daily	varies	4,894	n/a	4,894
	Sub-total							2,645,617
Government Pools								
44,173,655	L.A.I.F. account #1	n/a	0.446%	daily	varies	44,173,655	n/a	44,173,655
0	L.A.I.F. account #2	n/a	0.446%	daily	varies	0	n/a	0
								44,173,655
Investments-US Bank/Piper Jaffray								
2,000,000	Federal Home Loan Bks	n/a	0.500%	7/15/2016	4/15/2014	2,000,000		2,000,720
1,700,000	FHLMC Mtn	n/a	0.700%	12/30/2016	6/30/2014	1,700,000		1,702,822
1,000,000	FNMA	n/a	1.250%	11/27/2018	5/27/2015	1,000,000		1,002,500
2,000,000	Federal Home Loan Bks	n/a	1.100%	3/29/2018	7/1/2015	2,000,000		2,002,760
2,000,000	Federal Home Loan Bks	n/a	1.050%	10/5/2018	10/5/2015	2,000,000		2,001,220
17,358,394	Money Market	n/a	0.010%	daily	varies	17,358,394	0	17,358,394
	US Bank/Piper Jaffray Average Rate=		0.304%					26,068,416

Average Rate All= 0.385%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on January 13, 2015. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 77 days and does not include Bond Reserve Fund Investments.

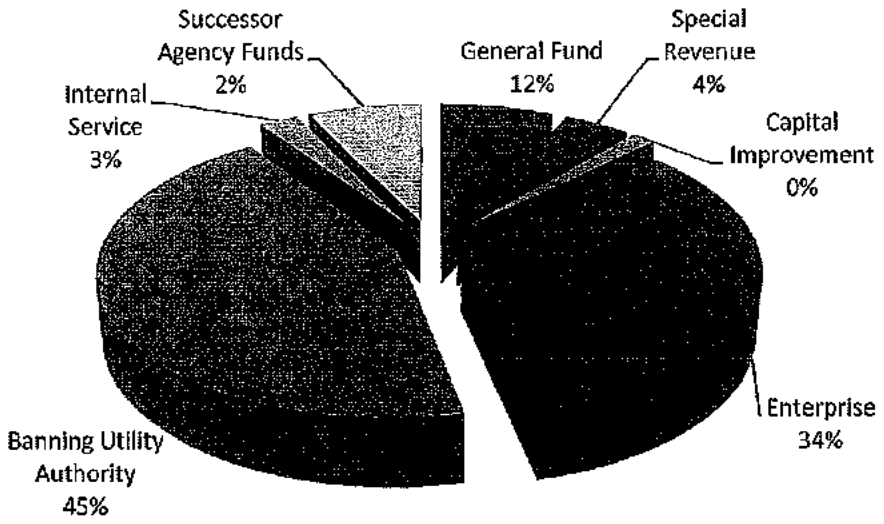
Individual Investments with Fiscal Agent

TRUSTEE Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Jan-16	1/31/2016 Market Value
COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct	0.020%	daily	188,024	3.19	188,041
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003							
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	4.61%	1/29/2015	971,250		1,013,265
		US Bank Mmkt 5-Ct	0.000%	daily			7
		US Bank Mmkt 5-Ct	0.020%	daily			462,602
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily			12
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 5-Ct	0.020%	daily		141.58	8,334,889
		US Bank Mmkt 5-Ct	0.000%	daily			13
Reserve Fund		US Bank Mmkt 5-Ct	0.020%	daily	1,875,100	31.85	1,875,320
Special Fund		US Bank Mmkt 5-Ct	0.020%	daily			938,782
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily			11
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.000%	daily		0.11	2
Principal Account		US Bank Mmkt 5-Ct	0.000%	daily		0.04	3
		US Bank Mmkt 5-Ct	0.020%	daily		55.49	3,266,803
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2015 SERIES							
Revenue Bond		First Amer Treas Oblig Fd Cl D	0.000%	daily			29,607
Project Fund		First Amer Treas Oblig Fd Cl D	0.000%	daily		2.78	3,007,573
Cost of Issuance Fund		First Amer Treas Oblig Fd Cl D	0.000%	daily		0.03	0
BFA - ELECTRIC SYSTEM REVENUE BONDS 2015 SERIES							
Revenue Fund		First Amer Treas Oblig Fd CL D	0.000%	daily			0
Acquisition & Construction		First Amer Treas Oblig Fd CL D	0.000%	daily		10.32	11,158,619
Cost of Issuance		First Amer Treas Oblig Fd CL D	0.000%	daily		0.01	10,043
*Paid Semi-Annually-Deposited into Money Mkt Account				**Total**		**245.40**	**30,285,589**

City of Banning
Investment Report Supplemental Information

Pooled Cash Distribution

Investment reports for cities typically do not include the cash balance of the individual funds that make up the total pooled cash. This is primarily due to timing differences between when investment reports are prepared and when month end accounting entries are posted. Investment reports are usually prepared first. However, the pie chart below provides an understanding of the percentage distribution of the investments by fund type. The percentages were calculated using the average cash balances from the twelve month period of January 2015 to December 2015. *(The percentages will be updated quarterly.)*



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

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

Summary Schedule – Line item descriptions

Petty Cash –

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

Bank Accounts –

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

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

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

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

Summary Schedule – Line item descriptions – Cont.

Government Pools –

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

Restricted Operating Funds at Riverside Public Utilities –

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

Restricted Operating Funds at California ISO-

The California ISO facilitates the purchase and sale of the City's electricity. The City participates in periodic Congestion Revenue Rights (CRR) auctions to acquire financial hedges for transmission congestion. In order to participate in the CRR auctions the City was required to have a secured form of financial security. A cash deposit in the amount of $100,000 was placed with Union bank in March, 2012 to meet the requirements. An additional $9,297 was deposited in May 2015 to meet revised requirements. The account is an interest bearing collateral account.

Restricted Operating Funds at PERMA-

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

Other Investments –

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

Fiscal Agent / US Bank –

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

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

MEETING DATE: March 22, 2016

SUBJECT: Contracts Approved Under the City Manager's Signature Authority.

RECOMMENDATION:

Receive and file the list of five contracts approved under the City Manager's signature authority from the City Manager's hire date in November 2015 through February 29, 2015, totaling the amount of $25,945.

JUSTIFICATION:

Pursuant to Sections 3.24.050 to 3.24.090, the City Manager may to enter into contracts of less than twenty five thousand dollars ($25,000.00) with vendors, utilizing the appropriate procurement process. The City of Banning Purchasing Policy Addendum approved November 12, 2014, states that such contracts must be reported to the City Council on a quarterly basis.

BACKGROUND:

Contracts for services are needed for normal business operations or due to an emergency need. The City Council adopted a purchasing policy that allows the City Manager authority to sign such contracts and report such to the City Council on a quarterly basis.

FISCAL IMPACT:

Four contracts and one amendment to a contract were approved by the City Manager during this reporting period, and total a sum of $25,945.

ATTACHMENTS:

A. List of Contracts, including Vendor, Amount, and Services Provided

Prepared by:

Rochelle Clayton
Deputy City Manager

Approved by:

Michael Rock
City Manager

CONTRACTS APPROVED BY CITY MANAGER
November 2015 through February 2016

Contracts Approved Under City Manager Signature Authority

Date	Department	Vendor/Contractor	Amount	Services Provided
11/18/2015	Public Works	Geoscience Support Services, Inc	$ 7,240.00	Amendment
12/29/2015	Public Works	Total Western	$ 2,775.00	Annual Boiler Inspection & Certification
1/4/2016	Public Works	JB Paving	$ 3,500.00	Emergency Repairs @ Highland Home & Wilson
1/12/2016	Public Works	A&A Fence	$ 2,430.00	Replace Chain Link Fencing at Repplier Park
1/25/2016	Public Works	Merlin Johnson	$ 10,000.00	Welding Services (as needed)

THIS PAGE LEFT BLANK INTENTIONALLY

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

MEETING DATE: March 22, 2016

SUBJECT: **Adoption of Resolution No. 2016-22 Approving the Tentative Agreement for a Successor Memorandum of Understanding (Deal Points) and the Memorandum of Understanding Between the City of Banning and the Banning Police Officers Association for the period March 28, 2016 through March 27, 2019.**

RECOMMENDATION:

Adoption of Resolution No. 2016-22 approving the tentative agreement for a successor Memorandum of Understanding (deal points) and the Memorandum of Understanding ("MOU") between the City of Banning ("City") and the Banning Police Officers Association ("BPOA") for the period March 28, 2016 through March 27, 2019.

JUSTIFICATION:

Section 3505.1 of the Meyers-Milias-Brown Act provides that "If a tentative agreement is reached by the authorized representatives of the public agency and a recognized employee organization or recognized employee organizations, the governing body shall vote to accept or reject the tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting. A decision by the governing body to reject the tentative agreement shall not bar the filing of a charge of unfair practice for failure to meet and confer in good faith. If the governing body adopts the tentative agreement, the parties shall jointly prepare a written memorandum of understanding". Once approved by the governing body of a local agency, a memorandum of understanding becomes a binding agreement between the employee organization and the local agency.

BACKGROUND:

The preceding MOU between the City and the BPOA expired on June 30, 2014. The City negotiation team had numerous communication exchanges and meetings with the BPOA representatives beginning in 2014. In November 2015, the current City Manager was hired and assumed the responsibility of negotiating on behalf of the City with the goal of reaching an agreement with the BPOA.

Accordingly, the City has negotiated and all parties have agreed on an MOU based upon the prior BPOA MOU with all changes detailed in the attached Tentative Agreement between the City and BPOA. The primary changes are summarized as follows:

- A three (3) year term from March 28, 2016 through March 27, 2019
- All represented Unit members shall receive a cost of living (COLA) salary increase of 4% of base pay for the period March 28, 2016-March 27, 2017; and 3% of base pay for the period March 28, 2017-March 27, 2018 and 3% of base pay for the period March 28, 2018-March 27, 2019
- The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of $14,450 annually; an increase of $1,450 from the previous $13,000 annual contribution

The BPOA MOU 2016-2019 represents the full and complete negotiated and agreed upon MOU. Upon approval of the tentative agreement, BPOA MOU 2016-2019 and adoption of Resolution No. 2016-22, the MOU shall be ratified and fully executed.

OPTIONS:

1. Do not ratify the Tentative Agreement and BPOA MOU 2016-2019, and continue negotiations.

2. Ratify the Tentative Agreement and BPOA MOU 2016-2019 with adoption of Resolution 2016-22.

FISCAL IMPACT:

The negotiated changes result in a fiscal impact to the General Fund of approximately $185,000 during year one of the agreement, approximately $150,000 in year two of the agreement, and approximately $155,000 in year three of the agreement.

ATTACHMENTS:

A. Memo of Approval by BPOA of the Proposed BPOA MOU 2016-2019

B. Resolution No. 2016-22 (Tentative Agreement and BPOA MOU 2016-2019)

C. Resolution No. 2014-07 (BPOA MOU 2013-2014)

Prepared by:

Rochelle Clayton
Deputy City Manager

Approved by:

Michael Rock
City Manager

CITY OF BANNING

M E M O R A N D U M

DATE: March 16, 2016

TO: Michael Rock, City Manager
Human Resources

FROM: Brandon Smith, Banning Police Officer's Association

RE: Approval by Banning Police Officer's Association ("BPOA") of Proposed Memorandum of Understanding ("MOU") between the BPOA and City of Banning ("City")

Through various meetings to negotiate terms, the BPOA reached an agreement with the City Manager, negotiating on behalf of the City, on the successor BPOA MOU for the period of March 28, 2016 through March 27, 2019.

The BPOA representatives Mike Bennett and Brandon Smith met with lead negotiator Joseph Feola, and unanimously voted to approve the agreed upon changes and proposed final BPOA MOU, which includes the following changes from the previous MOU, which expired on June 30, 2014:

- Term is three (3) years, commencing March 28, 2016 and expiring March 27, 2019
- Article 8.1 – The Union shall be responsible for providing hard copies of this MOU to current represented employees at Union expense.
- Article 12.1 – All represented Unit members shall a cost of living (COLA) salary increase of 4% of base pay for the period March 28, 2016-March 27, 2017; and 3% of base pay for the period March 28, 2017-March 27, 2018 and 3% of base pay for the period March 28, 2018-March 27, 2019.
- Article 12.6 – Disciplinary Reductions in Pay - Any disciplinary reduction in pay due to a formal disciplinary action may be satisfied in the form of the following: (a) Payment based upon a lump sum amount to be deducted in one paycheck; (b) payment over a period of pay periods based on a case by case basis provided that there is extraordinary financial hardship and that the maximum number for payment is ten (10) pay periods. Extraordinary financial hardships will be determined by the City Manager.
- Article 21.1 – City Contributions to Cafeteria Plan – The City agrees to the following contribution to each employee's cafeteria account: The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of $14,450 annually effective in the next pay period after City Council approval of this MOU. The $1,450 increase in this benefit from the previous $13,000 cap will be implemented prospectively only due to tax reporting requirements. Eligible employees, however, will

receive reimbursement through payroll for the increased benefit they would have been eligible to receive from March 28, 2016 through implementation of the contract. ~~In addition, the City will contribute $50 per month into each employee's cafeteria account.~~ An employee opting out of a City sponsored medical plan, i.e. demonstrating proof of medical coverage from another plan, will receive a cafeteria contribution equal to $6,352 ~~plus an additional $50 per month~~. These dollars may be used toward any City benefit offered under the cafeteria plan. All dollars will be allocated equally on a monthly basis. No cafeteria plan contributions may be converted to cash and taken as income. Employees will be responsible for all taxes associated with this payment.

- Article 29.1 – During the term of this MOU, unless otherwise provided, the parties shall not meet and confer with respect to any subject or matter (except if other labor groups receive an increase in the employee cafeteria account above $14,450, then an automatic reopener would be triggered) whether or not referred to in this MOU, unless mutually agreed to otherwise.

Thank you.

/

RESOLUTION NO. 2016-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE TENTATIVE AGREEMENT FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING (DEAL POINTS) AND THE MEMORANDUM OF UNDERSTANDING BETWEEN THE BANNING POLICE OFFICERS ASSOCIATION AND THE CITY OF BANNING FOR THE PERIOD OF MARCH 28, 2016 THROUGH MARCH 27, 2019

WHEREAS, the City of Banning ("City") has formally recognized the Banning Police Officers Association ("BPOA") as the exclusive employee organization for the police bargaining unit; and

WHEREAS, the prior Memorandum of Understanding between the City and the BPOA expired on June 30, 2014; and

WHEREAS, the City and BPOA have successfully met and conferred to negotiate a successor BPOA Memorandum of Understanding for the period March 28, 2016 through March 27, 2019 pursuant to the Meyers-Milias-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 2010-45; and

WHEREAS, MMBA Section 3505.1 provides that: "If a tentative agreement is reached by the authorized representatives of the public agency and a recognized employee organization or recognized employee organizations, the governing body shall vote to accept or reject the tentative agreement within 30 days of the date it is first considered at a duly noticed public meeting. A decision by the governing body to reject the tentative agreement shall not bar the filing of a charge of unfair practice for failure to meet and confer in good faith. If the governing body adopts the tentative agreement, the parties shall jointly prepare a written memorandum of understanding"; and

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

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

SECTION 1: That the City Council approves the Tentative Agreement For A Successor MOU between the City and the Banning Police Officers Association for the period of March 28, 2016 through March 27, 2019, a fully executed copy of which is attached hereto and by this reference made a part herof.

SECTION 2: That the City Council approves the Memorandum of Understanding Between the City and the Banning Police Officers Association for the period March 28,

2016 through March 27, 2019, a fully executed copy of which is attached hereto and by this reference made a part hereof.

PASSED, APPROVED AND ADOPTED this 22nd day of March 2016.

Arthur L. Welch, Mayor
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony Taylor, 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. 2016-22 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd Day of March 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

THIS PAGE LEFT BLANK INTENTIONALLY

TENTATIVE AGREEMENT FOR A SUCCESSOR
MEMORANDUM OF UNDERSTANDING
Between
The City of Banning and
The Banning Police Officers Association
March 17, 2016

1. All terms and conditions of prior MOU to continue unless expressly modified or changed herein.
2. Article 1.3 – Term - Except as otherwise provided herein, this MOU between the City and the Union relative to wages, hours, and other terms and conditions of employment shall be for the period March 28, 2016 through March 27, 2019.2019
3. Article 8.1 – The Union shall be responsible for providing hard copies of this MOU to current represented employees at Union expense.
4. Article 12.1 – All represented Unit members shall receive a cost of living (COLA) salary increase of 4% of base pay for the period March 28, 2016-March 27, 2017; and 3% of base pay for the period March 28, 2017-March 27, 2018 and 3% of base pay for the period March 28, 2018-March 27, 2019.
5. Article 12.6 – Disciplinary Reductions in Pay - Any disciplinary reduction in pay due to a formal disciplinary action may be satisfied in the form of the following: (a) Payment based upon a lump sum amount to be deducted in one paycheck; (b) payment over a period of pay periods based on a case by case basis provided that there is extraordinary financial hardship and that the maximum number for payment is ten (10) pay periods. Extraordinary financial hardships will be determined by the City Manager.
6. Article 19.9 - Military Leave - Banning's policy relating to military leave and compensation therefore, shall be in accordance with the provisions of the Military and Veteran's Code of the State of California (Section 389-399.5) and with all Federal provisions (the Uniformed Services Employment and Reemployment Rights Act of 1994, USERRA, Pub.L. 103–353, codified as amended at 38 U.S.C. §§ 4301–4335).
7. Article 21.1 – City Contributions to Cafeteria Plan – The City agrees to the following contribution to each employee's cafeteria account: The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of $14,450 annually effective in the next pay period after City Council approval of this MOU. The $1,450 increase in this benefit from the previous $13,000 cap will be implemented prospectively only due to tax reporting requirements. Eligible employees, however, will receive reimbursement through payroll for the increased benefit they would have been eligible to receive from March 28, 2016 through implementation of the contract. ~~In addition, the City will contribute $50 per month into each employee's cafeteria account.~~ An employee opting out of a City sponsored medical plan, i.e. demonstrating proof of medical coverage from another plan, will receive a cafeteria contribution equal to $6,352 ~~plus an additional $50 per month~~.

These dollars may be used toward any City benefit offered under the cafeteria plan. All dollars will be allocated equally on a monthly basis. No cafeteria plan contributions may be converted to cash and taken as income. Employees will be responsible for all taxes associated with this payment.

8. Article 29.1 – During the term of this MOU, unless otherwise provided, the parties shall not meet and confer with respect to any subject or matter (except if other labor groups receive an increase in the employee cafeteria account above $14,450, then an automatic reopener would be triggered) whether or not referred to in this MOU, unless mutually agreed to otherwise.

CITY OF BANNING

Michael Rock, City Manager

BANNING POA

Joseph Feola, Lead Negotiator

Mike Bennett, BPOA Representative

Brandon Smith, BPOA Representative

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF BANNING

AND

THE CITY OF BANNING POLICE OFFICERS' ASSOCIATION

MARCH 28, 2016 – MARCH 27, 2019

TABLE OF CONTENTS

Page No.

ARTICLE 1 – PREAMBLE 1

ARTICLE 2 – CONTINUATION OF RULES & POLICIES 1

ARTICLE 3 – EMPLOYEE RIGHTS 2

ARTICLE 4 – MANAGEMENT RIGHTS 2

ARTICLE 5 – DUES DEDUCTION 3

ARTICLE 6 – UNION REPRESENTATIVES 3

ARTICLE 7 – BULLETIN BOARDS 4

ARTICLE 8 – MEMORANDUM OF UNDERSTANDING COPIES 4

ARTICLE 9 – MEETINGS 4

ARTICLE 10 – HOURS OF WORK 5

ARTICLE 11 – SHIFT EXCHANGE 6

ARTICLE 12 – SALARIES, PERFORMANCE EVALUATIONS, INCENTIVE PAY 6

ARTICLE 13 – OVERTIME 8

ARTICLE 14 – ACTING PAY AND PROMOTION PAY 9

ARTICLE 15 – PAY FOR JURY DUTY, COURT APPEARANCES, "ON CALL" DUTY . 10

ARTICLE 16 – EQUIPMENT, UNIFORM ALLOWANCE, SAFETY AND TRAINING 11

ARTICLE 17 – MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT 12

ARTICLE 18 – TUITION & BOOKS REIMBURSEMENT; EDUCATION INCENTIVE 12

ARTICLE 19 – SICK AND BEREAVEMENT LEAVE 14

ARTICLE 20 – VACATION AND HOLIDAY LEAVE 15

ARTICLE 21 – MEDICAL AND DENTAL INSURANCE 17

ARTICLE 22 – RETIREMENT AND MEDICARE 19

ARTICLE 23 – MISCELLANEOUS BENEFITS 20

ARTICLE 24 – LAYOFFS AND RE-EMPLOYMENT 21

ARTICLE 25 – GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE 22

ARTICLE 26 – SEVERABILITY CLAUSE 25

ARTICLE 27 – COMPLETE AGREEMENT 25

ARTICLE 28 – INVESTIGATION DOCUMENTS AND MATERIALS 25

ARTICLE 29 – RE-OPENERS 26

ARTICLE 30 – RATIFICATION AND EXECUTION 26

ARTICLE 1 – PREAMBLE

1.1 - Agreement - This Memorandum of Understanding ("MOU" or "Agreement") is entered into between The City of Banning, a Municipal Corporation, hereinafter known as "the City" or "City" and the authorized representatives of the Banning Police Officers' Association, the recognized employee organization of the Police Unit, hereinafter known as "BPOA" or "Unit", relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3511 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act.

1.2 - Recognition - The City continues to formally recognize the Banning Police Officers' Association as the only Recognized Employee Organization representing employees in the unit of representation presently or hereafter employed by the City and eligible for inclusion in the Police Unit. It is understood that this Agreement shall constitute a bar to any petition or request for recognition of any unit which includes classifications of employees covered by this Agreement or such petitions to represent such employees at any time during the term hereof. This provision shall not preclude employees from otherwise exercising their rights as may be provided by the Meyers-Milias-Brown Act or the Employer-Employee Relations Resolution of the City.

1.3 - Term - Except as otherwise provided herein, this MOU between the City and the Union relative to wages, hours, and other terms and conditions of employment shall be for the period March 28, 2016 through March 27, 2019.

1.4 - Represented Classifications - This Agreement covers employees in the following classifications: Police Sergeant, Police Staff Sergeant, Police Master Sergeant, Police Officer, Community Service Officer and Evidence Technician.

ARTICLE 2 – CONTINUATION OF RULES & POLICIES

2.1 - Other Written Policies - Subject to the terms of this Agreement, all City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2010-45) and the Administrative Policies of the City of Banning and the Banning Police Department shall apply during the term of this Agreement.

2.2 - Meet and Confer - The Union and the City agree to meet and confer during the term of this MOU over the adoption, amendment or revision, including repeal, of City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2010-45) and the Administrative Policies of the City of Banning and the Banning Police Department, to the extent that such documents contain mandatory subjects of bargaining pursuant to the Meyers-Milias-Brown Act. Should an impasse be reached following such meet and confer sessions, the provisions of the Employer - Employee Relations Resolution (Resolution No. 2010-45) or any amendment thereto or successor Employer- Employee Relations Resolution will apply.

2.3 - Past Practice - For purposes of this Agreement, a "past practice" shall be defined as an unwritten policy, procedure or work rule, whether or not it affects a mandatory subject of bargaining, and upon which the City, the Union and the bargaining unit employees may have relied through a course of conduct. As of the effective date of this Agreement, all past practices are void, and of no further force or effect.

ARTICLE 3 – EMPLOYEE RIGHTS

3.1 - Non-Discrimination - The provisions of this Agreement shall apply to bargaining unit employees without illegal discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, citizenship status, or any other basis protected by applicable law, nor will there be any discrimination with respect to hiring, retention or any condition of employment because of membership or non-membership in the Union, or because of any activities or refraining from activities on behalf of the Union.

3.2 - Union Membership - The Union will accept into membership all eligible persons of the bargaining unit without regard to, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, or any other basis protected by applicable law.

3.3 - Rights Granted by State and Federal Law - Except as otherwise provided in this Agreement, the employees covered by this Agreement shall have all rights which may be exercised in accordance with State and Federal Law, and applicable ordinances, resolutions, rules and regulations. However, employees covered by this Agreement shall not have the right to a grievance for violation of any such law, ordinance, resolution or rule, except as specifically set forth herein.

3.4 - Gov't Code Section 3502 - Employees shall have the rights provided to them under Government Code section 3502 of the Meyers-Milias-Brown Act.

ARTICLE 4 – MANAGEMENT RIGHTS

4.1 - The Union recognizes and agrees that the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted and to assign work to employees and to establish and change work schedules and assignments and to determine the days

and hours when the employees shall work; take all necessary actions to carry out its mission in emergencies; and, exercise complete control and discretion over its organization and work performance technology.

ARTICLE 5 – DUES DEDUCTION

5.1 - Dues Deduction -The City shall deduct one (1) month's current and periodic Union dues from the wages and/or Leave benefits of each employee who voluntarily executes and delivers to the City a payroll deduction authorization form.

5.2 - Sufficient Earnings - The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings.

5.3 - Non-Pay Status - In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.

5.4 - Cancellation - An employee's authorization for deduction of dues may be canceled at any time by written notice from the employee to the City with a copy to the Union. An Employee's deduction authorization shall automatically be canceled if the employee leaves the employ of the City or is transferred out of the representation unit.

5.5 - Funds Transmission - The aggregate amount of such deductions by the City shall be transmitted monthly to the President of the Union or his or her designee. The City shall provide the President of the Union or his or her designee with a list each month indicating the dues deducted from the pay of any represented unit employee and those employees for whom no deduction was made pursuant to the provisions of Sections 5.2 and 5.3. The Union shall notify the City of the names of its President and other officers and designees each year following election of the board and appointment of members to committees to which the Union is entitled to appoint members under this Agreement.

5.6 - Indemnification - The Union shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of deduction of employee organization dues. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 6 – UNION REPRESENTATIVES

6.1 - Two (2) employees selected by the Union may attend scheduled meetings with City management during regular hours without loss of pay, provided that such employees shall not leave their work station or assignment without first providing twenty-four (24) hour notice to the Department Head. Additional employees who are not on duty may participate at no additional cost to the City. Such meetings shall be scheduled in a manner consistent

with the City's operating requirements and work schedules. Nothing herein shall be deemed to preclude the scheduling of such meetings at hours other than such employee's regular working hours, in which event attendance shall be without pay.

ARTICLE 7 – BULLETIN BOARDS

7.1 - Authorized Postings - The City will furnish adequate bulletin board space where currently available. The Department Head shall designate the bulletin boards to be used for posting notices. Bulletin boards may be used for the following notices:

(a) Scheduled Union Meetings, Agenda and Minutes.

(b) Information on Union Elections and the Results.

(c) Posting of Union special, recreational, and related bulletins.

(d) Reports of Official Business of Union Including Reports of Committees or the Board of Directors

(e) MOU, Pay Scales, Job Announcements, Promotion Lists, Etc.

(f) Such other items as may be approved by the Department Head upon request of the Union.

7.2 - Posted Notices - Posted notices shall not be defamatory or violate any of the City's policies, nor shall they advocate election or defeat of candidates for public office. All notices to be posted may be dated and signed by an authorized representative of the Union. The Union may give notices to the represented employees through the use of the City mail system and/or the City computer e-mail system.

ARTICLE 8 – MEMORANDUM OF UNDERSTANDING COPIES

8.1 - The City shall provide the Union with one (1) original and one (1) electronic (PDF) copy of this Memorandum after it has been fully executed by the parties. The City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the representation unit after the effective date of the Agreement. The City may charge for any additional hard copies. The Union shall be responsible for providing hard copies of this MOU to current represented employees at Union expense. Electronic copies shall be no charge.

ARTICLE 9 – MEETINGS

9.1 - Items of Mutual Concern - Upon mutual agreement of both the City and the Union, the parties may meet to discuss items of mutual concern. A meeting conducted under this section shall not constitute a meet and confer or hearing under any grievance procedure.

9.2 - Use of City Facilities - The Union may be granted permission to use City facilities for the purpose of meeting with employees to conduct Union business provided space for such meetings can be made available without interfering with City needs. The Union shall be held fully responsible for any damages to and security of any facility that is used by the Union.

9.3 - Budget Oversight Committee - The City agrees to the creation of a Budget Oversight Committee, with the Union entitled to appoint one (1) member. Said Committee shall have an equal number of members appointed by the City's recognized Employee Associations and the City. Said Committee shall be advisory only to the City Manager.

ARTICLE 10 – HOURS OF WORK

10.1 - Schedules - Unless modified by the Department Head as set forth in section 10.2 and 10.4 below, the Police Unit employees described below shall work the following work periods:

(a) Employees assigned to uniformed patrol shall have a work schedule of seven (7) twelve (12) hour shifts each fourteen (14)-day work period.

(b) Employees assigned to the detective bureau shall have a work schedule as assigned by the Department Head.

10.2 - Department Head Discretion - Employees may be assigned to a work schedule consisting of the days and hours as determined by the Department Head.

10.3 - Briefing - Pre-shift briefing shall be at the discretion of the Department Head and if required, shall count as hours worked.

10.4 - Schedule Changes - The Department Head, in the exercise of his or her discretion may change the work schedule and/or work period of Police Unit employees. Accordingly, work schedule and work period changes are not subject to meet and confer requirements. The Department Head shall notify the Union regarding any change in work schedule and/or work period no later than thirty (30) days before the date the change is implemented.

10.5 - Shift Assignments - Each year, the Department Head shall post a shift assignment notice on which officers shall indicate their shift assignment preference. The Notice will solicit three shift preferences and any additional information regarding their reasons for requesting a particular shift. The Department Head shall consider each request, giving those with seniority a higher priority, and make an effort to accommodate individual preferences. However, it is recognized that the Department Head shall have the ultimate authority to make shift assignments based on the needs of the Department. These shift assignments hall be for the full year except for individual changes as determined by the Department Head.

10.6 - Outside Employment - Prior to any bargaining unit employee accepting outside employment, he or she shall request and receive authorization from the Department Head. Authorization for outside employment shall be made according to the policies and procedures in place at the time of request.

ARTICLE 11 – SHIFT EXCHANGE

Employees may be permitted to trade shifts provided that:

(a) No additional compensation or other cost to the City results from such assignment;

(b) Exchanging employees are fully qualified to perform the required tasks of both assignments; and

(c) Written requests for shift representation must be submitted on the prescribed Department form and approved by the Department Head or his or her designee prior to the start of the requested shift.

ARTICLE 12 – SALARIES, PERFORMANCE EVALUATIONS, INCENTIVE PAY

12.1 - Salary Adjustment - All represented Unit members shall receive a cost of living (COLA) salary increase of 4% of base pay for the period March 28, 2016-March 27, 2017; and 3% of base pay for the period March 28, 2017-March 27, 2018 and 3% of base pay for the period March 28, 2018-March 27, 2019.

12.2 - Assignment to Ranges - All employees have been placed on ranges with defined steps as shown on the attached salary schedule. The salary table is calibrated in approximate 2.5% increments. Subsequent annual increase for satisfactory performance will be two (2) steps or approximately 5%.

(a) No employee shall be granted a step increase unless and until such employee has obtained an acceptable evaluation consistent with the applicable administrative policies of City.

(b) A first denial of a step increase shall not be an allowable subject of the exercise of employee rights under any grievance procedure afforded by the City or collective bargaining agreement.

(c) An employee denied a step increase for unacceptable performance shall be entitled to be re-evaluated in six (6) months from the date of the performance evaluation which led to the denial of the step increase. If the employee's overall performance is rated acceptable, the employee shall be granted the appropriate step increase effective the first pay period following the six month re-evaluation period. Such step increase shall not be retroactive.

(d) If the employee's performance continues to be unacceptable after the six (6) month re-evaluation period, the employee shall be given a final denial of a step increase for the remainder of the regular evaluation period. Denial of a step increase under this subsection may, at the employee's option, be subject to the collectively bargained grievance procedure for unit members.

(e) An employee at the top of his or her range shall have his or her performance evaluated at least annually within thirty (30) days of his or her anniversary date.

12.3 - Premium Pay - City shall additionally pay a five percent (5%) premium for the following special assignments, provided that no such premium shall attach when the officer is otherwise working an eighty-four (84) hour shift:

- Professional Standards Supervisor (Sgt. rank only)
- Detective Sergeant
- Detective (ARCNET)
- K-9 Officer
- Motor Officer
- School Resource Officer
- Youth Resource Officer
- CET
- Any other assignment determined to be appropriate and approved by the Chief of Police in consultation with the Human Resources Department.

12.4 - Field Training Officer (FTO) - Any Police Unit member who serves as an FTO shall receive additional pay of five percent (5%) during actual training. Any Police Unit member who has been assigned as a FTO and serves in any other special assignment is entitled to additional premium pay to a maximum of ten percent (10%) of their salary during such assignment. The amounts in this article shall not be pyramided except as set forth above.

12.5 - Bilingual Pay - Employees certified to use sign language or to speak Spanish, or any of the Hmong languages (Chinese, White Lao, Blue Lao), or any other foreign language designated for Bilingual Pay by the City Manager, shall be paid a bonus equivalent to five percent (5%) of their base salary for such use on the job. Initial certification and any requirement with respect to demonstration of the continuing ability to use sign language or to speak the foreign language shall be determined by the City using methods selected by the Human Resource Department.

12.6 - Disciplinary Reductions in Pay - Any disciplinary reduction in pay due to a formal disciplinary action may be satisfied in the form of the following: (a) Payment based upon a lump sum amount to be deducted in one paycheck; (b) payment over a period of pay periods based on a case by case basis provided that there is extraordinary financial hardship and that the maximum number for payment is ten (10) pay periods. Extraordinary financial hardships will be determined by the City Manager.

ARTICLE 13 – OVERTIME

13.1 - 7(k) Exemption - The City has adopted a fourteen (14) day work period pursuant to the "7k exemption" of 29 U.S.C. section 207(k) under the Fair Labor Standards Act (FLSA). Except as provided below in connection with uniformed patrol officers, an employee shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty (80) hours in the fourteen (14) day work period. Uniformed patrol officers assigned to work twelve (12) hour shifts as outlined in Article 10.1 above, shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty-four (84) hours in the fourteen (14) day work period. This section 13.1 does not preclude the Chief of Police from establishing the practice of scheduling an employee to work a pay period of any duration which is not less than eighty (80) hours and not more than eighty-four (84) hours, subject to the shift change provisions of the MOU. At all times, the full eighty-four (84) hours shall be accounted for on the time card. Unassigned hours of the eighty-four (84) shall be so indicated.

(a) The City shall pay the employer CalPERS contribution, as required by the MOU, for the first eighty four (84) hours of CalPERS eligible time worked during a pay period. Hours earned as overtime and paid at time and one-half (1/2) shall not be counted as CalPERS eligible hours. All overtime worked shall be authorized by a supervisor in advance, if possible. Otherwise, the claim for overtime shall be subject to review by the Department Head. Overtime may be paid as accrued compensatory time subject to the following: Compensatory time may not be accumulated in excess of two hundred forty (240) hours. Employees may cash out accumulated comp time twice per year (July and December) up to a maximum of eighty (80) hours per year unless otherwise restricted herein. Any cash out will be at the employee's current rate of pay inclusive of all premium pay.

(i) The "regular hourly base rate of pay" includes only salary as described in Article 13.1. Acting pay as set forth in Section 14.1 and educational incentive pay as provided in Article 18.4.

(b) In calculating overtime, the practice of the Finance Department shall be as follows:

(i) All hours appearing on the time card as "Reg Hours" shall first be totaled.

(ii) All hours otherwise defined as "hours worked" under the MOU shall then be totaled.

(iii) Finally, all hours recorded as overtime on the time card shall be totaled.

(iv) All hours totaled above, which are in excess of eighty-four (84) hours for patrol personnel and eighty (80) hours for special assignments during the pay period, shall be treated as overtime.

(v) In the case of correction of the time card by the Finance Department, the affected employee shall be given timely notice of such correction prior to the preparation of the pay check.

(c) Any assigned hours which are not worked, and are not otherwise accounted for through a reduction in accrued leave, shall be treated as Leave-Without-Pay ("LWOP") and the employee may be subject to a personnel action as prescribed in the personnel policies of the City.

(d) Accruals, and reductions in accruals, are based on an eighty (80) hour pay period.

13.2 - Hours Worked - "Hours worked" means time spent in required court appearances as set forth in Article 15, and time paid for vacation, holidays, sick leave, CTO and administrative leave for officer involved shooting or other non-disciplinary leave.

13.3 - Call Out Minimum - Bargaining Unit employees shall be paid a minimum of two (2) hours' pay for any time worked during the first hour when called-out for emergencies, and time and one-half (1/2) for each hour worked there-after. For example, should an employee be called-out to work two (2) hours of emergency duty he or she would be compensated with three and one-half (3) hours' pay at the regular hourly base rate of pay; two (2) hours' pay for the first hour worked and one and one-half (1) hours pay for the second hour worked.

13.4 - Pyramiding of Overtime - There shall be no pyramiding or duplication of overtime payments and other premiums for the same hour worked.

13.5 - Compensatory Time - Accrued compensatory time may be taken by the employee on an "hour accrued/hour off' basis. However, in the event an employee terminates his employment and/or the City is otherwise obligated or desires to "cash out" accrued compensatory time, the employee shall be paid for any accrued time at his or her then regular hourly base rate of pay.

13.6 - Maximum Comp Time Accrual - Comp time may be accrued to a maximum of two-hundred-forty (240) hours.

ARTICLE 14 – ACTING PAY AND PROMOTION PAY

14.1 - Represented employees temporarily assigned to work in a higher classification by management shall be compensated for working their thirty-first (31st) consecutive day of such assignment within the fiscal year, and consecutive days worked thereafter, at a rate of five percent (5%) above their normal rate of compensation while working in the higher

classification. The conditions of this subsection are prerequisites to the receipt of any higher acting pay. At such time as an employee is no longer performing work out of his or her pertinent classification, he or she shall be compensated at his or her regular rate of pay for his or her pertinent classification.

14.2 - Represented employees promoted to work in a higher classification shall be placed in the lowest step of the higher classification that pays more than the employee received in the lower classification but not less than five percent (5%) more than the employee received in the lower classification.

ARTICLE 15 – PAY FOR JURY DUTY: COURT APPEARANCES, "ON CALL" DUTY

15.1 - Any employee who shall be summoned for attendance to any court for jury duty during his or her normal working hours shall be deemed to be on duty and there shall be no loss of salary, but any jury fees received by him or her shall be paid into the City treasury. Any employee who shall be called as a witness arising out of and in the course of his or her City employment shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him or her, shall be paid into the City treasury. An employee absent as a witness in a private matter shall not be entitled to be paid during such absence, except that he or she may, however, use Vacation Leave, Holiday Leave and Compensatory Leave for such absence.

15.2 - Represented employees shall be compensated for off-duty court appearances. The City will pay a minimum of three (3) hours for travel to and appearances in court at a rate of one and one-half (1 %) times the base rate of pay. All travel shall be calculated based on the time required to travel from any Banning Police Station to the destination. All hours required in excess of three (3) hours shall be compensated at one and one-half (1 %) times the base rate of pay.

15.3 - Employees required to be on call for court appearances before noon shall be compensated for one (1) hour. Those required to be on call for court purposes after noon shall be compensated for one (1) hour. Requirement for multiple court appearances in the same time frame shall constitute one (1) period of on call. For purposes of this section, an employee shall not be deemed to be on call while appearing in court. Employee shall not be paid for being on call under this Section for a day on which the employee is compensated for being in court under Section 15.2.

15.4 - Any detective scheduled for "on call" duty shall receive four (4) hours of either compensatory time off or pay for each scheduled day off on which the detective is assigned to "on call" duty, other than for court appearances as outlined above.

15.5 - An employee shall be on call for purposes of the receipt of the four (4) hours where:

(a) the employee is scheduled to provide a mandatory response; and

(b) that response is to be to the station, or other designated location within two (2) hours; and

(c) the employee is required to provide the Department with sufficient information to obtain immediate contact with the employee.

15.6 - All Police Unit members who are required to respond to a traffic accident call out would receive a minimum of two (2) hours double time pay commencing thirty (30) minutes before their arrival time. The Evidence Technician will be entitled to receive a minimum of two (2) hours double time pay commencing thirty (30) minutes before his/her arrival for any call outs.

15.7 - Scheduled Training. Any employee who is scheduled by the Department to attend day long training during his or her normal shift or working hours shall be deemed to be on duty and there shall be no loss of salary. The Department will abide by the "day for a day" theory for any day long training not lasting more than four (4) days. This policy provides that the employee will not owe the Department time should the day long training course be shorter than the officer's regularly scheduled work day. This theory applies only to scheduled full-day training courses. For overtime calculation purposes, only actual hours in training will count as actual hours worked.

ARTICLE 16 – EQUIPMENT, UNIFORM ALLOWANCE, SAFETY AND TRAINING

16.1 - The City will provide covered employees safety equipment in accordance with California State Law. Said safety devices and safeguards shall remain the property of the City of Banning and their use may be required and regulated by the Department Head or his or her designee.

16.2 - The Department Head or his or her designee shall have sole authority to assign the use of or regulate the use of City property by represented employees including but not limited to City vehicles.

16.3 - The City agrees to pay a uniform allowance of $110 per month to Police Unit members. Payment of the uniform allowance will be paid equally between the first two pay periods each month. Such money shall be used for the purpose of purchasing and maintaining uniforms in order that individual officers and civilian employees who wear regulation uniforms may maintain a professional appearance.

16.4 - The City shall reimburse Police Unit employees the reasonable replacement value of personal property, not including uniforms for which the above uniform allowance is paid, which is destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the Department Head the damaged or destroyed article. Personal property subject to this provision consists of personal property necessary to fulfill the employee's job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to $200 per pair. Replacement for watches is limited to $50. Sums paid hereunder shall be secondary

to any applicable insurance. If an individual pays a sum of money to the City pursuant to a court order as restitution for damaging the uniform of a bargaining unit employee, then the City will reimburse that amount to the Police Unit employee.

16.5 - The Department Head or his designee may at his or her discretion authorize an employee to carry optional weapons. Nothing in this Agreement shall require the Chief of Police to approve the use of any specific weapon or ammunition.

ARTICLE 17 – MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT

17.1 - The City will reimburse expenses for meals, lodging and tuition when a Police Unit employee attends a City directed educational program. Reimbursement shall be equal to but not exceed the amount permitted under applicable P.O.S.T. standards. If the employee's meals and lodging expenses exceed reimbursement provided by P.O.S.T., then the employee may be required to demonstrate that such expenses are reasonable by providing receipts for all expenses and written justification. Only reasonable expenses will be reimbursed.

17.2 - Accommodation arrangements for attendance at a City directed educational program shall be made by the Police Unit employee. The City agrees to provide any accompanying information concerning available lodging arrangements for the program to the employee as soon as it becomes available to the City.

17.3 - Upon request, an employee attending a City directed educational program shall receive an advance up to the P.O.S.T. established limits established for the particular educational program.

17.4 - At the conclusion of the educational program, the employee shall show by certificate awarded or some other manner that the program was attended and completed.

17.5 - Except as otherwise set forth in this MOU, the scheduling of training/educational programs shall be done in accordance with Departmental procedures.

ARTICLE 18 –TUITION AND BOOKS REIMBURSEMENT; EDUCATION INCENTIVE

18.1 - Qualifications - All Police Unit employees enrolled in an approved Associate of Arts/Sciences degree coursework and community colleges or Bachelor of Arts/Science Degree or Master of Arts/Science Degree programs shall be eligible to receive reimbursement for tuition and cost of books actually paid for their approved professional and technical courses subject to the provisions below.

(a) The employee has furnished evidence that the course has been completed with at least a "C" grade or "pass."

(b) Police Unit employees will receive a maximum of $3,000 for tuition and actual expenses paid for books for expenses incurred per fiscal year for any academic training in a university or college recognized by an accrediting institution as determined by the Human Resources Director.

18.2 - Reimbursement Requirements -

(a) Requests for reimbursement must be completed and returned to the Human Resources Department within three (3) weeks after receipt of course completion documentation. (No reimbursement will be made without bona fide receipts or documentation).

(b) Reimbursements will be made only after proof of completion of course with a minimum of "C" average or "pass" and satisfactory receipts of payment for books and tuition are approved by the Human Resources Department.

18.3 - Attendance - Employees may utilize shift changes and one (1) hour or more increments of Vacation or Holiday Leave to attend courses that have been approved under this Article. Employees may also convert Sick Leave to Vacation Leave for this purpose.

18.4 - Education Incentive Pay - Educational incentive pay shall be earned as follows:

(a) Possession of an Intermediate POST Certificate entitles the unit member to $200 a month; and possession of a Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, entitles the employee to $300 a month.

(b) Possession of an Associate of Arts/Science Degree in any academic field entitles the employee to $75 per month.

(c) Possession of a Bachelors of Arts/Science Degree in any academic field entitles the employee to $150 per month.

(d) Possession of a Masters of Arts/Science Degree in any academic field entitles the employee to $225 per month.

(e) Possession of a Ph.D. in any academic field entitles the employee to $300 per month.

(f) Possession of an Intermediate POST Certificate and an Associate of Arts/Science Degree in any academic field entitles the employee to $275 per month; Possession of an Intermediate POST Certificate and a Bachelors of Arts/Science Degree in any academic field entitles the employee to $350 per month; Possession of an Intermediate POST

Certificate and a Masters of Arts/Science Degree in any academic field entitles the employee to $425 per month; Possession of an Intermediate POST Certificate, and a Ph.D. in any academic field entitles the employee to $500 per month.

(g) Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate and an Associate of Arts/Science Degree in any academic field entitles the employee to $375 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Bachelors of Arts/Science Degree in any academic field entitles the employee to $450 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Masters of Arts/Science Degree in any academic field entitles the employee to $525 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Ph.D. in any academic field entitles the employee to $600 per month.

(h) For all Police Unit members who are employed with the City at the time of the execution of this MOU, possession of 60 semester units from an accredited college with a minimum of 39 units being in an occupationally related field (i.e. Police Science, Social Science, Political Science, Public Administration, etc.) shall entitle the employee to receive pay of $100 per month. Determination as to whether courses are occupationally related will be made by the Department Head with right of appeal to the City Manager.

(i) The amounts in this article shall not be pyramided except as set forth above.

ARTICLE 19 – SICK AND BEREAVEMENT LEAVE

19.1 - Sick Leave Accrual - Represented employees shall accrue three and sixty-nine hundredth (3.69) hours of Sick leave per pay period. Sick leave shall accrue without limit.

19.2 - Use of Sick Leave - Sick Leave, shall be granted only where consistent with the City's sick leave and Pregnancy Leave policy (currently AP-1 and AP-02).

19.3 - [Intentionally left blank]

19.4 - Conversion to Vacation - Any employee who has taken forty (40) hours of Sick Leave or less during the fiscal year ending June 30 of each year shall be entitled to convert up to forty (40) hours of unused sick leave to vacation. The month of August will be the month for annual conversion. Only those employees who have completed twelve (12) months of service with the City as of June 30th of any year will be eligible for such annual conversion and there shall be no interim pro-rata conversion.

19.5 - Cash Out Upon Separation - After ten (10) years continuous City service, and upon voluntary separation under satisfactory conditions or involuntary disability retirement, sworn personnel shall be eligible to receive a cash payment equivalent to forty percent (40%) of all unused sick leave less the total number of hours converted to vacation, as set forth above. Civilian personnel shall be eligible to receive a cash payment equivalent to thirty percent (30%) of all unused sick leave less the total number of hours converted to vacation, as set forth above. Such reimbursement will be computed based upon the employee's final compensation rate.

19.6 - Conversion to Deferred Compensation - Beginning with the 11th year of City service, unit members may convert the value of the total amount of their sick leave bank, minus forty (40) hours, to either Deferred Compensation, or the Retiree Health Savings. Thereafter, the employee may contribute one hundred percent (100%) of the value of unused sick leave, minus forty (40) hours for such purposes.

19.7 - Use of Other Leave - An employee who has exhausted all accumulated Sick leave while on Sick leave may utilize accrued Vacation or Holiday Leave or accrued compensated time off for the purposes described in 19.2 above or 19.8 below.

19.8 - Bereavement Leave - Employees covered by this Agreement will be allowed three (3) shifts off duty with pay for Bereavement Leave upon the death of a member of their family. For the purpose of this subsection, "family" includes the following persons: spouse, domestic partner, mother, father, brother, sister, child, stepchild, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse or domestic partner.

19.9 - Military Leave - Banning's policy relating to military leave and compensation therefore, shall be in accordance with the provisions of the Military and Veteran's Code of the State of California (Section 389-399.5) and with all Federal provisions (the Uniformed Services Employment and Reemployment Rights Act of 1994, USERRA, Pub.L. 103–353, codified as amended at 38 U.S.C. §§ 4301–4335).

ARTICLE 20 – VACATION AND HOLIDAY LEAVE

20.1 - Vacation Leave Accrual - For employees of the City as of date of this Agreement, Vacation Leave shall accrue in accordance with the following schedules:

(a) one (1) through four (4) years of service: ten (10) days per year = three and eight-hundredth (3.08) hours per pay period

(b) Beginning the fifth (5th) year through the ninth (9th) year: fifteen (15) days per year= four and sixty-two hundredth (4.62) hours per pay period

(c) Beginning the tenth (10th) year & thereafter: twenty (20) days per year= six and fifteen hundredth (6.15) hours per pay period

20.2 - Maximum Accrual - Vacation Leave may be accrued to a maximum of three-hundred twenty (320) hours for non-supervisory personnel and three-hundred thirty-six (336) hours for supervisory personnel. Holiday leave may be accrued to a maximum of one-hundred sixty (160) hours per employee.

20.3 - Approval Required - Vacation Leave shall be taken with approval of the Department Head at any time following the completion of the one (1) year probationary period, but the Vacation Leave taken shall not be in excess of that actually accrued at the time such Vacation Leave is taken. Vacation Leave must be approved a minimum of fourteen (14) days in advance of the first day of such Vacation by the Department Head or his or her designee. Exceptions may be made to the fourteen (14)-day notice requirement for emergencies or at the discretion of the City by the Department Head or Division Supervisor.

20.4 - Payment Upon Separation - Any employee, who has been in continuous full-time service of the City for a period of 1 year or more, who is about to separate from his or her employment and has earned Vacation Leave to his or her credit, shall be paid for such Vacation Leave on the effective date of such separation up to the maximum accrual. It shall not be necessary to carry such employee on the payroll for the Vacation Leave period, and the vacancy created may be filled at any time after the employee ceases to perform the duties of his or her office or employment. When separation is caused by death, payment of all outstanding compensation, including Salary and all remaining Sick Leave, Vacation, Comp Time or Holiday Time accruals shall be paid into the employee's direct deposit account the same as regular payroll.

20.5 - Payment of Excess Hours - Unused vacation accrual in excess of the employee's annual entitlement, if any, may be paid off at the option of the employee up to a maximum of forty (40) hours every twelve (12) months. The employee may otherwise be scheduled for mandatory vacation time off by the Department Head for a period of time equal to the excess accrual.

20.6 – Holidays - City Holidays are as follows:

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Fourth of July
Labor Day

Veteran's Day
Thanksgiving
Day after Thanksgiving
Christmas
one (1) floating holiday

20.7 - Holiday Accrual - Employees shall accrue Holiday leave at the rate of three and thirty-eight hundredths (3.38) hours per pay period.

20.8 - Approval Required - Holiday Leave must be approved a minimum of fourteen (14) days in advance by the Department Head or his or her designee of the first day of such Holiday leave. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the City by the Department Head or immediate supervisor.

20.9 - Cash Out - Employees may cash out accrued holiday leave twice per year (July and December) up to a maximum of 88 hours per calendar year.

20.10 - Payment Upon Termination - Any employee who is about to terminate his or her employment, and has earned Holiday Leave to his or her credit, shall be paid for such Holiday Leave on the effective date of such termination.

ARTICLE 21 – MEDICAL AND DENTAL INSURANCE

21.1 - City Contributions to Cafeteria Plan – The City agrees to the following contribution to each employee's cafeteria account: The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of $14,450 annually effective in the next pay period after City Council approval of this MOU. The $1,450 increase in this benefit from the previous $13,000 cap will be implemented prospectively only due to tax reporting requirements. Eligible employees, however, will receive reimbursement through payroll for the increased benefit they would have been eligible to receive from March 28, 2016 through implementation of the contract. An employee opting out of a City sponsored medical plan, i.e. demonstrating proof of medical coverage from another plan, will receive a cafeteria contribution equal to $6,352. These dollars may be used toward any City benefit offered under the cafeteria plan. All dollars will be allocated equally on a monthly basis. No cafeteria plan contributions may be converted to cash and taken as income. Employees will be responsible for all taxes associated with this payment.

(a) The contribution shall first be used to provide for health insurance for the employee. The employee shall be covered by health insurance with a City approved health insurance plan unless the employee provides proof to the City that the employee is covered by another acceptable health plan as determined by the City's Human Resource Department. Additionally, all members of the Police Unit shall participate in a long-term disability

plan approved for participation by the members of the Police Unit, provided that such plan does not require the City to incur costs for its administration.

(b) The balance may be used for any of the following or any combination thereof:

(i) Health insurance for the employee's spouse and/or dependents.

(ii) Dental Plan for the employee, and the employee's spouse and/or dependents.

(iii) Eye care plan for the employee, and the employee's spouse and/or dependents.

(iv) Deferred compensation program.

21.2 - IRS 125 Plan - Police Unit employees may participate in the City's Internal Revenue Section 125 program which will allow employees to allocate specified amounts of monthly pretax salary or wages for the reimbursement of medical care expenses, dependent care expenses, or both. Premiums for LTO are excluded from the pretax provisions of the Section 125 program.

21.3 - Insurance Advisory Committee - The City shall maintain the Insurance Advisory Committee to which the Association may appoint two (2) representatives.

21.3.1 - Purpose - The purpose of the Advisory Insurance Committee shall be to advise the City relative to health, life, and related insurance plans which may be provided to employees of the City of Banning including the type of plans, scope of coverage, and the selection of insurance carriers.

21.3.2 - Voting - The Insurance Committee shall determine issues by a majority vote of the members, each member having one (1) vote, except that any such determination shall constitute an advisory recommendation only to the City Manager.

21.3.3 - Selection of Members - Insurance Committee Members shall be selected as follows:

(a) Representatives of bargaining units shall be selected in a manner to be determined by each respective unit.

(b) The City's Representative shall be the City Manager or his designated representative.

21.3.4 - Meetings - The Insurance Advisory Committee shall meet as may be necessary to conduct the business of the committee.

21.3.5 – Status - The Insurance Advisory Committee will be advisory only, with no power or prerogative to decide on behalf of the City on issues pertaining to employee insurance coverage.

ARTICLE 22 – RETIREMENT AND MEDICARE

22.1 - Contributions to CalPERS -

(a) All CalPERS Classic employees are responsible for paying their contributions for their respective retirement plans to CalPERS at 9% for safety members and 8% for non-sworn miscellaneous members. The City does not provide any Employer Paid Member Contributions on behalf of employees.

(b) Per the Public Employees' Pension Reform Act of 2013 and related laws and regulations, new employees hired after January 1, 2013 are subject to paying at least 50% of the normal costs or as otherwise determined by CalPERS.

22.2 - CalPERS Formulas -

(a) The City agrees to continue to pay the employer's portion of the CalPERS "Three Percent at Fifty" (3% @ 50) public safety retirement formula and the "Two Point Five Percent at Fifty-Five" (2.5% @ 55) public miscellaneous retirement formula for employees hired on or before December 20, 2012. All employees shall pay their full member contributions under their respective retirement plans.

(b) The City previously adopted Resolution 2012-99 approving the Side Letter Agreement between the City and the BPOA which authorized implementation of a two tiered retirement plan providing the CalPERS "Two Percent at Fifty" (2% @ 50) retirement formula for public safety employees and the 'Two Percent at Sixty" (2% @ 60) retirement formula for public miscellaneous employees. The new two tiered retirement plans applied to all new employees hired after December 20, 2012. All Unit employees hired on or before December 20, 2012 remained at the previously existing 'Three Percent at Fifty" (3% @ 50) retirement formula for public safety employees and the 'Two Point Five Percent at Fifty-Five" (2.5% @ 55) formula for public miscellaneous employees.

(c) Unit employees hired on or after January 1, 2013 shall be enrolled in either the "Two Percent at Fifty" (2% @ 50) formula for public safety employees and the "Two Percent at Sixty" (2% @ 60) formula for public miscellaneous employees or the 'Two Point Seven Percent at Fifty-Seven" (2.7% @ 57) formula for public safety employees and the "Two Percent at Sixty-Two" (2% @ 62) formula for public miscellaneous employees depending upon eligibility rules as established by CalPERS under the Public Employees' Pension Reform Act of 2013 and related laws and regulations.

(d) Per the Public Employees' Pension Reform Act of 2013 and related laws and regulations, all Unit employees hired on or after January 1, 2013 shall also be required to have their final compensation defined as the highest average annual final compensation during a consecutive thirty-six (36) month period, subject to the cap. Unit employees hired before January 1, 2013 will maintain the "single highest year" benefit.

22.3 - F.I.C.A. - Police Unit employees will pay employee portion of FICA and the City shall be responsible for payment of the employer's portion.

ARTICLE 23 – MISCELLANEOUS BENEFITS

23.1 - Life Insurance - The City shall provide a life insurance policy to each employee in the
Police Unit in the amount of $50,000.00.

23.2 - Direct Deposit - All Police Unit employees shall be paid by direct deposit of their payroll check into an account of their choice, except those employees who either do not hold an account with a financial institution that offers direct deposit or who do not hold an account of any type and such employees will be required to pay a $10 administration fee per payroll. It shall be the responsibility of the employee to establish and maintain such account.

23.3 - Computer Loan - Every Police Unit employee shall be entitled to participate in an interest free loan program for the purchase of a computer. The maximum amount of any individual loan shall be equal to one (1) month of an employee's salary. The cumulative amount of loans outstanding hereunder shall not exceed $20,000. The loan shall be upon the terms and conditions established by the City. These conditions shall include the prohibition against developing, maintaining or storing any department files or department related files or information or any criminal justice files, including but not limited to Megan's Law files and information, on such equipment. Wrongful possession of such information on the equipment shall constitute grounds for discipline up to and including dismissal. For purposes of this section "department files or department related files" are information concerning any individual or group of individuals, developed or obtained in the course and scope of the duties of the owner of the equipment purchased hereunder, or the course and scope of the duties of the provider of the information to such owner, as a law

enforcement officer or employee of a law enforcement agency. The definition includes, but is not limited to, information regarding an individual or group of individuals which is not available to the general public and which is available to the owner of the equipment because, and not necessarily solely because, of their status as a public safety officer.

23.4 - Utility Allowance - Any Police Unit employee who resides within the City shall receive $150 per month as a discount against the cost of electric and water service during the period of such residency.

23.5 - Deferred Compensation Plan - The City has established a deferred compensation plan under Section 457 of the IRS code. Police Unit employees may participate in this plan at their own expense and at their option. Employees may opt to deposit into their established deferred compensation account, any funds paid to them under any leave pay out provisions in this MOU. Deposits into deferred compensation accounts shall be subject to IRS rules and regulations.

23.6 - Gun Loan - The City has established a loan program for those police officers approved by the Chief of Police who wish to purchase a weapon. Repayment of the loan shall be through payroll deduction. The complete policy is established in Resolution 2005-66.

ARTICLE 24 – LAYOFFS AND RE-EMPLOYMENT

24.1 - Purpose - The purpose of this Article is to provide a fair and equitable basis for the reduction in force of full-time classified personnel due to insufficient work or lack of funds.

24.2 - Reasons for Lay Off - The City of Banning retains the right to determine when a lack of work or lack of funds condition exists. Lack of work means that a category of work effort within the City can be fulfilled with fewer employees at a level of service acceptable to the City. Lack of funds means that the City in its sole discretion has determined that it cannot sustain operations at the current level of employment within the funding available. For the purpose of this subsection, the determination of the City shall be binding.

24.3 - Notice of Lay Off - Any lay off initiated under the provisions of this Agreement can take place at any time during the year. The City shall notify the affected employees in writing at least ten (10) working days prior to the employee's last day of work. The City reserves the right to pay the employee for such ten (10) day period or any remaining portion thereof, and to require the employee to immediately vacate City property. A copy of any notice will be forwarded to the appropriate Police Unit representative. Any notice of lay off shall specify the reason for the lay off and the effective date. The form and timing of any such notice shall be subject to the established grievance procedure, provided however, the City's decision to lay off is not subject to the grievance procedure. The date of the layoff shall not be delayed by the pendency of a grievance.

24.4 - Order of Lay Off - Any lay off shall be effective within the job classification or job classifications selected by the City. Once the City has determined which classification or classifications will be affected by the layoff, the order of lay off shall be based on seniority among employees in the classification with "satisfactory job performance." "Satisfactory job performance" as used in this section shall be established when an employee has not more than two (2) overall less than satisfactory evaluations within the past five (5) years. For purposes of this Article, seniority is defined as the length of uninterrupted service within the classification of employees to be laid off as measured from the date of the layoff notice.

24.5 - Reduction of Class - Any employee who has been designated to be laid off may choose to be reduced in class and compensation if the employee has greater seniority in a class than those employees in a lower class or position.

24.6 - Equal Seniority - If two (2) or more employees subject to lay off have equal class seniority, then the determination as to who has greater seniority shall be based upon total length of uninterrupted service with the City.

24.7 - Reemployment Rights - Laid off employees will be eligible for reemployment under the provisions of the Personnel Rules.

24.8 - Reduction in Workweek - The Personnel Rules authorize the City Council to change or alter the work week by resolution.

ARTICLE 25 – GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE

25.1 - Procedure - Subject to the provisions of this MOU, any permanent Police Unit employee who has a grievance, as defined below, or has been disciplined, as defined below, shall be entitled to have the matter reviewed through the procedures outlined in this Article. This Article shall also include and satisfy all rights which a permanent bargaining unit employee may have under California Government Code Section 3304(b).

25.2 - Definitions:

(a) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "grievance" is defined as a dispute between the employee and the City, or the Union and the City, over the interpretation or application of this MOU, or the second denial of a step increase to an employee. The term "grievance" does not include "discipline" as defined herein.

(b) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "discipline" is limited to any action taken by the City against a permanent Police Unit employee which (1) is punishment or discipline of the employee, (2) will result in a reduction or loss in the employee's salary, (3) is either (i) an involuntary termination from City employment (ii)

involuntary suspension from employment without pay, (iii) involuntary move from one (1) job classification to another job classification where the second job classification has a lower rate of pay at the top step than the top step of the job classification from which the employee was moved, or (iv) involuntary reduction in step within a job classification, and (4) is not the result of a lay off or (v) a written reprimand.

25.3 - Informal Step - An attempt shall be made to ascertain all facts and adjust such grievance or discipline on an informal basis between the employee and, if he or she desires, the employee's representative, on the one hand, and the immediate supervisor, on the other hand. Presentation of such grievance or discipline shall be made within fourteen (14) calendar days of the incident causing the grievance or discipline, or the date on which the employee first became aware of it.

25.4 - Step One - If the grievance or discipline is not adjusted to the satisfaction of the employee within seven (7) calendar days after presentation to the grievance or discipline to the immediate supervisor, and if the employee or the Union wishes to resolve the matter, the grievance or discipline shall be submitted in writing by the employee or his or her representative to the Police Chief in consultation with the Human Resources Director within the next fourteen (14) calendar days. The Police Chief shall meet with the employee, his or her representative or both within seven (7) calendar days of receipt of such written grievance; and deliver his or her decision in writing to the employee, along with reasons for such decision, within seven (7) calendar days after meeting.

25.5 - Step Two - If the grievance or discipline dispute is not adjusted to the satisfaction of the employee and the union under the procedures set forth immediately above, the employee or his/her representative may submit written notice to the City Manager of his/her intent to submit the matter to mediation. Such written notice must be delivered to the City Manager within fourteen (14) calendar days after the date of the Chief of Police's written decision. The Union agrees that submission of any matter to mediation must be by mutual agreement of the Union and the City, with each party to bear their own costs. If the parties mutually agree to mediation, the following procedures apply:

(a) Within seven (7) calendar days of receipt of the written notice, the Union and the City shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Union shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the Union and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The Union shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The City shall pay for the costs of the advisory arbitrator.

25.6 - Grievances Related to MOU Interpretation - The Union agrees that submission to mediation of any grievance related to MOU interpretation or administration must be by mutual agreement of the Union and the City, with each party to bear their own costs. If the parties mutually agree to mediation, the following procedures apply:

(a) Within seven (7) calendar days of receipt of the written notice, the Union and the City shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Union shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the Union and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The Union shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The City shall pay for the costs of the advisory arbitrator.

On grievances pertaining to the interpretation or administration of this MOU, the Union agrees that the decision of the arbitrator's decision shall be final and binding upon the City.

25.7 - Grievances Related to Discipline - On grievances related to discipline, the written notice in Step Three below shall set forth in detail the employee's and/or Union's view of the basis for the disciplinary dispute and shall separately set forth the issue or issues to be submitted to the advisory arbitrator. The procedures set forth below shall be followed thereafter.

(a) Within seven (7) calendar days of receipt of the written notice, the Union and the City shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Union shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the Union and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The Union shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The City shall pay for the costs of the advisory arbitrator.

On disputes related to discipline, the decision of the arbitrator shall be advisory to the City Manager, whose decision shall be the final decision of the City.

25.8 - Step 3 - Within seven (7) calendar days after the Union and City receive the advisory arbitrator's recommendation on the dispute related to discipline, either the Union or the Department Head may submit written argument to the City Manager as to whether the arbitrator's opinion should be accepted, rejected or modified. Within fourteen (14) calendar days after the seven (7) day-period above has expired, the City Manager shall advise the Union and the Department Head whether the City Manager is accepting, rejecting, or modifying the advisory arbitrator's recommended decision. The decision of the City Manager shall be final and binding.

25.9 - Modification of Time Limits - The above time limits may be modified by mutual agreement.

ARTICLE 26 – SEVERABILITY CLAUSE

26.1 - Severability - If any of the provisions contained in this MOU are determined to be unlawful, then only such provision(s) shall be deleted from this MOU with the remainder of this MOU remaining in force and effect. Upon the issuance of a decision by a Court of Competent Jurisdiction declaring any section of this MOU to be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer as soon as possible concerning only those sections.

ARTICLE 27 – COMPLETE AGREEMENT

27.1 - Entire Agreement - This Agreement is the entire Agreement between the parties, terminating all prior agreements, whether written or oral, arrangements and practices, and, except as otherwise provided herein, shall conclude all meetings and conferences during the term of this Agreement.

27.2 - Items Not Covered - All terms and conditions of employment not covered by this Agreement shall continue to be subject to the City's direction and control.

27.3 - Vacant Positions - The level of service and number of employees remain a management prerogative and the parties agree that the City may elect not to fill four (4) current or soon to be vacant police officer positions as a cost saving mechanism.

ARTICLE 28 – INVESTIGATION DOCUMENTS AND MATERIALS

The City shall continue to maintain investigation documents and material in accordance with its Records Management Program. No. A-28 in the Administrative Policy which was adopted by Resolution No. 2003-26.

ARTICLE 29 – RE-OPENERS

29.1 - During the term of this MOU, unless otherwise provided, the parties shall not meet and confer with respect to any subject or matter (except if other labor groups receive an increase in the employee cafeteria account above $14,450, then an automatic reopener would be triggered) whether or not referred to in this MOU, unless mutually agreed to otherwise.

ARTICLE 30 – RATIFICATION AND EXECUTION

This MOU has been developed as a result of meet and confer sessions between representatives of the City and the Union regarding issues related to wages, hours and other terms and conditions of employment. The city's representatives and the Union have reached an understanding as to certain recommendations to be made to the City Council for the City of Banning and have agreed that the parties hereto will jointly urge said Council to adopt a new wage and benefit resolution which will provide for the changes contained in said joint recommendation. The parties hereto acknowledge that this MOU shall not be in full force and effect until adoption by the Banning City Council.

In witness whereof the parties have caused their signatures to be affixed this 22nd day of March, 2016.

For the City of Banning

Michael Rock
City Manager
Lead Negotiator

For the Banning POA

Joe Feola
Lead Negotiator

Mike Bennett
BPOA Representative

Brandon Smith
BPOA Representative

THIS PAGE LEFT BLANK INTENTIONALLY

RESOLUTION NO. 2014-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING A SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE BANNING POLICE OFFICERS ASSOCIATION AND THE CITY OF BANNING

WHEREAS, the City of Banning ("City") has formally recognized the Banning Police Officers Association ("BPOA") as the exclusive employee organization for the police bargaining unit; and

WHEREAS, the prior Memorandum of Understanding between the City and the BPOA expired on June 30, 2013; and

WHEREAS, the City and BPOA have successfully met and conferred to negotiate a successor BPOA Memorandum of Understanding for the period July 1, 2013 through June 30, 2014 pursuant to the Meyers-Milias-Brown Act ("MMBA")(Gov't Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 2010-45; and

WHEREAS, MMBA Section 3505.1 provides that: "If agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination"; and

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

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

SECTION 1: That the City Council approves the Memorandum of Understanding Between the City and the Banning Police Officers Association for the period July 1, 2013 through June 30, 2014, a fully executed copy of which is attached hereto and by this reference made a part hereof.

PASSED, APPROVED AND ADOPTED this 25th day of March, 2014.

Deborah Franklin

Deborah Franklin, Mayor
City of Banning, California

ATTEST:

Marie A. Calderon

Marie A. Calderon, City Clerk

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-07 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of March, 2014, by the following vote, to wit:

AYES: Councilmembers Miller, Peterson, Welch, Westholder, Mayor Franklin
NOES: None
ABSENT: None
ABSTAIN: None

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. 2014-07 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of March, 2014, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

This page left blank intentionally

MEMORANDUM OF UNDERSTANDING BETWEEN

THE CITY OF BANNING,

AND

THE CITY OF BANNING POLICE OFFICERS' ASSOCIATION

JULY 1 , 2013 – JUNE 30, 2014

TABLE OF CONTENTS

Page No.

ARTICLE 1 - PREAMBLE 1

ARTICLE 2 - CONTINUATION OF RULES & POLICIES 1

ARTICLE 3 - EMPLOYEE RIGHTS 2

ARTICLE 4 - MANAGEMENT RIGHTS 2

ARTICLE 5 - DUES DEDUCTION 3

ARTICLE 6 - UNION REPRESENTATIVES 3

ARTICLE 7 - BULLETIN BOARDS 4

ARTICLE 8 - MEMORANDUM OF UNDERSTANDING COPIES 4

ARTICLE 9 - MEETINGS 4

ARTICLE 10 - HOURS OF WORK 5

ARTICLE 11 - SHIFT EXCHANGE 5

ARTICLE 12 - SALARIES, PERFORMANCE EVALUATIONS, INCENTIVE PAY 6

ARTICLE 13 - OVERTIME 7

ARTICLE 14 - ACTING PAY AND PROMOTION PAY 9

ARTICLE 15 - PAY FOR JURY DUTY: COURT APPEARANCES, "ON CALL" DUTY 9

ARTICLE 16 - EQUIPMENT, UNIFORM ALLOWANCE, SAFETY AND TRAINING 10

ARTICLE 17 - MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT 11

ARTICLE 18 - TUITION AND BOOKS REIMBURSEMENT; EDUCATION INCENTIVE 12

ARTICLE 19 - SICK AND BEREAVEMENT LEAVE 14

ARTICLE 20 - VACATION AND HOLIDAY LEAVE 15

ARTICLE 21 - MEDICAL AND DENTAL INSURANCE 16

ARTICLE 22 - RETIREMENT AND MEDICARE 18

ARTICLE 23 – MISCELLANEOUS BENEFITS 19
ARTICLE 24- LAYOFFS AND RE-EMPLOYMENT 20
ARTICLE 25- GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE..... 21
ARTICLE 26- SEVERABILITY CLAUSE 23
ARTICLE 27- COMPLETE AGREEMENT..... 24
ARTICLE 28- INVESTIGATION DOCUMENTS AND MATERIALS..... 24
ARTICLE 29 - RE-OPENERS 24
ARTICLE 30 – RATIFICATION AND EXECUTION 25

ARTICLE 1 - PREAMBLE

1.1 - Agreement - This Memorandum of Understanding ("MOU" or "Agreement") is entered into between The City of Banning, a Municipal Corporation, hereinafter known as "the City" or "City" and the authorized representatives of the Banning Police Officers' Association, the recognized employee organization of the Police Unit, hereinafter known as "BPOA" or "Unit", relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3511 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act.

1.2 - Recognition - The City continues to formally recognize the Banning Police Officers' Association as the only Recognized Employee Organization representing employees in the unit of representation presently or hereafter employed by the City and eligible for inclusion in the Police Unit. It is understood that this Agreement shall constitute a bar to any petition or request for recognition of any unit which includes classifications of employees covered by this Agreement or such petitions to represent such employees at any time during the term hereof. This provision shall not preclude employees from otherwise exercising their rights as may be provided by the Meyers-Milias-Brown Act or the Employer-Employee Relations Resolution of the City.

1.3 - Term - Except as otherwise provided herein, this MOU between the City and the Union relative to wages, hours, and other terms and conditions of employment shall be for the period July 1, 2013 through June 30, 2014.

1.4 - Represented Classifications - This Agreement covers employees in the following classifications: Police Sergeant, Police Staff Sergeant, Police Master Sergeant, Police Officer, Community Service Officer and Evidence Technician.

ARTICLE 2 - CONTINUATION OF RULES & POLICIES

2.1 - Other Written Policies - Subject to the terms of this Agreement, all City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2010-45) and the Administrative Policies of the City of Banning and the Banning Police Department shall apply during the term of this Agreement.

2.2 - Meet and Confer - The Union and the City agree to meet and confer during the term of this MOU over the adoption, amendment or revision, including repeal, of City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2010-45) and the Administrative Policies of the City of Banning and the Banning Police Department, to the extent that such documents contain mandatory subjects of bargaining pursuant to the Meyers-Milias-Brown Act. Should an impasse be reached following such meet and confer sessions, the provisions of the Employer- Employee Relations Resolution (Resolution No. 2010-45) or any amendment thereto or successor Employer- Employee Relations Resolution will apply.

2.3 - Past Practice - For purposes of this Agreement, a "past practice" shall be defined as an unwritten policy, procedure or work rule, whether or not it affects a mandatory subject of bargaining, and upon which the City, the Union and the bargaining unit employees may have relied through a course of conduct. As of the effective date of this Agreement, all past practices are void, and of no further force or effect.

ARTICLE 3 - EMPLOYEE RIGHTS

3.1 - Non-Discrimination - The provisions of this Agreement shall apply to bargaining unit employees without illegal discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, citizenship status, or any other basis protected by applicable law, nor will there be any discrimination with respect to hiring, retention or any condition of employment because of membership or non-membership in the Union, or because of any activities or refraining from activities on behalf of the Union.

3.2 - Union Membership - The Union will accept into membership all eligible persons of the bargaining unit without regard to, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex (including pregnancy, childbirth and related medical condition), sexual orientation, age, or any other basis protected by applicable law.

3.3 - Rights Granted by State and Federal Law - Except as otherwise provided in this Agreement, the employees covered by this Agreement shall have all rights which may be exercised in accordance with State and Federal Law, and applicable ordinances, resolutions, rules and regulations. However, employees covered by this Agreement shall not have the right to a grievance for violation of any such law, ordinance, resolution or rule, except as specifically set forth herein.

3.4 Gov't Code Section 3502 - Employees shall have the rights provided to them under Government Code section 3502 of the Meyers-Milias-Brown Act.

ARTICLE 4 - MANAGEMENT RIGHTS

4.1 - The Union recognizes and agrees that the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted and to assign work to employees and to establish and change work schedules and assignments and to determine the days and hours when the employees shall work; take all necessary actions to carry out its mission in

emergencies; and, exercise complete control and discretion over its organization and work performance technology.

ARTICLE 5 - DUES DEDUCTION

5.1 - Dues Deduction - The City shall deduct one (1) month's current and periodic Union dues from the wages and/or Leave benefits of each employee who voluntarily executes and delivers to the City a payroll deduction authorization form.

5.2 - Sufficient Earnings - The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings.

5.3 - Non-Pay Status - In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.

5.4 - Cancellation - An employee's authorization for deduction of dues may be canceled at any time by written notice from the employee to the City with a copy to the Union. An Employee's deduction authorization shall automatically be canceled if the employee leaves the employ of the City or is transferred out of the representation unit.

5.5 - Funds Transmission - The aggregate amount of such deductions by the City shall be transmitted monthly to the President of the Union or his or her designee. The City shall provide the President of the Union or his or her designee with a list each month indicating the dues deducted from the pay of any represented unit employee and those employees for whom no deduction was made pursuant to the provisions of Sections 5.2 and 5.3. The Union shall notify the City of the names of its President and other officers and designees each year following election of the board and appointment of members to committees to which the Union is entitled to appoint members under this Agreement.

5.6 - Indemnification - The Union shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of deduction of employee organization dues. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 6 - UNION REPRESENTATIVES

6.1 - Two (2) employees selected by the Union may attend scheduled meetings with City management during regular hours without loss of pay, provided that such employees shall not leave their work station or assignment without first providing twenty-four (24) hour notice to the Department Head. Additional employees who are not on duty may participate at no additional cost to the City. Such meetings shall be scheduled in a manner consistent with the City's operating requirements and work schedules. Nothing herein shall be deemed to preclude the scheduling of such meetings at hours other than such employee's regular working hours, in which event attendance shall be without pay.

ARTICLE 7 - BULLETIN BOARDS

7.1 - Authorized Postings - The City will furnish adequate bulletin board space where currently available. The Department Head shall designate the bulletin boards to be used for posting notices. Bulletin boards may be used for the following notices:

(a) Scheduled Union Meetings, Agenda and Minutes.

(b) Information on Union Elections and the Results.

(c) Posting of Union special, recreational, and related bulletins.

(d) Reports of Official Business of Union Including Reports of Committees or the Board of Directors

(e) MOU, Pay Scales, Job Announcements, Promotion Lists, Etc.

(f) Such other items as may be approved by the Department Head upon request of the Union.

7.2 - Posted Notices - Posted notices shall not be defamatory or violate any of the City's policies, nor shall they advocate election or defeat of candidates for public office. All notices to be posted may be dated and signed by an authorized representative of the Union. The Union may give notices to the represented employees through the use of the City mail system and/or the City computer e-mail system.

ARTICLE 8 - MEMORANDUM OF UNDERSTANDING COPIES

The City shall provide the Union with one (1) original and one (1) electronic (PDF) copy of this Memorandum after it has been fully executed by the parties. The City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the representation unit after the effective date of the Agreement. The City may charge for any additional hard copies. The Union shall be responsible for providing hard copies of this MOU to represented employees at Union expense. Electronic copies shall be no charge.

ARTICLE 9 - MEETINGS

9.1 - Items of Mutual Concern - Upon mutual agreement of both the City and the Union, the parties may meet to discuss items of mutual concern. A meeting conducted under this section shall not constitute a meet and confer or hearing under any grievance procedure.

9.2 - Use of City Facilities - The Union may be granted permission to use City facilities for the purpose of meeting with employees to conduct Union business provided space for such meetings can be made available without interfering with City needs. The Union shall be held fully responsible for any damages to and security of any facility that is used by the Union.

9.3 - Budget Oversight Committee - The City agrees to the creation of a Budget Oversight Committee, with the Union entitled to appoint one (1) member. Said Committee shall have an equal number of members appointed by the City's recognized Employee Associations and the City. Said Committee shall be advisory only to the City Manager.

ARTICLE 10 - HOURS OF WORK

10.1 - Schedules -Unless modified by the Department Head as set forth in section 10.2 and 10.4 below, the Police Unit employees described below shall work the following work periods:

(a) Employees assigned to uniformed patrol shall have a work schedule of seven (7) twelve (12) hour shifts each fourteen (14)-day work period.

(b) Employees assigned to the detective bureau shall have a work schedule as assigned by the Department Head.

10.2 - Department Head Discretion - Employees may be assigned to a work schedule consisting of the days and hours as determined by the Department Head.

10.3 - Briefing - Pre-shift briefing shall be at the discretion of the Department Head and if required, shall count as hours worked.

10.4 - Schedule Changes - The Department Head in the exercise of his or her discretion may change the work schedule and/or work period of Police Unit employees. Accordingly, work schedule and work period changes are not subject to meet and confer requirements. The Department Head shall notify the Union regarding any change in work schedule and/or work period no later than thirty (30) days before the date the change is implemented.

10.5 - Shift Assignments – Each year, the Department Head shall post a shift assignment notice on which officers shall indicate their shift assignment preference. The Notice will solicit three shift preferences and any additional information regarding their reasons for requesting a particular shift. The Department Head shall consider each request, giving those with seniority a higher priority, and make an effort to accommodate individual preferences. However, it is recognized that the Department Head shall have the ultimate authority to make shift assignments based on the needs of the Department. These shift assignments shall be for the full year except for individual changes as determined by the Department Head.

10.6 - Outside Employment - Prior to any bargaining unit employee accepting outside employment, he or she shall request and receive authorization from the Department Head. Authorization for outside employment shall be made according to the policies and procedures in place at the time of request.

ARTICLE 11 - SHIFT EXCHANGE

Employees may be permitted to trade shifts provided that:

(a) No additional compensation or other cost to the City results from such assignment;

(b) Exchanging employees are fully qualified to perform the required tasks of both assignments; and

(c) Written requests for shift representation must be submitted on the prescribed Department form and approved by the Department Head or his or her designee prior to the start of the requested shift.

ARTICLE 12 - SALARIES, PERFORMANCE EVALUATIONS, INCENTIVE PAY

12.1 - Salary Adjustment — All represented Unit members shall receive a one percent (1%) lump sum one time, non-recurring payment of the annual base pay rate on the next full pay period following adoption of the ratified and fully executed MOU by the Banning City Council.

12.2 - Assignment to Ranges — All employees have been placed on ranges with defined steps as shown on the attached salary schedule. The salary table is calibrated in approximate 2.5% increments. Subsequent annual increase for satisfactory performance will be two (2) steps or approximately 5%.

(a) No employee shall be granted a step increase unless and until such employee has obtained an acceptable evaluation consistent with the applicable administrative policies of City.

(b) A first denial of a step increase shall not be an allowable subject of the exercise of employee rights under any grievance procedure afforded by the City or collective bargaining agreement.

(c) An employee denied a step increase for unacceptable performance shall be entitled to be re-evaluated in six (6) months from the date of the performance evaluation which led to the denial of the step increase. If the employee's overall performance is rated acceptable, the employee shall be granted the appropriate step increase effective the first pay period following the six month re-evaluation period. Such step increase shall not be retroactive.

(d) If the employee's performance continues to be unacceptable after the six (6) month re-evaluation period, the employee shall be given a final denial of a step increase for the remainder of the regular evaluation period. Denial of a step increase under this subsection may, at the employee's option, be subject to the collectively bargained grievance procedure for unit members.

(e) An employee at the top of his or her range shall have his or her performance evaluated at least annually within thirty (30) days of his or her anniversary date.

12.3 - – Premium Pay - City shall additionally pay a five percent (5%) premium for the following special assignments, provided that no such premium shall attach when the officer is otherwise working an eighty-four (84) hour shift:

- Professional Standards Supervisor (Sgt. rank only)
- Detective Sergeant
- Detective (ARCNET)
- K-9 Officer
- Motor Officer
- School Resource Officer
- Youth Resource Officer
- CET
- Any other assignment determined to be appropriate and approved by the Chief of Police in consultation with the Human Resources Department.

12.3 – Field Training Officer (FTO) - Any Police Unit member who serves as an FTO shall receive additional pay of five percent (5%) during actual training. Any Police Unit member who has been assigned as a FTO and serves in any other special assignment is entitled to additional premium pay to a maximum of ten percent (10%) of their salary during such assignment. The amounts in this article shall not be pyramided except as set forth above.

12.4 – Bilingual Pay - Employees certified to use sign language or to speak Spanish, or any of the Hmong languages (Chinese, White Lao, Blue Lao), or any other foreign language designated for Bilingual Pay by the City Manager, shall be paid a bonus equivalent to five percent (5%) of their base salary for such use on the job. Initial certification and any requirement with respect to demonstration of the continuing ability to use sign language or to speak the foreign language shall be determined by the City using methods selected by the Human Resource Department.

ARTICLE 13 - OVERTIME

13.1 - 7(k) Exemption -The City has adopted a fourteen (14) day work period pursuant to the "7k exemption" of 29 U.S.C. section 207(k) under the Fair Labor Standards Act (FLSA). Except as provided below in connection with uniformed patrol officers, an employee shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty (80) hours in the fourteen (14) day work period. Uniformed patrol officers assigned to work twelve (12) hour shifts as outlined in Article 10.1 above, shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty-four (84) hours in the fourteen (14) day work period. This section 13.1 does not preclude the Chief of Police from establishing the practice of scheduling an employee to work a pay period of any duration which is not less than eighty (80) hours and not more than eighty-four (84) hours, subject to the shift change provisions of the MOU. At all times, the full eighty-four (84) hours shall be accounted for on the time card. Unassigned hours of the eighty-four (84) shall be so indicated.

(a) The City shall pay the CalPERS contribution, as required by the MOU, for the first eighty-four (84) hours of CalPERS eligible time worked during a pay period. Hours earned as overtime and paid at time and one-half (1/2) shall not be counted as CalPERS eligible hours. All overtime worked shall be authorized by a supervisor in advance, if possible. Otherwise, the claim for overtime shall be subject to review by the Department Head. Overtime may be paid as accrued compensatory time subject to the following: Compensatory time may not be accumulated in excess of two hundred forty (240) hours. Employees may cash out accumulated comp time twice per year (July and December) up to a maximum of eighty (80) hours per year unless otherwise restricted herein. Any cash out will be at the employee's current rate of pay inclusive of all premium pay.

(i) The "regular hourly base rate of pay" includes only salary as described in Article 13.1. Acting pay as set forth in Section 14.1 and educational incentive pay as provided in Article 18.4.

(b) In calculating overtime, the practice of the Finance Department shall be as follows:

(i) All hours appearing on the time card as "Reg Hours" shall first be totaled.

(ii) All hours otherwise defined as "hours worked" under the MOU shall then be totaled.

(iii) Finally, all hours recorded as overtime on the time card shall be totaled.

(iv) All hours totaled above, which are in excess of eighty-four (84) hours for patrol personnel and eighty (80) hours for special assignments during the pay period, shall be treated as overtime.

(v) In the case of correction of the time card by the Finance Department, the affected employee shall be given timely notice of such correction prior to the preparation of the pay check.

(c) Any assigned hours which are not worked, and are not otherwise accounted for through a reduction in accrued leave, shall be treated as Leave-Without-Pay ("LWOP") and the employee may be subject to a personnel action as prescribed in the personnel policies of the City.

(d) Accruals, and reductions in accruals, are based on an eighty (80) hour pay period.

13.2 - Hours Worked. - "Hours worked" means time spent in required court appearances as set forth in Article 15, and time paid for vacation, holidays, sick leave, CTO and administrative leave for officer involved shooting or other non-disciplinary leave.

13.3 - Call Out Minimum. - Bargaining Unit employees shall be paid a minimum of two (2) hours' pay for any time worked during the first hour when called-out for emergencies, and time and one-half (1/2) for each hour worked there-after. For example, should an employee be called-out to work two (2) hours of emergency duty he or she would be compensated with three and one-half (3 ½) hours' pay at the regular hourly base rate of pay; two (2) hours' pay for the first hour worked and one and one-half (1 ½) hours pay for the second hour worked.

13.4 - Pyramiding of Overtime. - There shall be no pyramiding or duplication of overtime payments and other premiums for the same hour worked.

13.5 - Compensatory Time. - Accrued compensatory time may be taken by the employee on an "hour accrued/hour off" basis. However, in the event an employee terminates his employment and/or the City is otherwise obligated or desires to "cash out" accrued compensatory time, the employee shall be paid for any accrued time at his or her then regular hourly base rate of pay.

13.6 - Maximum Comp Time Accrual . – Comp time may be accrued to a maximum of two hundred forty (240) hours.

ARTICLE 14 - ACTING PAY AND PROMOTION PAY

14.1 - Represented employees temporarily assigned to work in a higher classification by management shall be compensated for working their thirty-first (31st) consecutive day worked of such assignment within the fiscal year, and consecutive days worked thereafter, at a rate five percent (5%) above their normal rate of compensation while working in the higher classification. The conditions of this subsection are prerequisites to the receipt of any higher acting pay. At such time as an employee is no longer performing work out of his or her pertinent classification, he or she shall be compensated at his or her regular rate of pay for his or her pertinent classification.

14.2 - Represented employees promoted to work in a higher classification shall be placed in the lowest step of the higher classification that pays more than the employee received in the lower classification.

ARTICLE 15 - PAY FOR JURY DUTY: COURT APPEARANCES, "ON CALL" DUTY

15.1 - Any employee who shall be summoned for attendance to any court for jury duty during his or her normal working hours shall be deemed to be on duty and there shall be no loss of salary, but any jury fees received by him or her shall be paid into the City treasury. Any employee who shall be called as a witness arising out of and in the course of his or her City employment shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him or her shall be paid into the City treasury. An employee absent as a witness in a private matter shall not be entitled to be paid during such absence, except that he or she may, however, use Vacation Leave, Holiday Leave and Compensatory Leave for such absence.

15.2 - Represented employees shall be compensated for off-duty court appearances. The City will pay a minimum of three (3) hours for travel to and appearances in court at a rate of one and one-half (1 ½) times the base rate of pay. All travel shall be calculated based on the time required to travel from any Banning Police Station to the destination. All hours required in excess of three (3) hours shall be compensated at one and one-half (1 ½) times the base rate of pay.

15.3 - Employees required to be on call for court appearances before noon shall be compensated for one (1) hour. Those required to be on call for court purposes after noon shall be compensated for one (1) hour. Requirement for multiple court appearances in the same time frame shall constitute one (1) period of on call. For purposes of this section, an employee shall not be deemed to be on call while appearing in court. Employee shall not be paid for being on call under this Section for a day on which the employee is compensated for being in court under Section 15.2.

15.4 - Any detective scheduled for "on call" duty shall receive four (4) hours of either compensatory time off or pay for each scheduled day off on which the detective is assigned to "on call" duty, other than for court appearances as outlined above.

15.5 - An employee shall be on call for purposes of the receipt of the four (4) hours where:

(a) the employee is scheduled to provide a mandatory response; and

(b) that response is to be to the station, or other designated location within two (2) hours; and

(c) the employee is required to provide the Department with sufficient information to obtain immediate contact with the employee.

15.6 - All Police Unit members who are required to respond to a traffic accident call out would receive a minimum of two (2) hours double time pay commencing thirty (30) minutes before their arrival time. The Evidence Technician will be entitled to receive a minimum of two (2) hours double time pay commencing thirty (30) minutes before his/her arrival for any call outs.

15.7 - Scheduled Training. Any employee who is scheduled by the Department to attend day long training during his or her normal shift or working hours shall be deemed to be on duty and there shall be no loss of salary. The Department will abide by the "day for a day" theory for any day long training not lasting more than four (4) days. This policy provides that the employee will not owe the Department time should the day long training course be shorter than the officer's regularly scheduled work day. This theory applies only to scheduled full-day training courses. For overtime calculation purposes, only actual hours in training will count as actual hours worked.

ARTICLE 16 - EQUIPMENT, UNIFORM ALLOWANCE, SAFETY AND TRAINING

16.1 - The City will provide covered employees safety equipment in accordance with California State Law. Said safety devices and safeguards shall remain the property of the

City of Banning and their use may be required and regulated by the Department Head or his or her designee.

16.2 - The Department Head or his or her designee shall have sole authority to assign the use of or regulate the use of City property by represented employees including but not limited to City vehicles.

16.3 - The City agrees to pay a uniform allowance of $110 per month to Police Unit members. Payment of the uniform allowance will be paid equally between the first two pay periods each month. Such money shall be used for the purpose of purchasing and maintaining uniforms in order that individual officers and civilian employees who wear regulation uniforms may maintain a professional appearance.

16.4 - The City shall reimburse Police Unit employees the reasonable replacement value of personal property, not including uniforms for which the above uniform allowance is paid, which is destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the Department Head the damaged or destroyed article. Personal property subject to this provision consists of personal property necessary to fulfill the employee's job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to $200 per pair. Replacement for watches is limited to $50. Sums paid hereunder shall be secondary to any applicable insurance. If an individual pays a sum of money to the City pursuant to a court order as restitution for damaging the uniform of a bargaining unit employee, then the City will reimburse that amount to the Police Unit employee.

16.5 - The Department Head or his designee may at his or her discretion authorize an employee to carry optional weapons. Nothing in this Agreement shall require the Chief of Police to approve the use of any specific weapon or ammunition.

ARTICLE 17 - MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT

17.1 - The City will reimburse expenses for meals, lodging and tuition when a Police Unit employee attends a City directed educational program. Reimbursement shall be equal to but not exceed the amount permitted under applicable P.O.S.T. standards. If the employee's meals and lodging expenses exceed reimbursement provided by P.O.S.T., then the employee may be required to demonstrate that such expenses are reasonable by providing receipts for all expenses and written justification. Only reasonable expenses will be reimbursed.

17.2 - Accommodation arrangements for attendance at a City directed educational program shall be made by the Police Unit employee. The City agrees to provide any accompanying information concerning available lodging arrangements for the program to the employee as soon as it becomes available to the City.

17.3 - Upon request, an employee attending a City directed educational program shall receive an advance up to the P.O.S.T. established limits established for the particular educational program.

17.4 - At the conclusion of the educational program, the employee shall show by certificate awarded or some other manner that the program was attended and completed.

17.5 - Except as otherwise set forth in this MOU, the scheduling of training/educational programs shall be done in accordance with Departmental procedures.

ARTICLE 18 - TUITION AND BOOKS REIMBURSEMENT; EDUCATION INCENTIVE

18.1 - Qualifications - All Police Unit employees enrolled in an approved Associate of Arts/Sciences degree coursework and community colleges or Bachelor of Arts/Science Degree or Master of Arts/Science Degree programs shall be eligible to receive reimbursement for tuition and cost of books actually paid for their approved professional and technical courses subject to the provisions below.

(a) The employee has furnished evidence that the course has been completed with at least a "C" grade or "pass."

(b) Police Unit employees will receive a maximum of $3,000 for tuition and actual expenses paid for books for expenses incurred per fiscal year for any academic training in a university or college recognized by an accrediting institution as determined by the Human Resources Director.

18.2 - Reimbursement Requirements

(a) Requests for reimbursement must be completed and returned to the Human Resources Department within three (3) weeks after receipt of course completion documentation. (No reimbursement will be made without bona fide receipts or documentation).

(b) Reimbursements will be made only after proof of completion of course with a minimum of "C" average or "pass" and satisfactory receipts of payment for books and tuition are approved by the Human Resources Department.

18.3 - Attendance - Employees may utilize shift changes and one (1) hour or more increments of Vacation or Holiday Leave to attend courses that have been approved under this Article. Employees may also convert Sick Leave to Vacation Leave for this purpose.

18.4 - Education Incentive Pay - Educational incentive pay shall be earned as follows:

(a) Possession of an Intermediate POST Certificate entitles the unit member to $200 a month; and possession of a Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, entitles the employee to $300 a month.

(b) Possession of an Associate of Arts/Science Degree in any academic field entitles the employee to $75 per month.

(c) Possession of a Bachelors of Arts/Science Degree in any academic field entitles the employee to $150 per month.

(d) Possession of a Masters of Arts/Science Degree in any academic field entitles the employee to $225 per month.

(e) Possession of a Ph.D. in any academic field entitles the employee to $300 per month.

(f) Possession of an Intermediate POST Certificate and an Associate of Arts/Science Degree in any academic field entitles the employee to $275 per month; Possession of an Intermediate POST Certificate and a Bachelors of Arts/Science Degree in any academic field entitles the employee to $350 per month; Possession of an Intermediate POST Certificate and a Masters of Arts/Science Degree in any academic field entitles the employee to $425 per month; Possession of an Intermediate POST Certificate, and a Ph.D. in any academic field entitles the employee to $500 per month.

(g) Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate and an Associate of Arts/Science Degree in any academic field entitles the employee to $375 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Bachelors of Arts/Science Degree in any academic field entitles the employee to $450 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate; Regular or Specialized Executive Certificate, and a Masters of Arts/Science Degree in any academic field entitles the employee to $525 per month; Possession of the Regular or Specialized Advanced Certificate, Regular or Specialized Supervisory Certificate, Regular or Specialized Management Certificate, Regular or Specialized Executive Certificate, and a Ph.D. in any academic field entitles the employee to $600 per month.

(h) For all Police Unit members who are employed with the City at the time of the execution of this MOU, possession of 60 semester units from an accredited college with a minimum of 39 units being in an occupationally related field (i.e. Police Science, Social Science, Political Science, Public Administration, etc.) shall entitle the employee to receive pay of $100 per month. Determination as to whether courses are occupationally related will be made by the Department Head with right of appeal to the City Manager.

(i) The amounts in this article shall not be pyramided except as set forth above.

ARTICLE 19 - SICK AND BEREAVEMENT LEAVE

19.1 - Sick Leave Accrual - Represented employees shall accrue three and sixty-nine hundredth (3.69) hours of Sick Leave per pay period. Sick Leave shall accrue without limit.

19.2 - Use of Sick Leave - Sick Leave, shall be granted only where consistent with the City's sick leave and Pregnancy Leave policy (currently AP-1 and AP-02).

19.3 - [Intentionally left blank]

19.4 - Conversion to Vacation - Any employee who has taken forty (40) hours of Sick Leave or less during the fiscal year ending June 30 of each year shall be entitled to convert up to forty (40) hours of unused sick leave to vacation. The month of August will be the month for annual conversion. Only those employees who have completed twelve (12) months of service with the City as of June 30th of any year will be eligible for such annual conversion and there shall be no interim pro-rata conversion.

19.5 - Cash Out Upon Separation - After ten (10) years continuous City service, and upon voluntary separation under satisfactory conditions or involuntary disability retirement, sworn personnel shall be eligible to receive a cash payment equivalent to forty percent (40%) of all unused sick leave less the total number of hours converted to vacation, as set forth above. Civilian personnel shall be eligible to receive a cash payment equivalent to thirty percent (30%) of all unused sick leave less the total number of hours converted to vacation, as set forth above. Such reimbursement will be computed based upon the employee's final compensation rate.

19.6 - Conversion to Deferred Compensation - Beginning with the 11th year of City service, unit members may convert the value of the total amount of their sick leave bank, minus forty (40) hours, to either Deferred Compensation, or the Retiree Health Savings. Thereafter, the employee may contribute one hundred percent (100%) of the value of unused sick leave, minus forty (40) hours for such purposes.

19.7 - Use of Other Leave - An employee who has exhausted all accumulated Sick Leave while on Sick Leave may utilize accrued Vacation or Holiday Leave or accrued compensated time off for the purposes described in 19.2 above or 19.8 below.

19.8 - Bereavement Leave - Employees covered by this Agreement will be allowed three (3) shifts off duty with pay for Bereavement Leave upon the death of a member of their family. For the purpose of this subsection, "family" includes the following persons: spouse, domestic partner, mother, father, brother, sister, child, stepchild, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse or domestic partner .

ARTICLE 20 - VACATION AND HOLIDAY LEAVE

20.1 - Vacation Leave Accrual - For employees of the City as of date of this Agreement, Vacation Leave shall accrue in accordance with the following schedules:

(a) one (1) through four (4) years service: ten (10) days per year = three and eight-hundredth (3.08) hours per pay period

(b) Beginning the fifth (5th) year through the ninth (9th) year: fifteen (15) days per year = four and sixty-two hundredth (4.62) hours per pay period

(c) Beginning the tenth (10th) year & thereafter: twenty (20) days per year = six and fifteen hundredth (6.15) hours per pay period

20.2 - Maximum Accrual - Vacation Leave may be accrued to a maximum of three-hundred twenty (320) hours for non-supervisory personnel and three-hundred thirty-six (336) hours for supervisory personnel. Holiday leave may be accrued to a maximum of one-hundred sixty (160) hours per employee.

20.3 - Approval Required - Vacation Leave shall be taken with approval of the Department Head at any time following the completion of the one (1) year probationary period, but the Vacation Leave taken shall not be in excess of that actually accrued at the time such Vacation Leave is taken. Vacation Leave must be approved a minimum of fourteen (14) days in advance of the first day of such Vacation by the Department Head or his or her designee. Exceptions may be made to the fourteen (14)-day notice requirement for emergencies or at the discretion of the City by the Department Head or Division Supervisor.

20.4 - Payment Upon Termination - Any employee, who has been in continuous full-time service of the City for a period of 1 year or more, who is about to terminate his or her employment and has earned Vacation Leave to his or her credit, shall be paid for such Vacation Leave on the effective date of such termination. It shall not be necessary to carry such employee on the payroll for the Vacation Leave period, and the vacancy created may be filled at any time after the employee ceases to perform the duties of his or her office or employment. When separation is caused by death, payment of all outstanding compensation, including Salary and all remaining Sick Leave, Vacation, Comp Time or Holiday Time accruals shall be paid into the employee's direct deposit account the same as regular payroll.

20.5 - Payment of Excess Hours - Unused vacation accrual in excess of the employee's annual entitlement, if any, may be paid off at the option of the employee up to a maximum

of forty (40) hours every twelve (12) months. The employee may otherwise be scheduled for mandatory vacation time off by the Department Head for a period of time equal to the excess accrual.

20.6 - Holidays - City Holidays are as follows:

New Year's Day
Martin Luther King Day
President's Day
Memorial Day
Fourth of July
Labor Day
Veteran's Day
Thanksgiving
Day after Thanksgiving
Christmas
one (1) floating holiday

20.7 - Holiday Accrual - Employees shall accrue Holiday leave at the rate of three and thirty-eight hundredths (3.38) hours per pay period.

20.8 - Approval Required - Holiday Leave must be approved a minimum of fourteen (14) days in advance by the Department Head or his or her designee of the first day of such Holiday leave. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the City by the Department Head or immediate supervisor.

20.9 - Cash Out – Employees may cash out accrued holiday leave twice per year (July and December) up to a maximum of 88 hours per calendar year.

20.10 Payment Upon Termination - Any employee who is about to terminate his or her employment, and has earned Holiday Leave to his or her credit, shall be paid for such Holiday Leave on the effective date of such termination.

ARTICLE 21 - MEDICAL AND DENTAL INSURANCE

21.1 City Contributions to Cafeteria Plan - The City agrees to the following contribution to each employee's cafeteria account: The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of $13,000 annually effective in the next pay period after City Council approval of this MOU. The $2,000 increase in this benefit from the previous $11,000 cap will be implemented prospectively only due to tax reporting requirements.. Eligible employees, however, will receive reimbursement through payroll for the increased benefit they would have been eligible to receive from July 2013 through implementation of the contract. .. In addition, the City will contribute $50 per month into each employee's cafeteria account. An employee opting out of a City sponsored medical plan, i.e. demonstrating proof of medical coverage from another plan, will receive a cafeteria contribution equal to $5,725 plus an

additional $50 per month. These dollars may be used toward any City benefit offered under the cafeteria plan. All dollars will be allocated equally on a month Employees will be responsible for all taxes associated with this payment.

(a) The contribution shall first be used to provide for health insurance for the employee. The employee shall be covered by health insurance with a City approved health insurance plan unless the employee provides proof to the City that the employee is covered by another acceptable health plan as determined by the City's Human Resource Department Additionally, all members of the Police Unit shall participate in a long-term disability plan approved for participation by the members of the Police Unit, provided that such plan does not require the City to incur costs for its administration.

(b) The balance may be used for any of the following or any combination thereof:

(i) Health insurance for the employee's spouse and/or dependents.

(ii) Dental Plan for the employee, and the employee's spouse and/or dependents.

(iii) Eye care plan for the employee, and the employee's spouse and/or dependents.

(iv) Deferred compensation program.

21.2 IRS 125 Plan – Police Unit employees may participate in the City's Internal Revenue Section 125 program which will allow employees to allocate specified amounts of monthly pretax salary or wages for the reimbursement of medical care expenses, dependent care expenses, or both. Premiums for LTD are excluded from the pretax provisions of the Section 125 program.

21.3 Insurance Advisory Committee - The City shall maintain the Insurance Advisory Committee to which the Association may appoint two (2) representatives.

21.3.1 Purpose. The purpose of the Advisory Insurance Committee shall be to advise the City relative to health, life, and related insurance plans which may be provided to employees of the City of Banning including the type of plans, scope of coverage, and the selection of insurance carriers.

21.3.2 Voting. The Insurance Committee shall determine issues by a majority vote of the members, each member having one (1) vote, except that any such determination shall constitute an advisory recommendation only to the City Manager.

21.3.3 Selection of Members. Insurance Committee Members shall be selected as follows:

(a) Representatives of bargaining units shall be selected in a manner to be determined by each respective unit.

(b) The City's Representative shall be the City Manager or his designated representative.

21.3.4 Meetings. The Insurance Advisory Committee shall meet as may be necessary to conduct the business of the committee.

21.3.5 Status. The Insurance Advisory Committee will be advisory only, with no power or prerogative to decide on behalf of the City on issues pertaining to employee insurance coverage.

ARTICLE 22 - RETIREMENT AND MEDICARE.

22.1 Contributions to CalPERS –

a) All CalPERS Classic employees are responsible for paying their contributions for their respective retirement plans to CalPERS at 9% for safety members and 8% for non-sworn miscellaneous members. The City does not provide any Employer Paid Member Contributions on behalf of employees.

b) Per the Public Employees' Pension Reform Act of 2013 and related laws and regulations, new employees hired after January 1, 2013 are subject to paying at least 50% of the normal costs or as otherwise determined by CalPERS.

22.2 CalPERS Formulas –

(a) The City agrees to continue to pay the employer's portion of the CalPERS "Three Percent at Fifty" (3% @ 50) public safety retirement formula and the "Two Point Five Percent at Fifty-Five" (2.5% @ 55) public miscellaneous retirement formula for employees hired on or before December 20, 2012. All employees shall pay their full member contributions under their respective retirement plans.

(b) The City previously adopted Resolution 2012-99 approving the Side Letter Agreement between the City and the BPOA which authorized implementation of a two tiered retirement plan providing the CalPERS "Two Percent at Fifty" (2% @ 50) retirement formula for public safety employees and the "Two Percent at Sixty" (2% @ 60) retirement formula for public miscellaneous employees. The new two tiered retirement plans applied to all new employees hired after December 20, 2012. All Unit employees hired on or before December 20, 2012 remained at the previously existing "Three Percent at Fifty" (3% @ 50) retirement formula for public safety employees

and the "Two Point Five Percent at Fifty-Five" (2.5% @ 55) formula for public miscellaneous employees.

(c) Unit employees hired on or after January 1, 2013 shall be enrolled in either the "Two Percent at Fifty" (2% @ 50) formula for public safety employees and the "Two Percent at Sixty" (2% @ 60) formula for public miscellaneous employees or the "Two Point Seven Percent at Fifty-Seven" (2.7% @ 57) formula for public safety employees and the "Two Percent at Sixty-Two" (2% @ 62) formula for public miscellaneous employees depending upon eligibility rules as established by CalPERS under the Public Employees' Pension Reform Act of 2013 and related laws and regulations.

(d) Per the Public Employees' Pension Reform Act of 2013 and related laws and regulations, all Unit employees hired on or after January 1, 2013 shall also be required to have their final compensation defined as the highest average annual final compensation during a consecutive thirty-six (36) month period, subject to the cap. Unit employees hired before January 1, 2013 will maintain the "single highest year" benefit.

22.3 F.I.C.A. – Police Unit employees will pay employee portion of FICA and the City shall be responsible for payment of the employer's portion.

ARTICLE 23 – MISCELLANEOUS BENEFITS

23.1 Life Insurance - The City shall provide a life insurance policy to each employee in the Police Unit in the amount of $50,000.00.

23.2 Direct Deposit - All Police Unit employees shall be paid by direct deposit of their payroll check into an account of their choice, except those employees who either do not hold an account with a financial institution that offers direct deposit or who do not hold an account of any type and such employees will be required to pay a $10 administration fee per payroll. It shall be the responsibility of the employee to establish and maintain such account.

23.3 Computer Loan - Every Police Unit employee shall be entitled to participate in an interest free loan program for the purchase of a computer. The maximum amount of any individual loan shall be equal to one (1) month of an employee's salary. The cumulative amount of loans outstanding hereunder shall not exceed $20,000. The loan shall be upon the terms and conditions established by the City. These conditions shall include the prohibition against developing, maintaining or storing any department files or department related files or information or any criminal justice files, including but not limited to Megan's Law files and information, on such equipment. Wrongful possession of such information on the equipment shall constitute grounds for discipline up to and including dismissal. For purposes of this section "department files or department related files" are information concerning any individual or group of individuals, developed or obtained in the course and scope of the duties of the owner of the equipment purchased hereunder, or the course and scope of the duties of the provider of the information to such owner, as a law

enforcement officer or employee of a law enforcement agency. The definition includes, but is not limited to, information regarding an individual or group of individuals which is not available to the general public and which is available to the owner of the equipment because, and not necessarily solely because, of their status as a public safety officer.

23.4 - Utility Allowance - Any Police Unit employee who resides within the City shall receive $150 per month as a discount against the cost of electric and water service during the period of such residency.

23.5 - Deferred Compensation Plan -- The City has established a deferred compensation plan under Section 457 of the IRS code. Police Unit employees may participate in this plan at their own expense and at their option. Employees may opt to deposit into their established deferred compensation account, any funds paid to them under any leave pay out provisions in this MOU. Deposits into deferred compensation accounts shall be subject to IRS rules and regulations.

23.6 – Gun Loan – The City has established a loan program for those police officers approved by the Chief of Police who wish to purchase a weapon. Repayment of the loan shall be through payroll deduction. The complete policy is established in Resolution 2005-66.

ARTICLE 24- LAYOFFS AND RE-EMPLOYMENT

24.1 - Purpose. The purpose of this Article is to provide a fair and equitable basis for the reduction in force of full-time classified personnel due to insufficient work or lack of funds.

24.2 - Reasons for Lay Off. The City of Banning retains the right to determine when a lack of work or lack of funds condition exists. Lack of work means that a category of work effort within the City can be fulfilled with fewer employees at a level of service acceptable to the City. Lack of funds means that the City in its sole discretion has determined that it cannot sustain operations at the current level of employment within the funding available. For the purpose of this subsection, the determination of the City shall be binding.

24.3 Notice of Lay Off. Any lay off initiated under the provisions of this Agreement can take place at any time during the year. The City shall notify the affected employees in writing at least ten (10) working days prior to the employee's last day of work. The City reserves the right to pay the employee for such ten (10) day period or any remaining portion thereof, and to require the employee to immediately vacate City property. A copy of any notice will be forwarded to the appropriate Police Unit representative. Any notice of lay off shall specify the reason for the lay off and the effective date. The form and timing of any such notice shall be subject to the established grievance procedure, provided however, the City's decision to lay off is not subject to the grievance procedure. The date of the layoff shall not be delayed by the pendency of a grievance.

24.4 Order of Lay Off. Any lay off shall be effective within the job classification or job classifications selected by the City. Once the City has determined which classification or classifications will be affected by the layoff, the order of lay off shall be based on seniority among employees in the classification with "satisfactory job performance." "Satisfactory

job performance" as used in this section shall be established when an employee has not more than two (2) overall less than satisfactory evaluations within the past five (5) years. For purposes of this Article, seniority is defined as the length of uninterrupted service within the classification of employees to be laid off as measured from the date of the layoff notice.

24.5 Reduction of Class. Any employee who has been designated to be laid off may choose to be reduced in class and compensation if the employee has greater seniority in a class than those employees in a lower class or position.

24.6 Equal Seniority. If two (2) or more employees subject to lay off have equal class seniority, then the determination as to who has greater seniority shall be based upon total length of uninterrupted service with the City.

24.7 Reemployment Rights. Laid off employees will be eligible for reemployment under the provisions of the Personnel Rules.

24.8 Reduction in Workweek. The Personnel Rules authorize the City Council to change or alter the work week by resolution.

ARTICLE 25- GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE

25.1 - Procedure - Subject to the provisions of this MOU, any permanent Police Unit employee who has a grievance, as defined below, or has been disciplined, as defined below, shall be entitled to have the matter reviewed through the procedures outlined in this Article. This Article shall also include and satisfy all rights which a permanent bargaining unit employee may have under California Government Code Section 3304(b).

25.2 - Definitions:

(a) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "grievance" is defined as a dispute between the employee and the City, or the Union and the City, over the interpretation or application of this MOU, or the second denial of a step increase to an employee. The term "grievance" does not include "discipline" as defined herein.

(b) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "discipline" is limited to any action taken by the City against a permanent Police Unit employee which (1) is punishment or discipline of the employee, (2) will result in a reduction or loss in the employee's salary, (3) is either (i) an involuntary termination from City employment (ii) involuntary suspension from employment without pay, (iii) involuntary move from one (1) job classification to another job classification where the second job classification has a lower rate of pay at the top step than the top step of the job classification from which the employee was moved, or (iv) involuntary reduction in step within a job classification, and (4) is not the result of a lay off or (v) a written reprimand.

25.3 - Informal Step. An attempt shall be made to ascertain all facts and adjust such grievance or discipline on an informal basis between the employee and, if he or she desires, the employee's representative, on the one hand, and the immediate supervisor, on the other hand. Presentation of such grievance or discipline shall be made within fourteen (14) calendar days of the incident causing the grievance or discipline, or the date on which the employee first became aware of it.

25.4 - Step One. If the grievance or discipline is not adjusted to the satisfaction of the employee within seven (7) calendar days after presentation to the grievance or discipline to the immediate supervisor, and if the employee or the Union wishes to resolve the matter, the grievance or discipline shall be submitted in writing by the employee or his or her representative to the Police Chief in consultation with the Human Resources Director within the next fourteen (14) calendar days. The Police Chief shall meet with the employee, his or her representative or both within seven (7) calendar days of receipt of such written grievance; and deliver his or her decision in writing to the employee, along with reasons for such decision, within seven (7) calendar days after meeting.

25.5 Step Two. If the grievance or discipline dispute is not adjusted to the satisfaction of the employee and the union under the procedures set forth immediately above, the employee or his/her representative may submit written notice to the City Manager of his/her intent to submit the matter to mediation. Such written notice must be delivered to the City Manager within fourteen (14) calendar days after the date of the Chief of Police's written decision. The Union agrees that submission of any matter to mediation must be by mutual agreement of the Union and the City, with each party to bear their own costs. If the parties mutually agree to mediation, the following procedures apply:

(a) Within seven (7) calendar days of receipt of the written notice, the Union and the City shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Union shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the Union and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The Union shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The City shall pay for the costs of the advisory arbitrator.

25.6 Grievances Related to MOU Interpretation - On grievances pertaining to the interpretation or administration of this MOU, the Union agrees that the decision of the arbitrator's decision shall be final and binding upon the City. On disputes related to discipline, the decision of the arbitrator shall be advisory to the City Manager, whose decision shall be the final decision of the City.

25.7 Grievances Related to Discipline - On grievances related to discipline, the written notice in Step Three below shall set forth in detail the employee's and/or Union's view of the basis for the disciplinary dispute and shall separately set forth the issue or issues to be submitted to the advisory arbitrator. The procedures set forth below shall be followed thereafter.

(a) Within seven (7) calendar days of receipt of the written notice, the Union and the City shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Union shall attempt to agree on an arbitrator to preside at the advisory arbitration hearing. If the parties do not agree on an arbitrator, the Union and the City shall take turns striking the names of arbitrators from the FMCS list until one (1) name remains. The Union shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The City shall pay for the costs of the advisory arbitrator.

25.8 Step 3 - Within seven (7) calendar days after the Union and City receive the advisory arbitrator's recommendation on the dispute related to discipline, either the Union or the Department Head may submit written argument to the City Manager as to whether the arbitrator's opinion should be accepted, rejected or modified. Within fourteen (14) calendar days after the seven (7) day-period above has expired, the City Manager shall advise the Union and the Department Head whether the City Manager is accepting, rejecting, or modifying the advisory arbitrator's recommended decision. The decision of the City Manager shall be final and binding.

25.9 - Modification of Time Limits - The above time limits may be modified by mutual agreement.

ARTICLE 26- SEVERABILITY CLAUSE

26.1 – Severability - If any of the provisions contained in this Memorandum of Understanding are determined to be unlawful, then only such provision(s) shall be deleted from this Memorandum of Understanding with the remainder of this Memorandum of Understanding remaining in force and effect. Upon the issuance of a decision by a Court of Competent Jurisdiction declaring any section of this Memorandum to be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer as soon s possible concerning only those sections.

ARTICLE 27- COMPLETE AGREEMENT

27.1 Entire Agreement - This Agreement is the entire Agreement between the parties, terminating all prior agreements, whether written or oral, arrangements and practices, and, except as otherwise provided herein, shall conclude all meetings and conferences during the term of this Agreement.

27.2 Items Not Covered - All terms and conditions of employment not covered by this Agreement shall continue to be subject to the City's direction and control.

27.3 Vacant Positions – The level of service and number of employees remain a management prerogative and the parties agree that the City may elect not to fill four (4) current or soon to be vacant police officer positions as a cost saving mechanism.

ARTICLE 28- INVESTIGATION DOCUMENTS AND MATERIALS

The City shall continue to maintain investigation documents and material in accordance with its Records Management Program. No. A-28 in the Administrative Policy which was adopted by Resolution No. 2003-26.

ARTICLE 29 - RE-OPENERS

29.1 - During the term of this MOU, unless otherwise provided, the parties shall not meet and confer with respect to any subject or matter whether or not referred to in this MOU, unless mutually agreed to otherwise.

29.2 The parties agree, however, to the following re-openers:

a) In the event that the City General Fund reserves are reduced to less than $1 million, the parties agree to re-open their contract to negotiate additional cost saving measures.

b) The parties have agreed that in the event that Unit overtime exceeds by more than five percent (5%) in a month in the regular overtime account, the baseline experience defined as the average of the last four months of 2012, then the parties will reopen the contract to meet and confer regarding a means and method to address this increase in expense.

ARTICLE 31 – RATIFICATION AND EXECUTION

This MOU has been developed as a result of meet and confer sessions between representatives of the City and the Union regarding issues related to wages, hours and other terms and conditions of employment. The City's representatives and the Union have reached an understanding as to certain recommendations to be made to the City Council for the City of Banning and have agreed that the parties hereto will jointly urge said Council to adopt a new wage and benefit resolution which will provide for the changes contained in said joint recommendation. The parties hereto acknowledge that this MOU shall not be in full force and effect until adoption by the Banning City Council.

In witness whereof, the parties have caused their signatures to be affixed this 6th day of January, 2016.

For the City of Banning

June Overholt
Interim City Manager

Colin Tarber,
Lead Negotiator

Rita Chapparosa
Deputy Human Resources Director

For the Banning POA

Michael McGill, Esq.,
Lead Negotiator

Joe Feola
BPOA Representative

Brandon Smith
BPOA Representative

Steve Robb
BPOA Representative

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Brian Guillot, Community Development Director

MEETING DATE: March 22, 2016

SUBJECT: Adopt Ordinance No. 1493; and, Resolution No. 2015-96
Billboards or Outdoor Advertising Signs
Zone Text Amendment No. 15-97505

RECOMMENDATION:

That the City Council:

1. Conduct a public hearing;

2. Introduce Ordinance No. 1493 (Attachment 1) Approving a Categorical Exemption and Zone Text Amendment No. 15-97505 Amending the Sign Regulations of the Zoning Ordinance to Allow the Relocation of Existing Billboards or Outdoor Advertising Signs in Accordance with the Outdoor Advertising Act;

3. Adopt Resolution No. 2015-96 (Attachment 2) Establishing Design Guidelines for Billboard or Outdoor Advertising Sign Relocation Agreements in Accordance with the Sign Regulations of the Zoning Ordinance and the Outdoor Advertising Act.

PLANNING COMMISSION;

On November 4, 2015, the Planning Commission considered the proposed changes to the sign regulations as outlined in draft Ordinance No. 1493 and draft City Council Resolution No. 2015-96 and recommended that the City Council approve Zone Text Amendment No. 15-97505 by adoption of Planning Commission Resolution No. 2015-12 (Attachment 3).

JUSTIFICATION:

The construction of new billboards is prohibited by the current sign regulations. At times, the City receives requests to relocate existing billboards because the owner of the parcel would like

to develop the property with another use, for example a retail store, and the billboard is in the way of the new development. In order to accommodate both businesses (the retail store and billboard or display owner) it is necessary to amend the sign regulations to allow relocation agreements.

It is a policy of the State of California to encourage relocation agreements which allow development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays.

BACKGROUND:

The City Council adopted the present "Zoning Ordinance" in January 2006 that included Chapter 17.36, Sign Regulations (Attachment 7). The sign portion of the ordinance prohibits new billboards or outdoor advertising signs. Signs used to advertise a commercial or industrial business are permitted only as a monument sign limited to 8 feet in height; or, a wall sign that is mounted on the building wall; and, freeway oriented signs are allowed through approval of a Conditional Use Permit by Planning Commission.

On April 25, 2011, a similar study session was conducted that resulted in the adoption of the freeway oriented sign regulations. For that study session a telephone survey was conducted to obtain a general idea of how other local agencies are regulating digital billboards and is included with this report. See Attachment 5. Please keep in mind that the information provided in this survey is not comprehensive.

On September 22, 2015, the City Council and Planning Commission held a joint study session to specifically provide policy guidance to staff regarding billboard relocation agreements. A set of notes from that meeting as well as the minutes are included in Attachment 5 of this report. Where possible, the issues identified in that meeting have been incorporated into the draft ordinance and resolution proposed for this report.

On December 8, 2015, the City Council considered the subject recommendations and requested that the City Attorney review the proposal, amend the recommendations as directed by City Council, and bring the subject item back to them for consideration.

The City of Banning is bisected by Interstate 10 (I-10) from east to west and has over five miles of frontage along the freeway. Traffic counts prepared by Caltrans showed that for the year 2009 on average as many as 147,000 vehicles per day travel the interstate. The number of vehicles traveling the interstate is an opportunity for businesses located along this transportation corridor to capture motorists' attention to exit the freeway to shop, eat at restaurants, or stay at hotels in the City of Banning. However, that opportunity needs to be balanced with scenic values and/or aesthetics, and the health, safety, and welfare of the community as it relates to billboards or

outdoor advertising signs. Over the years, different sign regulations have been adopted resulting in a mix of billboards, pole signs, and other advertising devices.

The need for this balance is identified by the different Goals and Policies in the City's General Plan as follows:

> Economic Development Policy 6 states *"Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits"* (GP p. III-43).

While the subject of scenic vistas and aesthetics are not part of the goals or policies of the adopted General Plan for the City of Banning, these subjects are important to the community as they may define or identify particular parts of a community; and, be used by individuals in the decision making process for locating homes and/or businesses within the city. Billboards or outdoor advertising signs contribute little towards enhancing the scenic qualities and scenic vistas (aesthetic values) of the community. Therefore, sign regulations serve the need to limit billboards or outdoor advertising signs in order to enhance this valuable community asset.

Billboards or outdoor advertising signs

There are approximately 45 billboards located along the interstate, 39 of which are double-faced and 6 that are single-faced. The City adopted an updated "Zoning Ordinance" in January 2006 that prohibits the installation of new billboards BMC Section 17.36.060(D). Prior to that update, the City's regulations also prohibited billboards. However, a few billboard installations were permitted through approval of a conditional use permit and a variance. The existing billboards are considered legal non-conforming and may not be upgraded under the present non-conforming policy of the Zoning Ordinance BMC Chapter 17.88.

Also, State of California regulations prohibit the placement of billboards adjacent to a designated "scenic highway" or "landscaped freeway." See Attachment 6 – Outdoor Advertising Act, Sections 5440 and 5440.1. Please note that I-10 through the pass area is eligible as a state scenic highway; however, it is not officially designated as such at this time. Highway 243 from the City of Banning city limits to Highway 74 is designated as a scenic highway. Portions of Interstate 10 in the City of Banning are designated as a "landscaped freeway" (Attachment 9).

Issues and Opportunities

A number of cities in Southern California have taken advantage of a state law that allows a city to enter into a relocation agreement with billboard advertisers. See Attachment 6, Section 5412. Staff is recommending revising the sign portion of the Zoning Ordinance in order to provide incentives that meet both the needs of the community and the economic interests of those involved with this issue (property owners and billboard owners).

The proposed revision would allow no new billboard installations, except that it would allow upgrades to an existing billboard subject to a billboard relocation agreement that would require the removal of existing billboards, in exchange for the construction of a digital technology

billboard. This recommendation includes design requirements to be approved by City Council in the relocation agreement and by resolution.

Digital Billboards and Changeable Message Displays

This new technology is giving advertisers the unparalleled ability to change their ad messages quickly and efficiently. Many advertisers offer the digital billboards for public service announcements and for community information. This could include safety alerts such as those issued by the State of California in connection with AMBER alerts[1]; and, publicizing local events like Stagecoach Days. Lamar Outdoor Advertising has provided a letter to the City highlighting their position regarding proposed changes to the City's sign regulations (Attachment 10).

An example of a newly constructed digital billboard is shown in Attachment 8 of this report. It is located in San Bernardino along Interstate 10. Notice that the sign includes an architectural base that enhances the appearance of the installation.

Digital billboards are updated electronically through a variety of methods. Some are networked together, most are operated remotely, and all of them can be updated quickly, sometimes with just the click of a computer mouse. A major concern with digital billboards is the brightness of the electronic displays. Current technology permits the automatic adjustment of the display to balance the brightness with the available ambient light at any given time.

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. Thus, any time that a city wants to remove a billboard by eminent domain, the cost of doing so will be significant, if not prohibitive. Amortization provisions in the municipal code are unenforceable, based on Section 5412; however, any amortization provisions entered into as part of the relocation agreement are valid, at least under the Outdoor Advertising Act.

There is some concern that drivers may be distracted by digital billboards. At this time, there is not enough evidence to determine whether electronic billboards are dangerously distracting to drivers. This is from the Federal Highway Administration:

> *In summary, from the perspective of strict statistical hypothesis testing, the present literature review is inconclusive with regard to demonstrating a possible relationship between driver safety and [Commercial Electronic Variable Message Signs] exposure. From this perspective, the more stringent restrictions on the placement of billboards found in other countries might be regarded as a conservative precautionary measure, erring on the side of protecting public health from a possible but unproven threat and not as a response to an established driving safety hazard. That is not to say that such a conservative approach is inappropriate, but it should be acknowledged as such.*

[1] "AMBER" stands for "America's Missing: Broadcast Emergency Response." In short, it is a child abduction notification system.

Section 2.7.1, *The Possible Effects of Commercial Electronic Variable Message Signs (CEVMS) on Driver Attention and Distraction*, Federal Highway Administration, Updated September 5, 2014. (http://www.fhwa.dot.gov/real_estate/oac/possible_effects/cevms00.cfm).
Design Guidelines

It is strongly recommended that guidelines be developed to determine under what objective circumstances relocation agreements should be entered into. Objective criteria are necessary to ensure the validity of the proposed text amendment, as guidelines or discretionary criteria will vest too much discretion in city staff or city officials such that it would be in violation of freedom of speech laws. Therefore, the design guidelines provided in the Resolution serve to remedy this concern (Attachment 2).

PROPOSED AMENDMENTS TO THE SIGN REGULATIONS:

*Amend Section **17.36.030 Definitions** by adding the following:*

Billboard. See outdoor advertising sign.

Electronic message center means a sign having the capability of presenting variable advertising message displays by projecting an electronically controlled light pattern against a contrasting background, and which can be programmed to change such message display periodically. An electronic message center is neither an animated sign nor a simulated motion sign.

Outdoor advertising structure (Billboard) means any sign with a commercial message, other than a directional sign, which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located, or to which it is affixed. Commercial copy on any outdoor advertising sign may be replaced with noncommercial copy. Outdoor advertising structures/billboards shall not include subdivision or tract signs (see Section 17.36.080), signage affiliated with solar powered electric vehicle charging stations, or signs installed pursuant to a city sign program.

Pylon sign. A freestanding sign that is permanently supported by one or more uprights, braces, or poles, or other similar structural components that are architecturally compatible with the main structure of the site.

Relocated billboard. An existing billboard that is located in the city that is relocated through a City Council approved Relocation Agreement. The relocated billboard is not considered a new outdoor advertising sign.

Amend Section **17.36.060 Prohibited signs** by amending paragraph (D) as follows:

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

(D) Billboards or Outdoor advertising signs. However, notwithstanding any other provision of this chapter, and consistent with the California Business & Professions Code Outdoor Advertising Act provisions, billboards or outdoor advertising signs, including electronic message centers, electronic message boards, and changeable message boards, may be considered and constructed as part of a relocation agreement requested by the city and entered into between the city and a billboard and/or property owner. The replacement of a static billboard face with an electronic message center, electronic message board, or changeable message board shall be considered a relocation for purposes of this section. Such agreements may be approved by resolution of the City Council upon terms that are agreeable to the city in their sole and absolute discretion including any design guidelines. The execution of a relocation agreement shall not operate to change the status of any billboard as a nonconforming use for purposes of this code.

Add the following Sections:

17.36.180 Signs within adopted specific plan areas.
Signs within adopted specific plan areas shall conform to the sign requirements as indicated within the individual specific plan. However, in the event sign requirements are not provided in the individual specific plans, all signs within the specific plan areas shall conform to the provisions of Chapter 17.36. If the land use within the specific plan is not specifically identified in the Zoning Ordinance, the most appropriate (closely related) use of the area shall apply, as determined by the Community Development Director.

17.36.190 Flags, banners and pennants on city-owned light poles.
Notwithstanding §17.36.070, the City of Banning may install flags, banners, and/or pennants on city-owned utility poles. The City Manager shall establish a written banner program to regulate the installation of flags, banners, and pennants on City-owned utility poles. Banners and pennants shall be installed in compliance with the banner program established by the City Manager."

In addition to those things negotiated and agreed to by the respective parties for billboard relocation agreements, the following design guidelines are recommended to be adopted by City Council in a resolution:

1. Consideration of a relocated billboard and a relocation agreement allowing an electronic message center will require the removal of at least one existing billboard for owners of one billboard, and will require the removal of at least two existing billboards for owners of two or more billboards for each electronic message center face.

2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

3. The City shall have the right to place public service announcements on any such electronic messaging center. The limits on public service announcements will be stipulated in the relocation agreement.

4. The relocation agreement should prohibit the use of onsite electric generators to power the digital billboards for normal operations.

5. The sign face for any relocated billboard shall not overhang onto Interstate 10 or any other state highway.

6. The relocated billboard shall be shielded to prevent light or glare intrusion onto adjoining properties that are located within five-hundred (500) feet of such relocated billboard.

7. Message changes on any electronic message center shall limited to one message every six (6) seconds, or that allowed by the California Department of Transportation, whichever is greater.

8. No electronic message center shall simulate motion or exhibit any images or series of image that could be considered "animated" in any way, including but not limited to sequential still images that update faster than once every 6 seconds. No electronic message center shall contain any flashing, sparkling, intermittent or moving lights. There shall be no flashing or scrolling messages. Changes in color or light intensity on a still image or message at a rate faster than once every 6 seconds are also not permitted.

9. Each electronic message center shall contain automatic dimmers that maintain a maximum luminance of 7,500 nits during the daylight hours, and 500 nits from dusk (official sunset) to sunrise and during times of fog (One nit is equivalent to one candela per square meter.). Each electronic message center shall be equipped with a mechanism to monitor brightness.

10. A relocated billboard shall not be illuminated between the hours of 11 p.m. to 5 a.m. when located within five-hundred (500) feet of an existing residential property, or residentially zoned property.

11. The City shall have the right to place emergency service announcements on any such electronic messaging center. The limits on emergency service announcements will be stipulated in the relocation agreement.

12. The advertiser shall agree not to display advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards. Objectionable advertising shall be stipulated in the relocation agreement.

13. Relocated billboards shall not be allowed in the Downtown Commercial (DC) zoning district.

14. Relocated billboards shall require permit approval through the Building and Safety Division, Caltrans, the Riverside County Airport Land Use Commission if located within a compatibility zone, and any other responsible agency.

15. Whenever practicable, relocated billboards should include architectural enhancements that add aesthetic appeal to the relocated billboard.

16. Relocated billboards shall not exceed 55 feet in height. Consideration to reducing the height of any proposal shall be required to minimize impacts to scenic vistas. This may be accomplished through the submittal of written plans and photographic simulations.

17. Relocated billboards shall not exceed a face area of 14 feet by 48 feet.

18. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code (BMC 17.36.100(A)).

19. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City. Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances (BMC 17.36.100(B)).

20. The relocation agreement shall include advertising for local businesses at a discounted or reduced rate. Local businesses are defined as any business located within the City limits.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger

individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS OF APPROVAL FOR ZONE TEXT AMENDMENT NO. 15-97505:

The California Government Code and Section 17.116.050 of the City of Banning Zoning Ordinance require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The following findings are provided in support of the approval of the Zone Text Amendment No. 15-97505.

Finding No. 1: *Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

The primary Economic Development Element Goal is to provide *"A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection"* The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City's highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states *"Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits"* (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset.

Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

Finding No. 2: *Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City's existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and, the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section 17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

Finding No. 3: *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

OPTIONS:

The construction of new billboards is prohibited by the current sign regulations. At times, the City receives requests to relocate existing billboards because the owner of the parcel would like to develop the property with another use. Therefore, amending the sign regulations to allow relocation agreements with City Council is the preferred option. Another option would be to

require the demolition of the existing billboard in order to allow development of the parcel. For this option no changes to the sign regulations would be required. Various design regulations are listed in the proposed resolution. The proposed resolution may be amended by City Council to include options that they determine to be appropriate.

PUBLIC COMMUNICATION:

The proposed Zone Text Amendment was advertised in the Record Gazette newspaper on March 11, 2016 (Attachment 4). As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

FISCAL IMPACT: There are no direct fiscal impacts related to this action. However, it is anticipated that the proposed changes to the sign regulations will allow development of commercial properties along Interstate 10 thus adding to retail sales tax revenue.

Prepared By:

Brian Guillot
Community Development Director

Approved By:

Michael Rock
City Manager

ATTACHMENTS:

1. Ordinance No. 1493
2. Resolution No. 2015-96
3. PC Resolution No. 2015-12
4. Public Hearing Notice
5. Minutes Joint Study Session held September 22, 2015
6. Copy of Outdoor Advertising Act – State of California
7. Copy of Chapter 17.36 sign regulations
8. Photograph of existing digital billboard in San Bernardino
9. Designated as a "landscaped freeway" list
10. Lamar letter dated May 4, 2015

ATTACHMENT 1

(Ordinance No. 1493)

ORDINANCE NO. 1493

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING CATEGORICAL EXEMPTION AND ZONE TEXT AMENDMENT NO. 15-97505 AMENDING THE SIGN REGULATIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW THE RELOCATION OF EXISTING BILLBOARDS OR OUTDOOR ADVERTISING SIGNS IN ACCORDANCE WITH THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, the State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

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

WHEREAS, on November 4, 2015, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2015-96 recommending to the City Council the adoption of Ordinance No. 1493 approving the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, on the 11th day of March 2016 the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zone Text Amendment would be considered; and

WHEREAS, on the 22nd day of March 2016 the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed amendments, and at which time the City Council considered the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, at this public hearing on the 22nd day of March 2016 the City Council considered and heard public comments on the proposed Categorical Exemption and Zone Text Amendment; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 22nd day of _March 2016;

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

SECTION 1. ENVIRONMENTAL.

California Environmental Quality Act (CEQA)

In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)

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

SECTION 2. REQUIRED FINDINGS.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zone Text Amendment No. 15-97505.

Finding No. 1: *Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

The primary Economic Development Element Goal is to provide *"A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection"* The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City's highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states *"Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits"* (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset. Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

Finding No. 2: *Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City's existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and, the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section 17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

Finding No. 3: *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. **Adoption of Categorical Exemption.** In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061 the City Council hereby adopts the Categorical Exemption prepared pursuant to CEQA Guidelines Section 15061(b)(3) for Zone Text Amendment No. 15-97505.

2. **Approve Zone Text Amendment No. 15-97505.**

*Amend Section **17.36.030 Definitions** by adding the following:*

"**Billboard**. See outdoor advertising sign.

Electronic message center means a sign having the capability of presenting variable advertising message displays by projecting an electronically controlled light pattern against a contrasting

background, and which can be programmed to change such message display periodically. An electronic message center is neither an animated sign nor a simulated motion sign.

Outdoor advertising structure (Billboard) means any sign with a commercial message, other than a directional sign, which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located, or to which it is affixed. Commercial copy on any outdoor advertising sign may be replaced with noncommercial copy. Outdoor advertising structures/billboards shall not include subdivision or tract signs (see Section 17.36.080), signage affiliated with solar powered electric vehicle charging stations, or signs installed pursuant to a city sign program.

Pylon sign. A freestanding sign that is permanently supported by one or more uprights, braces, or poles, or other similar structural components that are architecturally compatible with the main structure of the site.

Relocated billboard. An existing billboard that is located in the city that is relocated through a City Council approved Relocation Agreement. The relocated billboard is not considered a new outdoor advertising sign."

*Amend Section **17.36.060 Prohibited signs** by amending paragraph (D) as follows:*

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

"(D) Billboards or Outdoor advertising structures. However, notwithstanding any other provision of this chapter, and consistent with the California Business & Professions Code Outdoor Advertising Act provisions, billboards or outdoor advertising signs, including electronic message centers, electronic message boards, and changeable message boards, may be considered and constructed as part of a relocation agreement requested by the city and entered into between the city and a billboard and/or property owner. The replacement of a static billboard face with an electronic message center, electronic message board, or changeable message board shall be considered a relocation for purposes of this section. Such agreements may be approved by resolution of the City Council upon terms that are agreeable to the city, pursuant to administrative guidelines, as adopted by the City Council resolution. The execution of a relocation agreement shall not operate to change the status of any billboard as a nonconforming use for purposes of this code."

Add the following Sections:

"17.36.180 Signs within adopted specific plan areas.
Signs within adopted specific plan areas shall conform to the sign requirements as indicated within the individual specific plan. However, in the event sign requirements are not provided in

the individual specific plans, all signs within the specific plan areas shall conform to the provisions of Chapter 17.36. If the land use within the specific plan is not specifically identified in the Zoning Ordinance, the most appropriate (closely related) use of the area shall apply, as determined by the Community Development Director.

17.36.190 Flags, banners and pennants on city-owned light poles.
Notwithstanding §17.36.070, the City of Banning may install flags, banners, and/or pennants on city-owned utility poles. The City Manager shall establish a written banner program to regulate the installation of flags, banners, and pennants on City-owned utility poles. Banners and pennants shall be installed in compliance with the banner program established by the City Manager."

SECTION 4. SEVERABILITY.

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

SECTION 5. PUBLICATION; EFFECTIVE DATE.

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

PASSED, APPROVED, AND ADOPTED this ___day of _____, 2016.

_____
Arthur L. Welch, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

_____
Anthony R. Taylor, City Attorney
Aleshire & 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 Ordinance No. 1493 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _____ day of _____, 2016, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT 2

(Resolution No. 2015-96)

RESOLUTION NO. 2015-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ESTABLISHING DESIGN GUIDELINES FOR BILLBOARD OR OUTDOOR ADVERTISING SIGN RELOCATION AGREEMENTS IN ACCORDANCE WITH THE SIGN REGULATIONS OF THE ZONING ORDINANCE AND THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

WHEREAS, sign regulations of the Zoning Ordinance now makes provisions for approval of relocation agreements by City Council through adoption of Ordinance No. 1493; and

WHEREAS, the City Council desires to establish design guidelines for billboard, or outdoor advertising relocation agreements;

NOW THEREFORE, the City Council of the City of Banning does hereby resolve, determine, find, and order that in addition to those things negotiated and agreed to by the respective parties for billboard relocation agreements, the following design guidelines are approved:

1. Consideration of a relocated billboard and a relocation agreement allowing an electronic message center will require the removal of at least one existing billboard for owners of one billboard, and will require the removal of at least two existing billboards for owners of two or more billboards for each electronic message center face.

2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

3. The City shall have the right to place public service announcements on any such electronic messaging center. The limits on public service announcements will be stipulated in the relocation agreement.

4. The relocation agreement should prohibit the use of onsite electric generators to power the digital billboards for normal operations.

5. The sign face for any relocated billboard shall not overhang onto Interstate 10 or any other state highway.

6. The relocated billboard shall be shielded to prevent light or glare intrusion onto adjoining properties that are located within five-hundred (500) feet of such relocated billboard.

7. Message changes on any electronic message center shall limited to one message every six (6) seconds, or that allowed by the California Department of Transportation, whichever is greater.

8. No electronic message center shall simulate motion or exhibit any images or series of image that could be considered "animated" in any way, including but not limited to sequential still images that update faster than once every 6 seconds. No electronic message center shall contain any flashing, sparkling, intermittent or moving lights. There shall be no flashing or scrolling messages. Changes in color or light intensity on a still image or message at a rate faster than once every 6 seconds are also not permitted.

9. Each electronic message center shall contain automatic dimmers that maintain a maximum luminance of 7,500 nits during the daylight hours, and 500 nits from dusk (official sunset) to sunrise and during times of fog (One nit is equivalent to one candela per square meter.). Each electronic message center shall be equipped with a mechanism to monitor brightness.

10. A relocated billboard shall not be illuminated between the hours of 11 p.m. to 5 a.m. when located within five-hundred (500) feet of an existing residential property, or residentially zoned property.

11. The City shall have the right to place emergency service announcements on any such electronic messaging center. The limits on emergency service announcements will be stipulated in the relocation agreement.

12. The advertiser shall agree not to display advertising for adult entertainment, mud wrestling, alcohol (except beer and wine), tobacco products of any type, or other content that could be reasonably considered sexually explicit or pornographic by community standards. Objectionable advertising shall be stipulated in the relocation agreement.

13. Relocated billboards shall not be allowed in the Downtown Commercial (DC) zoning district.

14. Relocated billboards shall require permit approval through the Building and Safety Division, Caltrans, the Riverside County Airport Land Use Commission if located within a compatibility zone, and any other responsible agency.

15. Whenever practicable, relocated billboards should include architectural enhancements that add aesthetic appeal to the relocated billboard.

16. Relocated billboards shall not exceed 55 feet in height. Consideration to reducing the height of any proposal shall be required to minimize impacts to scenic vistas. This may be accomplished through the submittal of written plans and photographic simulations.

17. Relocated billboards shall not exceed a face area of 14 feet by 48 feet.

18. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code (BMC 17.36.100(A)).

19. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City. Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances (BMC 17.36.100(B)).

20. The relocation agreement shall include advertising for local businesses at a discounted or reduced rate. Local businesses are defined as any business located within the City limits.

PASSED, APPROVED AND ADOPTED this 22nd day of March, 2016.

Arthur L. Welch, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Anthony R. Taylor, City Attorney
Aleshire & 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. 2015-96 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 22nd day of March, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 3

(PC Resolution No. 2015-12)

RESOLUTION NO. 2015-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING APPROVAL TO THE CITY COUNCIL OF CATEGORICAL EXEMPTION AND APPROVAL OF ZONE TEXT AMENDMENT (ZTA) #15-97505 AMENDING THE SIGN REGULATIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW THE RELOCATION OF EXISTING BILLBOARDS OR OUTDOOR ADVERTISING SIGNS IN ACCORDANCE WITH THE OUTDOOR ADVERTISING ACT

WHEREAS, on February 14, 2006, the City Council of the City of Banning adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing zoning ordinance and adopting the new Zoning Ordinance that included sign regulations; and

WHEREAS, the new Zoning Ordinance and included sign regulations makes no provision for the relocation of existing billboards or outdoor advertising signs as allowed by the Outdoor Advertising Act (Business and Professions Code §5412); and

WHEREAS, State of California desires to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, cities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city and to adopt ordinances or resolutions providing for the relocation of displays; and

WHEREAS, the Planning Commission has authority pursuant to Section 17.116.030 (Planning Commission Action on Amendments) of the City of Banning Municipal Code to make a written recommendation to the City Council to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, the City Council has reviewed the proposed Zone Text Amendment for compliance with the California Environmental Quality Act (CEQA) and it is determined that Zone Text Amendment No. 15-97502 is not a 'project" under CEQA Guidelines 15061(b)(3); and

WHEREAS, on October 23, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Categorical Exemption and Zone Text Amendment No. 15-97505; and

WHEREAS, on November 4, 2015, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition

to, the project, and at which the Planning Commission considered the Categorical Exemption and Zone Text Amendment No. 15-97505.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The following environmental findings are made and supported by substantial evidence on the record before the Planning Commission, including and incorporating all evidence in the staff report and attendant attachments thereto:

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 15-97505.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The Planning Commission hereby makes the following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the recommendation for approval of the Zone Text Amendment No. 15-97505:

Finding No. 1: *Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the goals and policies of the General Plan, insofar as the General Plan

designations and Zoning designations within the City will not change, and the text amendments will result in meeting some of the objectives of the General Plan and more specifically that of the Economic Development Element.

The primary Economic Development Element Goal is to provide *"A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection"* The proposed amendments to sign regulations of the Zoning Ordinance are intended to allow development of properties occupied by existing billboards or outdoor advertising signs by allowing the City Council to enter into relocation agreements with owners. By allowing relocations, an opportunity is created to establish additional retail development along the City's highway serving commercial corridor creating a potential for increased sales tax revenue and job creation. Zone Text Amendment No. 15-97505 does not propose to amend or change the existing development standards of the Zoning Ordinance. Therefore, the proposed zone text amendments will help meet the objective of the primary economic development goal of benefiting the economy while maintaining high development standards.

Furthermore, Economic Development Policy 6 states *"Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits"* (GP p. III-43). The proposed amendments to the sign regulations are intended to encourage and facilitate highway serving commercial development by allowing the relocation of billboards or outdoor advertising signs that would otherwise prevent development due to the potential loss of the advertising asset. Therefore, the proposed zone text amendments will foster improvements not just at the interchanges but along the entire commercial corridor.

Finding No. 2: *Proposed Zone Text Amendment No. 15-97505 is internally consistent with the Zoning Ordinance.*

Findings of Fact: Proposed Zone Text Amendment No. 15-97505 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of all lands within the city to protect the public health, safety, and welfare. This is accomplished by allowing relocation agreements as approved by City Council resolution whereby the advertising asset may be preserved while facilitating development in accordance with the City's existing Zoning Ordinance and development standards.

Furthermore, where clarification is needed in regard to other sign types and more specifically future or existing specific plan sign approvals; and, the allowing of banners on city owned facilities which is a past practice of the City, the proposed amendments include Section 17.36.180 and Section

17.36.190 respectively, setting forth regulations intended to maintain consistency within the sign regulations of the Zoning Ordinance.

Finding No. 3: *The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.*

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97505 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. *Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA.* The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97505 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. PLANNING COMMISSION ACTION.

The Planning Commission hereby takes the following action:

Adoption of Planning Commission Resolution No. 2015-12:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment No. 15-97505; and

2. Recommending to the City Council the adoption of Ordinance No. 1493 approving Zone Text Amendment No. 15-97505 and Resolution No. 2015-96 Establishing Design Guidelines.

PASSED, APPROVED AND ADOPTED this 4th day of November 2015.

David Ellis, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

Sandra Calderon, Recording Secretary
City of Banning, California

CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-12, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th day of November, 2015, by the following vote, to wit:

AYES: Briant, Ellis, Price, Shaw, Krick

NOES: -0-

ABSENT: -0-

ABSTAIN: -0-

Sandra Calderon

Sandra Calderon, Recording Secretary
City of Banning, California

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 4

(Public Hearing Notice)

Record Gazette
218 N. Murray St.

Proof of Publication

(2015.5 C.C.P.)

ORDINANCE NO. 1493 129156

State of California)
County of Riverside) ss.

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a 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:

March 11, 2016

Executed on: 03/11/2016

At Banning ,CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

NOTICE OF PUBLIC HEARING PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the City Council of the City of Banning, to be held on Tuesday, March 22, 2016, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following: ORDINANCE NO. 1493: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CATEGORICAL EXEMPTION AND ZONE TEXT AMENDMENT NO. 15-97505 AMENDING THE SIGN REGULATIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE) TO ALLOW THE RELOCATION OF EXISTING BILLBOARDS OR OUTDOOR ADVERTISING SIGNS IN ACCORDANCE WITH THE OUTDOOR ADVERTISING ACT Information regarding Ordinance No. 1493 including the Categorical Exemption and Zone Text Amendment No. 15-97505 can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. A full copy of Ordinance No. 1493 and Chapter 17.36 of the Banning Municipal Code are available and open to public inspection at the Office of the City Clerk, 99 East Ramsey Street, Banning, California. All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the City Clerk of the City of Banning at P.O. Box 998, Banning, California, 92220. If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009). BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA
Dated: March 8, 2016
Publish: March 11, 2016
Published in
The Record Gazette
No. 129156
03/11/2016

ATTACHMENT 5

(Minutes Joint Study Session September 22, 2015)

MINUTES 09/22/15

CITY COUNCIL SPECIAL MEETING

BANNING, CALIFORNIA

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 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 signs 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.

Policy Direction
Comments/Issues brought forward during the Joint Study Session
City Council-Planning Commission
September 22, 2015

Re: Billboards or outdoor advertising signs

1. The proposed sign regulation changes should include a requirement for maintenance of the billboards.

Section 17.36.100 of the existing sign regulations already addresses this comment in significant detail; and, the maintenance requirements of the existing code would apply to billboards or outdoor advertising signs.

2. The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location.

Staff will recommend that the City Council adopt design guidelines to address this comment.

3. Any exchange of a digital billboard for an existing billboard should include the square footage of the existing billboard advertising face, not just the sign face or structure.

Staff received additional comments from City Council and Planning Commission at the joint study session requesting that any design guidelines for a relocation agreement allow a single sign owner the ability to enter into relocation agreement. This would seem to preclude the examination of the square footage in exchange for a relocation. However, staff can recommend to City Council that the square foot of the sign face be considered as a design guideline for relocation agreements.

4. The City should reserve time in each relocation agreement for promotion of local events.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

5. The City should require the relocation agreement to include advertising for local businesses at a discounted or reduced rate.

The City Attorney has advised that this requirement would be problematic as it we need to apply conditions for relocating a billboard even-handedly.

6. The exchange formula (existing billboard for a digital billboard) should only require one billboard as a minimum requirement for exchange, as requiring more than one exchange is not fair to those who own just one billboard.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

7. As a source of revenue, the city should institute an outdoor advertising tax for each existing billboard and any proposed relocations.

The City Attorney has advised that this action would require a voter approval for local tax levies. This would require additional direction from City Council

8. The scenic view should be valued above all relocations and not block the view of the mountains.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

9. The relocation agreement should prohibit the use of electric generators to power the digital billboards.

This will be incorporated into the design guidelines recommended to be adopted by City Council.

ATTACHMENT 6

(Copy Outdoor Advertising Act)

BUSINESS AND PROFESSIONS CODE SECTION 5200-

5200. This chapter of the Business and Professions Code constitutes the chapter on advertisers. It may be cited as the Outdoor Advertising Act.

5201. Unless the context otherwise requires, the general provisions set forth in this article govern the construction of this chapter.

5202. "Advertising display" refers to advertising structures and to signs.

5203. "Advertising structure" means a structure of any kind or character erected, used, or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for advertising purposes.

"Advertising structure" does not include:

(a) Official notices issued by any court or public body or officer;

(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice;

(c) Directional, warning or information structures required by or authorized by law or by federal, state or county authority.

(d) A structure erected near a city or county boundary, which contains the name of such city or county and the names of, or any other information regarding, civic, fraternal or religious organizations located therein.

5204. "Bonus segment" means any segment of an interstate highway which was covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act, namely, any such segment which is constructed upon right-of-way, the entire width of which was acquired subsequent to July 1, 1956.

5205. "Business area" means an area within 1,000 feet, measured in each direction, from the nearest edge of a commercial or industrial

building or activity and which is zoned under authority of state law primarily to permit industrial or commercial activities or an unzoned commercial or industrial area.

5206. "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled way of a divided highway, or the centerline of the main traveled way of a nondivided highway.

5208. "Collier-Z'berg Act" refers to Chapter 128, Statutes of 1964 (First Extraordinary Session).

5208.6. "Department" means the Department of Transportation.

5209. "Director" refers to the Director of Transportation of the State of California.

5210. "Federal Aid Highway Act of 1958" refers to Section 131 of Title 23 of the United States Code, as in effect before October 22, 1965.

5211. "Flashing" is a light or message that changes more than once every four seconds.

5212. "Freeway," for the purposes of this chapter only, means a divided arterial highway for through traffic with full control of access and with grade separations at intersections.

5213. "Highway" includes roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights-of-way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.

5214. "Highway Beautification Act of 1965" refers to Section 131 of Title 23 of the United States Code, as in effect October 22, 1965.

5215. "Interstate highway" means any highway at any time officially

designated as a part of the national system of interstate and defense highways by the director and approved by appropriate authority of the federal government.

5216. (a) "Landscaped freeway" means a section or sections of a freeway that is now, or hereafter may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

(b) Planting for the purpose of soil erosion control, traffic safety requirements, including light screening, reduction of fire hazards, or traffic noise abatement, shall not change the character of a freeway to a landscaped freeway.

(c) Notwithstanding subdivision (a), if an agreement to relocate advertising displays from within one area of a city or county to an area adjacent to a freeway right-of-way has been entered into between a city or county and the owner of an advertising display, then a "landscaped freeway" shall not include the median of a freeway right-of-way.

5216.1. "Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

5216.3. "Main-traveled way" is the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. Main-traveled way does

not include facilities such as frontage roads, ramps, auxiliary lanes, parking areas, or shoulders.

5216.4. "Message center" is an advertising display where the message is changed more than once every two minutes, but no more than once every four seconds.

5216.5. "Nonconforming advertising display" is an advertising display that was lawfully placed, but that does not conform to the provisions of this chapter, or the administrative regulations adopted pursuant to this chapter, that were enacted subsequent to the date of placing.

5216.6. (a) "Officially designated scenic highway or scenic byway" is any state highway that has been officially designated and maintained as a state scenic highway pursuant to Sections 260, 261, 262, and 262.5 of the Streets and Highways Code or that has been officially designated a scenic byway as referred to in Section 131(s) of Title 23 of the United States Code.

(b) "Officially designated scenic highway or scenic byway" does not include routes listed as part of the State Scenic Highway system, Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, unless those routes, or segments of those routes, have been designated as officially designated state scenic highways.

5218. "Penalty segment" means any segment of a highway located in this state which was not covered by the Federal Aid Highway Act of 1958 and the Collier-Z'berg Act but which is covered by the Highway Beautification Act of 1965, namely, any segment of an interstate highway which is constructed upon right-of-way, any part of the width of which was acquired prior to July 1, 1956, and any segment of a primary highway.

5219. "Person" includes natural person, firm, cooperative, partnership, association, limited liability company, and corporation.

5220. "Primary highway" means any highway, other than an interstate highway, designated as a part of the federal-aid primary system in existence on June 1, 1991, and any highway that is not in that system but which is in the National Highway System.

5221. "Sign" refers to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure.

"Sign" does not include any of the following:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.

(c) Directional warning or information signs or structures required by or authorized by law or by federal, state or county authority.

(d) A sign erected near a city or county boundary that contains the name of that city or county and the names of, or any other information regarding, civic, fraternal, or religious organizations located within that city or county.

5222. "660 feet from the edge of the right-of-way" means 660 feet measured from the edge of the right-of-way horizontally along a line normal or perpendicular to the centerline of the highway.

5222.1. "State highway system" means the state highway system as described in Section 300 of the Streets and Highways Code.

5223. "Unzoned commercial or industrial area" means an area not zoned under authority of state law in which the land use is characteristic of that generally permitted only in areas which are actually zoned commercial or industrial under authority of state law, embracing all of the land on which one or more commercial or industrial activities are conducted, including all land within 1,000 feet, measured in each direction, from the nearest edge of the

commercial or industrial building or activity on such land. As used in this section, "commercial or industrial activities" does not include the outdoor advertising business or the business of wayside fresh product vending.

5224. "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

5225. The verb, "to place" and any of its variants, as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing. It does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of the advertising display.

5226. The regulation of advertising displays adjacent to any interstate highway or primary highway as provided in Section 5405 is hereby declared to be necessary to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in such highways, to preserve the scenic beauty of lands bordering on such highways, and to insure that information in the specific interest of the traveling public is presented safely and effectively, recognizing that a reasonable freedom to advertise is necessary to attain such objectives. The Legislature finds:

(a) Outdoor advertising is a legitimate commercial use of property adjacent to roads and highways.

(b) Outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to exist in business areas, subject to reasonable controls in the public interest.

5227. It is the intention of the Legislature to occupy the whole field of regulation by the provisions of this chapter except that nothing in this chapter prohibits enforcement of any or all of its

provisions by persons designated so to act by appropriate ordinances duly adopted by any county of this state nor does anything prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of the Planning Law, Chapter 1 (commencing with Section 65000) of Title 7 of the Government Code, relating to zoning, or, with reference to signs or structures pertaining to the business conducted or services rendered or goods produced or sold upon the property upon which such advertising signs or structures are placed, ordinances subjecting such signs or structures to building requirements.

5228. It is declared to be the intent of the Legislature in enacting the provisions of this chapter regulating advertising displays adjacent to highways included in the national system of interstate and defense highways or the federal-aid primary highway system to establish minimum standards with respect thereto.

5229. The provisions of this chapter shall not be construed to permit a person to place or maintain in existence on or adjacent to any street, road or highway, including any interstate or state highway, any outdoor advertising prohibited by law or by any ordinance of any city, county or city and county.

5230. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter, if Section 5412 is complied with. No city, county, or city and county may allow an advertising display to be placed or maintained in violation of this chapter.

5231. The governing body of any city or city and county may enact ordinances requiring licenses or permits, or both, in addition to those imposed by this chapter, for the placing of advertising displays in view of any highway, including a highway included in the national system of interstate and defense highways or the federal-aid

primary highway system, within its boundaries.

5270. The regulation of the placing of advertising displays by this chapter, insofar as such regulation may affect the placing of advertising displays within view of the public highways of this state in unincorporated areas, shall be exclusive of all other regulations for the placing of advertising dislays within view of the public highways of this state in unincorporated areas whether fixed by a law of this state or by a political subdivision thereof.

5271. Except as otherwise provided in this chapter, the provisions of this chapter apply only to the placing of advertising displays within view of highways located in unincorporated areas of this state, except that the placing of advertising displays within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, interstate highways or primary highways, including the portions of such highways located in incorporated areas, shall be governed by this chapter.

5272. With the exception of Article 4 (commencing with Section 5300) and Sections 5400 and 5404, inclusive, nothing contained in this chapter applies to any advertising display that is used exclusively for any of the following purposes:

(a) To advertise the sale, lease, or exchange of real property upon which the advertising display is placed.

(b) To advertise directions to, and the sale, lease, or exchange of, real property for which the advertising display is placed; provided, that the exemption of this paragraph does not apply to advertising displays visible from a highway and subject to the Highway Beautification Act of 1965 (23 U.S.C., Sec. 131).

(c) To designate the name of the owner or occupant of the premises or to identify the premises.

(d) To advertise the business conducted or services rendered or the goods produced or sold upon the property upon which the advertising display is placed if the display is upon the same side of the highway and within 1,000 feet of the point on the property or within 1,000 feet of the entrance to the site at which the business

is conducted or services are rendered or goods are produced or sold.

(e) (1) To advertise any products, goods, or services sold by persons on the premise of an arena pursuant to all of the following conditions:

(A) The arena is located on public land.

(B) The arena provides a venue for professional sports on a permanent basis.

(C) The arena has a capacity of 5,000 or more seats.

(D) The arena has an advertising display in existence before January 1, 2009.

(E) The products, goods, or services advertised are or will be offered for sale by persons on a regular basis during the term of an agreement between the vendor or business whose products, goods, or services are sold and the property owner, facility owner, or facility operator, and the term of the agreement is a minimum of one year.

(2) An advertising display authorized pursuant to this subdivision shall not advertise products, goods, or services directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

5273. For the purpose of this chapter, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, an individual redevelopment agency project may, with the consent of the redevelopment agency governing the project, be considered to be on the premises anywhere within the limits of that project when all of the land is contiguous or is separated only by a public highway or public facilities developed or relocated for inclusion within the project as a part of the original redevelopment plan for a period not to exceed 10 years or the completion of the project, whichever first occurs, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause. The 10-year period for existing displays shall commence on January 1, 1986.

5273.5. (a) Notwithstanding Section 5273, for the purposes of this chapter, in the City of Buena Park in Orange County, the Cities of

Commerce, Covina, and South Gate in Los Angeles County, and the City of Victorville in San Bernardino County, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, any redevelopment agency project area or areas may, with the consent of the redevelopment agency governing the project area, be considered to be on the premises anywhere within the legal boundaries of the redevelopment agency's project area or areas for a period not to exceed 10 years or the completion of the project, whichever occurs first, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause.

(b) The governing body of a redevelopment agency in the cities set forth in subdivision (a), upon approving the purchase, lease, or other authorization for the erection of an advertising display pursuant to this section, shall prepare, adopt, and submit to the department an application for the issuance of a permit that, at a minimum, includes a finding that the advertising display would not result in a concentration of displays that will have a negative impact on the safety or aesthetic quality of the community. The department shall only deny the application if the proposed structure violates Sections 5400 to 5405, inclusive, or subdivision (d) of Section 5408, or if the display would cause a reduction in federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5274. (a) None of the provisions of this chapter, except those in Article 4 (commencing with Section 5300), Sections 5400 to 5404, inclusive, and subdivision (d) of Section 5405, apply to an on-premises advertising display that is visible from an interstate or primary highway and located within a business center, if the display is placed and maintained pursuant to Chapter 2.5 (commencing with Section 5490) and meets all of the following conditions:

(1) The display is placed within the boundaries of an individual development project, as defined in Section 65928 of the Government Code, for commercial, industrial, or mixed commercial and industrial purposes, as shown on a subdivision or site map approved by a city,

county, or city and county, and is developed and zoned for those purposes.

(2) The display identifies the name of the business center, if named.

(3) Each business identified on the display is located within the business center and on the same side of an interstate or primary highway where the display is located.

(4) The governing body of the city, county, or city and county has adopted ordinances for the display pursuant to Sections 5230 and 5231 for the area where the display will be placed, and the display meets city, county, or city and county ordinances.

(5) The display results in a consolidation of allowable displays within the business center, so that fewer displays will be erected as a result of the display.

(6) Placement of the display does not cause a reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5275. Notwithstanding any other provision of this chapter, the director may not regulate noncommercial, protected speech contained within any advertising display authorized by, or exempted from, this chapter.

5300. (a) A person engages in the business of outdoor advertising whenever, personally or through employees, that person places an advertising display, changes the advertising message of an advertising display that does not pertain exclusively to that person's business and is visible to a state highway or freeway.

(b) A manufacturer or distributor of a product for sale to the general public does not engage in the business of outdoor advertising when furnishing a sign pertaining to the product to a retailer of that product for installation on the retailer's place of business or when installing on the retailer's place of business a sign containing advertising pertaining to the product, the name or the business of the retailer.

5301. No person shall engage in or carry on the business or

occupation of outdoor advertising without first having paid the license fee provided by this chapter. The fee is payable annually in advance on the first day of July of each year to the director or his authorized agent. Each license shall remain in force for the term of one year from and after the first day of July, and may be renewed annually.

A license shall be obtained whether or not the advertising display requires a permit.

5302. All licenses issued on or after the first day of July shall expire on the 30th day of June following the date of issue. Fees for original licenses issued after the first day of July of each year shall be apportioned and collected on the basis of one-twelfth of the fee for each month or part thereof remaining in the fiscal year.

5303. Every application for a license shall be made on a form to be furnished by the director. It shall state the full name of the applicant and the post office address of his fixed place of business and shall contain a certification that the applicant has obtained a copy of the provisions of this chapter and any regulations adopted thereunder and is aware of their contents.

The issuance of a license entitles the holder to engage in or carry on the outdoor advertising business and to apply for permits during the term of the license.

5350. No person shall place any advertising display within the areas affected by the provisions of this chapter in this state without first having secured a written permit from the director or from his authorized agent.

5351. Every person desiring a permit to place any advertising display shall file an application with the director or with his authorized agent.

5353. The application shall be filed on a blank to be furnished by the director or by his agent. It shall set forth the name and address of the applicant and shall contain a general description of the property upon which it is proposed to place the advertising display

for which a permit is sought and a diagram indicating the location of the proposed advertising display on the property, in such a manner that the property and the location of the proposed advertising display may be readily ascertained and identified.

5354. (a) The applicant for any permit shall offer written evidence that both the owner or other person in control or possession of the property upon which the location is situated and the city or the county with land use jurisdiction over the property upon which the location is situated have consented to the placing of the advertising display.

(b) At the written request of the city or county with land use jurisdiction over the property upon which a location is situated, the department shall reserve the location and shall not issue a permit for that location to any applicant, other than the one specified in the request, in advance of receiving written evidence as provided in subdivision (a) and for a period of time not to exceed 90 days from the date the department received the request.

(c) In addition to the 90-day period set forth in subdivision (b), an additional period of 30 days may be granted at the discretion of the department upon any proof, satisfactory to the department and provided by the city or county making the original request for a 90-day period, of the existence of extenuating circumstances meriting an additional 30 days. There shall be a conclusive presumption in favor of the department that the granting or denial of the request for an additional 30 days was made in compliance with this subdivision.

5355. An application for a permit to place a display shall contain a description of the display, including its material, size, and subject and the proposed manner of placing it.

5357. If the applicant for a permit is engaged in the outdoor advertising business, the application shall contain the number of the license issued by the director.

5358. When the application is in full compliance with this chapter

and if the advertising display will not be in violation of any other state law, the director or the director's authorized agent shall, within 10 days after compliance and upon payment by the applicant of the fee provided by this chapter, issue a permit to place the advertising display for the remainder of the calendar year in the year in which the permit is issued and for an additional four calendar years.

5359. (a) The issuance of a permit for the placing of an advertising display includes the right to change the advertising copy without obtaining a new permit and without the payment of any additional permit fee.

(b) The issuance of a permit does not affect the obligation of the owner of the advertising display to comply with a zoning ordinance applicable to the advertising display under the provisions of this chapter nor does the permit prevent the enforcement of the applicable ordinance by the county.

5360. (a) The director shall establish a permit renewal term of five years, which shall be reflected on the face of the permit.

(b) The director shall adopt regulations for permit renewal that include procedures for late renewal within a period not to exceed one year from the date of permit expiration. Any permit that was not renewed after January 1, 1993, is deemed revoked.

5361. Each permit provided in this chapter shall carry an identification number and shall entitle the holder to place the advertising display described in the application.

5362. No person shall place any advertising display unless there is securely fastened upon the front thereof an identification number plate of the character specified in Section 5363. The placing of any advertising display without having affixed thereto an identification number plate is prima facie evidence that the advertising display has been placed and is being maintained in violation of the provisions of this chapter, and any such display shall be subject to removal as provided in Section 5463.

5363. Identification number plates shall be furnished by the director. Identification number plates shall bear the identification number of the advertising display to which they are assigned.

5364. The provisions of this article shall apply to any advertising display which was lawfully placed and which was in existence on November 7, 1967, adjacent to an interstate or primary highway and within the limits of an incorporated area, but for which a permit has not heretofore been required. A permit which is issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

5365. When a highway within an incorporated area is designated as an interstate or a primary highway, each advertising display maintained adjacent to such highway shall thereupon become subject to all of the provisions of this act. For purposes of applying the provisions of this act, each such display shall be considered as though it had been placed along an interstate or a primary highway during all of the time that it had been in existence. Within 30 days of notification by the director of such highway designation, the owner of each advertising display adjacent to such highway shall notify the director of the location of such display on a form prescribed by the director. The director shall issue a permit for each such advertising display on the basis of the notification from the display owner; provided that such permits will be issued and renewed only if the owner pays the fees required by subdivision (b) of Section 5485. Each permit issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

5366. The issuance of a permit pursuant to this chapter does not allow any person to erect an advertising display in violation of any ordinance of any city, county, or city and county.

5400. No advertising structure may be maintained unless the name of the person owning or maintaining it, is plainly displayed thereon.

5401. No advertising structure shall be placed unless it is built to withstand a wind pressure of 20 pounds per square foot of exposed surface. Any advertising structure not conforming to this section shall be removed as provided in Section 5463.

5402. No person shall display or cause or permit to be displayed upon any advertising structure or sign, any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency, or any other matter or thing of an obscene, indecent or immoral character.

5403. No advertising display shall be placed or maintained in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

(a) If within the right-of-way of any highway.

(b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any permitted sign, or if intended or likely to be construed as giving warning to traffic, by, for example, the use of the words "stop" or "slow down."

(c) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.

(d) If not maintained in safe condition.

(e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.

(f) If visible from any highway which is a part of the interstate or primary systems, and which is placed upon trees, or painted or drawn upon rocks or other natural features.

(g) If any illumination shall impair the vision of travelers on

adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.

(h) If visible from a state regulated highway displaying any flashing, intermittent, or moving light or lights.

(i) If, in order to enhance the display's visibility, the owner of the display or anyone acting on the owner's behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.

5404. No advertising display shall be placed outside of any business district as defined in the Vehicle Code or outside of any unincorporated city, town or village, or outside of any area that is subdivided into parcels of not more than 20,000 square feet each in area in any of the following locations or positions, or under any of the following conditions, or if the advertising display is of the following nature:

(a) If within a distance of 300 feet from the point of intersection of highway or of highway and railroad right-of-way lines, except that this does not prevent the placing of advertising display on that side of an intercepted highway that is opposite the point of interception. But in case any permanent building, structure or other object prevents any traveler on any such highway from obtaining a clear view of approaching vehicles for a distance of 300 feet, then advertising displays may be placed on such buildings, structure or other object if such displays will not further obstruct the vision of those approaching the intersection or interception, or if any such display does not project more than one foot therefrom.

(b) If placed in such a manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway.

5405. Notwithstanding any other provision of this chapter, no advertising display shall be placed or maintained within 660 feet from the edge of the right-of-way of, and the copy of which is

visible from, any interstate or primary highway, other than any of the following:

(a) Directional or other official signs or notices that are required or authorized by law, including, but not limited to, signs pertaining to natural wonders and scenic and historical attractions, and which comply with regulations adopted by the director relative to their lighting, size, number, spacing, and any other requirements as may be appropriate to implement this chapter which are consistent with national standards adopted by the United States Secretary of Transportation pursuant to subdivision (c) of Section 131 of Title 23 of the United States Code.

(b) Advertising displays advertising the sale or lease of the property upon which they are located, if all advertising displays within 660 feet of the edge of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251 and 5415.

(c) Advertising displays which advertise the business conducted, services rendered, or goods produced or sold upon the property upon which the advertising display is placed, if the display is upon the same side of the highway as the advertised activity; and if all advertising displays within 660 feet of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251, 5403, and 5415; and except that no advertising display shall be placed after January 1, 1971, if it contains flashing, intermittent, or moving lights (other than that part necessary to give public service information, including, but not limited to, the time, date, temperature, weather, or similar information, or a message center display as defined in subdivision (d)).

(d) (1) Message center displays that comply with all requirements of this chapter. The illumination or the appearance of illumination resulting in a message change of a message center display is not the use of flashing, intermittent, or moving light for purposes of subdivision (b) of Section 5408, except that no message center display may include any illumination or message change that is in motion or appears to be in motion or that changes in intensity or exposes its message for less than four seconds. No message center display may be placed within 1,000 feet of another message center display on the same side of the highway. No message center display

may be placed in violation of Section 131 of Title 23 of the United States Code.

(2) Any message center display located beyond 660 feet from the edge of the right-of-way of an interstate or primary highway and permitted by a city, county, or city and county on or before December 31, 1988, is in compliance with Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400) for purposes of this section.

(3) Any message center display legally placed on or before December 31, 1996, which does not conform with this section may continue to be maintained under its existing criteria if it advertises only the business conducted, services rendered, or goods produced or sold upon the property upon which the display is placed.

(4) This subdivision does not prohibit the adoption by a city, county, or city and county of restrictions or prohibitions affecting off-premises message center displays which are equal to or greater than those imposed by this subdivision, if that ordinance or regulation does not restrict or prohibit on-premises advertising displays, as defined in Chapter 2.5 (commencing with Section 5490).

(e) Advertising displays erected or maintained pursuant to regulations of the director, not inconsistent with the national policy set forth in subdivision (f) of Section 131 of Title 23 of the United States Code and the standards promulgated thereunder by the Secretary of Transportation, and designed to give information in the specific interest of the traveling public.

5405.3. Nothing in this chapter, including, but not limited to, Section 5405, shall prohibit the placing of temporary political signs, unless a federal agency determines that such placement would violate federal regulations. However, no such sign shall be placed within the right-of-way of any highway or within 660 feet of the edge of and visible from the right-of-way of a landscaped freeway.

A temporary political sign is a sign which:

(a) Encourages a particular vote in a scheduled election.

(b) Is placed not sooner than 90 days prior to the scheduled election and is removed within 10 days after that election.

(c) Is no larger than 32 square feet.

(d) Has had a statement of responsibility filed with the department certifying a person who will be responsible for removing the temporary political sign and who will reimburse the department for any cost incurred to remove it.

5405.5. In addition to those displays permitted pursuant to Section 5405, displays erected and maintained pursuant to regulations of the director, which will not be in violation of Section 131 of Title 23 of the United States Code, and which identify the location of a farm produce outlet where farmers sell directly to the public only those farm or ranch products they have produced themselves, may be placed or maintained within 660 feet from the edge of the right-of-way so that the copy of the display is visible from a highway. The advertising displays shall indicate the location of the farm products but not the price of any product and shall not be larger than 150 square feet.

5405.6. Notwithstanding any other provision of law, no outdoor advertising display that exceeds 10 feet in either length or width, shall be built on any land or right-of-way owned by the Los Angeles County Metropolitan Transportation Authority, including any of its rights-of-way, unless the authority complies with any applicable provisions of this chapter, the federal Highway Beautification Act of 1965 (23 U.S.C.A. Sec. 131), and any local regulatory agency's rules or policies concerning outdoor advertising displays. The authority shall not disregard or preempt any law, ordinance, or regulation of any city, county, or other local agency involving any outdoor advertising display.

5406. The provisions of Sections 5226 and 5405 shall not apply to bonus segments which traverse and abut on commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to and abutting on the national system of interstate and defense highways is subject to municipal regulation or control, or which traverse and abut on other business areas where the land use, as of September 21, 1959, was clearly established by

state laws as industrial or commercial, provided that advertising displays within 660 feet of the edge of the right-of-way of such bonus segments shall be subject to the provisions of Section 5408.

5407. The provisions of Sections 5226 and 5405 shall not apply to penalty segments which are located, or which are to be located, in business areas and which comply with Section 5408, except that Sections 5226 and 5405 shall apply to unzoned commercial or industrial areas in which the commercial or industrial activity ceases and is removed or permanently converted to other than a commercial or industrial activity, and displays in such areas shall be removed not later than five years following the cessation, removal, or conversion of the commercial or industrial activity.

5408. In addition to the advertising displays permitted by Section 5405 to be placed within 660 feet of the edge of the right-of-way of interstate or primary highways, advertising displays conforming to the following standards, and not in violation of any other provision of this chapter, may be placed in those locations if placed in business areas:

(a) Advertising displays may not be placed that exceed 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet, including border and trim, and excluding base or apron supports and other structural members. This subdivision shall apply to each facing of an advertising display. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding 350 square feet each may be erected in a facing. Any advertising display lawfully in existence on August 1, 1967, that exceeds 1,200 square feet in area, and that is permitted by city or county ordinance, may be maintained in existence.

(b) Advertising displays may not be placed that are so illuminated that they interfere with the effectiveness of, or obscure any official traffic sign, device, or signal; nor shall any advertising display include or be illuminated by flashing, intermittent, or moving lights (except that part necessary to give public service

information such as time, date, temperature, weather, or similar information); nor shall any advertising display cause beams or rays of light to be directed at the traveled ways if the light is of an intensity or brilliance as to cause glare or to impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle.

(c) Advertising displays may not be placed to obstruct, or otherwise physically interfere with, an official traffic sign, signal, or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging, or intersecting traffic.

(d) No advertising display shall be placed within 500 feet from another advertising display on the same side of any portion of an interstate highway or a primary highway that is a freeway. No advertising display shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an interstate highway or a primary highway that is a freeway and if the interstate or primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 300 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 100 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located inside the limits of an incorporated city or inside the limits of an urban area.

(e) Subdivision (d) does not apply to any of the following:

(1) Advertising displays that are separated by a building or other obstruction in a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time.

(2) Double-faced, back-to-back, or V-type advertising display, with a maximum of two signs per facing, as permitted in subdivision (a).

(3) Advertising displays permitted by subdivisions (a) to (c), inclusive, of Section 5405. The minimum distance between signs shall

be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

(4) Any advertising display lawfully in existence on August 1, 1967, which does not conform to this subdivision but that is permitted by city or county ordinances.

(f) "Urban area," as used in subdivision (d), shall be determined in accordance with Section 101(a) of Title 23 of the United States Code.

5408.1. (a) No advertising display shall be placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway if such advertising display is located outside of an urban area or within that portion of an urban area that is not a business area, is visible from the main traveled way of such highway, and is placed with the purpose of its message being read from such main traveled way, unless such advertising display is included within one of the classes of displays permitted by Section 5405 to be placed within 660 feet from the edge of such highway. Such display may be placed or maintained within the portion of an urban area that is also a business area if such display conforms to the criteria for size, spacing and lighting set forth in Section 5408.

(b) Any advertising display which was lawfully in existence on the effective date of the enactment of this section, but which does not conform to the provisions of this section, shall not be required to be removed until January 1, 1980. If federal law requires the state to pay just compensation for the removal of any such display, it may remain in place after January 1, 1980, and until just compensation is paid for its removal pursuant to Section 5412.

(c) For purposes of this section, an urban area means an area so designated in accordance with the provisions of Section 101 of Title 23 of the United States Code.

5408.2. Notwithstanding any other provision of this chapter, an advertising display is a lawfully erected advertising display and, upon application and payment of the application fee, the director shall issue a permit for the display if it meets all of the following conditions:

(a) The display was erected on property adjacent to State Highway Route 10 (Interstate 10) in the unincorporated area of the County of Los Angeles in order to replace a display which was required to be removed because the property on which it was located was acquired by the State of California to facilitate construction of the busway on Route 10 in the County of Los Angeles.

(b) Upon proper application, the display could have qualified for a permit at the time it was erected, except for Sections 5351 and 5408 and Article 5 (commencing with Section 5320) as in effect at the time.

(c) The display conforms to Section 5408 as in effect on January 1, 1984.

(d) The display was in existence on January 1, 1984.

5408.3. Notwithstanding Section 5408, a city or a county with land use jurisdiction over the property may adopt an ordinance that establishes standards for the spacing and sizes of advertising displays that are more restrictive than those imposed by the state.

5408.5. In addition to the advertising displays permitted by Sections 5405 and 5408, advertising displays located on bus passenger shelters or benches and conforming to the following standards may be placed on or adjacent to a highway:

(a) The advertising display may not be within 660 feet of and visible from any federal-aid interstate or primary rural highway, and any advertising display within 660 feet of and visible from any urban highway shall be consistent with federal law and regulations.

(b) The advertising display shall meet traffic safety standards of the public entity having operational authority over the highway. These standards may include provisions requiring a finding and certification by an appropriate official that the proposed advertising display does not constitute a hazard to traffic.

(c) Bus passenger shelters or benches with advertising displays may only be placed at approved passenger loading areas.

(d) Bus passenger shelters or benches with advertising displays may only be placed in accordance with a permit or agreement with the public entity having operational authority over the highway adjacent

to where, or upon which, the advertising display is to be placed.

(e) Any advertising display on bus passenger shelters or benches may not extend beyond the exterior limits of the shelter or bench.

(f) There may not be more than two advertising displays on any bus passenger shelter.

(g) Advertising displays placed on bus passenger shelters or benches pursuant to a permit or agreement with a local public entity shall not be subject to the state permit requirements specified in Article 6 (commencing with Section 5350).

5408.7. (a) It is the intent of the Legislature that this section shall not serve as a precedent for other changes to the law regarding outdoor advertising displays on, or adjacent to, highways. The Legislature recognizes that the streets in the City and County of San Francisco that are designated as state or federal highways are unique in that they are also streets with street lights, sidewalks, and many of the other features of busy urban streets. At the same time, these streets double as a way, and often the only way, for people to move through the city and county from one boundary to another. The Legislature recognizes the particular topography of the City and County of San Francisco, the popularity of the area as a tourist destination, the high level of foot traffic, and the unique design of its highways.

(b) For purposes of this section, "street furniture" is any kiosk, trash receptacle, bench, public toilet, news rack, or public telephone placed on, or adjacent to, a street designated as a state or federal highway.

(c) In addition to the advertising displays permitted by Sections 5405, 5408, and 5408.5, advertising displays located on street furniture may be placed on, or adjacent to, any street designated as a state or federal highway within the jurisdiction of a city and county, subject to all of the following conditions:

(1) The advertising display meets the traffic safety standards of the city and county. These standards may include provisions requiring a finding and certification by an appropriate official of the city and county that the proposed advertising display does not constitute a hazard to traffic.

(2) Any advertising display that is within 660 feet of, and visible from, any street designated as a state or federal highway shall be consistent with federal law and regulations.

(3) Advertising displays on street furniture shall be placed in accordance with a permit or agreement with the city and county.

(4) Advertising displays on street furniture shall not extend beyond the exterior limits of the street furniture.

(d) Advertising displays placed on street furniture pursuant to a permit or agreement with the city and county shall not be subject to the state permit requirements of Article 6 (commencing with Section 5350). This subdivision does not affect the authority of the state to enforce compliance with federal law and regulations, as required by paragraph (2) of subdivision (c).

(e) (1) The city and county shall, upon written notice of any suit or claim of liability against the state for any injury arising out of the placement of an advertising display approved by the city and county pursuant to subdivision (c), defend the state against the claim and provide indemnity to the state against any liability on the suit or claim.

(2) For the purposes of this subdivision, "indemnity" has the same meaning as defined in Section 2772 of the Civil Code.

(f) (1) This section shall become inoperative not later than 60 days from the date the director receives notice from the United States Secretary of Transportation that future operation of this section will result in a reduction of the state's share of federal highway funds pursuant to Section 131 of Title 23 of the United States Code.

(2) Upon receipt of the notice described in paragraph (1), the director shall notify in writing the Secretary of State and the City and County of San Francisco of that receipt.

(3) This section shall be repealed on January 1 immediately following the date the Secretary of State receives the notice required under paragraph (2).

5410. Any advertising display located within 660 feet of the edge of the right-of-way of, and the copy of which is visible from, any penalty segment, or any bonus segment described in Section 5406 which

display was lawfully maintained in existence on the effective date of this section but which was not on that date in conformity with the provisions of this article, may be maintained, and shall not be required to be removed until July 1, 1970. Any other sign which is lawful when erected, but which does not on January 1, 1968, or any time thereafter, conform to the provisions of this article, may be maintained, and shall not be required to be removed, until the end of the fifth year after it becomes nonconforming; provided that this section shall not apply to advertising displays adjacent to a landscaped freeway.

Relocations

5412. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located.

This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on-premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity.

"Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed.

It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local

entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.

5412.1. A city, county, or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an area shown as residential on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for residential use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of

Notice Minimum Years of Removal Requirement Allowed	
Under $1,999	2
$2,000 to $3,999	3
$4,000 to $5,999	4
$6,000 to $7,999	5
$8,000 to $9,999	6
$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.2. A city or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an incorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after

January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under $1,999	2
$2,000 to $3,999	3
$4,000 to $5,999	4
$6,000 to $7,999	5
$8,000 to $9,999	6
$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.3. A county whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the county elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an unincorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

(d) The display is not required to be removed because of an overlay zone, combining zone, or any other special zoning district whose primary purpose is the removal or control of signs.

(e) The display is allowed to remain in existence for the period of time set forth below after the adoption or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

Fair Market Value on Date of Notice of Removal Requirement	Minimum Years Allowed
Under $1,999	3.0
$2,000 to $3,999	4.5
$4,000 to $5,999	6.0
$6,000 to $7,999	7.5
$8,000 to $9,999	9.0
$10,000 and over	10.5

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

5412.4. Section 5412 shall not be applied in any judicial proceeding which was filed and served by any city, county, or city and county prior to January 1, 1982, except that Section 5412 shall be applied in litigation to prohibit the removal without compensation of any advertising display located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, or any advertising display placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway that is placed with the purpose of its message being read from the main traveled way of the highway.

5412.6. The requirement by a governmental entity that a lawfully erected display be removed as a condition or prerequisite for the

issuance or continued effectiveness of a permit, license, or other approval for any use, structure, development, or activity other than a display constitutes a compelled removal requiring compensation under Section 5412, unless the permit, license, or approval is requested for the construction of a building or structure which cannot be built without physically removing the display.

5413. Prior to commencing judicial proceedings to compel the removal of an advertising display, the director may elect to negotiate with the person entitled to compensation in order to arrive at an agreement as to the amount of compensation to be paid. If the negotiations are unsuccessful, or if the director elects not to engage in negotiations, a civil proceeding may be instituted as set forth in Section 5414.

To facilitate the negotiations, the Department of Transportation shall prepare a valuation schedule for each of the various types of advertising displays based on all applicable data. The schedule shall be updated at least once every two years. The schedule shall be made available to any public entity requesting a copy.

5414. Proceedings to compel the removal of displays and to determine the compensation required by this chapter shall be conducted pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

5415. The director shall prescribe and enforce regulations for the erection and maintenance of advertising displays permitted by Sections 5226, 5405, and 5408 consistent with Section 131 of Title 23 of the United States Code and the national standards promulgated thereunder by the Secretary of Transportation; provided, that the director shall not prescribe regulations imposing stricter requirements for the size, spacing or lighting of advertising displays than are prescribed by Section 5408 and provided that the director shall not prescribe regulations to conform to changes in federal law or regulations made after November 8, 1967, without prior legislative approval.

Notwithstanding any other provisions of this chapter, no outdoor

advertising shall be placed or maintained adjacent to any interstate highway or primary highway in violation of the national standards promulgated pursuant to subsections (c) and (f) of Section 131 of Title 23 of the United States Code, as such standards existed on November 8, 1967.

5416. The director shall seek, and may enter into, agreements with the Secretary of Transportation of the United States and shall take such steps as may be necessary from time to time to obtain, and may accept, any allotment of funds as provided by subdivision (j) of Section 131 of Title 23 of the United States Code, as amended from time to time, and such steps as may be necessary from time to time to obtain funds allotted pursuant to Section 131 for the purpose of paying the 75 percent federal share of the compensation required by subdivision (g) of Section 131 of Title 23 of the United States Code.

5417. From state funds appropriated by the Legislature for such purposes and from federal funds made available for such purposes, the California Transportation Commission may allocate funds to the director for payment of compensation authorized by this chapter.

5418. The California Transportation Commission is authorized to allocate sufficient funds from the State Highway Account in the State Transportation Fund that are available for capital outlay purposes to match federal funds made available for the removal of outdoor advertising displays.

5418.1. When allocating funds pursuant to Section 5418, the commission shall consider, and may designate for expenditure, all or any part of such funds in accordance with the following order of priorities for removal of those outdoor advertising displays for which compensation is provided pursuant to Section 5412:

(a) Hardship situations involving outdoor advertising displays located adjacent to highways which are included within the state scenic highway system, including those nonconforming outdoor advertising displays which are offered for immediate removal by the owners thereof.

(b) Hardship situations involving outdoor advertising displays located adjacent to other highways, including those nonconforming outdoor advertising displays which are offered for removal by the owners thereof.

(c) Nonconforming outdoor advertising displays located adjacent to highways which are included within the state scenic highway system.

(d) Nonconforming outdoor advertising displays which are generally used for product advertising, and which are located in unincorporated areas.

(e) Nonconforming outdoor advertising displays which are generally used for product advertising located within incorporated areas.

(f) Nonconforming outdoor advertising displays which are generally used for non-motorist-oriented directional advertising.

(g) Nonconforming outdoor advertising displays which are generally used for motorist-related directional advertising.

5419. (a) The director shall seek agreement with the Secretary of Transportation of the United States, or his successor, under provisions of Section 131 of Title 23 of the United States Code, to provide for effective control of outdoor advertising substantially as set forth herein, provided that such agreement can vary and change the definition of "unzoned commercial or industrial area" as set forth in Section 5222 and the definition of "business area" as set forth in Section 5223, or other sections related thereto, and provided further that if such agreement does vary from such sections it shall not be effective until the Legislature by statute amends the sections to conform with the terms of the agreement. If agreement is reached on these terms, the director shall execute the agreement on behalf of the state.

(b) In the event an agreement cannot be achieved under subdivision (a), the director shall promptly institute proceedings of the kind provided for in subdivision (1) of Section 131 of Title 23 of the United States Code, in order to obtain a judicial determination as to whether this chapter and the regulations promulgated thereunder provide effective control of outdoor advertising as set forth therein. In such action the director shall request that the court declare rights, status, and other legal relations and declare whether

the standards, criteria, and definitions contained in the agreement proposed by the director are consistent with customary use. If such agreement is held by the court in a final judgment to be invalid in whole or in part as inconsistent with customary use or as otherwise in conflict with Section 131 of Title 23 of the United States Code, the director shall promptly negotiate with the Secretary of Transportation, or his successor, a new agreement or agreements which shall conform to this chapter, as interpreted by the court in such action.

5440. Except as otherwise provided in this article, no advertising display may be placed or maintained on property adjacent to a section of a freeway that has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

5440.1. Except as provided in Section 5442.5, no advertising display may be placed or maintained along any highway or segment of any interstate highway or primary highway that before, on, or after the effective date of Section 131(s) of Title 23 of the United States Code is an officially designated scenic highway or scenic byway.

5441. Any advertising display which is now, or hereafter becomes, in violation of Section 5440 shall be subject to removal three years from the date the freeway has been declared a landscaped freeway by the director or the director's designee and the character of the freeway has been changed from a freeway to a landscaped freeway.

5442. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively for any of the following purposes:

(a) To advertise the sale or lease of the property upon which the advertising display is placed.

(b) To designate the name of the owner or occupant of the premises upon which the advertising display is placed, or to identify the premises.

(c) To advertise goods manufactured or produced, or services

rendered, on the property upon which the advertising display is placed.

5442.5. Section 5440.1 does not apply to any advertising display if the advertising display is used exclusively for any of the following purposes:

(a) Directional and official signs and notices, including, but not be limited to, signs and notices pertaining to natural wonders or scenic and historical attractions that are otherwise required or authorized by law and conform to regulations adopted by the department.

(b) Signs, displays, and devices advertising the sale or lease of real property upon which they are located.

(c) Signs, displays, and devices, including, but not limited to, those that may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located.

(d) Signs lawfully in existence on October 22, 1965, as determined by the department to be landmark signs, including signs on farm structures or natural surfaces, or of historic or artistic significance the preservation of which, in the opinion of the department, would be consistent with the purposes of this section, as determined by regulations adopted by the department.

(e) Signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purpose of this subdivision, the term "free coffee" means, coffee for which a donation may be made, but is not required.

5442.7. (a) Section 5440 does not apply to any freestanding identifying structure that is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, and sponsored by, the City of Richmond to support economic development activities.

(b) A structure erected pursuant to subdivision (a) shall conform to all of the following conditions:

(1) Not more than one identifying structure may be used by the

City of Richmond and only if approved by that city by ordinance or resolution after a duly noticed public hearing regarding the structure.

(2) Placement of the structure shall not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the structure, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the structure.

(3) The structure shall be generic only and shall not identify any specific business.

(4) No public funds may be expended to pay for the costs of the structure.

(5) The structure shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5442.8. Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, or sponsored by, the City of Costa Mesa to support economic development activities, if all of the following conditions are met:

(a) No other display is used by the city pursuant to this section.

(b) The governing body of the city has authorized placement of the display by an ordinance or resolution adopted following a duly noticed public hearing regarding the display.

(c) Placement of the display will not necessitate the immediate trimming, pruning, topping, or removal of existing trees in order to make the display visible or to improve its visibility, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

5442.9. (a) Notwithstanding Section 5440, a city described in subdivision (b) may erect a nonconforming display if all of the

following apply:

(1) The display is placed on property that the city has owned since before January 1, 1995.

(2) Not more than one additional display is added to the number of signs within the city that do not conform to this article as of January 1, 2000.

(3) The display is located within the boundaries of the city.

(4) Placement or maintenance of the display does not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement or maintenance of the display.

(5) No public funds are required to be expended to pay for the costs of the display.

(6) The display does not impose additional liability on the Department of Transportation.

(7) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(8) All proceeds received by a participating city by allowing the erection of the nonconforming display are expended by the city solely for parks and programs for at-risk youth.

(9) The display does not advertise products or services which are directed at an adult population, including, but not limited to, alcohol, tobacco, and gambling activities.

(b) For purposes of this section, city is any city that meets all of the following conditions:

(1) The city's population is 17,000 persons or less.

(2) The city's annual budget is less than eight million dollars ($8,000,000).

(3) The city's geographical area is less than 1.7 square miles.

(4) The city is located in an urbanized county containing a population of 6,000,000 or more persons.

5442.10. (a) Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display if all of the following conditions are met:

(1) Not more than five advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, shall be erected and only if approved by the Oakland-Alameda County Coliseum Authority.

(2) All five advertising displays shall meet the 1,200 square foot size restriction set forth in subdivision (a) of Section 5408. However, subject to subdivision (b), three of the advertising displays may be vertically oriented so long as those displays do not exceed 60 feet in height and 25 feet in length, including border and trim and excluding base or apron supports, and other structural members.

(3) The display area of each advertising display is measured by the smallest square, rectangle, circle, or combination that will encompass the display area. For purposes of this section, embellishments and secondary signs located in the border or trim around a display area advertising the name of the coliseum complex or the identities of athletic teams who are licensees or lessees of all or portions of the Oakland-Alameda County Coliseum Complex shall not cause the border or trim areas to be included in a display face for measurement purposes. In the case of an LED display advertising on-premises activities at the Oakland-Alameda County Coliseum Complex, or off-premises, noncommercial community activities, the LED portion of the display face shall not be included for measurement purposes.

(4) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(5) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(6) Each advertising display shall be located on the Oakland-Alameda County Coliseum Complex property and shall comply with the spacing requirements set forth in subdivision (d) of Section 5408, as implemented by department regulation.

(7) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display within the Oakland-Alameda County Coliseum Complex property, and is not entitled to monetary compensation for the removal or relocation even if relocation is not possible.

(8) The display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(b) For the specific purpose of this section and in accordance with the Memorandum for Record with the Federal Highway Administration dated January 17, 2001, upon the written request of the Oakland-Alameda County Coliseum Authority on behalf of its licensee or contractor seeking to erect one or more of the three advertising displays allowed by paragraph (2) of subdivision (a) consisting of a size not to exceed 60 feet in height and 25 feet in length, the department shall promptly request Federal Highway Administration approval of that change in orientation to ensure that the advertising displays will not cause a reduction in federal aid highway funds. Upon receipt of the approval from the Federal Highway Administration, the advertising display or displays may be erected.

(c) For the purposes of this section, the Oakland-Alameda County Coliseum Complex is the real property and improvements located at 7000 Coliseum Way, City of Oakland, and more particularly described in Parcel Map 7000, filed August 1, 1996, Map Book 223, Page 84, Alameda County Records, Assessor's Parcel Nos. 041-3901-008 and 041-3901-009.

5442.11. Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display in the Mid-City Recovery Redevelopment Project Area within the City of Los Angeles if all of the following conditions are met:

(a) Not more than four advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, may be erected if approved by the Community Redevelopment Agency of the City of Los Angeles as part of an owner-participation agreement or disposition and development agreement.

(b) All four advertising displays meet the requirements set forth in Section 5405 and 5408.

(c) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(e) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display and is not entitled to monetary compensation for the removal or relocation.

(f) The advertising display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

5442.13. (a) Notwithstanding any other provision of this chapter, Section 5440 shall not prohibit an advertising display in the City of Los Angeles by a not-for-profit educational academy that is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code, if all of the following conditions are met:

(1) The exception provided by this section is limited to only one advertising display.

(2) The site of the academy is located immediately adjacent to State Highway Routes 10 and 110 in the City of Los Angeles.

(3) The academy's curriculum focuses on providing arts and entertainment business education.

(4) The advertising display is constructed on the roof of the academy's facility.

(5) The advertising display meets the requirements set forth in Sections 5405 and 5408.

(6) Placement or maintenance of the advertising display does not require the immediate trimming, pruning, topping, or removal of trees

located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(7) Revenues accruing to the academy from the advertising display are used exclusively for the acquisition, operation, and improvement of the academy.

(b) An advertising display erected pursuant to this section shall not advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(c) If an advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner shall be entitled to relocate that advertising display with no compensation for the removal or relocation, and the relocation shall be limited to a site on the property of the academy specified in subdivision (a).

(d) An advertising display erected pursuant to this section shall not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(e) If the academy specified in subdivision (a) closes or otherwise ceases to operate, the advertising display permitted under this section shall no longer be authorized and shall be removed from the property of the academy.

(f) Notwithstanding Section 5412, if the property on which the academy specified in subdivision (a) is sold, the seller shall remove the billboard from the property without compensation before title to the property is transferred to the buyer.

(g) The academy specified in subdivision (a) shall prepare an audit of the revenues generated by the advertising display authorized under this section that includes, but is not limited to, the total revenues generated from the display, the amount of revenues received by the academy, and the expenditures and uses of the revenue. The audit shall be submitted to the Controller and the Legislature on or before January 1, 2007, and every four years thereafter.

(h) The academy specified in subdivision (a) shall comply with the provisions of the City of Los Angeles regulation designated as

Section 12.21A 7 (1) of the Los Angeles Municipal Code. The requirements of this subdivision shall be waived if the City of Los Angeles fails to implement, comply with, and make a determination pursuant to the provisions of Section 12.21A7 (1) of the Los Angeles Municipal Code on or before January 1, 2005.

5443. Nothing in this article prohibits either of the following:

(a) Any county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a county land use or zoning ordinance.

(b) Any governmental entity from entering into a relocation agreement pursuant to Section 5412 or the department from allowing any legally permitted display to be increased in height at its permitted location or to be relocated if a noise attenuation barrier is erected in front of the display or if a building, construction, or structure, including, but not limited to, a barrier, bridge, overpass, or underpass, has been or is then being erected by any government entity that obstructs the display's visibility within 500 feet of the display and that relocated display or that action of the department would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the jurisdiction of a governmental entity which does not conform to this article. Any increase in height permitted under this subdivision shall not be more than that necessary to restore the visibility of the display to the main-traveled way. An advertising display relocated pursuant to this subdivision shall comply with all of the provisions of Article 6 (commencing with Section 5350).

5443.5. Nothing in this article prohibits the Department of Transportation from allowing any legally permitted display situated on property being acquired for a public use to be relocated, subject to the approval of the public agency acquiring the property and the approval of the jurisdiction in which the display will be relocated, so long as the action of the department in allowing the relocation of the display would not cause a reduction in federal-aid highway funds, as provided in Section 131 of Title 23 of the United States

Code, or an increase in the number of displays which do not conform to this article within the jurisdiction of a governmental entity.

5460. It is unlawful for any person to place or cause to be placed, or to maintain or cause to be maintained any advertising display without the lawful permission of the owner or lessee of the property upon which the advertising display is located.

5461. All advertising displays which are placed or which exist in violation of the provisions of this chapter are public nuisances and may be removed by any public employee as further provided in this chapter.

5463. The director may revoke any license or permit for the failure to comply with this chapter and may remove and destroy any advertising display placed or maintained in violation of this chapter after 30 days' written notice is forwarded by mail to the permitholder at his or her last known address. If no permit has been issued, a copy of the notice shall be forwarded by mail to the display owner, property owner, or advertiser at his or her last known address.

Notwithstanding any other provision of this chapter, the director or any authorized employee may summarily and without notice remove and destroy any advertising display placed in violation of this chapter which is temporary in nature because of the materials of which it is constructed or because of the nature of the copy thereon.

For the purpose of removing or destroying any advertising display placed in violation of this chapter, the director or the director's authorized agent may enter upon private property.

5464. Every person as principal, agent or employee, violating any of the provisions of this chapter is guilty of a misdemeanor.

5465. The remedies provided in this chapter for the removal of illegal advertising displays are cumulative and not exclusive of any other remedies provided by law.

5466. (a) Notwithstanding any other provision of law, as to an advertising display in place as of August 12, 2004, a cause of action for the erection or maintenance of an advertising display that violates this chapter or the laws of a local governmental entity shall not be brought by a private party against an advertising display that has been in continuous existence in its current location for a period of five years. However, if the advertising display has been illegally modified, the cause of action for the illegal modification may be brought by a private party if it is filed within five years of the date the modification was made.

(b) This section shall not apply to a cause of action brought by a governmental entity that is based on the erection or maintenance of an advertising display that violates this chapter or the laws of the governmental entity.

ATTACHMENT 7

(Copy Chapter 17.36 Sign Regulations)

Chapter 17.36 - SIGN REGULATIONS

Sections:

17.36.010 - Purpose.

The purpose of this chapter is to establish sign regulations that are intended to:

A. Limit and control the location, size, type and number of signs allowed in the City of Banning.

B. To provide for a more orderly display of advertising devices, while implementing community design standards with respect to character, quality of materials, color, illumination and maintenance, which are consistent with the City's General Plan.

C. To bring these advertising devices into harmony with the buildings, with the neighborhood, with the natural environment, and with other signs in the area.

D. To preserve and improve the appearance of the City as a place in which to live and work, and as an attraction to nonresidents who come to visit or trade.

E. To encourage sound signage practices as an aid to business and for the information of the public, while preventing excessive and confusing sign displays.

F. To reduce hazards to motorists, bicyclists and pedestrians.

G. And to promote the public health, safety, viewsheds, aesthetic values, and general welfare of the community by regulating and controlling all matters relating to signs.

(Zoning Ord. dated 1/31/06, § 9109.01.)

17.36.020 - Applicability.

A. This chapter shall apply to all signage proposed within the community. No signs shall be erected or maintained in any land use district established by this Zoning Ordinance, except those signs specifically enumerated in this chapter. The number and area of signs as outlined in this chapter are intended to be maximum standards.

B. In addition to the standards set forth herein, consideration shall be given to a sign's relationship to the need that it serves, and the overall appearance of the subject property as well as the surrounding community. Compatible design, simplicity, and sign effectiveness are to be used in establishing guidelines for sign approval.

(Zoning Ord. dated 1/31/06, § 9109.02.)

17.36.030 - Definitions.

Abandoned Sign. Any display remaining in place or not maintained for a period of 120 days or more which no longer advertises or identifies an on-going business, product, or service available on the business premises where the display is located.

Address Sign. The numeric reference of a structure or use to a street, included as part of a wall or monument sign.

A-Frame Sign. A free standing sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter "A". Such signs are usually designed to be auxiliary portable commercial signage, hence they are not considered permanent signs.

Anchor Tenant. A shopping center key tenant, usually the largest or one of the largest tenants located within the shopping center, which serves to attract customers to the center through its size, product line, name, and reputation.

Animated Sign. A sign with action or motion, flashing or color changes, requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags or banners. Said definition shall not include displays such as time and temperature, revolving, changeable copy or public information centers.

Announcement or Bulletin Board Signs. Signs permanent in character designed to accept changeable copy, handbills, posters and matters of a similar nature.

Area of sign. The area of a sign shall be the entire area including any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character excluding architectural features or design. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

Awning, Canopy, or Marquee Sign. A nonelectric sign that is printed on, painted on, or attached to an awning, canopy,

or marquee and is only permitted on the vertical surface or flap.

Banner. A temporary display such as used to announce open houses, grand openings or special announcements. Often made of cloth, bunting, plastic, paper, or similar material.

Bench Sign. Copy painted on any portion of a bus stop or other bench.

Billboard or Off-Site Sign. A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

Building Face and/or Frontage. The length of the single front building elevation in which the primary entrance to the business is located. If more than one business is located in a single building, then such length shall be limited to that portion which is occupied by each individual business.

Canopy Sign. Shall mean a sign attached to either the underside of the canopy, or marquee, or directly to the canopy itself.

Changeable Copy Sign. A sign designed to allow the changing of copy through manual, mechanical, or electrical means.

Civic Event Sign. A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

Commercial Seasonal Sign. An "open" or "closed" window sign, posted on a seasonal basis.

Contractor's Sign/Construction Sign. A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

Directional Sign. Signs limited to on-premises directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance", or "exit".

Directory Sign. A sign for listing the tenants or occupants and their suite numbers of a building or center.

Double-faced Sign. A single structure designed with the intent of providing copy on both sides.

Eaveline. The bottom of the roof eave or parapet.

Election Sign. A temporary sign related to or directly associated with a national, state, county or local election or referendum.

Flags and pennants. Shall mean devices generally made of flexible materials, usually cloth, paper or plastic, and displayed on strings. They may or may not contain copy. This definition shall not include the flag of the United States or of any state.

Flags of the State and Nation.A flag of the United States or the State of California.

Flashing Sign.A sign that contains an intermittent or sequential flashing light source.

Freestanding Sign.A sign which is supported by one or more uprights, braces, poles, or other similar structural components that is not attached to a building or buildings. Flagpoles are not included in this definition.

Freeway.A highway in respect to which the owners of abutting land have no right or easement of access or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.

Future Tenant Identification Sign.A temporary sign which identifies a future use of a site or building.

Grand Opening.A promotional activity not exceeding 30 calendar days used by newly established businesses, within 2 months after occupancy, to inform the public of their location and service available to the community. Grand Opening does not mean an annual or occasional promotion of retail sales or activity by a business.

Ground Sign.A display attached to the ground, within an architecturally planned wall or structure, and not over eight (8) feet in height.

Height of Sign. The greatest vertical distance measured from the existing grade at the mid-point of the sign support(s) that intersect the ground to the highest element of the sign.

Holiday Decoration Sign. Temporary signs, in the nature of decorations, clearly incidental to and customarily associated with holidays.

Identification Sign.A sign attached to the building and displaying only the name, type of business, and/or logo in combination, identifying a particular business establishment.

Illegal Sign. Any of the following: a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; a sign that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 120 days; a sign that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished; a sign which is a danger to the public or is unsafe; a sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City or County. Abandoned signs and prohibited signs are also illegal.

Illuminated Sign. A sign with an artificial light source, either internal or external, for the purpose of lighting the sign.

Institutional Sign. A sign identifying the premises of a church, school, hospital rest home, or similar institutional facility.

Kiosk. An off-premise sign of no more than four square feet in size, used for directing people to the sales office or models of a residential subdivision project.

Logo. An established identifying symbol or mark associated with a business or business entity.

Lot or Street frontage. The linear front footage of a parcel of property abutting a dedicated public street.

Logo Sign. An established trademark or symbol identifying the use of a building.

Monument Sign. An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

Murals. Painted wall signs which have a majority of the sign area comprised of noncommercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or supervised) by an artist who possesses demonstrated knowledge and expertise in the design, materials, and execution of murals or other art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district.

Non-Commercial Sign. A sign which does not promote, identify or sell a business or product.

Nonconforming Sign. A legally established sign which fails to conform to the regulations of this chapter. Otherwise conforming signs whose height exceeds the provisions of this chapter only because a special topographical circumstance results in a material impairment of the visibility of the display or the owner's ability to adequately and effectively continue to communicate with the public through the use of the display if the sign were limited to the height allowed in this chapter shall not be considered nonconforming.

Occupancy Frontage. Each individual tenant space within a building or group of buildings which faces upon a dedicated street or public parking area between such space and street.

Off-Site Sign. Any sign which advertises or informs in any manner businesses, services, goods, persons, or events at some location other than that upon which the sign is located. Off-premise sign, billboard, and outdoor advertising structure are equivalent terms.

Open House Sign. A temporary on-site sign posted to indicate a salesperson is available to represent the property subject to sale, lease, or rent.

Painted Sign. Signs painted on the exterior surface of a building or structure; however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be considered wall signs.

Parcel or lot of real property. A parcel or lot of real property under separate ownership from any other parcel or lot and having street or highway frontage.

Political Sign. A sign other than an election sign directly associated with an ideological, political or similar noncommercial message on a sign.

Portable Sign. A sign that is not permanently attached to the ground or a building.

Projecting Sign. Any sign which is suspended from or supported by a building or wall, and which projects eighteen (18) inches or more outward therefrom.

Promotional Sign. A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.

Public Information Center. Any display which is characterized by changeable copy, letters or symbols.

Real Estate Sign. An on-site sign pertaining to the sale or lease of the premises.

Revolving Sign. Any sign that revolves, either by wind actuation or by electrical means.

Roof Sign. A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof and which is wholly or partly supported by such buildings.

Shopping Center. A group of four (4) or more businesses which function as an integral unit on a single parcel or group of parcels and utilize common off-street parking and access and is identified as a shopping center.

Sign. Any structure, housing, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purpose: to designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located; or, to advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected. This definition shall include all parts, portions, units and materials composing same, together with illumination, frame, background, structure, support and anchorage therefor.

Sign Area. The entire face of a sign, including the surface and any framing, projections, or molding, but not including the support structure. Individual channel-type letters mounted on a building shall be measured by the area enclosed by four straight lines outlining each word or grouping of words.

Sign Program. A coordinated program of one or more signs for an individual building or building complexes with multiple tenants.

Temporary Sign. A sign intended to be displayed for a limited period of time.

Time and temperature sign. A sign giving the time and or temperature.

Trademark. A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.

Tract development sign. A sign indicating the location of a housing tract.

Tract directional sign. An off-premises sign indicating direction to a tract development.

Vehicle Sign. A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property.

Wall Sign. A sign painted on or fastened to a wall and which does not project more than 12 inches from the building or structure.

Window Sign. Any sign that is applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure, on a permanent or temporary basis.

(Zoning Ord. dated 1/31/06, § 9109.03; Ord. No. 1382, § 3 (part).)

(Ord. No. 1424, § 3.1, 7-13-10)

17.36.040 - Sign permit required.

A. General.

1. No sign, or temporary sign, unless exempted by this chapter, shall be constructed, displayed or altered without a sign permit or sign program approved by the City. The Community Development Department shall review all signs unless otherwise stated.
2. Sign permits shall be reviewed and either approved or denied by the Director within 30 days of submittal of a complete application. The determination of a complete application shall be in conformance with the California Permit Streamlining Act.
3. Determination on sign permit applications are to be guided by the standards and criteria set forth in this article. An application will be approved whenever the proposed sign conforms to all design, size, height and other standards for signs subject to a permit requirement, as such requirements are set forth in this chapter.
4. The Director's determination shall be provided in writing, and shall include an explanation of the reasons for approval or denial. Appeal of the Director's decision shall be in conformance with Chapter 17.68, Hearings and Appeals.

B. Sign Program. A permit for a sign program shall be required for all new commercial, office, and industrial centers consisting of three or more tenant spaces. The program shall be filed with the project application to construct the center, and shall be processed concurrently with the project application. The purpose of the program shall be to integrate signs with building and landscaping design to form a unified architectural statement. This may be achieved by:
   1. The use of the same background color, and allowing signs to be of up to 3 different colors per multi-tenant center.
   2. The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.
   3. The use of the same form of illumination of the signs, with internally lit signs generally being preferred by the City due to the lack of overspill from such lighting.
   4. Uniform sign placement specifications, letter height, and logo height for both anchor tenants and minor tenants.
   5. Logos may be permitted and are not subject to the color restrictions specified in the program. However, no logo should exceed 25% of the allowable sign area.

(Zoning Ord. dated 1/31/06, § 9109.04.)

17.36.050 - Exempt signs.

The following signs shall be exempt from the provisions of this chapter:

A. Window signs not exceeding two (2) square foot [feet] and limited to business identification, hours of operation, address, and/or emergency information. (Neon signs of any size require a permit, if allowed.)
B. Signs within a structure and not visible from the outside.
C. Memorial signs and plaques installed by a civic organization recognized by the Council, when cut in masonry or bronze tablets.
D. Official and legal notices issued by a court or governmental agency.
E. Official flags of the United States, the State of California, County of Riverside, or the City of Banning.
F. Identification signs on construction sites. Such signs shall be limited to one directory or pictorial display sign identifying all contractors and other parties (including lender, realtor, subcontractors, etc.). Each sign shall not exceed 20 square feet in area and 6 feet in height. Each sign shall be removed prior to issuance of a Certificate of Occupancy.
G. Election Signs. Election signs must comply with the following requirements:
   1. Election signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.
   2. No election signs shall be permitted on public property or in the public right-of-way.
   3. There are no pre-election restrictions limiting when elections signs may be erected, but the owner of the sign must remove the sign within seven days after the applicable election has ended.
   4. For all election signs, the campaign shall be deemed the owner of the sign unless it can establish that it is not the owner of the sign. In the event the campaign establishes it is not the owner of the sign, the owner of the property on which the sign is placed, shall be deemed the owner of the sign.
   5. In the event that any such sign violates the provisions of this chapter, or if it is not removed within the period provided hereunder, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.
   6. Except as provided in this subsection, no permit shall be required for election signs.

H.

Real estate signs for residential sales shall be one sign not exceeding four square feet in area and five feet in height, provided it is unlit and is removed within 7 days after the close of escrow or the rental or lease has been accomplished. Open House signs, for the purpose of selling a single house or condominium and not exceeding four square feet in area and five feet in height, are permitted for directing prospective buyers to property offered for sale.

I. Real estate signs for the initial sale, rental, or lease of commercial and industrial premises: One sign not to exceed 20 square feet in area to advertise the sale, lease, or rent of the premises. No such sign shall exceed eight feet in overall height and shall be removed upon sale, lease or rental of the premises or 12 months, whichever comes first. Thereafter, one sign per premise not to exceed 12 square feet in size and five feet in height is permitted for the sale, lease or rent of the premise.

J. Future tenant identification signs: One wall or freestanding sign may be placed on vacant or developing property to advertise the future use of an approved project on the property and where information may be obtained. Such sign shall be limited to one sign, a maximum of 20 square feet in area and eight feet in overall height. Any such signs shall be single faced and shall be removed prior to the granting of occupancy permit by the City.

K. Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels, showing notices of services provided or required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided that all of the following conditions exist:
   1. The signs number no more than three.
   2. No such sign projects beyond any property line.
   3. No such sign shall exceed an area per face of three square feet.
   4. Signs may be double-faced.

L. Copy applied to fuel pumps or dispensers such as fuel identification, station logo, and other signs required by law.

M. Agricultural signs, either wall or freestanding types, non-illuminated, and not exceeding four square feet for lots two acres or less and 10 square feet for lots greater than two acres, identifying only the agricultural products grown on the premises. The number of such signs shall be one per street frontage or a maximum of two, with wall signs to be located below the roofline and freestanding signs to be no higher than six feet.

N. Sign programs which have been approved prior to the adoption of this Zoning Ordinance.

O. Municipal and traffic control signs: Directional signs to aid vehicle or pedestrian traffic provided that such signs are located on-site, have a maximum area which does not exceed three square feet, have a maximum overall height of four feet above grade, and are mounted on a monument or decorative pole. Such signs may be located in a required setback provided that a minimum distance of five feet from any property line is maintained. Directional signs to the railway, the airport or the highway are among the types of signs which fall in this category.

P. Temporary window signs may be permitted on the inside of windows facing out which do not cover more than 25% of the individual window surface for a period not to exceed 30 days use during any 60 day period. Temporary painted signs may be on the outside of the window.

Q. Historic site and historic landmark, and neighborhood signs, when designed in conformance with standards of the California Historic Commission or a similar entity.

R. Professionally made restroom, telephone and walkway signs of under one square foot.

S. Emblems or signs of a political, civic, philanthropic, educational or religious organizations, if those signs are on the premises occupied by such organizations, and do not exceed 24 square feet in area, or number more than one emblem or sign in total.

T. Political Signs. Political signs must comply with the following requirements:
   1. Political signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.
   2. No political signs shall be permitted on public property or in the public right-of-way.
   3. In the event that any such sign violates the provisions of this chapter, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.
   4. Except as provided in this subsection, no permit shall be required for political signs.

(Zoning Ord. dated 1/31/06, § 9109.05.)

(Ord. No. 1424, § 3.2, 3.3, 7-13-10; Ord. No. 1487 § 3.2, 4-18-15)

17.36.060 - Prohibited signs.

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

A. Abandoned signs.
B. Animated, moving, flashing, blinking, reflecting, revolving, or any other similar sign, except electronic message boards.
C. All banners, flags, and pennants in the Downtown Commercial zoning district and located within 50 feet of a residential property.
D. Billboards.
E. [Reserved].
F. Changeable copy signs and electronic message boards, except as allowed by a Conditional Use Permit for movie theaters, arenas, stadiums, or auto malls in the commercial land use districts.
G. Reserved.
H. Off site signs, except as permitted elsewhere in this ordinance.
I. Permanent sale signs.
J. Portable signs or A-frame signs, except in the Downtown Commercial zone and shall not pose a hazard to pedestrians; and, shall be stable under all-weather conditions or shall be removed.
K. Roof signs.
L. Signs on public property or the public rights-of-way, except for traffic regulation and signs permitted by a governmental agency.
M. Signs painted on fences or roofs.
N. Balloons and other inflated devices or signs designed to attract attention, except with Temporary Use Permit.
O. Signs that are affixed to vehicles, excluding permanent signs on commercial vehicles which are driven on a daily or weekly basis.
P. Signs which simulate in color or design a traffic sign or signal, or which make use of words, symbols or characters in such a manner to interfere with, mislead, or confuse pedestrian or vehicular traffic.
Q. Signs which singly or in combination with other signs block more than 5% of the view from any window or door of any structure or dwelling used primarily as a residence.
R. Signs which singly or in combination with other signs, for any portion of the day, block natural sunlight from falling upon any window or door of any structure or dwelling used primarily as a residence.
S. Signs which singly or in combination with other signs block more than 33% for solid lettering (or up to 50% if perforated vinyl window signs) of the view from any window or door of any structure used or occupied by people for more than an hour of a typical day, in all zoning districts of the City.

(Zoning Ord. dated 1/31/06, § 9109.06; Ord. No. 1377, § 1.)

(Ord. No. 1424, § 3.4, 7-13-10; Ord. No. 1447, § 3, 2-14-12; Ord. No. 1487, § 3.2, 4-28-15)

17.36.070 - Temporary signs.

Special event signs and civic event signs may be approved by the Director for a limited period of time as a means of publicizing special events such as grand openings, carnivals, parades, charitable events and holiday sales. Such special event signs shall be limited to the following provisions:

A. No special event sign shall be erected without a temporary use permit.
B. Special event signs shall be limited to 90 days per event from the date of erection or date of permit, whichever occurs first.
C. Special event signs shall not include promotional sales signs, and they must be taken down within a week after the conclusion of the special event.
D. Special event signs may include balloons, inflated devices, search lights, beacons, pennants, and streamers.
E. Such temporary signs may not be granted to the same business or location more than twice during any one year.

(Zoning Ord. dated 1/31/06, § 9109.07; Ord. No. 1448, § 9, 5-8-12)

17.36.080 - Off-site residential subdivision directional signs.

The following shall regulate and establish a standardized program of off-site residential subdivision directional kiosk signs for the City. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where five or more structures or dwelling units are concurrently undergoing construction.

A. No kiosk sign structure shall be located less than 300 feet from an existing or previously approved kiosk site, except in the case of signs on different corners of an intersection.

B. The placement of each kiosk sign structure shall be reviewed and approved by the Director.

C. All kiosk signs shall be placed on private property with written consent of the property owner.

D. A kiosk sign location plan shall be prepared, showing the site of each kiosk directional sign, and shall be approved by the Director prior to the issuance of a sign permit.

E. There shall be no additions, tag signs, streamers, devices, display boards, or appurtenances, added to the kiosk signs as originally approved, no other non-permitted directional signs, such as posters or trailer signs, may be used.

F. All non-conforming subdivision kiosk directional signs associated with the subdivision in question must be removed prior to the placement of directional kiosk sign(s).

G. Kiosk signs, or attached project directional signage, shall be removed when the subdivision is sold out. The applicant (or his/her legal successors) will be responsible for removal of panels and structures no longer needed.

(Zoning Ord. dated 1/31/06, § 9109.08.)

(Ord. No. 1424, § 3.5, 7-13-10)

17.36.090 - Abatement of abandoned or illegal temporary signs.

A. Every temporary sign not owned by the property owner of the property on which it is erected shall be marked to indicate on the sign the identity of the sign owner, provided that for any commercial sign where not otherwise indicated it shall be presumed that the business being advertised is the owner.

B. Any abandoned or illegal temporary sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is (i) in deteriorating condition and not maintained in the condition in which it was orlginally installed, (ii) violates conditions of the sign permit, or (iii) is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community. Such signs may be abated as provided in this chapter.

C. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within ten days after notice from the director, which notice shall provide an opportunity to be heard before the director on the abandonment and nuisance decision and an appeal may be taken pursuant to chapter 17.68. Any sign not removed within ten days after such notice, may be abated by the director if no appeal has been taken from the director's decision, or, if the appeal has been denied or modified. If after a reasonable effort to determine the owner of the sign, the owner cannot be found, then the city may summarily remove the sign and the same shall be stored for a period of thirty days, during which time they may be recovered by the owner.

D. Costs of an abatement conducted pursuant to this chapter shall be assessed against the owner of the sign, and to the extent permissible under law, against the owner of the property, using the procedures established in the Banning Municipal Code.

(Zoning Ord. dated 1/31/06, § 9109.09.)

(Ord. No. 1424, § 3.6, 7-13-10)

17.36.100 - Sign construction and maintenance.

A. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code.

B. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City. Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances.

(Zoning Ord. dated 1/31/06, § 9109.10.)

17.36.110 - Sign regulations.

Signs permitted in each of the City's land use districts are identified below. In addition to the following regulations, all signs must be in compliance with all other provisions of this chapter pertaining to signs.

Signs may have commercial or non-commercial messages. A non-commercial message may be substituted for the copy of any commercial sign allowed by this chapter.

A. Signs in Residential Zones.

1. Up to one flagpole, displaying the flag of the US or the State of California, up to 35 feet in height, unless a

permit is obtained from the City to have a flagpole in a private park or public park for up to 65 feet in height.

2. For single family homes, the following are allowed:
   a. Up to one sign not to exceed one square foot in area, identifying the address;
   b. Up to one unlit sign not to exceed four square feet in area, pertaining to the rental, sale or lease of the property on which the sign is located. Such signs must be temporary, and may contain no flashing, blinking or reflective objects.
3. For apartment complexes and multifamily developments, the following are allowed:
   a. Sign(s) containing the name and/or address of the development, providing that the combined area of such signs is not exceeded as established below:
      i. Up to one wall sign
      ii. Up to one freestanding sign per street frontage (which shall be in a landscaped area at least 15 feet from the curb face, and not closer than five feet to the property line. Freestanding signs shall have a maximum height of eight feet inclusive of supporting structures.
      iii. The maximum combined area of the signs set forth above shall not exceed 20 square feet, for complexes with 125 feet of frontage or less, and shall not exceed 30 square feet for complexes with over 125 square feet of frontage.
4. For properties in the residential zones where farming takes place, lots may have one sign per street frontage (up to a maximum of two signs) advertising only the agricultural products grown on the premises. These signs may not be illuminated, and may be either free standing or wall signs. For lots of two acres or less, each sign may be a maximum of four square feet. For lots over two acres, each sign may be a maximum of ten square feet.
5. No neon signs are permitted in residential areas.

B. Signs in Commercial and Industrial Zones.
   1. No sign attached to a structure shall be placed above the roof line.
   2. Wall signs. Each business in Downtown Commercial zoning district shall be permitted wall signs per occupancy footage. The area devoted to such signs shall not exceed one square foot of sign area per one foot of building frontage, and shall not exceed 50 square feet of sign area. An introductory sign of a maximum of 5 square feet shall be allowed for 25 percent of the sign fee to encourage business in the Downtown Commercial zoning district. Each business in all other commercial and industrial zoning districts shall be permitted wall signs per the area of the wall (length times height of the wall). The area devoted to such signs shall not exceed 20 percent of the wall area. The sign area maximum for wall signs shall not apply to a freeway-oriented wall sign proposed to be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp and advertising onsite retail or service-oriented businesses. Freeway-oriented wall signs shall be subject to all requirements of section 17.36.110(B)(6), including requiring the approval of a conditional use permit.
   3. Monument signs. Each parcel or property shall be permitted one monument sign subject to all of the following conditions being met:
      a. One square foot of sign area for one foot of building frontage is permitted. Such sign shall not exceed 50 square feet.
      b. The buildings must be set back at least 25 feet from the property line.
      c. The monument sign shall be located in a landscaped planter area not less than 50 square feet, with one dimension being at least four feet.
      d. The monument sign may be no more than 8 feet high.
      e. Shopping centers may have one monument sign not to exceed one square foot of display face per one foot of building frontage, not to exceed 100 square feet, for center identification. Said sign may include reader panels, and or a bulletin or a changeable copy pane.
   4. Painted signs. Each business shall be permitted painted signs subject to the following conditions:
      a. Said signs shall be in combination with or in lieu of wall signs.
      b. The area of said painted sign shall be deducted from the total allowable wall sign.
   5. Accessory signs. Signs denoting credit cards, hours of operation, etc, shall be allowed but shall not exceed three square feet in total area.
   6. Freeway-Oriented Freestanding Sign. Freeway-oriented freestanding signs shall be allowed subject to the following requirements:
      a.

Said sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp. The phrase "viewed primarily in direct line of sight from" shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.

b. Said signs shall be limited to on-site retail or services businesses. Shopping centers may have one freeway-oriented sign and shall include city identification or city logo as approved by planning commission. Said city identification or logo shall be excluded from the display face area calculation. When the display area of the sign is used for commercial speech, the copy must qualify as onsite to the business or shopping center.

c. Said sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the planning commission with evidence to assure satisfactory compliance with this requirement.

d. Said sign shall be located in a planter area not less than fifty square feet with one dimension being at least six feet, unless from the evidence presented to the planning commission it can be determined that the area is not visible from public street or right-of-way, or the absence of the planter shall not be detrimental to the appearance of the area.

e. Said sign shall not exceed an overall height of fifty-five feet.

f. Said sign shall not exceed one hundred seventy-five square feet per display face.

g. Said sign shall require approval of a conditional use permit. In addition to satisfying requirements set forth above in this section 17.36.110(B)(6) of the Banning Municipal Code, the following findings must be made prior to approval of a conditional use permit for a freeway-oriented freestanding sign, without consideration of message content of the proposed signs:

i. The elevation of the freeway in relation to the elevation of the abutting properties justifies the height requested, and is the minimum necessary.

ii. The number and spacing of freeway signs will not cause unnecessary confusion, clutter or other unsightliness in the general location.

iii. The use identified, as well as its type, size and intensity, justifies the size, design and location of the sign requested.

iv. The needs of the traveling public for identification and directional information justifies the sign requested.

7. One flag pole, displaying one or more flags of the state and nation, not to exceed 35 feet in height.

8. Any existing freestanding sign shall be considered legal and conforming, but shall not be altered or replaced except by approval of a conditional use permit.

(Zoning Ord. dated 1/31/06, § 9109.11; Ord. No. 1377, § 2)

(Ord. No. 1419, § 5, 1-26-10; Ord. No. 1424, § 3.7, 7-13-10; Ord. No. 1447, §§ 3—6, 2-14-12; Ord. No. 1487, § 3.2, 4-28-15)

17.36.120 - Sign design guidelines.

A. General. The following design guidelines shall be consulted prior to developing signs for any project. Unless there is a compelling reason, these design guidelines shall be followed. If a guideline is waived, the Mayor and City Council shall be notified. An appeal, which does not require a fee, may be filed by the Mayor or any Council person within 15 days of the waiver approval.

1. Use a brief message: The fewer the words, the more effective the sign. A sign with a brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.

2. Avoid hard-to-read, overly intricate typefaces: These typefaces are difficult to read and reduce the sign's ability to communicate.

3. Avoid faddish and bizarre typefaces: Such typefaces may look good today, but soon go out of style. The image conveyed may quickly become that of a dated and unfashionable business.

4. Sign colors and materials: should be selected to contribute to legibility and design integrity. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection. Day-glo colors must be avoided.

5. Use significant contrast between the background and letter or symbol colors: If there is little contrast between the brightness or hue of the message of a sign and its background, it will be difficult to read.

6. Avoid too many different colors on a sign: Too many colors overwhelm the basic function of communication. The colors compete with content for the viewer's attention. Limited use of the accent colors can increase legibility, while large areas of competing colors tend to confuse and disturb.

7. Place signs to indicate the location of access to a business: Signs should be placed at or near the entrance to a building or site to indicate the most direct access to the business.
8. Place signs consistent with the proportions of scale of building elements within the facade: Within a building facade, the sign may be placed in different areas. A particular sign may fit well on a plain wall area, but would overpower the finer scale and proportion of the lower storefront. A sign which is appropriate near the building entry may look tiny and out of place above the ground level.
9. Place wall signs to establish rhythm across the facade, scale and proportion where such elements are weak. In many buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale, and proportion.
10. Avoid signs with strange shapes: Signs that are unnecessarily narrow or oddly shaped can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.
11. Carefully consider the proportion of letter area to overall sign background area: If letters take up too much sign, they may be harder to read. Large letters are not necessarily more legible than smaller ones. A general rule is that letters should not appear to occupy more than 75% of the sign panel area.
12. Make signs smaller if they are oriented to pedestrians: The pedestrian-oriented sign is usually read from a distance of 15 to 20 feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller that sign need be.

B. Wall or Fascia Signs.
   1. Building wall and fascia signs should be compatible with the predominant visual elements of the building. Commercial centers, offices, and other similar facilities are required to be part of a sign program in accordance with the provisions of this chapter.
   2. Where there is more than one sign, all signs should be complementary to each other in the following ways:
      a. Type of construction materials (cabinet, sign copy, supports, etc.)
      b. Letter size and style of copy
      c. Method used for supporting sign (wall or ground base)
      d. Configuration of sign area
      e. Shape to total sign and related components
   3. The use of graphics consistent with the nature of the product to be advertised is encouraged, i.e., hammer or saw symbol for a hardware store, mortar and pestle for a drug store.
   4. Direct and indirect lighting methods are allowed provided that they are not harsh or unnecessarily bright. The use of can-type box signs with translucent backlit panels are less desirable. Panels should be opaque if a can-type sign is used and only the lettering should appear to be lighted. The overspill of light should be negligible.
   5. The use of backlit individually cut letter signs is strongly encouraged.
   6. The use of permanent sale or come-on signs is prohibited.
   7. The identification of each building or store's address in 6 inch high numbers over the main entry doorway or within 10 feet of the main entry is encouraged.

C. Monument Signs.
   1. Monument signs are intended to provide street addresses, and identification for the commercial center development as a whole and for up to three major tenants.
   2. All tenant signs should be limited in size to the width of the architectural features of the sign and shall be uniform in size and color.
   3. A minimum of 10% of the sign area of monument signs for center developments should be devoted to identification of the center or building by address or name.
   4. Monument signs should be placed perpendicular to approaching vehicular traffic.
   5. Each monument sign should be located within a planted landscaped area which is of a shape and design that will provide a compatible setting and ground definition to the sign, incorporating the following ratio of landscape area to total sign area:
      a. Monument: 4 square feet of landscaped area for each square foot of sign area (1 side only).
      b. Directory: 2 square feet of landscaped area for each square foot of sign area.

(Zoning Ord. dated 1/31/06, § 9109.12.)

17.36.130 - Nonconforming signs.

A. A legally established sign which fails to conform to this chapter shall be allowed continued use, except that the sign shall not be:

1. Structurally altered so as to extend its useful life.
2. Expanded, moved, or relocated.
3. Re-established after a change in use.
4. Re-established after a business has been abandoned for 120 days or more.
5. Re-established after damage or destruction of more than 50%.

B. Sign copy and sign faces may be changed on nonconforming signs when there is no change in use of the site or when only a portion of a multiple tenant sign is being changed.

C. Any non-conforming sign shall be required to be brought into conformance or abated.

(Zoning Ord. dated 1/31/06, § 9109.13.)

17.36.140 - Removal of illegal and nonconforming signs.

A. The Director shall remove or cause the removal of any fixed, permanent sign constructed, placed or maintained in violation of this chapter, after 30 days following the date of mailing of registered or certified written notice to the owner of the sign, if known, at the last known address or to the owner of the property as shown on the latest assessment roll, or to the occupant of the property at the property address.

B. The notice shall describe the sign and specify the violation involved, and indicate that the sign will be removed if the violation is not corrected within 30 days. If the owner disagrees with the opinion of the Director, the owner may, within the said 30 day period request a hearing before the Planning Commission to determine the existence of a violation.

C. If salvageable in the opinion of the Director, signs removed by the Director pursuant to this chapter shall be stored for a period of 60 days, during which time they may be recovered by the owner upon payment to the City for costs of removal and storage. If not recovered prior to expiration of the 60 day period, the sign and supporting structures shall be declared abandoned and title thereto shall vest to the City, and the cost of removal shall be billed to the owner or lien placed on the property upon which said sign was erected.

(Zoning Ord. dated 1/31/06, § 9109.14.)

17.36.150 - Reserved.

Editor's note— Sec. 3 of Ord. No. 1447, adopted Feb. 14, 2012, repealed zoning section 9109.15 from which this section 17.36.150 derived. Former § 17.36.150 pertained to establishing compliance and was amended by Ord. 1377.

17.36.160 - Inventory and abatement—Variances—Penalties.

A. Inventory And Abatement. Within 6 months from the date of adoption of this Zoning Ordinance, the City shall commence a program to inventory and identify illegal or abandoned signs within its jurisdiction. Within 60 days after this 6 month period, the City may commence abatement of identified illegal or abandoned signs. If a previously legal sign is merely nonconforming, however, the terms of Section 17.36.150 of this Zoning Ordinance titled "Establishing Compliance," shall apply.

B. Variances. Variances from these sign ordinances are strongly discouraged. However, where results inconsistent with the general purposes of this ordinance would occur from its strict literal interpretation and enforcement, the Planning Commission may grant a variance therefrom upon such terms and conditions as it deems necessary.

C. Penalties. Each violation of this ordinance or any regulation, order or ruling promulgated or made hereunder, shall be punishable by a fine of not more than $200 per day, with each calendar day in violation, constituting a separate offense.

(Zoning Ord. dated 1/31/06, § 9109.16.)

17.36.170 - Murals.

Murals shall be allowed by permit reviewed by the beautification and mural council of the Banning Chamber of Commerce and permitted by the city's community development department. Applications shall be on a form devised by the community development department. A permit for a mural will be granted when the following conditions have been satisfied:

A. Completed application;
B. Sign permit fee paid;
C. Approved by the beautification and mural council of the Banning Chamber of Commerce;
D. The mural shall not cause a pedestrian or vehicular safety hazard;
E. The mural shall be applied to the wall of a building; and
F. The mural shall be maintained.

(Ord. No. 1382, § 3 (part).)

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 8

(Photograph existing digital billboard San Bernardino)


San Bernardino Police Department
is now hiring!
To apply, visit:
www.joinSBPD.org

ATTACHMENT 9

(Designated landscape freeway list)

Dist	County	Route	Post Mile Limits				Preliminary Determination Date
7	LA	210	R	46.57 /	R	49.37	8/29/2005
7	LA	210	R	49.37 /	R	52.11	8/29/2005
7	LA	405		0.00 /		1.32	
7	LA	405		1.50 /		7.41	
7	LA	405		7.52 /		8.76	
7	LA	405		8.91 /		9.78	
7	LA	405		9.87 /		28.60	
7	LA	405		28.65 /		34.41	
7	LA	405		37.01 /		48.03	
7	LA	605	R	0.00 /	R	8.24	
7	LA	605	R	8.28 /	R	8.47	
7	LA	605	R	8.94 /	R	16.52	
7	LA	605	R	16.57 /	R	17.69	
7	LA	605	R	17.76 /	R	19.45	
7	LA	605	R	19.49 /	R	19.85	
7	LA	605	R	20.00 /		20.29	10/11/2002
7	LA	605		20.29 /		21.05	
7	LA	605		21.05 /		21.26	10/11/2002
7	LA	605		25.61 /		26.09	
7	LA	710		6.60 /		9.82	
7	LA	710		11.66 /		12.55	
7	LA	710		12.80 /		17.34	
7	LA	710		17.66 /		21.01	
7	LA	710		21.76 /		22.17	
7	LA	710		22.37 /		22.67	
7	LA	710		22.91 /		25.44	
7	LA	710		26.40 /		26.53	
7	LA	710	R	26.53 /	R	27.19	
7	LA	710	R	32.34 /	R	32.72	
District 8: San Bernardino, Riverside & Desert							
8	SBD	10		0.00 /		5.44	
8	SBD	10		5.63 /		6.30	
8	SBD	10		11.74 /		19.73	
8	SBD	10		19.81 /		20.41	
8	SBD	10		20.48 /	R	21.39	
8	SBD	10	R	21.46 /	R	22.40	
8	SBD	10	R	22.44 /	R	22.85	
8	SBD	10	R	22.89 /	R	23.56	
8	SBD	10	R	23.97 /		30.06	
8	SBD	10		30.15 /		32.72	
8	RIV	10		6.98 /		8.21	
8	RIV	10		8.90 /		9.12	
8	RIV	10		9.60 /		9.83	
8	RIV	10		10.18 /		10.46	
8	RIV	10		10.75 /		12.98	
8	RIV	10		13.05 /	R	14.81	
8	RIV	10	R	151.88 /	R	152.42	
8	RIV	10	R	152.52 /	R	153.50	
8	RIV	10	R	153.93 /	R	154.50	
8	RIV	10	R	155.93 /	R	156.35	
8	RIV	15		3.02 /		5.40	
8	RIV	15		5.65 /		7.77	
8	RIV	15		7.82 /		8.18	

ATTACHMENT 10

(Lamar letter dated May 4, 2015)

May 4, 2015

City Council
City of Banning
99 E. Ramsey Street
Banning, CA 92220

RE: Lamar Billboards / Banning City Codes

Dear City Council:

Lamar is proud to be a progressive and socially responsible City business partner and business in the City of Banning, and as such, Lamar is respectfully requesting the City Council's consideration of changes to its City Codes relative to billboards.

1. Currently under *Section 17.36.060 – Prohibited Signs*, all billboards are considered *non-conforming*. We are requesting that the City consider including language relative to billboards that allows the ability to alter, move, relocate and/or rebuild current structures.

The change would allow:

a. Safer access for our installers,
b. Ability to convert selected wood or I-beam support structures to safer single column steel structures,
c. Compliance with current building codes.
Engineering and safety requirements do not recommend rebuilding a structure upon the exact same spot. Therefore, a reasonable distance or relocation is essential.
d. New business development. Lamar owns two separate properties (7 parcels) in Banning between I-10 and Ramsey Street. In order to be able to sell these properties to a developer to build a business in the City we must be able to relocate our structures.

Upgraded structures with a single column are much more aesthetically pleasing.

2. **Addition of language to allow Changeable Message Display billboards.**

This would allow Lamar and the City to keep up with 21st century technology and the demands of advertisers.

This technology would also allow Lamar to further support the community by allowing the City of Banning to display promotions for City sponsored events, as well as, utilization of our Emergency Alert System (EAS) program for emergency notification information, i.e., earthquake, road hazards, Amber Alerts, Crime Stoppers and Most Wanted in conjunction with law enforcement.

Lamar would consider reasonable reduction of inventory upon approvals of Electric Message Board displays.

3. We are also seeking an opportunity to partner with the City to build a structure with Changeable Message Display capability on City owned property. This opportunity would allow for rental revenue sharing with the City.

   A new build Changeable Message Display can be designed with facades that are appealing and supportive of the City's aesthetic vision.

Please see the enclosed documentation in support of our request as follows:

A. Lamar Digital Display brochure Technically Speaking,

B. Photos of current Lamar Changeable Message Displays.

   Riverside County
   Hwy 111 @ S/O Frank Sinatra Drive, Rancho Mirage – 1 face
   Ramon Road N/L W/O Bob Hope Drive, Rancho Mirage – 1 face
   I-15 WL @ Ontario Avenue – 2 faces
   I-15 WL .2 mi N/O Ontario Avenue – 2 faces
   91 Fwy. SL .4 mi. E/O Green River – 2 faces

C. Copy of the U. S. Department of Transportation Memorandum of September 25, 2007 in support of changeable message displays, and suggested standards relative to duration of message, transition time, brightness, spacing and location.

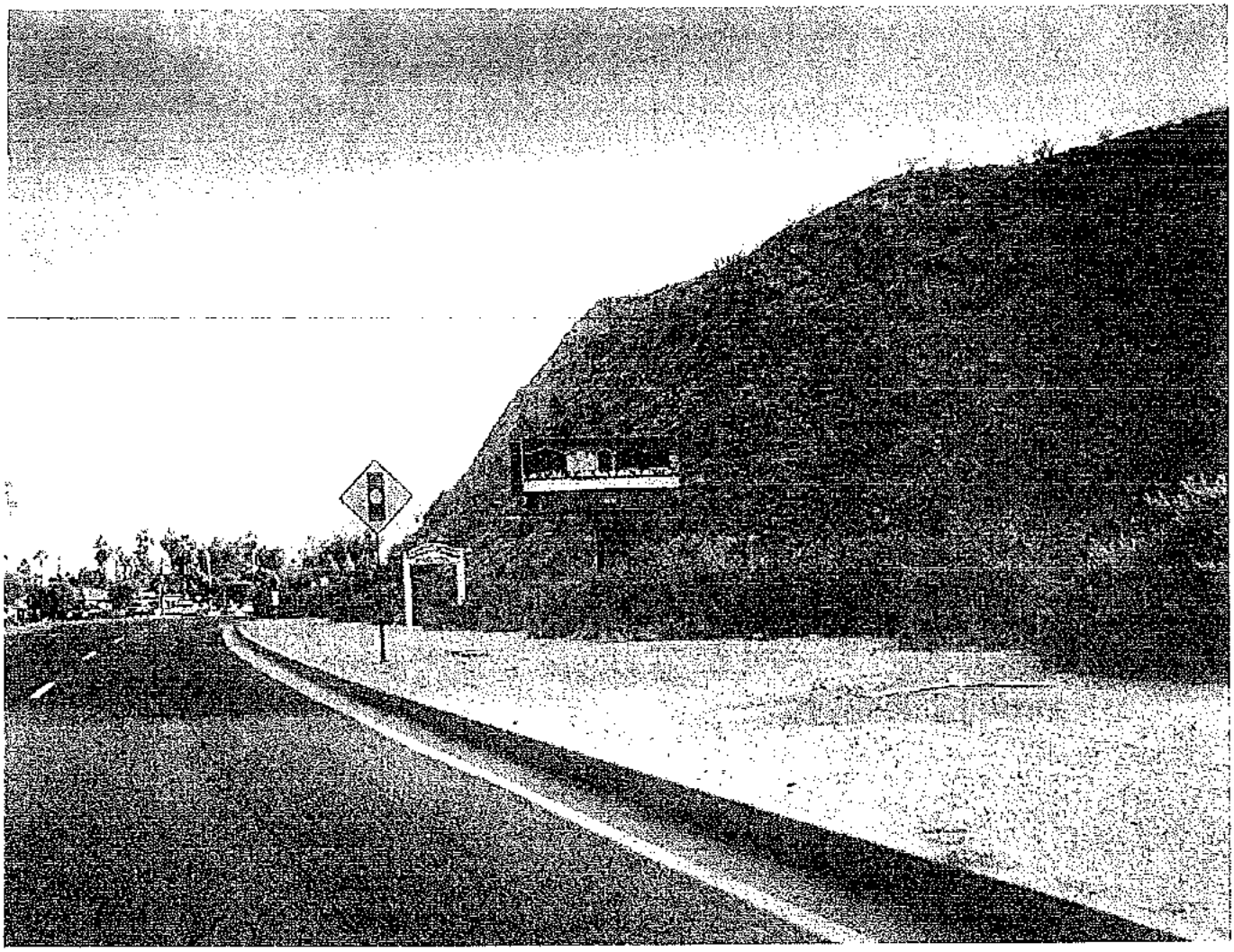
We wish to thank you for your time in reviewing the enclosures and your consideration. We look forward to the opportunity to work with the City and it staff.

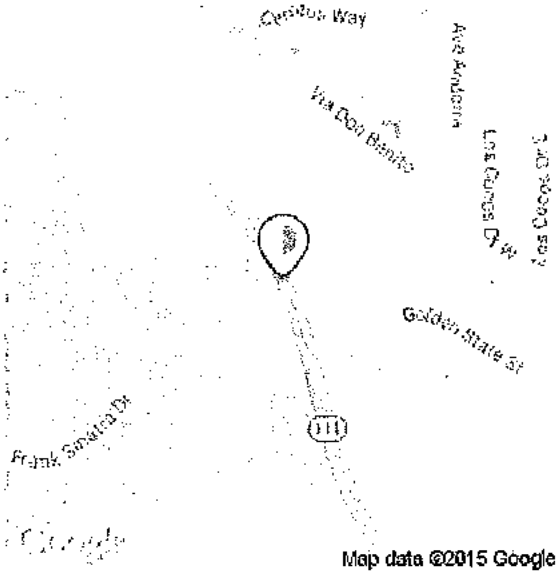
Please do not hesitate to contact me or Betsy Hayes, Real Estate Lease Manager with any questions or for additional information 760-327-4500.

Respectfully,

William B. Houck
Vice President / General Manager

:bh
enc.

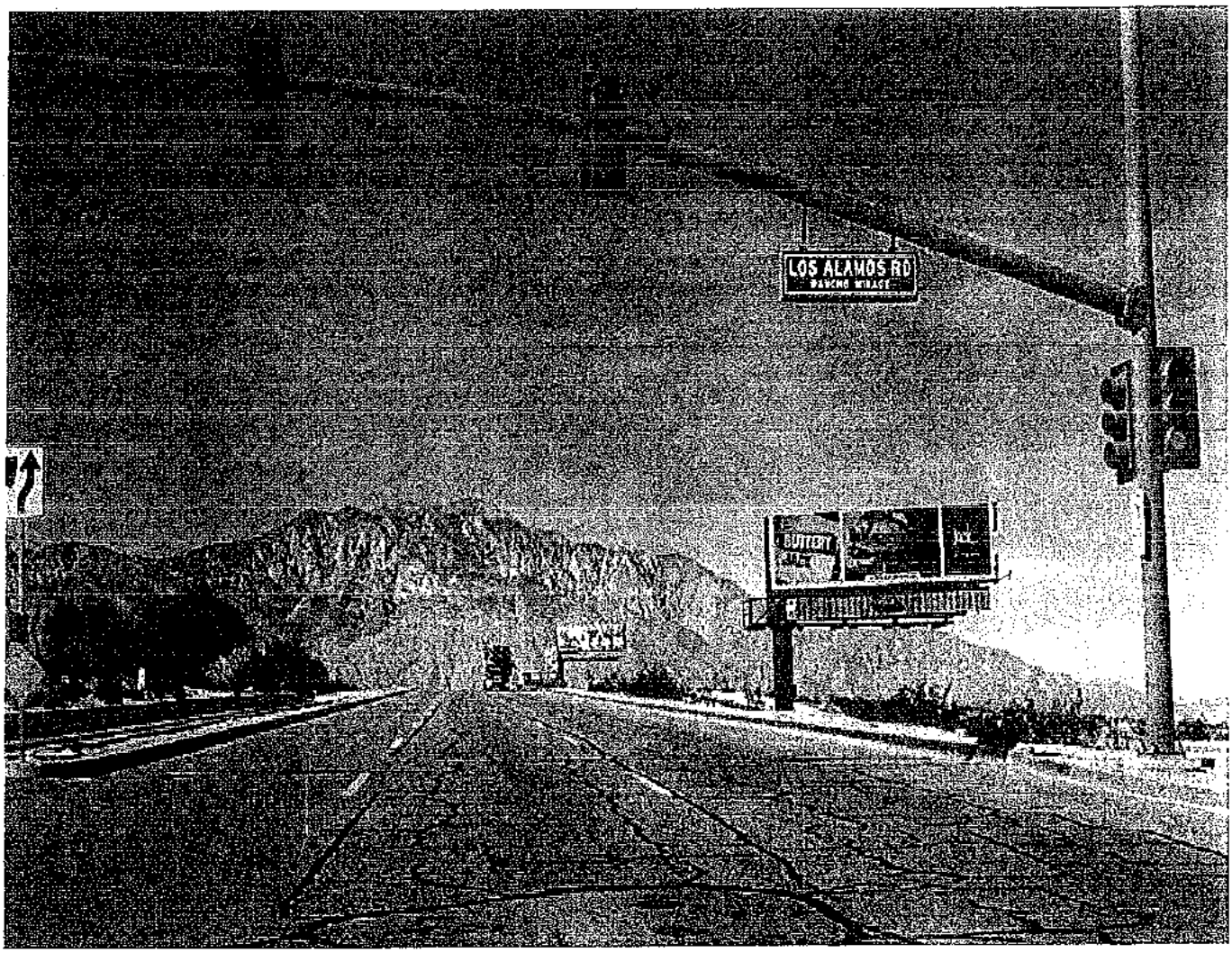


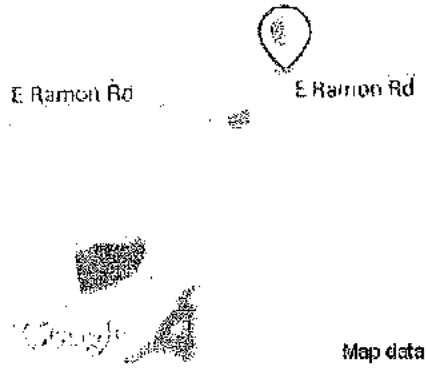


Advertising Strengths: WF This location in on the busiest metro local commuter and tourist artery in the Palm Springs Market. This is a premier location that is our most highly requested local internal artery. This is an awesome location that reaches out to the entire Palm Springs Market.

Market:	RIVERSIDE COUNTY
Panel:	91174
TAB Unique ID:	30635206
Location:	HWY 111 SL 350 W/O FRANK SINATRA
Lat/Long:	33.77260 / -116.44750
Media/Style:	Permanent Bulletin / Digital
***Weekly Impressions:**	108129 *per spot*
Panel Size:	10' 6" x 36' 0" Spec Sheet
Facing/Read:	West / Right
# of slots:	6
Dwell Time:	7
Guar. spots per day:	1903

*Impression values based on: 18+ yrs





Advertising Strengths: EF) This location is the gateway between the Mid-Valley and the West Valley and is one of our most popular metro local commuter and tourist arteries in the Palm Springs Market. This is a great location that is a highly requested local internal artery. This location is also a freeway exit for local traffic. Market.

Market:	**PALM SPRINGS**
Panel:	**94811**
TAB Unique ID:	30635208
Location:	RAMON ROAD NL .8 MI W/O BOB HOPE
Lat/Long:	33.81632 / -116.42395
Media/Style:	Permanent Bulletin / Digital
***Weekly Impressions:**	51306 *per spot*
Panel Size:	10' 6" x 36' 0" Spec Sheet
Facing/Read:	East / Right
# of slots:	6
Dwell Time:	7
Guar. spots per day:	1903

*Impression values based on: 18+ yrs

My Lamar

Home Applications Directories Professional Development

My Digital Displays

Now Playing

Help

Now Playing

Search by using the boxes or by clicking the map below. To start over click HERE

California | San Bernardino/Riverside | RIVERSIDE COUNTY | 89002 - 91 FWY SL .4MI E/O GREEN

Now Playing

Lamar Advertising of San Bernardino Office | Contact

Market: RIVERSIDE COUNTY

89002 - 91 FWY SL .4MI E/O GREEN RIVER



Riley's Farm



Location Information

Current Creative

My Lamar

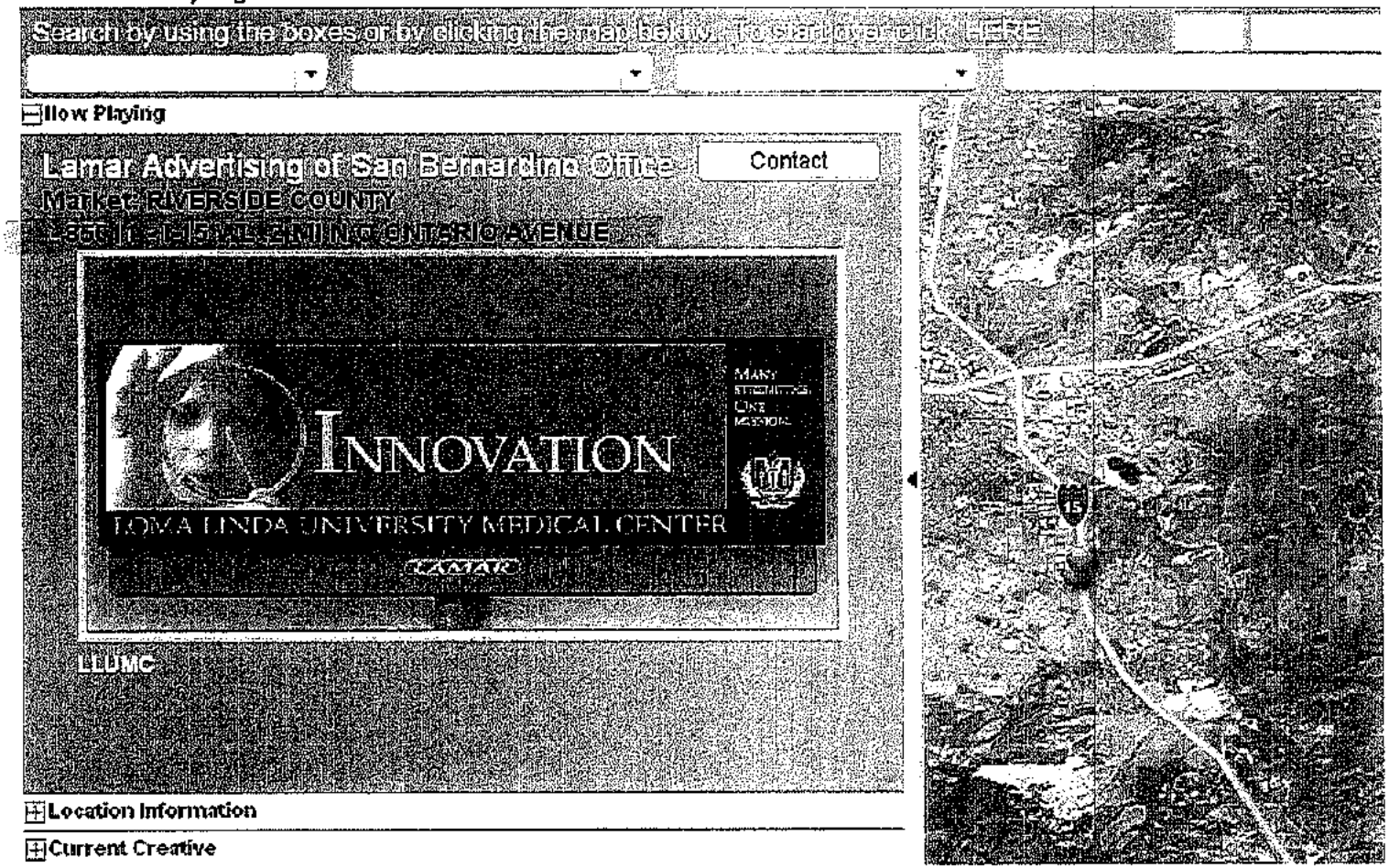
Home Applications Directories Professional Development

My Digital Displays

Now Playing

Help

Now Playing



Welcome Betsy Hayes-Gonzalez! [Monday, August 18, 2008, 1:40 PM

My Lamar

Home Applications Directories Professional Development

My Digital Displays

Now Playing

Help

Now Playing

Search by using the boxes or by clicking the map

Now Playing

Lamar Advertising of San Bernardino Office

Contact

Market: RIVERSIDE COUNTY

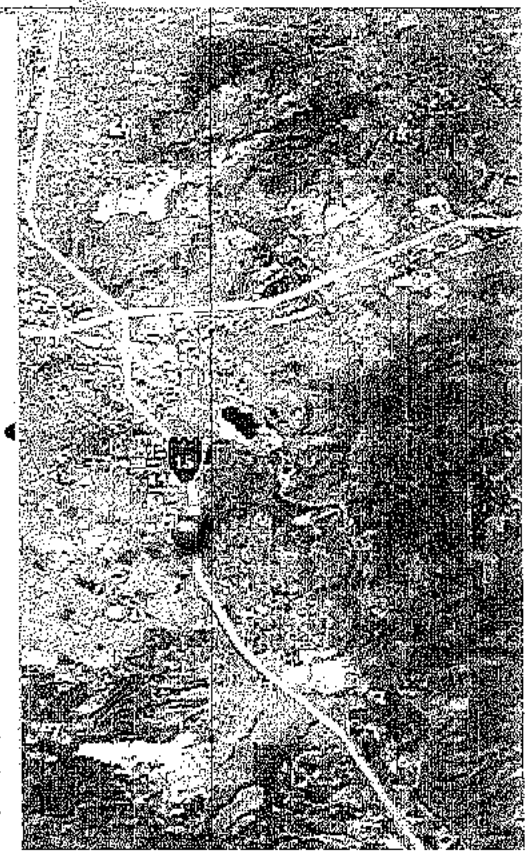
BUY '09 PASS GET '08 FREE

Raging Waters San Dimas

Castle Park

Location Information

Current Creative



C - Riverside County

U.S. Department of Transportation
Federal Highway Administration

Memorandum

Subject: **INFORMATION:** Guidance on Off-Premise Changeable Message Signs

Date: September 25, 2007

In Reply Refer To: HEPR -20

From: Original signed by:
Gloria M. Shepherd
Associate Administrator for
Planning, Environment, and Realty

To: Division Administrators
Attn: Division Realty Professionals

Purpose

The purpose of this memorandum is to provide guidance to Division offices concerning off-premises changeable message signs adjacent to routes subject to requirements for effective control under the Highway Beautification Act (HBA) codified at 23 U.S.C. 131. It clarifies the application of the Federal Highway Administration (FHWA) July 17, 1996 memorandum on this subject. This office may provide further guidance in the future as a result of additional information received through safety research, stakeholder input, and other sources.

Pursuant to 23 CFR 750.705, a State DOT is required to obtain FHWA Division approval of any changes to its laws, regulations, and procedures to implement the requirements of its outdoor advertising control program. A State DOT should request and Division offices should provide a determination as to whether the State should allow off-premises changeable electronic variable message signs (CEVMS) adjacent to controlled routes, as required by our delegation of responsibilities under 23 CFR 750.705(j). Those Divisions that already have formally approved CEVMS use on HBA controlled routes, as well as those that have not yet issued a decision, should re-evaluate their position in light of the following considerations. The decision of the Division should be based upon a review and approval of a State's affirmation and policy that: (1) is consistent with the existing Federal/State Agreement (FSA) for the particular State, and (2) includes but is not limited to consideration of requirements associated with the duration of message, transition time, brightness, spacing, and location, submitted for FHWA approval, that evidence reasonable and safe standards to regulate such signs are in place for the protection of the motoring public. **Proposed laws, regulations, and procedures that would allow permitting CEVMS subject to acceptable criteria (as described below) do not violate a prohibition against "intermittent" or "flashing" or "moving" lights as those terms are used in the various FSAs that have been entered into during the 1960s and 1970s.**

This Guidance is applicable to conforming signs, as applying updated technology to nonconforming signs would be considered a substantial change and inconsistent with the requirements of 23 CFR 750.707(d)(5). As noted below, all of the requirements in the HBA and its implementing regulations, and the specific provisions of the FSAs, continue to apply.

Background

The HBA requires States to maintain effective control of outdoor advertising adjacent to certain controlled routes. The reasonable, orderly and effective display of outdoor advertising is permitted in zoned or unzoned commercial or industrial areas. Signs displays and devices whose size, lighting and spacing are consistent with customary use determined by agreement between the several States and the Secretary, may be erected and maintained in these areas (23 U.S.C. § 131(d)). Most of these agreements between the States and the Secretary that determined the size, lighting and spacing of conforming signs were signed in the late 1960's and the early 1970's.

On July 17, 1996, this Office issued a Memorandum to Regional Administrators to provide guidance on off-premise changeable message signs and confirmed that FHWA has "always applied the Federal law 23 U.S.C. 131 as it is interpreted and implemented under the Federal regulations and individual Federal/State agreements.". It was expressly noted that "in the twenty-odd years since the agreements have been signed, there have been many technological changes in signs, including changes that were unforeseen at the time the agreements were executed. While most of the agreements have not changed, the changes in technology require the State and FHWA to interpret the agreements with those changes in mind". The 1996 Memorandum primarily addressed tri-vision signs, which were the leading technology at the time, but it specifically noted that changeable message signs "regardless of the type of technology used" are permitted if the interpretation of the FSA allowed them. Further advances in technology and affordability of LED and other complex electronic message signs, unanticipated at the time the FSAs were entered into, require the FHWA to confirm and expand on the principles set forth in the 1996 Memorandum.

The policy espoused in the 1996 Memorandum was premised upon the concept that changeable messages that were fixed for a reasonable time period do not constitute a moving sign. If the State set a reasonable time period, the agreed-upon prohibition against moving signs is not violated. Electronic signs that have stationary messages for a reasonably fixed time merit the same considerations.

Discussion

Changeable message signs, including Digital/LED Display CEVMS, are acceptable for conforming off-premise signs, if found to be consistent with the FSA and with acceptable and approved State regulations, policies and procedures.

This Guidance does not prohibit States from adopting more restrictive requirements for permitting CEVMS to the extent those requirements are not inconsistent with the HBA, Federal regulations, and existing FSAs. Similarly, Divisions are not required to concur with State proposed regulations, policies, and procedures if the Division review determines, based upon all relevant information, that the proposed regulations, policies and procedures are not consistent with the FSA or do not include adequate standards to address the safety of the motoring public. If the Division Office has any question that the FSA is being fully complied with, this should be discussed with the State and a process to change the FSA may be considered and completed before such CEVMS may be allowed on HBA controlled routes. The Office of Real Estate Services is available to discuss this process with the Division, if requested.

If the Division accepts the State's assertions that their FSA permits CEVMS, in reviewing State-proposed regulations, policy and procedures for acceptability, Divisions should consider all relevant information, including but not limited to duration of message, transition time, brightness, spacing, and location, to ensure that they are consistent with their FSA and that there are adequate standards to address safety for the motoring public. Divisions should also confirm that the State provided for appropriate public input, consistent with applicable State law and requirements, in its interpretation of the terms of their FSA as allowing CEVMS in accordance with their proposed regulations, policies, and procedures.

Based upon contacts with all Divisions, we have identified certain ranges of acceptability that have been adopted in those States that do allow CEVMS that will be useful in reviewing State proposals on this topic. Available information indicates that State regulations, policy and procedures that have been approved by Divisions to date, contain some or all of the following standards:

- Duration of Message
  - Duration of each display is generally between 4 and 10 seconds – 8 seconds is recommended.
- Transition Time
  - Transition between messages is generally between 1 and 4 seconds – 1-2 seconds is recommended.
- Brightness
  - Adjust brightness in response to changes in light levels so that the signs are not unreasonably bright for the safety of the motoring public.
- Spacing
  - Spacing between such signs not less than minimum spacing requirements for signs under the FSA, or greater if determined appropriate to ensure the safety of the motoring public.
- Locations
  - Locations where allowed for signs under the FSA except such locations where determined inappropriate to ensure safety of the motoring public.

Other standards that States have found helpful to ensure driver safety include a default designed to freeze a display in one still position if a malfunction occurs; a process for modifying displays and lighting levels where directed by the State DOT to assure safety of the motoring public; and requirements that a display contain static messages without movement such as animation, flashing, scrolling, intermittent or full-motion video.

Conclusion

This Memorandum is intended to provide information to assist the Divisions in evaluating proposals and to achieve national consistency given the variations in FSAs, State law, and State regulations, policies and procedures. It is not intended to amend applicable legal requirements. Divisions are strongly encouraged to work with their State in its review of their existing FSAs and, if appropriate, assist in pursuing amendments to address proposed changes relating to CEVMS or other matters. In this regard, our Office is currently reviewing the process for amending FSAs, as established in 1980, to determine appropriate revisions to streamline requirements while continuing to ensure there is adequate opportunity for public involvement.

For further information, please contact your Office of Real Estate Point of Contact or Catherine O'Hara (Catherine.O'Hara@dot.gov).

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Brian Guillot, Community Development Director
Sandra Calderon, Development Project Coordinator

MEETING DATE: March 22, 2016

SUBJECT: Adopt Resolution No. 2016-16
Requesting a twelve (12) month extension for Tentative Tract Map No. 33013, located generally at the northeast corner of 22nd Street and Westward Avenue; APN 538-272-001

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing on the extension of time for Tentative Tract Map No. 33013; and

2. Adopt Resolution No. 2016-16 (Attachment 1) approving a twelve (12) month extension of time for Tentative Tract Map No. 33013.

JUSTIFICATION:

Government Code Section 66452.6 and Chapter 16.33 *Tentative Map Extensions* of the Banning Municipal Code provide for the extension of time for subdivision maps.

BACKGROUND:

In January 2005, the City approved Tentative Tract Map No. 33013; the division of 4.08 acres into 6 residential lots, with an average size lot size of approximately 27,454 square feet. The approval provided the applicant two (2) years in which to record the map (until January 2007).

In March 27, 2007, the City Council approved a twelve (12) month extension of time for Tentative Tract Map No. 33013. Therefore, said tentative Tract map new expiration date was January 11, 2008. Marco Martin submitted a second request for a time extension for Tentative Tract Map 33013 in accordance with Section 66452.6 of the subdivision Map Act. It was considered by City Council at their meeting held February 2008 and was approved by adoption of Resolution No. 2008.12 (Attachment 2). Therefore, the new expiration date was January 11, 2009.

Actions by the State Legislature SB 1185, AB 333, AB 208 and AB 116 extended TTM 33013 until January 11, 2016.

The State Legislature is not providing additional extensions at this time. If approved, this would grant the third extension that will require the project proponent to record the subdivision map by January 2017.

FISCAL IMPACT:

There are no direct fiscal impacts to the General Fund from this action. However, should the applicant record the subdivision map and obtain permits for the project, the City would receive development impact fees.

PUBLIC COMMUNICATION:

The proposed Tentative Map Extension was advertised in the Record Gazette newspaper on March 11, 2016. Additionally, notice was mailed to all property owners within 1,200 feet of the project. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

ATTACHMENTS:

1. Resolution No. 2016-16
2. Copy of Staff Report from City Council meeting of January 11, 2005 (original approval)
3. Copy of Tentative Tract Map No. 33013
4. Public Hearing Notice

Prepared and Reviewed by:

Brian Guillot
Community Development Director

Approved by:

Michael Rock
City Manager

ATTACHMENT 1

Resolution No. 2016-16

RESOLUTION NO. 2016-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A TWELVE (12) MONTH EXTENSION FOR TENTATIVE TRACT MAP NO. 33013 (TTM 33013)

WHEREAS, an application for time extension for Tentative Tract Map No. 33013 has been duly filed by:

Project Applicant:	Mr. Martin Salvador
Project Location:	Generally located at the northeast corner of 22nd Street and Westward Avenue.
APN:	538-272-001
Project Area:	4.09-acres

WHEREAS, it has been determined that no additional environmental review is required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162 in that a previous negative declaration was duly adopted and no substantial changes to the project that require major revisions are proposed by the extension of time for the tentative map; and

WHEREAS, on January 11, 2005, the City Council of the City of Banning approved Tentative Tract Map No. 33013, to allow the subdivision of approximately 4.09-acre site into 6 lots for single-family residential use; and

WHEREAS, on March 27, 2007, the City Council of the City of Banning, approved a twelve (12) month extension of time for Tentative Tract Map No. 33013; and

WHEREAS, on February 12, 2008, the City Council by adoption of Resolution No. 2008-12 approved the second extension of time for Tentative Tract Map No. 33013; and

WHEREAS, Actions by the State Legislature specifically SB 1185, AB 333, AB 208 and AB 116 extended Tentative Tract Map No. 33013 to January 11, 2016; and

WHEREAS, The State Legislature has not provided the automatic extensions of time as previously recited;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Banning hereby approves an additional twelve (12) month extension of time for Tentative Tract Map No. 33013 in accordance with Government Code Section 66452.6. Therefore, said tentative tract map shall expire on January 11, 2017, if not recorded as a final map.

The above action is final unless an appeal is filed pursuant to Section 17.68.100 of the Banning Municipal Code within fifteen (15) calendar days following City Council action.

PASSED, APPROVED AND ADOPTED this 22nd day of March, 2016.

Arthur L. Welch, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, City Attorney
Aleshire & 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. 2016-16 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 22nd day of March, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 2

Copy of Staff Report from City Council meeting of January 11, 2005
(original approval)

COPY

CITY COUNCIL AGENDA
PUBLIC HEARING

Date: **January 11, 2005**

TO: **City Council**

FROM: **Oscar W. Orci, Community Development Director**

SUBJECT: **Lot Split #04-4508/Tentative Tract Map 33013 – A proposed six lot single-family residential subdivision of approximately 4.09 acres generally located at the northeast corner of 22nd Street and Westward Avenue. APN: 538-272-001**

RECOMMENDATION: That the City Council:

1. Adopt the Mitigated Negative Declaration for Lot Split #04-4508/Tentative Tract Map 33103; and

2. Approve Lot Split #04-4508/Tentative Tract Map 33013 based on the findings and the conditions of approval attached to this staff report.

MOTIONS:

1. **"The City Council finds that approval of #04-4508/Tentative Tract Map 33013 will not have a significant effect on the environment and therefore adopts a Mitigated Negative Declaration; the City Council directs staff to file a Notice of Determination in accordance with the City's Environmental Guidelines."**

2. **"I move the City Council approve Lot Split #04-4508/Tentative Tract Map 33013, a proposal to subdivide approximately 4.09 acres into 6 residential lots, generally located at the northeast corner of 22nd Street and Westward Avenue, based on the findings and conditions of approval".**

Alternatives:

Continuance:

"I move the City Council continue the public hearing for Lot Split #04-4508/Tentative Tract Map 33013 to its January 25, 2005 meeting".

Denial:

"I move the City Council deny Lot Split #04-4508/Tentative Tract Map 33013 on the following basis: (the City Council will need to make its findings)."

FINDINGS:

FINDINGS (for approval):

1. The proposed map and its design are consistent with the City's RA Zone Districts because the configuration of the proposed six lots meet and/or exceed the minimum requirements for lot width, lot depth and lot area.

2. The proposed land division conforms to law and Chapter 22 (Subdivision) of the Banning Ordinance Code. The proposed six lots conform to City requirements and will have proper and sufficient access to public streets, water mains, fire hydrants, drainage structures, utilities, and public services.

JUSTIFICATION: The proposed land division is consistent with Zoning and General Plan Land Use designations assigned to the subject property. All development related issues associated with the subject proposal are addressed in the recommended conditions of approval.

BACKGROUND: The applicant is seeking approval to establish a six unit single-family residential subdivision of one parcel totaling approximately 4.09 acres, generally located at the northeast corner of 22nd Street and Westward Avenue (Exhibit "2"). Access to the proposed lots 1 through 4 will occur via 22nd Street. Access to lots 5 and 6 will occur via Westward Avenue.

The subject property is located in the City's RA (Residential Agricultural) Zone District and is surrounded by single-family residential development on three sides (north, south, and west). The property to the east is sparsely developed consisting mainly of vacant land. The RA Zone District permits a density of 0-2 dwelling units per acre. The underlying General Plan Designation is Low Density Residential which permits a density of 2-5 dwelling units per acre. The General Plan and Zoning Designation are consistent insofar as the proposed tract will generate a density of 2 units per acre.

This project was evaluated by the criteria and density outlined in the RA Zone District. The proposed project is consistent with the density of the Zoning designation in that it proposes six units on 4.09 acres. The project is in conformance with the surrounding development.

The City's RA Zoning requires minimum lot area of 20,000 square feet per lot, a minimum lot width of 100 feet, and a minimum lot depth of 150 feet - the design of all proposed lots either meet or exceeds these requirements. The median lot size within the proposed subdivision is 27,454.

In order to address considerations relating to privacy/screening associated with the proposed subdivision, staff is recommending as a condition of approval that a decorative block wall be required along the northern, and eastern perimeter boundaries of lot 1, and along the eastern boundary of lots 2, 3, 4, and 6.

A Hydrology Study may be required and will be reviewed to the satisfaction of the City Engineer prior to the issuance of building permits. The proposed subdivision is straightforward and does not pose any Planning related concerns.

The applicant will be required to complete public improvements including but not limited to sidewalk, curb, and gutter as required by the Engineering Department. The proposed subdivision is located within an area serviced by City water and sewer. Therefore the required lots will be required to connect to City water and sewer.

Table 1
Development Standards

Development Standard	Zoning Ordinance	Proposed Map
Minimum Lot Width	100'	103' or more
Minimum Lot Depth	150'	196' or more

Environmental Review

The proposed tract map was determined to constitute a "project" under the California Environmental Quality Act (CEQA). An Initial Study was prepared. The Initial Study found that although implementation of the proposed project may have significant impacts on the environment, mitigation measures have been applied which reduce potential impacts to a less than significant level. A Mitigated Negative Declaration is proposed.

Planning Commission Action

The Planning Commission considered the proposed tract map at its meeting of December 7, 2004. The Planning Commission considered all testimony, and voted to recommend approval of the proposed project by the City Council, based on the findings, and contingent on the Conditions of Approval attached to this staff report.

STRATEGIC PLAN INTEGRATION: The proposed tract map is consistent with the City Council strategic plan relating to "Economic Development" (Strategy 1), in that development of the subdivision is expected to contribute to achieving a stable and diversified economy within the community.

FISCAL DATA: The construction of the proposed tract will generate revenues to the City in the form of property and sales tax, which will help offset the provision of services to the project's residents.

PREPARED BY:

Shonda M. Bello
Contract Planning Technician

RECOMMENDED BY:

Oscar W. Orci
Community Development Director

REVIEWED BY:

Randy Anstine
City Manager

Attachments: Exhibit "1" – Conditions of Approval
Exhibit "2" – Assessor's Map
Exhibit "3" - TTM 33013
Exhibit "4" - TTM 33013 (Large version under separate cover)
Exhibit "5" – Initial Study and Mitigation Monitoring Program

CONDITIONS OF APPROVAL
TENTATIVE PARCEL MAP 33013
APN 538-272-001

PLANNING DEPARTMENT:

1. Approval of Tentative Tract Map 33013 shall be for a period of two (2) years from the date of City Council approval; the expiration date is January 11, 2007. All Conditions of Approval must be met on or before the expiration date, or the applicant must request an extension of time at least thirty (30) days prior to the expiration date; otherwise, the approval shall expire and become null and void.

2. The development of the property shall provide for no more than 6 lots as illustrated by Tentative Tract Map 33013. The design of all lots within the subdivision shall meet the minimum property development requirements of the RA Zone District outlined in the City's Municipal Code.

3. Prior to the issuance of any building permits associated with the development of any of the parcels comprising TTM 33013, "typical" building elevations shall be submitted to the Planning Department for design review and approval, in accordance with the provisions and requirements of Article 16E of the Banning Ordinance Code.

4. The applicant shall install slate, concrete, tile, clay tile, or equal roofing material approved by the Planning and Fire Department on all units within the subject property.

5. A 6' high decorative boundary wall shall be constructed along the northern and eastern tract boundary (the north and east sides of lot 1, and along the east side of lots 2, 3, 4, and 6.)

6. Prior to the issuance of a Certificate of Occupancy for any single-family residence constructed within TTM# 33013 the applicant shall submit to the City for review and approval a detailed landscape and irrigation plan (comprised of xeriscape plant material) indicating type, species and location of the following minimum number of drought tolerant, multi-branched tress on each lot adjacent to the street right-of-way (all trees shall be planted with root barriers):

    1) Interior lot – 2 trees; one 24" box, one 15-gallon

    2) Corner lot – 3 trees; two 24" box, one 15-gallon

Said Plan shall be forwarded to a Landscape Architect for review and the applicant shall pay all fees associated with the review process. The approved landscape plan shall be implemented / installed prior to the issuance of a Certificate of Occupancy (landscape and irrigation plans should be submitted as soon as possible to allow sufficient time for a Landscape Architect to review same).

7. Applicant shall pay all development fees adopted by the City in effect at the time of issuance of any building permits, which shall include but not be limited to: police and fire safety developer fees, water and sewer fees, park land dedication fees, and electric meter installation fees. Project proponent shall provide written evidence to the City that school mitigation fees have been paid or other arrangements acceptable to the Banning Unified School District have been met.

8. Prior to the issuance of any Building Permits, the project proponent shall submit to the City's Building Department a complete hydrology and seismic stuffy conducted by a registered Engineering Geologist.

9. A six (6)-foot chain link fence must be maintained around the perimeter of the site during all phases of construction.

10. Developer shall meet all requirements of responsible agencies, including but not limited to: Southern California Gas Company, and Southern California Edison Company.

ENGINEERING DIVISION:

A. STREET IMPROVEMENTS

1. Dedicate the necessary right-of-way along the entire Westward Avenue fronting the proposed Subdivision to the City of Banning, making a half-street width of 40' north of the Westward Avenue centerline.

2. Dedicate the necessary right-of-way along the entire frontage of 22nd Street to the City of Banning, making a half-street width of 40' east of the 22nd Street centerline.

3. A 10' wide easement for equestrian trail purposes must be recorded as easements across each individual lot, and shall be shown on the map. The developer shall participate in the Landscape Maintenance District for the maintenance of said equestrian easement.

4. Submit Street Improvement Plans, prepared by a licensed Engineer, to the Engineering Division and construct street improvements along Westward Avenue and 22nd Street, consisting of A.C. pavement, sidewalk (meandering along Westward Avenue), curb, gutter, driveway approaches, handicap access ramps, streetlights, landscaping, striping and all required street signs, per the City of Banning's Public Works Standard Specifications. Construct a 20' wide driveway approach to the alley located east of 22nd Street and north of the proposed project. Westward Avenue and 22nd Street may require a full 1½" A.C. overlay from curb to curb. Curb returns shall have a 35' radius as per the plans approved by the City Engineer.

5. An automatic sprinkler system shall be installed within any landscaped open space areas, including between the sidewalk and the tract boundary at the right-of-way line, along Westward Avenue and 22nd Street.

6. Streetlights along all streets shall be installed offset of the existing streetlights already surrounding the proposed development, per the approved Street Improvement Plans.

7. The Developer shall ensure that the property owners acknowledge the fact that they are responsible for the maintenance of landscape within the public right-of-way and any open space areas within the development's boundary.

8. The Developer shall design and construct the electrical system and contact the City of Banning, Electric Division to obtain comments, and will submit all necessary plans for their approval.

B. WATER

1. There are existing waterlines on 22nd Street and Westward Avenue that the Developer shall connect the water service to. Provide detailed drawings of the water connections to the Engineering Division.

2. Fire hydrants shall be installed as per the approved plans and Fire Department requirements, and at a 300' maximum spacing.

C. SEWER

1. There are existing sewer mains on 22nd Street and Westward Avenue that the Developer shall connect the sewer service to. Provide detailed drawings of the sewer connections to the Engineering Division.

2. A sewer check valve shall be provided for each lot with a finished pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

D. DRAINAGE

1. The property's street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area, outlet points and outlet conditions; otherwise, a drainage easement shall be obtained from the affected property owners for the release of concentrated or diverted storm flows. A copy of the recorded drainage easement shall be submitted to the City of Banning and District for review prior to the recordation of the final map.

2. Submit drainage/hydrology study calculations and a hydraulic analysis for both developed and undeveloped (existing) conditions per the Riverside County Flood Control and Water Conservation District Hydrology Manual to the City of Banning for review and approval. All of the drainage from each individual lot shall drain into the public right-of-way and not impact surrounding properties, or a drainage easement acceptance letter from the adjacent landowner must be obtained.

3. The 10-year storm flow shall be contained within the curb and the 100-year storm flow shall be contained within the street right-of-way. When either of these criteria is exceeded, additional drainage facilities shall be installed.

4. File a Notice of Intent, obtain a NPDES Construction Activity General Permit from the State Regional Water Quality Control Board, prepare a Storm Water Pollution Prevention Plan (SWPPP) and submit a copy of each to the Engineering Division. Ensure that Best Management Practices (BMPs) are followed, per NPDES requirements to reduce storm water runoff during construction and thereafter. Temporary erosion control measures shall be implemented immediately following rough grading to prevent deposition of debris into downstream properties or drainage facilities.

E. BONDINGS

1. Amount of bonding of public improvements shall be as follows:

   Faithful Performance Bond ..... 100% of Estimated Cost
   Labor and Material Bond ..... 100% of Estimated Cost
   Monumentation Bond..... $15,000.00

   The amounts shall be on file in the City Clerk's Office prior to the Final Tract Map going to City Council for approval.

2. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.

F. FEES

1. The Developer shall pay all the required fees to exonerate the liens currently listed against the property.

2. A Plan Check fee for Final Map review and all Improvement plans for the proposed subdivision shall be paid prior to plan checking proceedings in accordance with the Fee Schedule in effect at the time the fees are paid.

3. The Public Works Inspection fee shall be paid prior to the Final Map going to the City Council for approval in accordance with the Fee Schedule in effect at the time the fees are paid. Public Works permits are required prior to construction within the public right-of-way.

4. Water and Sewer Connection fees, Frontage and Water Meter Installation charges shall be paid on a per lot basis, at the time of issuance of building permits, for each lot within this subdivision in accordance with the Fee Schedule in effect at the time the fees are paid. Also, pay all water and sewer frontage fees, if applicable, and in accordance with the Fee Schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

5. A Plan Storage fee shall be paid prior to approval of Final maps and Improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.

6. A Traffic Signal Mitigation fee and any other applicable fees (TUMF, MSHCP, etc.) shall be paid on a per lot basis, prior to the issuance of building permits, for each lot within this subdivision.

F. IMPROVEMENT PLANS AND FINAL MAP

1. If applicable, Improvement Plans for the proposed subdivision shall be prepared as a separate set of drawings for each of the following categories:

   a) Rough Grading
   b) Street
   c) Drainage/Storm Drain
   d) Water and Sewer
   e) Precise Grading and Plot
   f) Electrical
   g) Striping
   h) Landscaping

2. Construct all proposed improvements in accordance with the approved Improvement Plans and the City of Banning Standard Specifications for the proposed tract.

3. Street Improvement Plans for the proposed subdivision shall be supplemented with a soil and geology report prepared by a licensed engineer for street structural section design.

4. Submit a Rough and Precise Grading Plan to the City for review and approval. All of the grading shall conform to the latest edition of the Uniform Building Code (U.B.C.) and the grading permit must be obtained prior to the commencement of any grading activity. Submit a soil analysis report prepared by a licensed engineer, along with a Grading plan.

5. The Developer shall remove and replace any areas of existing improvements that are or may become damaged during any phase of construction, as determined by the City's Public Works Inspector. A Public Works Permit shall be obtained prior to the commencement of any work within the City right-of-way. The contractor working within the right of way must submit proof of a Class "A" State Contractor's License, City of Banning Business License and liability insurance.

6. All street centerline monument ties shall be submitted to the Engineering Division.

7. Submit a copy of the Title Report and recorded easements to the Engineering Division.

8. All plans, including grading plans, shall be drawn on 24" x 36" Mylar, and also provided on an Autocad diskette to the Engineering Division.

9. Closure calculations, vesting deeds and title report and record maps of adjoining properties shall accompany the Final Map.

10. The original drawings shall be revised to reflect As-Built conditions by the Design Engineer prior to final acceptance of the work by the City. Water service lines, water meters, sewer laterals and electric, irrigation lines, etc., within the street right of way and 5' outside of the street right of way shall be shown on the As-Built Water/Sewer Plans. Construction plans for gas, telephone, electric and cable TV etc., shall be submitted to the City for records.

11. A small index map shall be included on the title sheet of each set of plans, showing the overall layout of the public improvements.

"Exhibit 1"

12. A map of the proposed subdivision drawn to scale 1" = 200', showing the outline of streets and street names, shall be submitted to the City to update the City wall atlas map.

13. An original Mylar of the Final Map (after it is recorded) shall be provided to the City for the City's map files.

14. Street name signs and traffic control devices shall be relocated or installed as required per the approved plans and City of Banning Standard Specifications.

15. Contact all affected agencies and obtain the necessary approvals with regards to the proposed development. Submit copies of correspondence with the agencies to the Engineering Division.

16. Submit improvement plans to all affected utilities including the Gas Company, Time Warner, Verizon, etc. Provide copies of all such correspondence to the Engineering Division.

17. Prepare all of the necessary environmental documents and checklist form (Appendix "G") to conform with all of the requirements of the California Environmental Quality Act (CEQA). Submit copies of all documents to the Engineering Division, for review and approval.

H. CONSTRUCTION AND MAINTENANCE OF PUBLIC IMPROVEMENTS

1. All required water lines and fire hydrants shall be installed and made operable before any building permits for framing are issued. This may be done in phases, if the construction work is in progress, for emergency vehicles.

2. Vehicular access shall be maintained at all times to all parts of the proposed subdivision, where construction work is in progress, for emergency vehicles.

3. All precautions shall be taken to prevent washouts, undermining and subsurface ponding, caused by rain or runoff, to all surface structures (curbs, gutters, sidewalks, paving, etc.). The Engineering Division may order repair, removal and replacement, extra compaction tests, load tests, etc. or any combination thereof for any such structure that was damaged or appears to have been damaged. All of the additional work, testing, etc., shall be at the expense of the Developer.

4. All required public improvements for each tract shall be completed, tested and approved by the Engineering Division prior to the issuance of any Certificate of Occupancy for such tract.

5. Sewer laterals shall be maintained by individual property owners in accordance with the existing City policy.

6. A standard agreement for Construction of Public Improvements for the proposed subdivision shall be executed prior to Final Map approval.

FIRE DEPARTMENT:

1. FIRE DEPARTMENT DEVELOPER FEES:

Fees are increased annually and may be different at the time of construction. The fee schedule at the time of plan submittal shall apply.

Residential Dwelling Units - $543.00 per unit +
$ 5.00 per unit Disaster Planning

Plan Check & Inspection - $ 42.00 per unit

2. CITY OF BANNING BUSINESS LICENSE AND PROOF OF INSURANCE:

All contractors, subcontractors etc. are required to obtain a City of Banning Business license prior to submitting plans or starting construction.

3. CODE COMPLIANCE:

All Plans, Specifications and Construction shall comply with and conform to the current edition of the Uniform Fire Code (UFC), Uniform Building Code (UBC), and other state and local laws as applicable.

4. FIRE HYDRANTS:

Prior to construction or renovation, fire hydrants shall be provided when any portion of any structure exceeds 150 feet from a water supply on a public street.

All hydrants must be installed, working and inspected by the Public Works Department before any combustible materials can be placed at the worksite.

Spacing of fire hydrants shall comply with UFC Appendix III B and the City of Banning Public Works Standards (maximum 300 feet between hydrants).

Minimum 6-inch riser, street valve, approved shear valve and blue dot identification marker shall be provided for each fire hydrant.

The City standard fire hydrant is the Commercial, James Jones #J3765, Residential, James Jones #J3700, or an equivalent approved by the Fire Marshal.

Fire Hydrants are to be painted by the developer, contractor, etc., prior to the final inspection. (EOS Standard W714) Rustoleum Red, damp proof #769 and two (2) coats of Rustoleum semi-gloss yellow #659, or an approved equivalent.

5. WATER SUPPLY:

Fire flow shall be established by the Fire Department using the information provided in the UFC Appendix III A. Fire Flow may be adjusted upward where conditions indicate an unusual susceptibility to fire. (1000 gallons/minute for 2 hours)

6. PREMISES IDENTIFICATION:

Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

Residential - 3-1/2" mm. Size

7. SPARK ARRESTORS:

Chimneys used in conjunction with fireplaces or heating appliances in which solid or liquid fuel is used shall be maintained with an approved spark arrestor.

8. INSPECTIONS:

Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed.

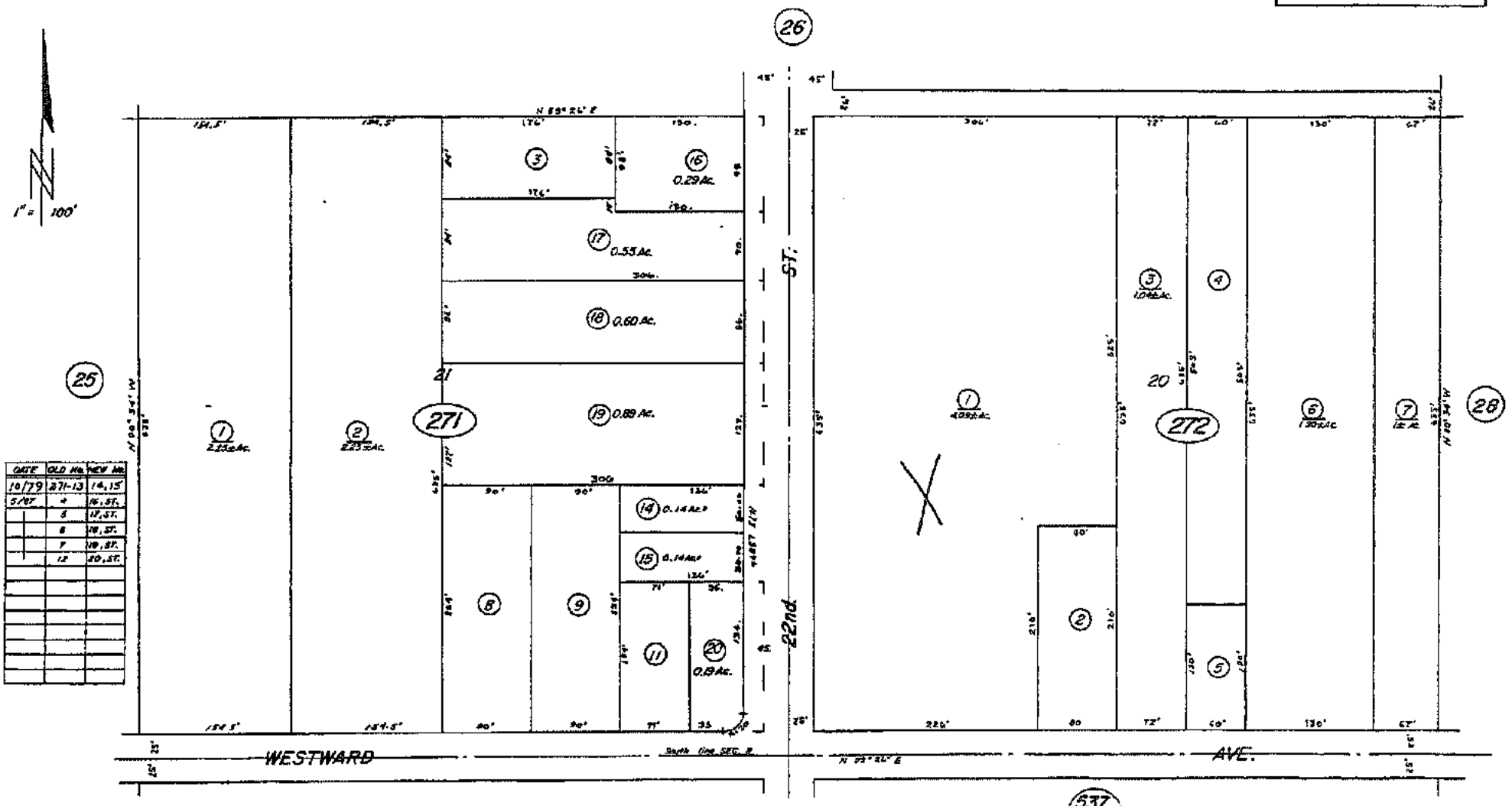
Fee for each inspection is $42.00 per hour per person. Exception, residential inspections are $21.00 per unit per person.

Work begun without a permit or without an approved set of plans at the job site will result in a triple fee and/or the work stopped.

538-27 T.C.A. 100

POR. SE 1/4 SEC. 8, T.3S., R.1E.

THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



DATE	OLD No.	NEW No.
10/79	271-13	14, 15
5/87	"	16, 17,
	5	17, 17,
	6	18, 17,
	7	19, 17,
	12	20, 17,

M.B. 7/21 C.O. Barker's Subdivision of Por. SEC'S 8 & 17, T.3S., R.1E.

ASSESSOR'S MAP BK. 538 PG. 27
RIVERSIDE COUNTY, CALIF

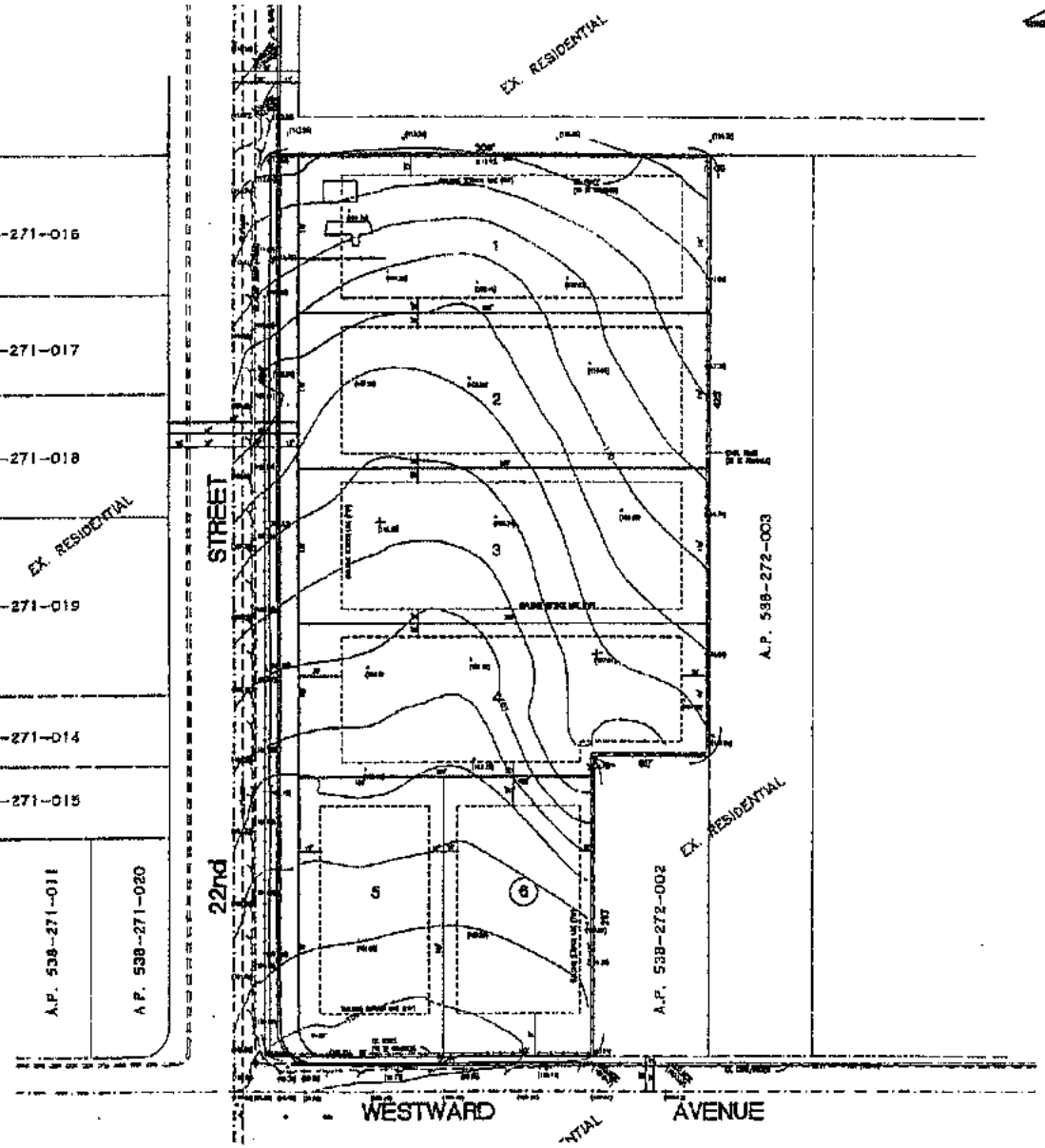
EXHIBIT 16
271

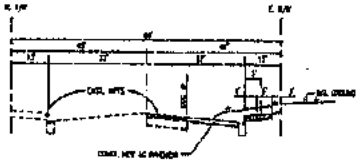
TRACT NO. 33013

IN THE CITY OF BANNING, RIVERSIDE COUNTY, CALIFORNIA

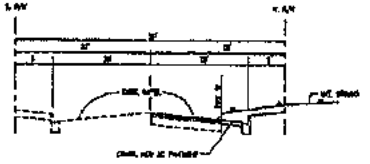
NORTH

SCALE: 1"=40'





TYPICAL SECTION
22nd STREET



TYPICAL SECTION
WESTWARD AVENUE

LEGAL DESCRIPTION

LANDOWNER:

DEVELOPER:

MR. MARCOS MARTIN

ACREAGE:

LOTS:

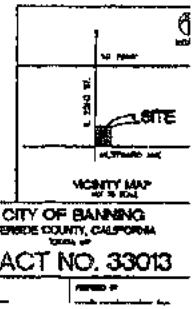
1. NUMBER OF LOTS PROPOSED: 6 (1.5 DU/ AC.)
2. NUMBER OF LOTS ALLOWED: 6 (1.5 DU/ AC.)
3. SMALLEST LOT SIZE PROVIDED: 27,324 SF
4. LARGEST LOT SIZE ALLOWED: 29,621 SF
5. AVERAGE LOT SIZE: 28,700 SF
6. MINIMUM LOT WIDTH: 150 FT

NOTES:

1. EXISTING LAND USE: VACANT
2. PROPOSED LAND USE: SINGLE FAMILY RESIDENCE
3. ALL UTILITIES TO BE UNDERGROUND.
4. WATER SERVICE BY THE CITY OF BANNING.
5. SEWER SERVICE BY THE CITY OF BANNING.
6. ELECTRICAL SERVICE: SCE, OR BANNING UTILITY.
7. GAS SERVICE: SOUTHERN CALIFORNIA GAS CO.
8. TELEPHONE SERVICE: COMPANY TELEPHONE CO.
9. ALL STREET IMPROVEMENTS PER CITY STANDARD SPECIFICATIONS.
10. EXISTING / PROPOSED ZONE: RA
11. EXISTING / PROPOSED GENERAL PLAN: LDR (0-2 DU/AC)
12. ASSESSOR PARCEL NOS: 538-272-01
13. PROJECT TO BE CONSTRUCTED IN PHASE ONE.

LOT AREA TABULATION

LOT	AREA
1	29,621 SF
2	27,324 SF
3	27,324 SF
4	28,464 SF
5	28,942 SF
6	28,942 SF
TOTAL	170,817 SF



CITY OF BANNING
RIVERSIDE COUNTY, CALIFORNIA

TRACT NO. 33013

EXHIBIT "C"

92-278

Environmental Checklist Form

1. Project title: Tentative Tract Map 33013

2. Lead agency name and address: City of Banning
   99 East Ramsey
   Banning, CA 92220

3. Contact person and phone number: Shonda Bello
   951-922-3125

4. Project location: Northeast corner of 22nd Street and Westward Avenue, in the City of Banning CA. Assessor's Parcel No.: 537-020-003.

5. Project sponsor's name and address: Kevin Joyce
   555 W. 5th Street Suite 3100
   Los Angeles, CA 90013

6. General plan designation: Low Density Residential 2-5 Dwelling Units per Acre.

7. Zoning: RA (Residential-Agricultural)

8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

   The proposed Tentative Tract Map requests to divide approximately 4.08 acres into 6 residential lots with an average lot size of 27,454 square feet. The subdivision is proposed to occur on the northeast corner of 22nd Street and Westward Avenue. The site is generally flat, sloping gently to the southwest towards the intersection of 22nd Street and Westward Avenue. The remains of a foundation are located at the northwest corner of the property. There are no on-site improvements are present. Access to the site is gained on 22nd Street to the west, and on Westward Avenue to the South. The project proposes standard off-site improvements such as sidewalk, curb, and gutter. On-site improvements proposed will include site preparation and the establishment of building pads. Access to proposed lots 1-4 will be gained via 22nd Street. Proposed lots 5 and 6 will gain access from Westward Avenue.

   The proposed project includes connecting the City's water and wastewater services, as well as gas and electrical facilities. Utility development will occur on and off site to allow for connection to water and sewer lines

   The project site is located in Flood Zone B.

9. Surrounding land uses and setting: Briefly describe the project's surroundings:

   North: Utility Easement/Alley and Single Family Residential
   South: Westward Avenue and Single Family Residential
   West: 22nd Avenue and Single Family Residential
   East: Single Family Residential, and vacant land

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
    None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture Resources		Air Quality
	Biological Resources		Cultural Resources		Geology /Soils
	Hazards & Hazardous Materials		Hydrology / Water Quality		Land Use / Planning
	Mineral Resources		Noise		Population / Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities / Service Systems		Mandatory Findings of Significance		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Prepared By: Brenda M Pollo	Date: November 5 2004
Reviewed By: Nicole Sunwata Crute by SMB	Date: November 8 2004

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead

agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance

96 EXHIBIT 46

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? (General Plan)			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Aerial photograph)				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings? (Application materials)				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Application materials)			X	

I. a)-d) The proposed project is a subdivision only. It will create parcels with an average lot size of 27,454 square feet, with the largest lot size being 33,660 square feet, and the smallest lot size 20,188 square feet. This lot size is typical of the surrounding area. The subdivision will result in the construction of single family homes of one or two stories in height. The homes will be subject to the City's zoning ordinance standards for height and setbacks, which will lower the potential impacts to surrounding development. The construction of the homes is an extension of the existing development pattern in the area, and will not significantly impact viewsheds. There are no designated scenic highways or scenic vistas within the City; therefore there will be no significant impact.

The ultimate construction of single family homes on the site will result in a slight increase in light generation, primarily from car headlights and landscape lighting. The City regulates lighting levels on single family lots. Impacts will be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES: Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (General Plan and EIR)				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? (Zoning Map)				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (General Plan Land Use Map)				X

II. a)-c) The proposed project site is currently vacant land. No Williamson Act contracts occur on the property. The project site is surrounded on three sides (north, south, and west) by previously developed single family residential. The area east of the project site is primarily vacant land with three previously developed single family residential units. Vacant parcels are in proximity to the project site, the largest of which are located at the southwest corner of 22nd Street and Westward Avenue and approximately 140 feet east of the subject parcel. These vacant lands do not abut the subject parcel and do not contain agricultural resources. Therefore the proposed project location is isolated, limiting the potential for agriculture on the subject parcel. Impacts associated with agricultural resources are expected to be insignificant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
III. AIR QUALITY: Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan? (SCAQMD CEQA Handbook)			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (SCAQMD CEQA Handbook)		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (SCAQMD CEQA Handbook)			X	
d) Expose sensitive receptors to substantial pollutant concentrations? (Project Description, Aerial Photo, site inspection)			X	
e) Create objectionable odors affecting a substantial number of people? (Project Description)				X

III. a)-d) According to "Trip Generation, 6th Edition," Institute of Transportation Engineers, Single Family Detached category 210, the project would generate approximately 10 trips/day for each dwelling unit, thus 60 trips per day for the entire project.

Construction of the proposed project would generate Particulate Matter (PM-10), also called fugitive dust. Grading activities during construction would generate the majority of particulate matter, however, the project site is basically flat, and thus, the project does not require substantial earth moving. The grading required for the project would consist of site preparation and establishing of building pads. In addition, SCAQMD Rule 403 states in relevant part that construction practices within the South Coast Air Basin (SCAB) are required to take measures to reduce emission of fugitive dust, including PM10.

The City can be subject to high winds, which can generate large amounts of fugitive dust. A number of mitigation measures are available to control dust on the project site, whether lots are developed one-by-one, or all together. The mitigation measures provided below will lower the potential impacts associated with fugitive dust on the project site to less than significant levels.

1. Construction equipment shall be properly maintained and serviced to minimize exhaust emissions.
2. Existing power sources should be utilized where feasible via temporary power poles to avoid on-site power generation.
3. Imported fill shall be adequately watered prior to transport, covered during transport, and watered prior to unloading on the project site.
4. Any portion of the site to be graded shall be pre-watered to a depth of three feet prior to the onset of grading activities.
5. Watering of the site or other soil stabilization method shall be employed on an on-going basis after the initiation of any grading activity on the site. Portions of the site that are actively being graded shall be watered regularly to ensure that a crust is formed on the ground surface, and shall be watered at the end of each work day.
6. Any area which remains undeveloped for a period of more than 30 days shall be stabilized using either chemical stabilizers or a desert wildflower mix hydro seed on the affected portion of the site.
7. SCAQMD Rule 403 shall be adhered to, insuring the clean-up of construction-related dirt on approach routes to the site.
8. All grading activities shall be suspended during first and second stage ozone episodes or when winds exceed 25 miles per hour.

III. e) The project will consist of single family homes and will not result in objectionable odors.

100 EXHIBIT "5"

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (General Plan)				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (General Plan)				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (General Plan)				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (General Plan)			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (General Plan)				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (General Plan)				X

IV. a)-f) The proposed project has recently been grubbed. The project area is isolated due to existing single family residential development on three sides (north, south, and west). Property located to the east of the subject site is a mixture of three single family dwelling units, and vacant lands. 22nd Street and Westward Avenue abut the west and south boundaries of the project site. The Western Riverside Multiple Species Habitat Conservation Plan has not identified any portion of the project area for preservation. The development of homes on these lots will reduce the amount of area available for habitat; however the minimum size of the proposed lots is 20,188 square feet will allow local species to still occupy the area. Impacts to biological resources are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5? (General Plan)		X		
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5? (General Plan)		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (General Plan)			X	
d) Disturb any human remains, including those interred outside of formal cemeteries? (General Plan)			X	

V. a)-d) The project site is located in an area of low to moderate sensitivity for cultural and paleontological resources. The project site is currently vacant, and contains the foundation of a previously demolished structure, located at the northwest corner of the property. The demolished structure was constructed circa 1912, burned in 2000, and was abated by the City of Banning November 13, 2001. Abatement of this property included the grubbing of the entire parcel and the removal of surface debris. No items of cultural interest were located at that time. Therefore the presence of debris of cultural interest is not likely. However, culturally significant artifacts may be present in and around the homestead site and foundation, and may be located during the demolition of the homestead foundation and grading of the site. In order to mitigate the possibility that cultural artifacts are present the following mitigation measure is recommended:

1. A qualified archeologist with the authority to stop work in the area of the homestead foundation shall be on site during the grading of the northwest quadrant of the project site.

The project proponent is required by law to report any human remains, if found during project construction, to law enforcement authorities, who will be responsible for their proper removal. With the implementation of the proposed mitigation measure, impacts to cultural resources are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (General Plan)				X
ii) Strong seismic ground shaking? (General Plan)			X	
iii) Seismic-related ground failure, including liquefaction? (General Plan)				X
iv) Landslides? (General Plan)				X
b) Result in substantial soil erosion or the loss of topsoil? (General Plan)			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (General Plan)				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? (General Plan)				X

VI. a)-e) The City is located within the San Gorgonio Pass Fault region, an extremely active seismic area. The site is not located in an Alquist-Priolo Fault Zone. However, the site is located approximately four miles south of Strand A of the Banning Fault. The project site does not appear to be within an area susceptible to liquefaction, or landslides. The project site is located within a low lying area of the City, and there fore is underlain by alluvial fan sediments that are composed primarily of granular soils, the expansion potential for these soils range from very low to moderately low.

The City implements the most stringent Uniform Building Code requirements for construction in seismic areas, and will apply these standards to the homes built on the

project site. The Building Code has implemented standards which are designed to mitigate strong seismic ground shaking to less than significant levels.

Further, the City Building Department requires that detailed geotechnical analysis be completed prior to the issuance of grading permits for the site, to assure that all cut and fill, excavation and foundation design will address site-specific soil conditions. Therefore, foundation and soil compatibility will be analyzed and mitigated to the satisfaction of the City Building Official prior to the issuance of grading permits.

The project site is located in an area of severe blow sand potential. The mitigation measures included above under air quality are designed to mitigate the potential impacts associated with blow sand at the project site to a less than significant level.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS --Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (Application materials)				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Application materials)				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Application materials)				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? (Riverside County Hazardous Materials Listing)				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (General Plan land use map)				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (General Plan land use map)				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (General Plan MEA p. 95 ff)				X

106 EXHIBIT # 5 292

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (General Plan)			X	

VII. a)-h) The construction of single family homes on the proposed project site will not result in significant impacts associated with hazardous materials. The City implements the standards of the Household Hazardous Waste programs through its waste provider. These regulations and standards ensure that impacts to surrounding areas, or within the project itself, are less than significant.

The proposed project is not within an airport land use plan or private airstrip zone therefore, the project will not result in a foreseeable safety hazard for people residing or working in the project area.

The project area is in an urbanized area immediately surrounded by previously developed single family residences, to the north, east, and west, and an isolated vacant parcel to the south, therefore the danger of wildfires to this project is considered less than significant.

107 EXHIBIT "5"

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements? (General Plan)			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (Water Master Plan)			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (Flood Insurance Rate Map Community Panel No. 060246 0020 C effective date June 17, 1991)			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site? (Flood Insurance Rate Map Community Panel No. 060246 0020 C effective date June 17, 1991)			X	

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Flood Insurance Rate Map Community Panel No. 060246 0020 C effective date June 17, 1991)			X	
f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (FEMA Maps)				X
g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (FEMA Maps)				X

VIII. a) & b) Domestic water is supplied to the project site by the City of Banning. The eventual development of the site will result in the need for domestic water service for 6 residential units. The City has prepared a Water Master Plan which indicates that it has sufficient water sources to accommodate the proposed project within the resources it currently has available. The City is also implementing water conservation, purchase and replenishment measures, which will result in additional resources available in the long term.

The project proponent will also be required to implement the City's water efficient landscaping and construction provisions, which will ensure that the least amount of water is utilized within the homes.

The applicant will also be required to comply with the City's NPDES standards, requiring that potential pollutants not be allowed to enter surface waters. These City standards will assure that impacts to water quality and quantity will be less than significant.

VIII. c)-e) The proposed project will not significantly impact the existing drainage of the site. The project site is relatively flat, sloping gently to the south west, toward the intersection of 22nd Street and Westward Avenue, where a storm drain will be required as a Condition of Approval. Prior to any development occurring on the site, the City Engineer will approve the drainage analysis for the site. The required storm drain, and City requirements are expected to lower potential impacts to a less than significant level.

VIII. f) & g) The site is located in a flood zone B.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community? (Aerial photo)				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (General Plan Land Use Element)				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (Banning Municipal Code)				X

IX. a) The project site is located at the northeast corner of 22nd and Westward Streets along a previously established boundary delineated by neighborhood streets, therefore the project will not physically divide an established community.

b-c) The proposed project site is located within the RA (Residential Agricultural) Zone District and permits a density of 0-2 dwelling units per acre. The underlying General Plan Designation is Low Density Residential which permits a density of 3-5 dwelling units per acre. The General Plan and Zoning Designations are in conflict, with the Zoning Designation being more restrictive than the General Plan Designation.

The Banning Ordinance Code states:

> Article 19 §9119 Interpretation-Purpose-Conflict
> When this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, and regulations or by easements, covenants or agreements, the provisions of this ordinance shall control.

Therefore this project shall be evaluated by the criteria and density outlined in the RA Zone District. The proposed project is consistent with the Zoning designations in that it proposes 6 units on 4.09 acres (.68 units to the acre). The project is in conformance with the surrounding development.

The land is currently vacant, and development of the homes on the site will not displace an existing community.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (General Plan)				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (General Plan)				X

X. a) & b) The proposed project site is within the MRA-3 Zone of the General Plan (Figure 5). MRZ-3 classification applies to areas containing mineral resources, the significance of which cannot be determined from available data. All areas not otherwise classified are considered to be classified MRZ-3. As previous development has occurred on all sides, it is not likely that the subject parcel contains significant mineral resources suitable for mining. Therefore the proposed project is not likely to impact significant mineral resources.

///

EXHIBIT "

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XI. NOISE Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (General Plan)			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (General Plan)				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (General Plan)			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (General Plan)			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (General Plan land use map)				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (General Plan land use map)				X

XI. a)-f) The proposed project is located at the northeast corner of 22nd Street and Westward Avenue, south of the I-10 freeway, east of 22nd Street.. Both Westward Avenue and 22nd Street have a high noise potential due to vehicular traffic. According to the results of the 1977 noise survey conducted in the City of Banning, Westward Avenue and 22nd Street produced approximately 49.7 dBA. It is not expected that the traffic increase occurring since the survey was taken would produce more than 65 dBA noise contours along 22nd Street north of Westward. 65dBA or less is an acceptable noise level for rear yards, and is consistent with the General Plan Noise Profile for Westward Avenue at build out.

The addition of 6 homes will not significantly impact the long term noise levels at the site, insofar as residential land uses do not produce significant noise levels.

The construction of the proposed project will generate noise from construction equipment and activities. The project proponent will be required to adhere to construction operating hours as enumerated in the Municipal Code, which will limit the activities to daylight hours when ambient noise levels are higher, and noise increases less noticeable. Construction noise in this area will be temporary and periodic, and will not represent a permanent increase in noise levels at the site. Impacts associated with construction noise are therefore expected to be less than significant.

The site is not located in the vicinity of an airstrip or airport.

113 EXHIBIT " 5 "

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING – Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (General Plan, application materials)				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (General Plan, application materials)				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (General Plan, application materials)				X

XII. a)-c) The development of 6 single family homes will be consistent with General Plan and Zoning standards and will add to the options available to those seeking housing in the community. Lands within the project are currently vacant, so no displacement will occur. The development of 6 housing units will not induce substantial growth in the City.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection? (General Plan)			X	
Police protection? (General Plan)			X	
Schools? (General Plan MEA)			X	
Parks? (General Plan; Recreation and Parks Master Plan)			X	
Other public facilities? (General Plan)			X	

XIII. a) Buildout of the site will have a less than significant impact on public services. The proposed project will be served by the City Police Department, and by the County Fire Department, under City contract. Build out of the proposed project will generate sales and property tax, which will offset the costs of added police and fire services, as well as the costs of general government. The project will be required to pay the mandated school fees, development impact fees and park in lieu fees in place at the time of issuance of building permits. Payment of these fees and the generation of sales and property tax will lower potential impacts associated with additional services to a less than significant level.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XIV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Application materials)				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? (Application materials)				X

XIV. a) & b) The construction of 6 residential units within the project will be supported by the payment of the City's parkland fee, to mitigate any additional use of City parks.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? General Plan Circulation Element			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? General Plan Circulation Element				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? (No air traffic involved in project) General Plan Circulation Element				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (Tentative Tract Map 32109)				X
e) Result in inadequate emergency access? (Tentative Tract Map 32109)				X
f) Result in inadequate parking capacity? (Tentative Tract Map 32109)				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (Project description)				X

XV. a)-g) The proposed residential density is consistent with the General Plan designation. According to "Trip Generation, 6th Edition," Institute of Transportation Engineers, Single Family Detached category 210, the project would generate approximately 10 trips/day for each dwelling unit, thus 60 trips per day for the entire project.

The proposed project is consistent with the General Plan; therefore potential traffic impacts have been included in the General Plan EIR. 22ND and Westward Streets are expected to operate at an acceptable level of service, according to the General Plan Environmental Impact Report, and therefore impacts to traffic and circulation are expected to remain at a less than significant level.

In accordance with City policy, the project's access and onsite circulation will be subject to review and approval by the City Engineer. This review process will ensure the proposed access and roadways would meet the City's roadway standards and would not create any hazardous design features. Similarly, the project is required to comply with the City's parking code, and thus, would not result in inadequate parking supply.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (General Plan)				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Water Master Plan)				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Department of Public Works)			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Water Master Plan)			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (General Plan, Dept. of Public Works)				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (General Plan)				X
g) Comply with federal, state, and local statutes and regulations related to solid waste? (General Plan)				X

XVI. a)-g) Utilities are available at the project site. The service providers for water, sewer, electricity and other utilities have facilities in the immediate vicinity of the site, and will collect

connection and usage fees to balance for the cost of providing services. A final drainage study will be submitted with final engineering. Grading of the proposed lots will cause storm water to empty into the improved storm drain, to the satisfaction of the City Engineer. The City's solid waste hauler will continue to implement the requirements of AB 939, requiring the reduction of the solid waste stream. The construction of the proposed project would not significantly impact utility providers.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X		
b) Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?				X
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?				X
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?		X		

XVII. a) The proposed project site may include significant cultural resources, however with the implementation of the proposed mitigation measure, impacts to cultural resources are expected to be less than significant. .

XVII. b) The proposed project supports the long term goals of the General Plan by providing a variety of housing opportunities for City residents.

XVII. c) The construction of 6 residential units will not have considerable cumulative impacts and is consistent with the General Plan.

XVII. d) The proposed project has the potential to adversely affect human beings through air quality and noise impacts, however, with the mitigation measures included above, impacts are expected to be mitigated to a less than significant level.

121 EXHIBIT "5"

XVIII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case a discussion should identify the following on attached sheets:

a) **Earlier analyses used.** Identify earlier analyses and state where they are available for review.

Not applicable.

b) **Impacts adequately addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

Not applicable.

c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

Not applicable.

122 EXHIBIT 5 008

CITY OF BANNING
MONITORING PROGRAM FOR CEQA COMPLIANCE

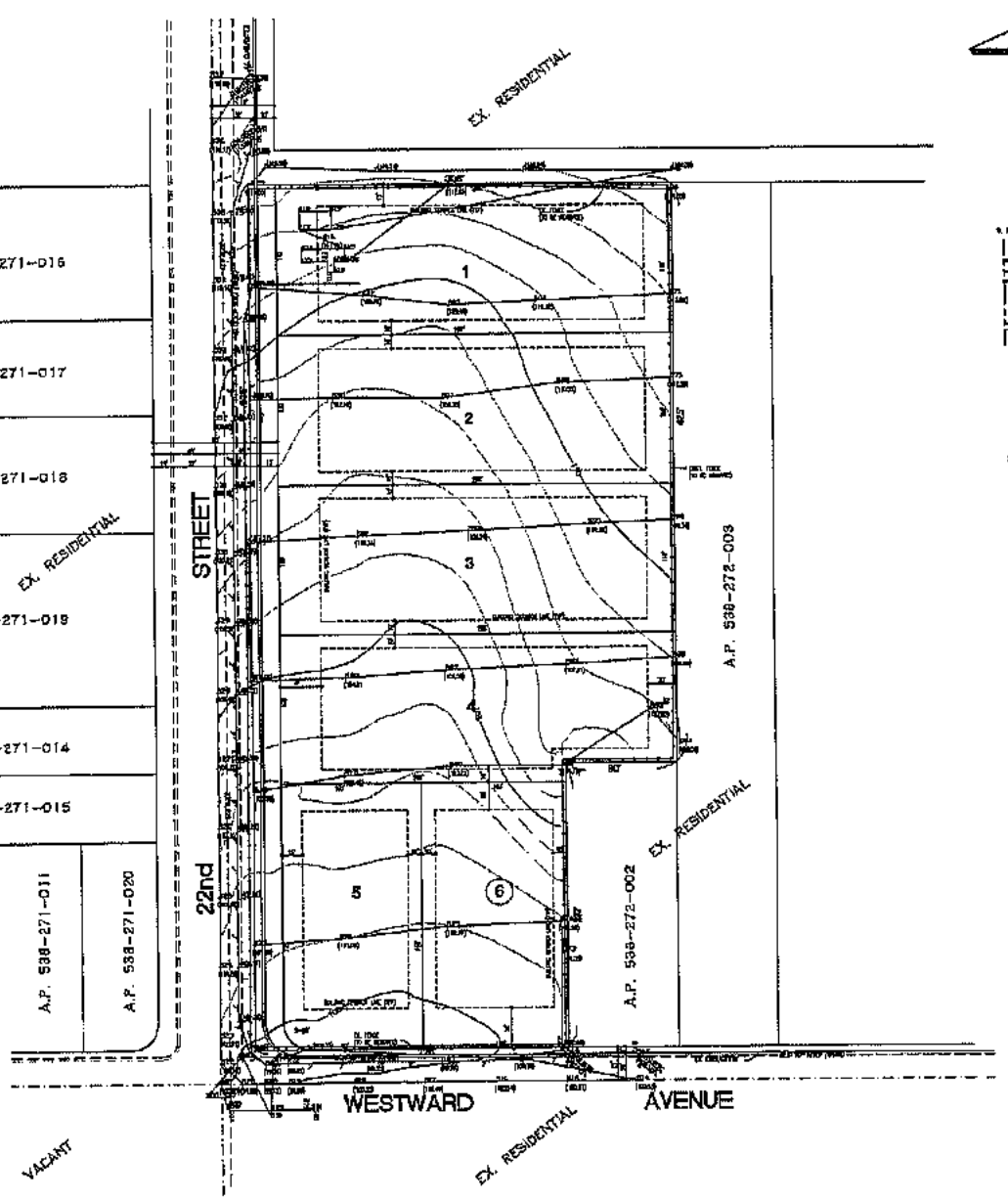
ıvember 5, 2004	**ASSESSORS PARCEL NO.:**	537-020-003
t Split No. 04-4508 'M: 33013	**PROJECT LOCATION:** Northeast corner of 22nd Street and Westward Avenue.	
	APPROVAL DATE: In Process	
ırcos and Lisa Martin		

RESENTS THE CITY'S MITIGATION MONITORING PROGRAM IN CONNECTION WITH THE MITIGATED NEGATIVE DECLARATION FOR THE ABOVE CASE NUMBER

GATION S	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
ıuipment.	Contractor	Project Construction	SCAQMD standards		
.	City Engineer	Prior to issuance of grading permits.	City standards		
oils.	Building Department	Prior to issuance of building permits.	Site inspection		
eas after 30	Building Department	During construction.	Site inspection		
403	Building Department	During construction.	Site inspection.		
ds of more d stage ozone	Building Department	During grading.	Site inspection.		
OURCES					
logist with ork in the foundation the grading ant of the	Qualified Archaeologist	During grading	Secretary of the Interior's Standards		

ATTACHMENT 3

Copy of Tentative Tract Map No. 33013



TENTATIVE

TRACT NO. 33013

IN THE CITY OF BANNING, RIVERSIDE COUNTY, CALIFORNIA

LEGAL DESCRIPTION

LANDOWNER:

DEVELOPER:

MR. MARCOS MARTIN
1184 N. 1ST.
BANNING, CA 92220
(951) 200-8065

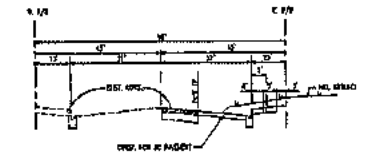
ACREAGE:

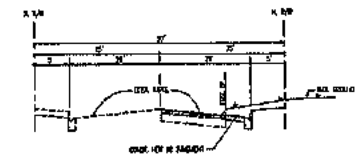
LOTS:

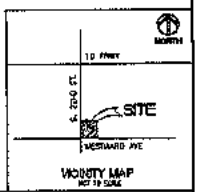
NOTES:

LOT AREA TABULATION

LOT	AREA
1	
2	
3	
4	
5	
6	
AVG.	







VICINITY MAP
NOT TO SCALE

CITY OF BANNING
RIVERSIDE COUNTY, CALIFORNIA

TENTATIVE MAP

TRACT NO. 33013

PREPARED FOR:
MR. MARTIN MARCOS
1184 N. 1ST ST.
BANNING, CA 92220
(951) 200-8065

PREPARED BY:
[illegible]
P.O. BOX [illegible]
CORONA, CA 92878
PH (951) 371-7771
FAX (951) 272-0826

DATE: SEPTEMBER 27, 2004

ATTACHMENT 4

Public Hearing Notice

Record Gazette
218 N. Murray St.

Proof of Publication

(2015.5 C.C.P.)

MAP NO. 33013 EXTENSION 129155

State of California)
County of Riverside) ss.

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a 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:

March 11, 2016

Executed on: 03/11/2016

At Banning ,CA

I ceritfy (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

NOTICE OF PUBLIC HEARING TO APPROVE A TWELVE (12) MONTH EXTENSION OF TIME FOR TENTATIVE TRACT MAP NO. 33013 (TTM 33013), LOCATED GENERALLY AT THE NORTHEAST CORNER OF 22ND STREET AND WESTWARD AVENUE; APN 538-272-001

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, March 22, 2016, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider granting a twelve (12) month time extension for Tentative Tract Map No. 33013 (TTM 33013). The proposed project site is located generally at the northeast corner of 22nd Street and Westward Avenue, APN 538-272-001 in the City of Banning. TTM No. 33013 was previously approved on January 11, 2005. Information regarding the request for a twelve (12) month extension of time for Tentative Tract Map No. 33013 (TTM 33013) can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at http://www.ci.banning.ca.us/. All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220. If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009). BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA

Dated: March 8, 2016
Publish: March 11, 2016
Published In
The Record Gazette
No. 129155
03/11/2016

THIS PAGE LEFT BLANK INTENTIONALLY

CITY OF BANNING
CITY COUNCIL REPORT

TO: **CITY COUNCIL**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Brian Guillot, Community Development Director**
Sandra Calderon, Development Project Coordinator

MEETING DATE: **March 22, 2016**

SUBJECT: **Adopt Resolution No. 2016-17**
Requesting a twelve (12) month extension for Tentative Parcel Map No. 33326 located generally north of Sun Lakes Boulevard and east of Highland Springs Avenue; APN 419-140-057

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing on the extension of time for Tentative Parcel Map No. 33326; and

2. Adopt Resolution No. 2016-17 (Attachment 1) approving a twelve (12) month extension of time for Tentative Parcel Map No. 33326.

JUSTIFICATION:

Government Code Section 66452.6 and Chapter 16.33 *Tentative Map Extensions* of the Banning Municipal Code provide for the extension of time for subdivision maps.

BACKGROUND:

On March 28, 2006, by adoption of Resolution No. 2006-37, the City Council approved Tentative Parcel Map No. 33326 to allow the subdivision of approximately 47.1 acre site into 14 Commercial Parcels ranging in size from 1.3 to 5.5 acres. The approval provided the applicant two (2) years in which to record the map (until March 2008).

In April 8, 2008, the City Council approved a twelve (12) month extension of time for Tentative Parcel Map No. 33326 by adoption of Resolution No. 2008-38. Therefore, said tentative parcel map new expiration date was March 28, 2009.

Actions by the State Legislature spcifically SB 1185, AB 333, AB 208, and AB 116 extended TPM No. 33326 until March 28, 2016.

The State is not providing additional extensions at this time. If approved, this would grant the third extension that will require the project proponent to record the subdivision map by March 28, 2017.

FISCAL IMPACT:

There are no direct fiscal impacts to the General Fund from this action. However, should the applicant record the subdivision map and obtain permits for the project, the City would receive development impact fees.

PUBLIC COMMUNICATION:

The proposed Tentative Map Extension was advertised in the Record Gazette newspaper on March 11, 2016. Additionally, notice was mailed to all property owners within 300 feet of the project. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

ATTACHMENTS:

1. Resolution No. 2016-17
2. Copy of Resolution No. 2006-35 dated March 28, 2006 (original approval)
3. Copy of Tentative Parcel Map No. 33326
4. Public Hearing Notice

Prepared and Reviewed by:

Brian Guillot
Community Development Director

Approved by:

Michael Rock
City Manager

ATTACHMENT 1

Resolution No. 2016-17

RESOLUTION NO. 2016-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A TWELVE (12) MONTH EXTENSION FOR TENTATIVE PARCEL MAP NO. 33326 (TPM 33326)

WHEREAS, an application for time extension for Tentative Parcel Map No. 33326 has been duly filed by:

Project Applicant:	Banning 47, LLC
Project Location:	Generally located at the north of Sun Lakes Boulevard, east of Highland Springs Avenue.
APN:	419-140-057
Project Area:	47.1 Acres

WHEREAS, it has been determined that no additional environmental review is required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162 in that a previous negative declaration was duly adopted and no substantial changes to the project that require major revisions are proposed by the extension of time for the tentative map; and

WHEREAS, on March 28, 2006, by adoption of Resolution No. 2006-35 the City Council of the City of Banning approved Tentative Parcel Map No. 33326 to allow the subdivision of approximately 47.1 acre site into 14 commercial parcels ranging in size from 1.3 to 5.5 acres; and

WHEREAS, on April 8, 2008, by adoption of Resolution No. 2008-38 the City Council of the City of Banning approved a twelve (12) month extension of time for Tentative Parcel Map No. 33326 ; and

WHEREAS, Actions by the State Legislature specifically SB 1185, AB 333, AB 208 and AB 116 extended Tentative Tract Map No. 33013 to March 28, 2016; and

WHEREAS, The State Legislature has not provided the automatic extensions of time as previously recited;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Banning hereby approves an additional twelve (12) month extension of time for Tentative Parcel Map No. 33326 in accordance with Government Code Section 66452.6. Therefore, said tentative parcel map shall expire March 28, 2017.

The above action is final unless an appeal is filed pursuant to Section 17.68.100 of the Banning Municipal Code within fifteen (15) calendar days following City Council action.

PASSED, APPROVED AND ADOPTED this 22nd day of March, 2016.

Arthur L. Welch, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Anthony R. Taylor, City Attorney
Aleshire & 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. 2016-17 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 22nd day of March, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT 2

Copy of Resolution No. 2006-35 dated March 28, 2006
(original approval)

COPY

RESOLUTION NO. 2006-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM FOR SPECIFIC PLAN AMENDMENT #05-201 (AMENDMENT NO. 4) AND LOT SPLIT #05-401 (TENTATIVE PARCEL MAP 33326)

WHEREAS, an application for Specific Plan Amendment No. 05-201 and Lot Split No. 05-401 (Tentative Parcel Map 33326) to: 1) Change conditionally allowable land uses in Planning Areas B and E to include auto dealers; 2) Amend planning area boundaries for Planning Areas B, D and E; 3) Relocate Street C easterly to allow adequate street spacing with the adjacent assisted living facility; 4) Change cross-section of Streets A, B and C from 72 feet of right-of-way to 80 feet of right-of-way; 5) Increase allowable signage by allowing two additional electronic reader signs 70 feet in height and 41 feet in width, one on parcel 1 and one on parcel 5; 6) Change the landscaping design guidelines, reducing the landscaping standards for auto dealerships within the project site; and 7) Subdivide a 47.1 acre parcel into 14 commercial parcels ranging in size from 1.3 acres to 5.5 acres, and lettered lots for streets has been filed by:

Applicant / Owner:	Silverstone Development
Authorized Agent:	Tim Hamilton
Project Location:	North of Sun Lakes Boulevard, on east of Highland Springs Avenue
APN Number:	419-140-057
Lot Area:	47.1 Acres

WHEREAS, the proposed Specific Plan Amendment No. 05-201 and Lot Split No. 05-401 (Tentative Parcel Map 33326) is considered a "project" as defined by the California Environmental Quality Act, Public Resources Code § 21000 et seq. ("CEQA"); and,

WHEREAS, after completion of an Initial Study, the Community Development Director determined that it identified potentially significant effects on the environment, but that revisions to the project or the incorporation of mitigation measures would avoid or lessen the effects below the threshold of significance. Therefore, staff has proposed a Mitigated Negative Declaration and Mitigation Monitoring Program for this project; and,

WHEREAS, the proposed Mitigated Negative Declaration consists of the following documents: Environmental Checklist Form, including Determination Page, Mitigation Monitoring program and related documents; and

WHEREAS, on the 8th day of February, 2006, using a method permitted under CEQA Guidelines Section 15072(b), the City provided notice of its intent to adopt the proposed Mitigated Negative Declaration to the public, responsible agencies, trustee agencies, and the Riverside County Clerk; and,

WHEREAS, the City made the proposed Mitigated Negative Declaration available for public review beginning on 20th day of February 2006, and closing on 13th day of March 2006, a period of not less than 20 days; and,

WHEREAS, the Banning City Council conducted a duly noticed public hearing on the 28th day of March, 2006, at which it received public testimony concerning the project and the proposed Mitigated Negative Declaration and considered the proposed Mitigated Negative Declaration and proposed Mitigation Monitoring Program.

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

SECTION 1. FINDINGS.

The City Council, in light of the whole record before it including but not limited to the City's local CEQA Guidelines, the proposed Mitigated Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, the proposed Mitigation Monitoring Program and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:

1. **Review Period**: That the City has provided the public review prior on the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.

2. **Compliance with Law**: That the Mitigated Negative Declaration and Mitigation Monitoring Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines adopted by the City of Banning.

3. **Independent Judgment**: That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

4. **Mitigation Monitoring Program**: That the Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the project and/or mitigation measures have been incorporated into the project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

5. **No Significant Effect:** That revisions made to the project plans agreed to by the applicant and mitigation measures imposed as conditions of approval on the project, avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point below the threshold of significance. Furthermore, after taking into consideration the revisions to the project and the mitigation measures imposed, the City Council finds that there is no substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. Therefore, the City Council concludes that the project will not have a significant effect on the environment.

SECTION 2. MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside the MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

SECTION 3. CITY COUNCIL ACTIONS.

Based on the foregoing findings, and on substantial evidence in the whole of the record, the City Council hereby takes the following actions:

1. **Adoption of the MND:** The City Council adopts Mitigated Negative Declaration for Specific Plan Amendment #05-201 and Lot Split #05-401 / Tentative Parcel Map 33326.

2. **Adopt MMP:** The City Council adopts the Mitigation Monitoring Program for the Mitigated Negative Declaration.

3. **Location:** The Mitigated Negative Declaration (Attachment "1", attached herein), Mitigation Monitoring Program (Attachment "2", attached herein), and all documents incorporated therein or forming the record of decision therefore, shall be filed with the Banning Planning Department at the Banning City Hall, 99 East Ramsey Street, Banning, California 92220 and shall be made available for public review upon request.

PASSED, APPROVED AND ADOPTED this 28th day of March, 2006.

JOHN MACHISIC, MAYOR

APPROVED AS TO FORM AND LEGAL CONTENT:

~~Julie Hayward-Biggs~~, Thomas D. Jex
Deputy City Attorney
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2006-35, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of March 2006, by the following vote, to wit:

AYES: Councilmembers Hanna, Palmer, Welch, Mayor Machisic

NOES: Councilmember Salas

ABSENT: None

ABSTAIN: None

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

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

February 8, 2006

FROM: City of Banning

TO: Responsible and Trustee Agencies/Interested Organizations and Individuals

RE: **Notice of Intent to Adopt a Mitigated Negative Declaration, Sun Lakes Village North Specific Plan Amendment #4, Tentative Parcel Map 33326**

The City of Banning (City), in its capacity as the Lead Agency for this project under CEQA, evaluated the potential environmental impacts of the project under CEQA. The City has determined through the preparation of an Initial Study that although the project has the potential to result in significant environmental effects, these impacts will not be significant in this case because the mitigation measures described in the detailed Initial Study have been added to the project. The Initial Study meets the requirements of the State of California CEQA, the State CEQA Guidelines, and the City of Banning Guidelines for the Implementation of CEQA. A Mitigated Negative Declaration will be prepared.

This constitutes a Notice of Intent (NOI) to adopt the aforementioned Mitigated Negative Declaration.

Project Location/ Description:

The north side of Sun Lakes Boulevard, east of Sun Lakes Village Drive, , APN: 419-140-057.

A Specific Plan Amendment to:
1. Change conditionally allowable land uses in Planning Areas B and E to include auto dealers;
2. Amend planning area boundaries for Planning Areas B, D and E;
3. Relocate Street C easterly to allow adequate street spacing with the adjacent assisted living facility;
4. Change cross-section of Streets A, B and C from 72 feet of right-of-way to 80 feet of right-of-way;
5. Increase allowable signage by allowing two additional electronic reader signs 70 feet in height and 41 feet in width, one on parcel 1 and one on parcel 5;
6. Change the landscaping design guidelines, reducing the landscaping standards for auto dealerships within the project site.

A Tentative Parcel Map to subdivide a 47.1 acre parcel into 14 commercial parcels ranging in size from 1.3 acres to 5.5 acres, and lettered lots for streets.

EXHIBIT " / "

EXHIBIT " / "

Other permits and agreements: N/A

Toxic Sites: No listed toxic sites are present on the project site.

Public Hearing: Hearings for this item are tentatively planned for the Planning Commission on March 7, 2006, and for the City Council on March 28, 2006.

Public Review: The Initial Study and related documents are available for public review daily. Members of the public may view these documents in the Department of Planning, City Hall, 99 E. Ramsey, Banning, and submit written comments at or prior to the Planning Commission hearing.

If any group challenges the action in court, issues raised may be limited to only those issues raised at the public hearing described in this notice or in written correspondence at, or prior to the City Council hearing.

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Oscar Orci, at 951-922-3125.

Comment Period: Based on the time limits defined by CEQA, your response should be sent at the earliest possible date. The public comment period on this project is from **February 20 to March 13, 2006.** All comments and any questions should be directed to:

City of Banning
Attn:Oscar Orci
99 E. Ramsey
Banning, CA 92220
Telephone: 951-922-3125
Fax: 951-922-3128

Environmental Checklist Form

1. Project title: Sun Lakes Village North Specific Plan Amendment #4, Tentative Parcel Map 33326

2. Lead agency name and address: City of Banning
   99 East Ramsey
   Banning, CA 92220

3. Contact person and phone number: Oscar Orci
   951-922-3125

4. Project location: The north side of Sun Lakes Boulevard, east of Sun Lakes Village Drive, , APN: 419-140-057.

5. Project sponsor's name and address: Silverstone Development
   15 Enterprise, Suite 130
   Aliso Viejo, CA 92656

6. General plan designation: General Commercial 7. Zoning: General Commercial

8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

   A Specific Plan Amendment to:
   1. Change conditionally allowable land uses in Planning Areas B and E to include auto dealers;
   2. Amend planning area boundaries for Planning Areas B, D and E;
   3. Relocate Street C easterly to allow adequate street spacing with the adjacent assisted living facility;
   4. Change cross-section of Streets A, B and C from 72 feet of right-of-way to 80 feet of right-of-way;
   5. Increase allowable signage by allowing two additional electronic reader signs 70 feet in height and 41 feet in width, one on parcel 1 and one on parcel 5;
   6. Change the landscaping design guidelines, reducing the landscaping standards for auto dealerships within the project site.

   A Tentative Parcel Map to subdivide a 47.1 acre parcel into 14 commercial parcels ranging in size from 1.3 acres to 5.5 acres, and lettered lots for streets.

9. Surrounding land uses and setting: Briefly describe the project's surroundings:

   North: Railroad and Interstate 10 rights-of-way
   South: Sun Lakes Boulevard, Single family homes
   West: Neighborhood shopping Center
   East: Assisted living facility, Single family residential

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

Regional Water Quality Control Board

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

X	Aesthetics		Agriculture Resources	X	Air Quality
	Biological Resources		Cultural Resources		Geology /Soils
	Hazards & Hazardous Materials	X	Hydrology / Water Quality		Land Use / Planning
	Mineral Resources	X	Noise		Population / Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities / Service Systems		Mandatory Findings of Significance		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

2/17/06.
Date

EXHIBIT " / "

EXHIBIT " / "

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

X	Aesthetics		Agriculture Resources	X	Air Quality
	Biological Resources		Cultural Resources		Geology /Soils
	Hazards & Hazardous Materials	X	Hydrology / Water Quality		Land Use / Planning
	Mineral Resources	X	Noise		Population / Housing
	Public Services		Recreation		Transportation/Traffic
	Utilities / Service Systems		Mandatory Findings of Significance		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? (General Plan)			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Aerial photograph)			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings? (Application materials)		X		
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Application materials)		X		

I. a)-d) The proposed project will include the construction of commercial buildings, including retail and office buildings of up to 55 feet in height, as allowed in the Specific Plan. The project-specific elevations for individual buildings have not been provided at this time.

The site is located immediately south of the Interstate 10/Railroad rights-of-way. Scenic vistas occur from this right of way to the San Gorgonio Mountains to the north and the San Jacinto Mountains to the south. The project will have no impact on views of the San Gorgonios from the freeway. The construction of structures 55 feet in height will limit the currently existing full views of the San Jacinto range to the middle to top of this range, due to the proximity of the structures to the right of way. The mountains will not, however, be blocked entirely from view. Views from adjacent properties through the site are limited from the west, as westerly lands are developed in a neighborhood shopping center, and the rear of the shopping center abuts the project area. Views from properties to the east, including the assisted living facility and the single family residential, will be obstructed by the buildings. However, the primary vistas from these properties are southerly and northerly, not westerly, and impacts are likely to be less than significant. Views from properties to the south have views of the San Gorgonio Mountains, which will be obstructed by the commercial and retail structures. These obstructions will be more significant for the residential units located east of Street A, to the project's eastern boundary. In this portion of the plan area, restaurant uses are proposed, although not guaranteed. Should restaurant uses occur on these parcels, their size and mass will be less than that likely to occur on the auto dealer parcels. The Specific Plan Amendment proposes landscaped setbacks of 10 feet on Sun Lakes Boulevard, which when combined with the width of the street, will reduce the mass of the structures for these residents.

There are no trees, rock outcroppings, or historic buildings on the project site.

The proposed project includes the construction of commercial buildings, at least six of which will be auto dealers, whose business activities occur into the night time hours. Light will occur due to building lighting, parking lot lighting, and landscaping lighting, as well as light generated by car headlights. As noted above, however, the primary source of lighting, the auto dealers, will be located away from the residential land uses to the south, but adjacent to the residential land uses to the east. The potential impacts of parking lot lighting at a level typically used by auto dealers has the potential to significantly impact the residents of the assisted living facility and the single family homes. This impact must be mitigated, as follows:

1. No auto display areas shall be located on the east side of Parcel 5, Parcel 9 or Parcel 14, within 100 feet of the eastern property line. Auto storage, without lighting, may be located in these areas.

In addition to the lighting associated with the businesses, the Specific Plan Amendment proposes the construction of two additional freeway electronic signs, 70 feet in height and 41 feet in width. These signs have the potential to create glare for passing motorists on Interstate 10. The Specific Plan identifies the location of the signs as being 270 feet south of the centerline of the freeway. Given that the freeway at this location is 4 lanes in width, and the railroad right of way is 200 feet, this places to signs on the northern property line of the two parcels. The existing electronic sign occurs between parcels two and three on the site. The addition of two signs of this size and magnitude in such close proximity will illuminate the freeway, and has the potential to distract drivers. This is a potentially significant impact which must be mitigated, as follows:

2. One electronic sign, no taller than the existing sign (at the existing grade height), and approved by the California Department of Transportation, shall be permitted within the Specific Plan Amendment Area. The sign shall not include flashing copy, but may include continuous scrolling copy. The lighting level shall be approved by the Community Development Department.

With implementation of these mitigation measures, the impacts associated with aesthetics and visual resources shall be mitigated to less than significant levels.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
II. AGRICULTURE RESOURCES: Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (General Plan and EIR)				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? (Zoning Map)				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (General Plan Land Use Map)				X

II. a)-c) The project site is currently vacant, and has been impacted by development to the east and west. The site is not in agriculture, nor are there Williamson Act contracts on the land. The site has been designated for commercial development for many years, and is located in the City's urban core. There are no agricultural lands adjacent to the proposed project. The development of the site will have no impact on agricultural resources.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
III. AIR QUALITY: Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan? (SCAQMD CEQA Handbook)				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (SCAQMD CEQA Handbook)		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (SCAQMD CEQA Handbook)		X		
d) Expose sensitive receptors to substantial pollutant concentrations? (Project Description, Aerial Photo, site inspection)			X	
e) Create objectionable odors affecting a substantial number of people? (Project Description)				X

III. a)-d)) The development of the project site is consistent with the General Plan designation assigned to the property. The South Coast Air Quality Management District has developed regional air quality plans for the Pass region based on the General Plan of the jurisdictions within the Pass. Therefore, the proposed project will have no impact on air quality plans.

An air quality analysis was prepared for the proposed project[1]. The proposed project will generate emissions both during construction and operations at the site. Each of these impact areas is discussed below.

Construction Impacts

1. The analysis assumed that daily disturbance relating to fugitive dust would total 2.9 acres. This disturbance will result in 77 pounds per day of fugitive dust, which will be reduced to 29 pounds per day with the implementation of best available

1 "Air Quality Analysis, Sun Lakes Village North Specific Plan Amendment No. 4," prepared by Giroux & Associates, October 2005.

control measures. This falls below the thresholds established by SCAQMD, and represents a less than significant impact.

The equipment used during grading and construction, and the finish materials, will also generate emissions. These emissions will exceed SCAQMD thresholds for reactive organic gases and nitrous oxides. emissions cannot be reduced to less than significant levels, but will be temporary and periodic.

Long Term Impacts

The proposed project will exceed thresholds associated with reactive organic gases, nitrous oxides, and carbon oxides during the life of the project. The analysis also found that no CO hotspots would result from implementation of the project.

The proposed project is expected to exceed operational emissions thresholds at build out. The project is, however, consistent with the General Plan land use designation for the property, and its impacts were assessed in the General Plan EIR certified by the City in January 2006. The EIR found that although air quality impacts would remain significant, the benefits of the General Plan land uses outweighed the potential impacts, and a Statement of Overriding Considerations was adopted. Since the land uses contemplated are consistent with the General Plan and its EIR, the air quality impacts associated with the project have been considered acceptable to the City, based on the benefits of the project.

The following mitigation measures shall be implemented to reduce impacts to the greatest extent possible.

1. The applicant shall submit, for review and approval, a PM10 Management Plan for all grading and construction activities, for review and approval by the City Engineer prior to the issuance of grading permits.
2. SCAQMD Rule 403 shall be implemented.
3. During all grading and construction activities, the site shall be watered at least twice daily.
4. All trucks hauling dirt, sand or soil shall be covered, or shall maintain two feet of freeboard.
5. Construction road speeds shall be limited to 15 miles per hour.
6. Streets accessing the project site shall be swept at the end of each work day.
7. All grading activities shall be suspended during wind speeds of 25 mph or greater.
8. All stockpiles materials subject to wind erosion and not used within 3 days shall be covered.
9. All diesel powered vehicles and equipment shall be properly maintained.
10. All diesel powered vehicles and gasoline powered equipment shall be turned off when not in use for more than 5 minutes.
11. Electric or natural gas powered equipment shall be used to the greatest extent possible.
12. Ridesharing and transit incentives shall be provided to the construction crews.
13. Pre-coated or natural colored building materials shall be used to the greatest extent possible.

14. Water-based or low VOC coatings shall be used throughout the site. Spray equipment with high transfer efficiency or manual coating application shall be used to the greatest extent possible.
15. Particulate filters shall be required on diesel construction equipment ~~if cost effective~~.
16. Alternative fuel vehicles shall be used during all construction activities if cost effective.
17. A transportation demand management program shall be established within the Specific Plan area.

III. e) The proposed uses for auto dealerships, restaurants and offices are not expected to result in objectionable odors.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Habitat Assessment, BonTerra, November 2005)			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (Habitat Assessment, BonTerra, November 2005)			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (General Plan)				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Habitat Assessment, BonTerra, November 2005)				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (General Plan)				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Habitat			X	

Assessment, BonTerra, November 2005)				

IV. a)-f) Habitat assessments were conducted on the project site for burrowing owl, Yucaipa onion and many-stemmed dudleya[2]. The assessment found that the site consists primarily of annual grasslands, with areas of southern willow scrub and ornamental vegetation. The site has been disturbed by off-road traffic, and construction activities on surrounding properties. The assessment further found that no habitat occurs on the project site for either Yucaipa onion or many-stemmed dudleya. Trapping for Stephens Kangaroo Rat was also conducted, with negative results.

The protocol survey performed for burrowing owl found that although habitat occurs, no member of the species was identified on the site. It is possible, however, that the species could occupy the site prior to construction. This is a potentially significant impact which requires mitigation.

A survey was also conducted to determine the presence of raptors nests on the property. No such nest were identified, but this could change prior to construction. This is a potentially significant impact which requires mitigation.

1. Within 30 days prior to the issuance of grading permits, a protocol survey for burrowing owls shall be conducted to determined if the species occurs on the site. Should the species be identified, the biologist shall provide the Planning Department with recommendations for relocation, for their review and approval. No grading permit shall be issued until the relocation has been completed.
2. Within 30 days prior to the issuance of grading permits, if the grading permit is sought between February 1 and June 30, a survey of nesting raptors shall be conducted. Should nests be identified, the biologist shall provide the Planning Department with recommendations for buffer areas and construction restriction, for their review and approval. No grading permit shall be issued until the recommendations have been implemented.
3. Within 7 days prior to the issuance of grading permits, if the grading permit is sought between February 1 and August 31, a survey of nesting locations shall be conducted. Should nests be identified, the biologist shall provide the Planning Department with recommendations for buffer areas and construction restriction, for their review and approval. No grading permit shall be issued until the recommendations have been implemented

With implementation of these mitigation measures, impacts to biological resources will be reduced to less than significant levels.

2 "Habitat Assessment for Assessor Parcel Number 419-140-057," prepared by BonTerra Consulting, November, 2005.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5? (General Plan)				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5? (General Plan)				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? (General Plan)				X
d) Disturb any human remains, including those interred outside of formal cemeteries? (General Plan)				X

V. a)-d) The project site is not located in an area of sensitivity for cultural resources. In addition, the site has been impacted by off-road activity, past ranching activities, and construction activities on surrounding properties. The likelihood of cultural resources on the site is extremely low. There are no historical structures on the site. The project site is not located in an area of sensitivity for paleontological resources.

The project proponent is required by law to report any human remains, if found during project construction, to law enforcement authorities, who will be responsible for their proper removal.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (General Plan)				X
ii) Strong seismic ground shaking? (General Plan)			X	
iii) Seismic-related ground failure, including liquefaction? (General Plan)				X
iv) Landslides? (General Plan)				X
b) Result in substantial soil erosion or the loss of topsoil? (General Plan)			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (General Plan)				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? (General Plan)				X

VI. a)-e) The site is not located in an Alquist-Priolo Fault Zone. The project site is located approximately 2.5 miles south of the San Gorgonio Pass Fault, which is part of the San Andreas fault system. The site will experience strong ground shaking during an earthquake, as will all areas of the City. The City implements the strictest standards of the Uniform Building Code for seismic zones, and will implement these standards for all structures within the proposed project. These standards will reduce impacts associated with earthquakes to less than significant levels.

The site is located in a Low probability area for liquefaction, due to the depth to groundwater. Liquefaction potential at the project site is considered insignificant.

The site is flat, and is surrounded by flat terrain. Landslide potential on the property is considered insignificant.

The City can be subject to strong winds, which have the potential to erode soils during construction activities. Mitigation measures presented in the Air Quality section, above, are designed to mitigate these impacts to less than significant levels. The site will also be subject to water erosion once construction commences. The City will require the implementation of best management practices relating to the National Pollution Discharge Elimination System (NPDES) to control water erosion on each of the parcels as they are developed. These standards are designed to lower the potential impacts associated with water erosion to less than significant levels.

Soils in the City are not generally expansive. The City will require a geotechnical analysis for each parcel as it develops. The geotechnical analysis will assess the site-specific conditions, and provide recommendations for construction. This requirement will assure that impacts associated with expansive soils are reduced to less than significant levels.

All structures within the proposed project will be required to connect to the City's sanitary sewer system. There will be no septic tanks.

Overall impacts associated with soils and geology are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VII. HAZARDS AND HAZARDOUS MATERIALS --Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (Application materials)			X	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Application materials)			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Application materials)				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? (Riverside County Hazardous Materials Listing)				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (General Plan land use map)				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (General Plan land use map)				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (General Plan)				X
h) Expose people or structures to a				X

significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (General Plan, Fire Setback standards)				

VII. a)-h) The proposed project will result in the storage of chemicals and oil products associated with automobile service, and with cleaning supplies associated with the restaurant and office uses on the property. The auto uses will be required by the County Health Department to establish protocols for the use, disposal and clean-up of the materials used on the site. These standards are designed to assure that impacts are reduced to less than significant levels. The disposal of cleaning products from offices and other uses on the site will be the responsibility of the City's waste provider. Waste Management is required to comply with all state and federal laws relating to the disposal of such materials.

The site is more than 2 miles from the Banning Airport, and no other airstrip occurs in the vicinity. The site is surrounded by urban development, and will not be subject to wildland fires. The site is not adjacent to a school.

Overall impacts associated with hazards and hazardous materials are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements? (General Plan)				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (Water Master Plan)			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (General Plan)			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (General Plan)			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (General Plan)			X	
f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (FEMA Maps)				X

g) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (FEMA Maps)				X

VIII. a) & b) Domestic water is supplied to the project site by the City of Banning. The proposed commercial uses will require water for domestic use. As commercial users, water requirements at the site will be lower than for residential land uses. The City has prepared a Water Management Plan which indicates that it has sufficient water sources to accommodate the proposed project within the resources it currently has available. The City is also implementing water conservation, purchase and replenishment measures which will result in additional resources available in the long term. The project proponent will be required to implement the City's water efficient landscaping and construction provisions, which will ensure that the least amount of water is utilized.

VIII. c)-g) The site is currently vacant, and experiences sheet flow during storm events. The construction of the proposed project will result in impermeable surfaces from buildings and parking areas. Each of the proposed parcels will be required to retain the 100 year storm on site. The City will require the submittal of hydrology studies and hydraulic data based on the design of each site. These requirements are designed to assure that impacts associated with flooding are reduced to less than significant levels.

The site is not located in a FEMA-mapped flood plain.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
IX. LAND USE AND PLANNING - Would the project:				
a) Physically divide an established community? (Aerial photo)				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (General Plan Land Use Element)				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? (Banning Municipal Code)				X

IX. a)-c) The project site is currently vacant, and development of the site will not divide an established community. The proposed project is consistent with the General Commercial land use designation, and will not conflict with the General Plan or Zoning Ordinance. The proposed project has complied with the MSHCP by preparing the required habitat assessments. Impacts associated with land use are expected to be insignificant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (General Plan)				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (General Plan)				X

X. a) & b) The proposed project site is not appropriate for surface mining.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XI. NOISE Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (Noise Impact Analysis, Giroux & Associates, 11/05)		X		
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (Noise Impact Analysis, Giroux & Associates, 11/05)				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (Noise Impact Analysis, Giroux & Associates, 11/05)		X		X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (Noise Impact Analysis, Giroux & Associates, 11/05)		X		
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (General Plan land use map)				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (General Plan land use map)				X

XI. a)-f) A noise study was prepared for the proposed project[3]. The analysis included the generation of noise from the site during operation and construction; the existing noise environment; and the noise generated by off-site activities. The analysis found that the ambient noise environment in the area is already impacted, and that the future noise levels in the area will be elevated, and that the proposed project will not contribute significantly

3 "Noise Impact Analysis Sun Lakes Village North," prepared by Giroux & Associates, November 2005.

to that elevated noise level. The report did find, however, that several on-site and off-site impacts will result with implementation of the proposed project.

The analysis found that the noise levels at the northern project boundary from interstate and train activities will exceed the City's standard for commercial uses. This is a potentially significant impact which must be mitigated.

The study found that the restaurant uses could have impacted noise conditions in outdoor dining areas, without mitigation, due to the ambient noise levels. This is a potentially significant impact, which must be mitigated.

The study found that construction equipment operations within 50 feet of the assisted living facility for periods in excess of 15 minutes would exceed the City's interior noise standard. This is a potentially significant impact which must be mitigated.

Finally, the study determined that vehicle service activities, and loud speakers associated with outdoor public address systems, have the potential to impact the residences and the assisted living facility to the east of the project site. Mitigation of these impacts is provided below.

The site is not located within the high noise level contours of the Banning Airport.

1. A 6 foot high perimeter block wall shall be installed on the northern boundary of parcels 1 through 5, inclusive, to reduce the on-site noise levels from 76 dBA CNEL to 71 dBA CNEL, within the City's standards.
2. Any outdoor dining areas planned within the proposed project shall be the subject of noise analysis to assure that dining areas are not subject to noise levels in excess of 65 dBA CNEL. The noise analysis shall be submitted with the site plan review or conditional use permit application for each site. The recommendations of the analysis shall be incorporated into site design.
3. Construction equipment shall not operate within 50 feet of the assisted living facility for more than 15 minutes at a time. Should it be necessary to operate for a longer period, a temporary barrier, higher than the site wall currently occurring at the western property line of the assisted living facility, shall be constructed prior to the initiation of these operations. The height of the wall shall be determined by a qualified noise engineer.
4. No construction activity shall occur within 50 feet of the assisted living facility for a period of more than 15 minutes unless a temporary sound wall, to a height determined by a qualified noise engineer, has first been installed.
5. A buffer distance of 150 feet shall be maintained between the residential units and/or the assisted living facility and any use area of the dealerships which may operate prior to 7 a.m. (including, but not limited to service areas, trash enclosures, car lot sweeping, etc.).
6. Exterior loud speakers shall be prohibited. Employees shall be equipped with personal pagers or other devices for intra-business communications.

With implementation of these mitigation measures, impacts associated with noise will be reduced to less than significant levels.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XII. POPULATION AND HOUSING – Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (General Plan, application materials)			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (General Plan, application materials)				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (General Plan, application materials)				X

XII. a)-c) the site is currently vacant, and will not displace any housing or people. The development of the commercial center will provide employment opportunities for local residents, as well as residents of surrounding communities. Since Banning currently experiences a jobs-housing imbalance in favor of housing, the development of the site will expand employment opportunities and may improve the jobs-housing balance in the City. Impacts associated with development of the site are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection? (General Plan)			X	
Police protection? (General Plan)			X	
Schools? (General Plan MEA)			X	
Parks? (General Plan; Recreation and Parks Master Plan)			X	
Other public facilities? (General Plan)			X	

XIII. a) The proposed commercial projectwill have a less than significant impact on public services. The proposed project will be served by the City Police Department, and by the County Fire Department, under City contract. Build out of the proposed project will generate sales and property tax which will offset the costs of added police and fire services, as well as the costs of general government. Commercial development has no impact on park facilities. Overall impacts are expected to be less than significant.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XIV. RECREATION --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Application materials)				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? (Application materials)				X

XIV. a) & b) The proposed commercial project is not expected to impact recreational facilities.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections (Traffic Impact Study, RK Engineering, 12/05)		X		
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? (Traffic Impact Study, RK Engineering, 12/05)		X		
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? (No air traffic involved in project)				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (Specific Plan)			X	
e) Result in inadequate emergency access? (Specific Plan)				X
f) Result in inadequate parking capacity? (Specific Plan)			X	
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (Project description)				X

XV. a)-g) A traffic impact analysis was prepared for the proposed project[4]. The analysis found that the proposed project will generate 10,828 daily trips at build out. The analysis included estimates of impacts to the surrounding circulation system for the years 2010 and 2025

4 "Sun Lakes Village North Specific Plan Amendment #4 Traffic Impact Study," prepared by RK Engineering, December 2005.

(short and long term impacts). The analysis found that in 2010, 5 project area intersections will operate below level of service C without the project, and 7 intersections are expected to operate below level of service C with the project. In 2025, 8 intersections are expected to operate below level of service C, with or without the proposed project. This represents a potentially significant impact, which requires mitigation. The traffic study includes a number of mitigation measures which will reduce the potential impacts to less than significant levels, as follows:

1. The project proponent shall contribute his fair share to the installation of additional northbound, southbound, eastbound and westbound left hand turn lanes, and the addition of a southbound right turn overlap at the intersection of Ramsey Street and Highland Springs Avenue.
2. The project proponent shall contribute his fair share to addition of a northbound left lane, southbound free right turn lane, and westbound left lane at the intersection of Interstate 10 (westbound ramp) and Highland Springs Avenue.
3. The project proponent shall contribute his fair share to addition of a southbound left lane, and eastbound right lane at the intersection of Interstate 10 (eastbound ramp) and Highland Springs Avenue.
4. The project proponent shall contribute his fair share to the installation of additional northbound left lane, southbound left lane, 2 southbound through lanes, westbound left and right lanes, a southbound right turn overlap, and an eastbound left-through lane at the intersection of 2nd Street and Highland Springs Avenue.
5. The project proponent shall contribute his fair share to the installation of additional 2 northbound left and one northbound through lane, a southbound left and a right/though lane, eastbound left, through and right lanes, and 2 westbound through lanes and a westbound right turn overlap at the intersection of 1st Street and Highland Springs Avenue.
6. The project proponent shall contribute his fair share to the installation of a traffic signal at Sun Lakes Village Drive and Sun Lakes Boulevard.
7. The project proponent shall contribute his fair share to the installation of a traffic signal at Country Club Drive East and Sun Lakes Boulevard.
8. The project proponent shall install traffic signal and access lanes to project site when warranted.
9. The project proponent shall widen Sun Lakes Boulevard to its ultimate half width along the entire project boundary.
10. Final site plans shall be reviewed for the adequacy of sight distance at all driveways and streets.
11. The project proponent shall pay all roadway impact fees in place at the time of issuance of building permits.

The proposed Specific Plan has been designed with 90 degree intersections to assure internal and external safety. Each of the proposed uses within the plan area will be required to comply with the parking standards in the Specific Plan and/or the City's zoning ordinance. The site includes multiple access points which will facilitate emergency access. The site is not expected to have any impact on ari traffic.

With implementation of the mitigation measures above, impacts associated with traffic and circulation will be reduced to less than significant levels.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (General Plan)				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Water Management Plan)				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (General Plan)				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Water Management Plan)			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments? (General Plan, Dept. of Public Works)				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs? (General Plan)				X
g) Comply with federal, state, and local statutes and regulations related to solid waste? (General Plan)				X

XVI. a)-g) Utilities are available in the vicinity of the proposed project. The service providers for water, sewer, electricity, etc. will collect connection and usage fees to balance for the cost of providing services. The project will control on-site storm water to the satisfaction of the City Engineer (please see Hydrology, above). The City's solid waste hauler will continue to implement the requirements of AB 939, requiring the reduction of the solid waste stream. The construction of the proposed project is expected to result in less than significant impacts on utility providers.

	Potentially Significant Impact	Less Than Significant w/ Mitigation	Less Than Significant Impact	No Impact
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X		
b) Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?				X
c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?		X		
d) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?		X		

XVII. a) The proposed project site does not include significant cultural resources. The potential impacts associated with biological resources have been mitigated to less than significant levels.

XVII. b) The proposed project supports the long term goals of the General Plan by expanding commercial opportunities in the City.

XVII. c) The construction of the commercial land uses will contribute to the cumulative impacts identified with the General Plan. These impacts have been mitigated to the greatest extent possible, and a Statement of Overriding Considerations has been adopted.

XVII. d) The proposed project's impacts associated with air quality and noise have been mitigated

to less than significant levels within this Initial Study.

XVIII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case a discussion should identify the following on attached sheets:

a) **Earlier analyses used.** Identify earlier analyses and state where they are available for review.

Not applicable.

b) **Impacts adequately addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

Not applicable.

c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

Not applicable.

CITY OF PLANNING

MONITORING PROGRAM FOR CEQA COMPLIANCE

DATE:	March 2, 2006	**ASSESSORS PARCEL NO.:**	419-140-057
CASE NO.:	Sun Lakes Village North Specific Plan Amendment #4, TPM 33326	**PROJECT LOCATION:** North side of Sun Lakes Blvd., east of Sun Lakes Village Dr.	
EA/EIR NO:		**APPROVAL DATE:** In Process	
APPLICANT:	Silverstone Development		

THE FOLLOWING REPRESENTS THE CITY'S MITIGATION MONITORING PROGRAM IN CONNECTION WITH THE MITIGATED NEGATIVE DECLARATION FOR THE ABOVE CASE NUMBER

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
I. AESTHETICS					
No auto display east side of Parcel 5, 9 or 14 within 100 ft. of prop. line.	Planning Department	Operations.	Site inspection		
One electronic sign no more than 50 feet in height.	Planning Department	Operations	Site inspection.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
III. AIR QUALITY					
Submit PM10 management plan.	City Engineer	Prior to construction.	Approved plan.		
Water site at least twice daily.	Building Department	During construction.	Site inspection.		
Tarp soil trucks or provide 2' freeboard.	Building Department	During grading.	Site inspection.		

Limit construction road speed to 15 MPH	Building Department	During grading.	Site inspection.		
Streets accessing project to be swept each day.	Building Department	During construction	Site inspection.		
Enforce SCAQMD Rule 403	Building Department	During construction	Site inspection.		
Stop grading during winds of more than 25 mph.	Building Department	During grading	Site inspection		
Cover stockpiled materials.	Building Department	During construction	Site inspection.		
Properly maintain vehicles	Building Department	During construction	Site inspection		
Turn off vehicles and equipment if not used for 5 minutes.	Building Department	During construction	Site inspection.		
Use electric or natural gas equipment as much as possible.	Building Department	During construction	Site inspection.		
Provide rideshare & transit incentives.	Code Enforcement	Operations	Site inspection.		
Use pre-coated or natural materials as much as possible.	Building Department	Plan check	Plan check.		
Use water based or low VOC coatings.	Building Department	During construction	Site inspection		
Install particulate filters or use alt. fuel vehicles ~~if cost effective~~.	Building Department	During construction	Site inspection.		
Establish TDM.	Planning Department	Prior to occupancy	Approved plan.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
IV. BIOLOGICAL RESOURCES					
Prepare burrowing owl survey. Survey for nesting birds from 2/1 to 8/30.	Planning Department Planning Department	30 days prior to ground disturbance. 30 days prior to grading permits	Approval of report Approval of report.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
VIII. HYDROLOGY					
Submit outlet structure design	City Engineer	Prior to map recordation.	Approval of all plans.		
Submit design to USACE, CDFG & RWQCB	Planning Department	Prior to map recordation	Copies of permits.		
Secure LOMAR	City Engineer	Prior to occupancy	Submittal of LOMAR.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
XI. NOISE					
Construct 6' wall along northern boundary.	Building Department	Prior to occupancy.	Site inspection.		
Outdoor dining requires noise analysis.	Planning Department	Prior to site plan review	Approved report.		
Construction equipment to operate within 50' of assisted living for no more than 15 minutes.	Building Department	During construction	Site inspection.		
150' distance between residential and use operating prior to 7 a.m.	Code Enforcement	Operations	Site inspection.		
No exterior speakers.	Code Enforcement	Operations	Site inspection.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
XV. TRANSPORTATION					
Comply with traffic study mitigation measures relating to fair share contributions, road widening and impact fees.	Planning Department	Prior to occupancy.	Payment of fees.		

ATTACHMENT 3

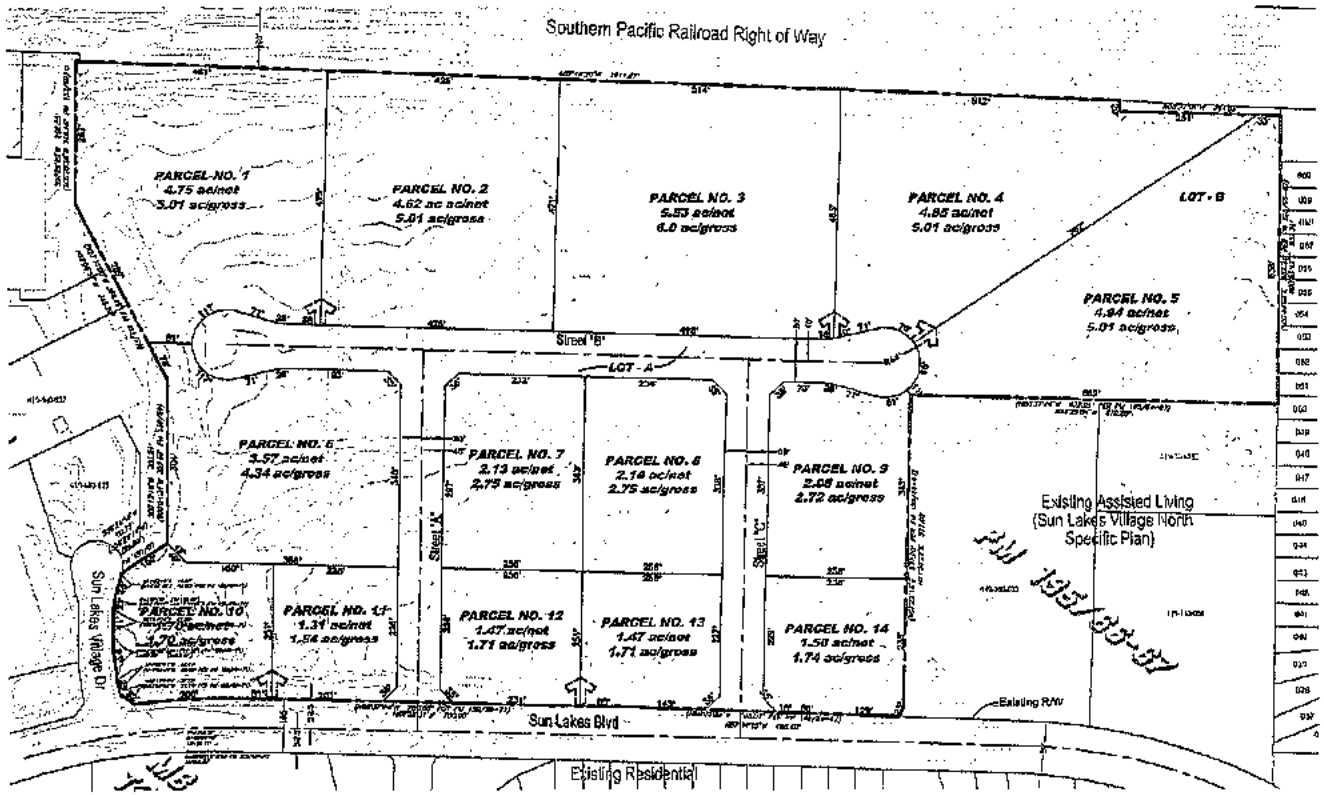
Copy of Tentative Parcel Map No. 33326

IN THE CITY OF BANNING, STATE OF CALIFORNIA

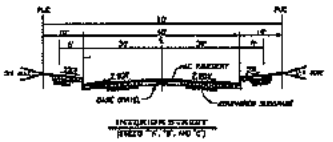
TENTATIVE PARCEL MAP NO. 33326

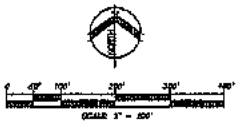
A PORTION OF THE REMAINDER PARCEL OF PARCEL MAP 25135, AS SHOWN BY MAP RECORDED IN BOOK 145, PAGES 61 THRU 68 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, SITUATED IN SECTION 16, T3S, R1W, S.B.B.M., LYING NORTHERLY OF THE NORTH LINE OF SUN LAKES BOULEVARD AS SHOWN ON SAID PARCEL MAP.

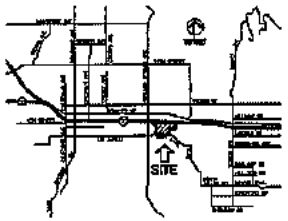
AUGUST, 2005











Underground Service Alert
Call: TOLL FREE
1-800
227-2600

STANTEC CONSULTING INC.
72990 CACTUS AVENUE
SUITE 209
MORENO VALLEY, CA 92555
951.697.8500

CITY OF BANNING
BUILDING & SAFETY DEPARTMENT

TENTATIVE PARCEL MAP NO. 33326

ATTACHMENT 4

Public Hearing Notice

Record Gazette
218 N. Murray St.

Proof of Publication

(2015.5 C.C.P.)

MAP NO. 33326 EXTENSION 129154

State of California)
County of Riverside) ss.

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a 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:

March 11, 2016

Executed on: 03/11/2016

At Banning ,CA

I ceritfy (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

NOTICE OF PUBLIC HEARING TO APPROVE FOR A TWELVE (12) MONTH EXTENSION OF TIME FOR TENTATIVE PARCEL MAP NO. 33326 (TPM 33326), LOCATED GENERALLY NORTH OF SUN LAKES BOULEVARD, AND EAST OF HIGHLAND SPRINGS AVENUE; APN 419-140-057

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, March 22, 2016, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider granting a twelve (12) month time extension for Tentative Parcel Map No. 33326 (TPM 33326) The proposed project site is located generally, north of Sun Lakes Boulevard, east of Highland Springs Avenue, APN 419-140-057. TPM No. 33326 was previously approved on March 28, 2006. Information regarding the request for a twelve (12) month extension of time for Tentative Parcel Map No. 33326 (TPM 33326) can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at http://www.ci.banning.ca.us/. All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220. If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009). BY ORDER OF THE COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA

Dated: March 8, 2016
Publish: March 11, 2016
Published in
The Record Gazette
No. 129154
03/11/2016

CITY COUNCIL AGENDA
REPORT OF DIRECTORS

TO:	CITY COUNCIL
FROM:	Michael Rock, City Manager
PREPARED BY:	Alejandro Diaz, Chief of Police
MEETING DATE:	March 22, 2016
SUBJECT:	Ad Hoc Committee Regarding Animal Control

COMMITTEE RECOMMENDATION:

Creation of an Ad Hoc Committee

RECOMMENDATION:

Adopt Resolution No. 2016-18, establishing an Ad Hoc Committee for the purposes of reviewing the current City animal control services and animal control services of other similar communities, and making recommendations to the City Council.

JUSTIFICATION:

Review of Animal Control Services to evaluate all options.

BACKGROUND:

Currently, the City does not have its own animal control program, relying on the City of Beaumont to provide the service; the City of Beaumont has provided Animal Control Field Services for the City of Banning since July 1, 2010.

It is proposed that the membership of the Ad Hoc Committee be composed of the following individuals: (a) two council members selected by the City Council; (b) the City Treasurer; (c) a representative of the Police Department designated by the Police Chief; (d) and two citizens selected by the City Council representatives, the City Treasurer, and the police representative.

The Ad Hoc Committee would be tasked with: (1) reviewing the current animal control contract; (2) the feasibility of reestablishing a City operated animal control program; (3) the feasibility of rehabbing the City owned animal shelter; (4) and the feasibility of continuing the contracting for Animal Control Services with the City of Beaumont, the County of Riverside or other agency.

The Ad Hoc Committee would keep the City Council informed of its progress and plans through periodic verbal reports from the Councilmembers appointed to the Ad Hoc

Committee. The term of the Ad Hoc Committee is proposed to expire once a final recommendation is presented to, and accepted by the City Council.

OPTIONS:

1. Decline to form an Ad Hoc Committee
2. Provide further direction to staff
3. No action

FISCAL IMPACT:

None at this time.

ATTACHMENTS:

1. A resolution establishing an Ad Hoc Committee to review current animal control services.

Prepared and reviewed by:

Alex Diaz
Police Chief

Approved by:

Michael Rock
City Manager

RESOLUTION NO. 2016-18

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING ESTABLISHING AN AD HOC COMMITTEE TO REVIEW CITY ANIMAL CONTROL SERVICES

WHEREAS, the City Council desires to establish an Ad Hoc Committee for the purpose of reviewing current City Animal Control Services; and

WHEREAS, the Ad Hoc Committee will review the current City animal control services and animal control services of other similar communities, and make recommendations to the City Council.

NOW THEREFORE, BE IT RESOLVED:

SECTION 1. The City Council hereby establishes an Ad Hoc Committee for the purpose of reviewing the City animal control services and animal control services of other similar communities, and making recommendations to the City Council.

SECTION 2. The membership of the Ad Hoc Committee shall be composed of the following individuals:

a. Two council members selected by the City Council;
b. The City Treasurer;
c. Representative of the Police Department designated by the Police Chief;
d. Two citizens selected by the City Council representatives and the police representative.

SECTION 3. The Ad Hoc Committee shall specifically review the following areas relating to animal control:

1. The current animal control contract; and
2. The feasibility of reestablishing a City operated animal control program; and
3. The feasibility of rehabbing the City owned animal shelter; and
4. The feasibility of continuing the contract for Animal Control Services with the City of Beaumont, the County of Riverside or other agency.

SECTION 4. Administrative support for the Ad Hoc Committee shall be provided by the Police Department, including but not limited to, the preparation and posting of agendas and the taking of minutes.

SECTION 5. The Ad Hoc Committee shall keep the City informed of its progress and plans through periodic verbal reports from the council members appointed to the Ad Hoc Committee.

SECTION 6. The term of the Ad Hoc Committee shall expire once a final recommendation is presented to, and accepted by the City Council.

PASSED, APPROVED AND ADOPTED this 22nd day of March, 2016.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, 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. 2016-18 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held the 22nd day of March, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

THIS PAGE LEFT BLANK INTENTIONALLY

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Fred Mason, Electric Utility Director
Brandon Robinson, Associate Electrical Engineer

MEETING DATE: March 22, 2016

SUBJECT: Resolution No. 2016-20, "Amendment to Project No. 2014-02EL-Downtown Underground Project Phase 3"

RECOMMENDATION:

Adopt City Council Resolution No. 2016-20:

1. Amend the Construction Contract for Project No. 2014-02EL "Downtown Underground Project – Phase 3"/ Purchase Order No. 026719 to include additional funds in an amount not to exceed $76,350.50 including taxes.
2. Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers to fund this amendment.

JUSTIFICATION:

This amendment is required to ensure that the all costs to complete asphalt repair for the Downtown Underground Project Phase 3 are incorporated into the contract value.

BACKGROUND:

The underground conversion of the downtown distribution system was completed in conjunction with the Downtown Decorative Lighting Plan (City Council Resolution No. 2012-30). During the course of construction, it was discovered that many areas along Ramsey Street required up to a depth of 18" of asphalt repair due to the existence of a section of concrete beneath the pavement that had been used as the main road for the old highway (the typical depth of asphalt is 4"). City of Banning Public Works Department requires asphalt repair to be completed to match existing road conditions. Therefore, much of the asphalt along Ramsey Street, and other roads within the scope of work, were repaired at depths anywhere between 4" and 14" depending on the location of the excavation to match existing pavement depth. These conditions were

unknown to the Electric Utility ("Utility") and Southern California West Coast Electric ("Contractor") during design and at the time of bid. As a result, the Utility has incurred street repair costs that exceed the amount allowed for in the original contract. Examples of the thick pavement depth are shown in photos attached herewith as Exhibit A.

The costs to complete asphalt repair for this contract include the additional base paving to complete pavement restoration requirements for this project, as well as an increase in grind and overlay costs to seal the street in all areas, except between San Gorgonio Ave and 4th Street on Ramsey Street, due to a future grind and overlay project to be completed by the City of Banning Public Works Department. The increase in the grind and overlay cost reflects the difference between the original per-square-foot bid price supplied in 2014, versus the current cost to complete this work. This cost does not impact the total bid price for this item. The email sent to the Utility regarding the increase in grind and overlay unit costs is attached herewith as Exhibit B.

A major contributor to the increase in cost of the asphalt pavement repair is the requirement to place no more than 4" of asphalt in each repair lift, which is a City of Banning Public Works requirement and also a standard industry practice. Therefore, in order to repair a section of asphalt that has a depth of 11", a minimum of three (3) 4" placement lifts will be required. This adds to the amount of labor and equipment to complete the repair which greatly affects total costs once the project is completed.

Staff has worked with the Contractor to verify all labor, equipment, and material used to properly repair all excavated trenches for this project. The Utility has validated all findings and has confirmed a total amount of 66,442 square feet of asphalt repair for this contract, at an approved price of $5.00/sf for a total amount of $332,210.00. The original cost included with the bid was 47,895 square feet at $5.00/sf for a base bid price of $239,475.00. The difference in costs, due to the large amount of deep asphalt repair required to properly complete the job per Public Works code, is $92,735.00. The Utility has remaining contingency of $16,384.50 for this project. Therefore, the additional funds required for the asphalt repair is $76,350.50. It should be noted that the total authorized amount for Downtown Underground Project – Phase 3 is $1,324,229.50. The difference between the actual cost to complete all base asphalt repair shown on the progress billing sent to the Utility from the Contractor and the bid price for base asphalt restoration is attached herewith as Exhibit C. Staff is recommending that Council adopt Resolution No. 2016-20, approving the amendment to Project No. 2014-02EL and Purchase Order No. 026719.

OPTIONS:

1. Approve the amendment authorizing the increase of Purchase Order 026719 by $76,350.50. Funds are available in account 674-7000-473-96-29 to cover this expense.

2. Do not approve the amendment to increase Purchase Order 026719 and the City may receive a claim for damages from the contractor, Southern California West Coast Electric.

FISCAL IMPACT:

The Utility will require the approval of an additional $76,350.50 to complete the Downtown Underground Project – Phase 3 contract. Funds in the amount of $76,350.50 are available in the Electric Utility Bond Account 674-7000-473-96-29, D.T. Underground Conversion.

ATTACHMENTS

Exhibit A: Photos of depth of Asphalt Repair
Exhibit B: Email Referencing Increase in Price for Grind and Overlay
Exhibit C: So Cal West Coast Electric Billing No. 8 Detail

Prepared and Reviewed by:

Fred Mason
Electric Utility Director

Approved by:

Michael Rock
City Manager

Prepared by:

Brandon Robinson
Associate Electrical Engineer

THIS PAGE LEFT BLANK INTENTIONALLY

RESOLUTION NO. 2016-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE AMENDMENT TO PROJECT NO. 2014-02EL "DOWNTOWN UNDERGROUND PROJECT – PHASE 3"

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

WHEREAS, the City of Banning adopted Resolution 2014-19 approving the contract for Downtown Underground Project – Phase 3 in order to provide beautification to the downtown corridor ; and

WHEREAS, typical asphalt repair in the City of Banning is completed at a depth of 4"; and

WHEREAS, unknown conditions within the street required asphalt repair at various depths between 4" and 14" which was not anticipated in the original design; and

WHEREAS, the difference between total actual asphalt costs of $332,210.00 and the original cost included with the bid price of $239,475.00 is equal to $92,735.00; and

WHEREAS, the City of Banning will require additional funds equal to $76,350.50 to complete asphalt repair for this project, which is equal to the total additional asphalt costs of $92,735.00 minus the remaining contingency in the contract of $16,384.50;

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

SECTION 1. Adopt Resolution No. 2016-20, amending the Construction Contract for Project No. 2014-02EL "Downtown Underground Project – Phase 3"/ Purchase Order No. 026719 from $1,324,229.50 to $1,400,580.00 which increases the contract in the amount not to exceed $76,350.50 including taxes.

SECTION 2. Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers to fund this amendment.

PASSED, ADOPTED AND APPROVED this 22nd day of March 2016.

_____
Art Welch, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT:

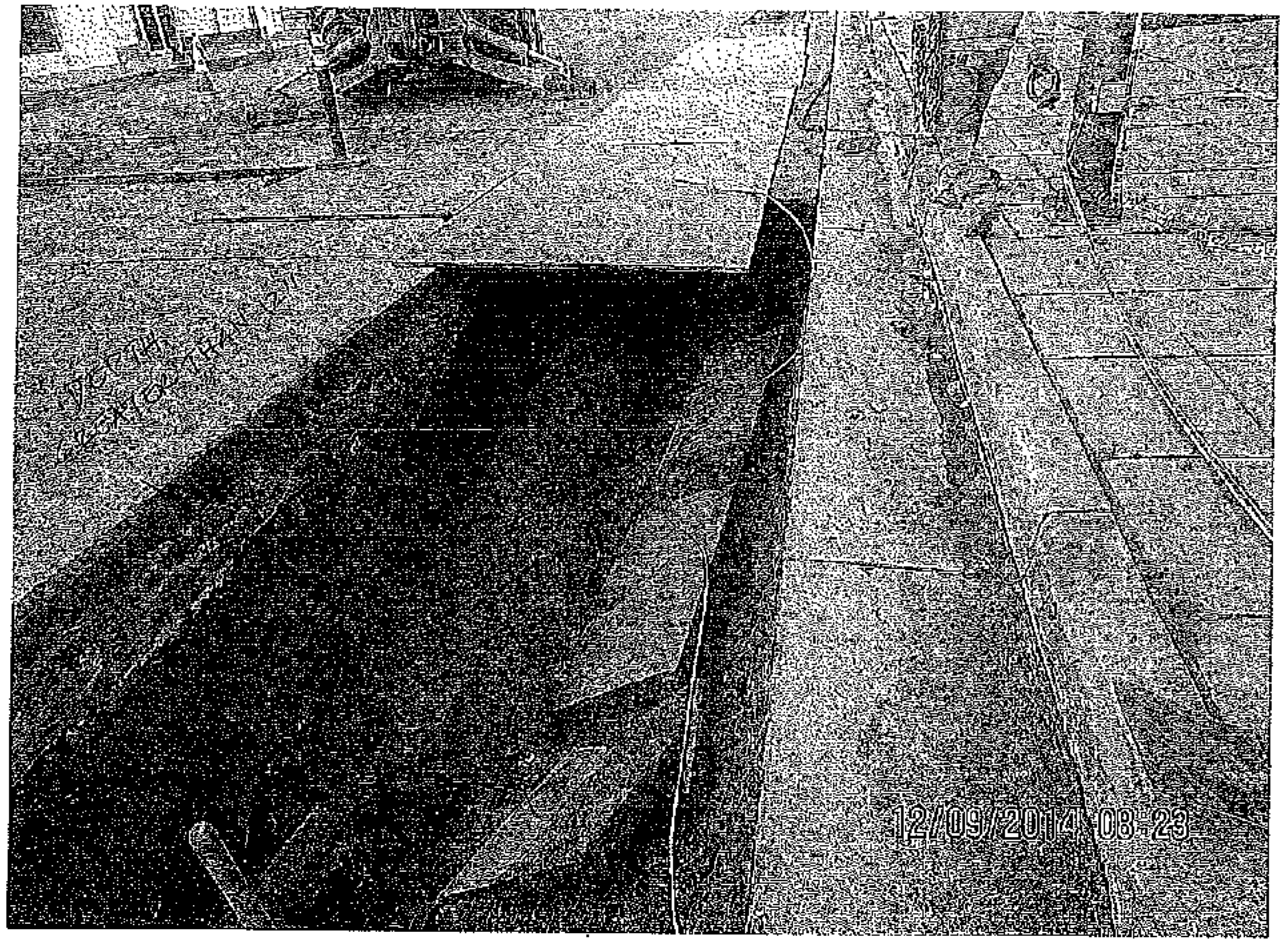
_____

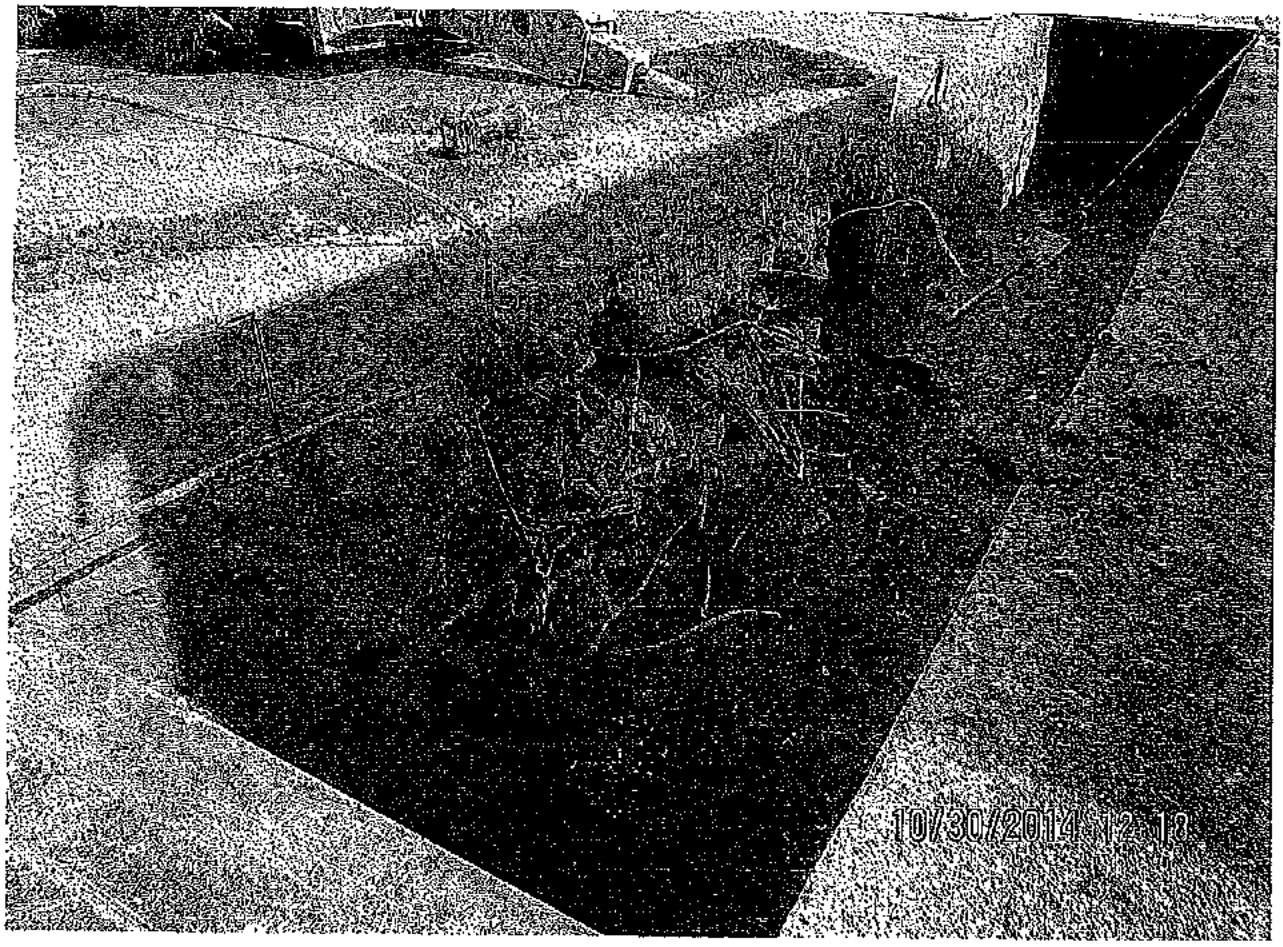
Anthony R. Taylor, City Attorney
Aleshire and Wynder, LLP

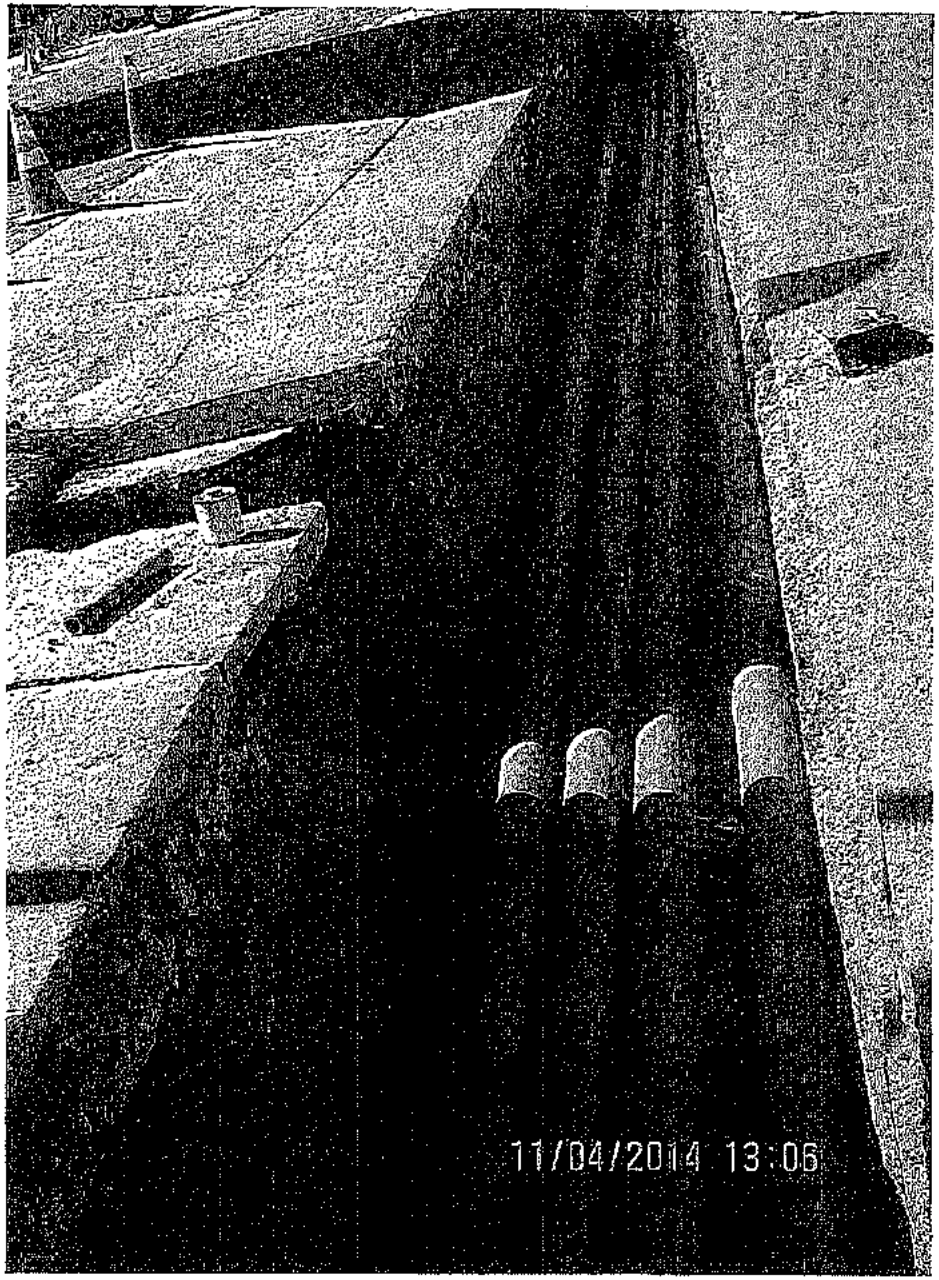
Exhibit A


11/26/2014 09:01


11/26/2014 09:02


12/09/2014 08:23


10/30/2014 12:18


11/04/2014 13:06

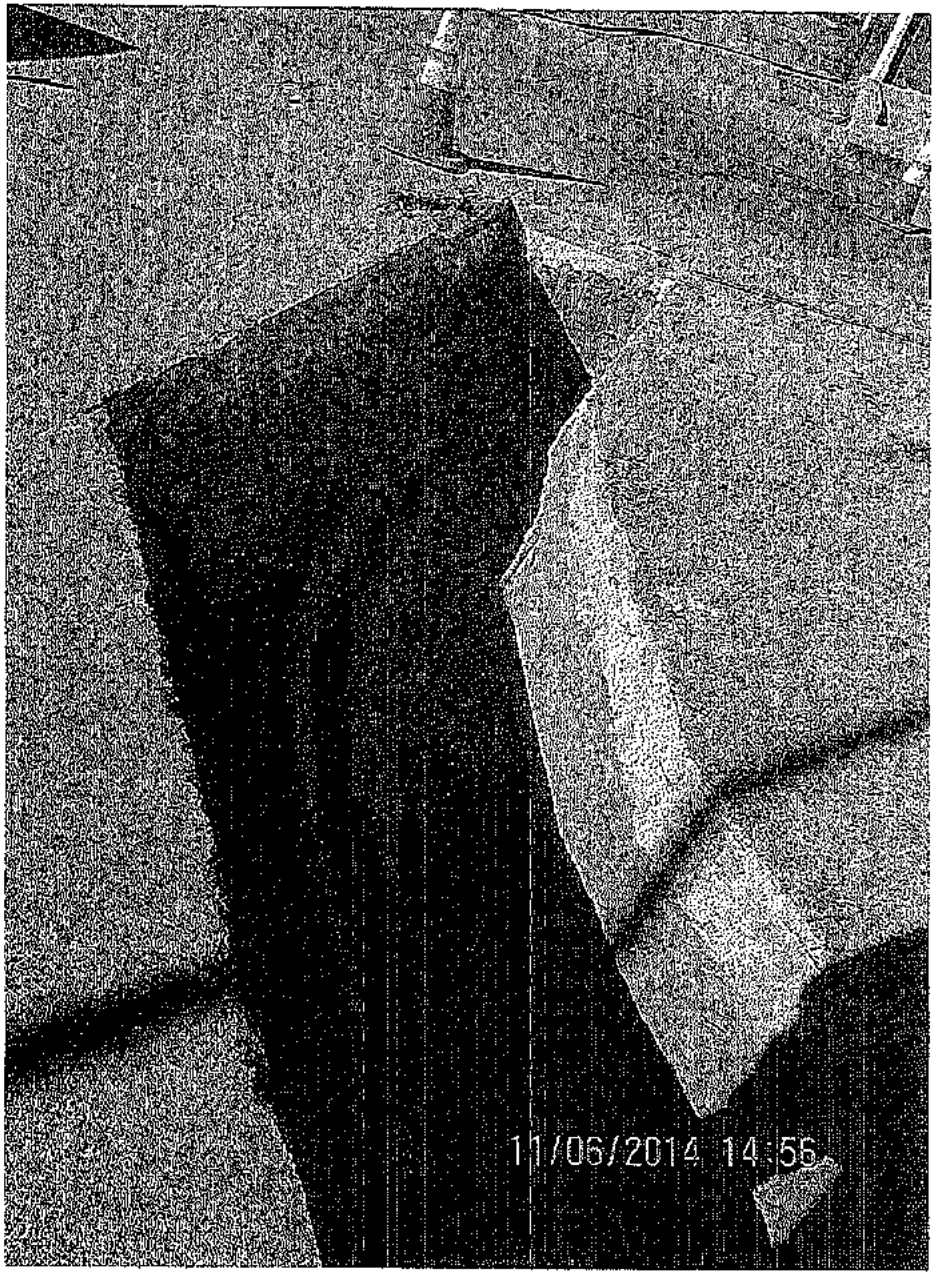

11/06/2014 14:56

Exhibit B

Brandon Robinson

From: Andy Birchard <Andy@scwce.com>
Sent: Monday, December 28, 2015 3:42 PM
To: Brandon Robinson

Hello Brandon,

Roquet paving has a price increase from 1.79 a sq foot to 2.21 a sq ft. that's a $0.42 per sq foot adder. The estimated qty is 25630 sq ft. so the new price per sq ft is $2.51 making the line item value for grind and overlay $65,100.00.

Please call me if you have any questions,

Andy

ANDREW BIRCHARD
OPERATIONS MANAGER
(951)849-4223 / (951)206-2441

Exhibit C

SO CAL WEST COAST ELECTRIC
P:951-849-4223 F:951-922-2347

BID ITEM	DISCRIPTION	TOTAL QTY	QTY INSTALLED	UNIT	LOT
	COB UNDERGROUND PHASE-3 8th BILLING (May - July 15th)				
1	POT HOLING		1	$ 14,000.00	$ 14,000.00
2	PERMITS AND LICENSING		1	$ 500.00	$ 500.00
3	TRAFFIC CONTROL		1	$ 20,250.00	$ 20,250.00
4	PRIMARY TRENCH		7600	$ 12.50	$ 95,000.00
5	SECONDARY TRENCH		12300	$ 10.00	$ 123,000.00
6	INSTALLATION OF CONDUIT		40800	$ 5.00	$ 204,000.00
7	SLURRY BACKFILL		1237	$ 110.00	$ 136,070.00
8	INSTALL HAND HOLES		1	$ 30,420.00	$ 30,420.00
9	INSTALL PVC RISER		225	$ 40.00	$ 9,000.00
10	INSTALL 3 PHASE PAD		7	$ 3,725.00	$ 26,075.00
11	SINGLE PHASE PAD		8	$ 1,500.00	$ 12,000.00
12	VAULT INSTALLATION		8	$ 7,000.00	$ 56,000.00
13	INSTALL ST LIGHT BASES		110	$ 400.00	$ 44,000.00
14	DEMO ST LIGHT BASES		25	$ 390.00	$ 9,750.00
15	PROTECTIVE BARRIERS		34	$ 325.00	$ 11,050.00
16	CONCRETE REPAIR		173.5	$ 525.00	$ 91,087.50
17	ASPHALT REPAIR		66442	$ 5.00	$ 332,210.00
18	GRIND AND OVERLAY			$ 2.00	$ -
19	INSTALL RACEWAY		3	$ 225.00	$ 675.00
20	INSTALL OF SWITCH VAULT		1	$ 6,000.00	$ 6,000.00
21	RETAINING WALL		1	$ 6,000.00	$ 6,000.00
22	STRIPING REPAIR			$ 5,000.00	$ -
23	LANDSCAPE REPAIR		1	$ 5,000.00	$ 5,000.00
24	CO#1 CURB REPAIR		66	$ 55.00	$ 3,630.00
25	CO#2 slurry Saturday charges		50	$ 10.00	$ 500.00
26	CO#3 O.T. for alessandro		167.25	$ 43.58	$ 7,288.76
27	CO#4 storm drain crossing on ramsey 8.5' deep		1	$ 3,471.65	$ 3,471.65
28	CO#5 storm drain removal on ramsey		1	$ 1,124.39	$ 1,124.39
29	CO#6 deep excavation to cross water line		1	$ 1,133.45	$ 1,133.45
		total billed to date			$ 1,249,235.75
		minus 1st billing			$ (221,197.00)
		alessandro			$ 87,922.50
		minus 2nd billing			$ (445,038.00)
		minus 3rd billing			$ (95,876.50)
		minus 4th billing			$ (115,808.25)
		minus 5th billing december			$ (169,664.50)
		minus 6th billing january			$ (84,424.50)
		minus 7th billing feb-april			$ (71,836.25)
		May - June billing			$ 133,313.25

BID SCHEDULE

PROJECT NO. PROJECT NO. 2013-05EL, "Downtown Underground Project – Phase 3"

BID SHEET AND UNIT PRICE

The Bid Schedule includes Bid Items 1 through 22. The work of each Bid Item is specified or shown in the Contract documents.

Bidder will perform and complete the work in accordance with the Contract documents for the following Lump Sum and Unit Prices.

A Lump Sum or Unit Price, as applicable, shall be offered for each Bid Item; failure to do so shall render the Bid non-responsive. All prices shall be in legible figures (not words) written in ink or typed. Unit Prices shall be multiplied by the Estimated Quantity ("Est. Qty.") to calculate the Extended Amount.

Lump Sum Items: the bidder is to provide the price to perform all work as specified or shown herein, including labor, materials, equipment and all overhead and profit, as well as any other ancillary costs associated with completing this work.

Unit Price Items: the bidder is to provide a unit price and should include all labor, materials, equipment and all overhead and profit, as well as any other ancillary costs associated with completing the work. The Contractor will be compensated for the actual unit quantities performed in accordance with the terms and conditions set forth in the Contract.

Bid **Lump Sum** and **Unit Prices** shall include all applicable taxes.

The **Total Bid Price** shall be the sum of the Extended Amounts for Bid Items 1 through 22.

Having carefully examined the Contract documents, as well as the site of the work, and the availability of materials and labor, Bidder proposes to perform the work identified in the Contract documents under the terms and conditions contained herein for the prices and amounts set forth below.

Bid Item	Description	Est. Qty.	Unit	Unit Price	Extended Amount
1	Potholing	1	LS	[illegible]	$14,000.00
2	Permits and Licensing	1	LS	[illegible]	$ 500.00
3	Traffic Control	1	LS	[illegible]	$ 20,250.00
4	Trench Excavation and Native Backfill for primary up to 60" (36" minimum cover depth)	7600	LF	$12.50	$ 95,000.00

5	Trench Excavation and Native Backfill for secondary with minimum 24" cover depth	9860	LF	$10	$98,600
6	Installation of Conduit	41720	LF	$5	$208,600
7	Slurry Backfill (price adjustment) *	1400	CY	$110	$154,000
8	Installation of Handhole	1	LS		$30,420
9	Installation of PVC Risers at Poles	180	LF	$40	$7,200
10	Installation of Three-Phase Transformer Pad	4	EA	$3,725	$14,900
11	Installation of Single-Phase Transformer Pad	11	EA	$1,500	$16,500
12	Installation of Vault	7	EA	$1,000	$49,000
13	Installation of Street Light Base (City to provide anchor bolts)	125	EA	$400	$50,000
14	Demolition and Removal of Existing Street Light and Base	30	EA	$390	$11,700
15	Installation of Protective Barriers	60	EA	$325	$19,500
16	Concrete Sidewalk and Pavement Restoration	100	CY	$525	$52,500
17	Asphalt Concrete Pavement Restoration, including Type II Aggregate Base Course	47895	SF	$5	$239,475 *
18	Grind and Overlay 1/10 ft Thick (Street)	48500	SF	$2	$97,000
19	Installation of Conduit Raceways	12	EA	$225	$2,700
20	Installation of Switch Vault	1	EA	$6,000	$6,000
21	Installation of Retaining Wall at Three-Phase Transformers	1	EA	$6,000	$6,000
22	Striping Repair	1	LS		$5,000
23	Landscape Restoration	1	LS		$5,000
	TOTAL BID PRICE				$1,203,845

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Brian Guillot, Community Development Director
Adianez Soto, Office Specialist

MEETING DATE: March 22, 2016

SUBJECT: Adopt Resolution No. 2016-10
Awarding Contract Service Agreements for Grant Writing Services

RECOMMENDATION:

That the City Council:

1. Adopt Resolution No. 2016-10 (Attachment 1) Awarding Contract Service Agreements for Grant Writing Services as a short list consisting of California Consulting, TKE Engineering, and Evan Brooks Associates.

JUSTIFICATION:

It is necessary to obtain the services of qualified consultants that can assist the City in achieving its goal to obtain grants and funding for future City projects, programs, and improvements. The consultant(s) will assist with: (1) identifying and prioritizing City projects in need of grants/funding, (2) the preparation of grant applications and processing, (3) identify grant sources and opportunities, (4) assist in preparing a long-range grant/funding application programs; and, (5) administration, tracking and reporting for awarded grants/funds.

BACKGROUND:

On September 16, 2015, the City posted a Request for Proposals (RFP) for consulting firms to provide grant writing services for the City of Banning. The request for proposals closed on September 30, 2015, with eleven (11) consultants responding and submitting proposals. An evaluation team consisting of two representatives from the city and one representative from the City of Palm Springs, Office of Sustainability, reviewed and rated all of the proposals.

The RFP did not identify any specific projects where grant funding would be sought.

It was evident during the review of the proposals that many of the individual firms were experienced within different project subject areas. Therefore, it is recommended that the award be to at least three of the firms that submitted proposals. Then, the City will obtain project specific proposals when needed from the short list of consultants. The project specific proposals will be reviewed and approved by the City Manager in accordance with adopted purchasing policies and practices and brought back to City Council for approval if necessary.

Staff recommends that the City Council approve a short list of consultants consisting of the top three rated consultants as follows:

Evaluation Scores

Consultant	Rater #1	Rater #2	Rater #3	Total	Experience
California Consulting, LLC	335	420	320	1075	General
TKE Engineering, Inc.	335	350	335	1020	Water/Wastewater
Evan Brooks Associates	375	310	330	1015	Transportation
Capitol Advocacy Partners	330	390	290	1010	General
The Ferguson Group, LLC	370	340	280	990	HUD/FEMA/USDA
Resources Development Associates	350	340	295	985	Housing/Health
Hoch Consulting, APC	350	305	310	965	Trans/Water
Keller McIntyre & Associates	360	345	260	965	General
Casc Engineering & Consulting	340	360	225	925	Planning
Grant Writing Specialist	290	330	280	900	Housing/Health
Strategic Solutions	375	250	260	885	Health

OPTIONS:

City Council may consider one, two, three, or all the consultants for grant writing services. The City reserves the right to negotiate with one or more consultants. The City also has the right to reject any and all proposals at its discretion, conduct oral interviews, and require a best and final offer from one or more consultants.

FISCAL IMPACT:

Funding for the Grant Writing Services is included within the Fiscal Year 2016 Budget.

ATTACHMENTS:

1. Resolution No. 2016-10
2. Copies of the proposals (3 top rated consultants)
3. Copies of evaluations
4. Copy of the Request for Proposals

Prepared and Reviewed by:

Brian Guillot
Community Development Director

Approved by:

Michael Rock
City Manager

THIS PAGE LEFT BLANK INTENTIONALLY

Attachment 1

Resolution No. 2016-10

RESOLUTION NO. 2016-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING CONTRACT SERVICES AGREEMENTS FOR GRANT WRITING SERVICES AS A SHORT LIST CONSISTING OF CALIFORNIA CONSULTING LLC, TKE ENGINEERING INC., AND EVAN BROOKS ASSOCIATES

WHEREAS, on September 16, 2015, the City released a request for proposals seeking a professional consulting firm to provide Grant Writing Services to the City to identify grants and funding source opportunities; to prepare grant and funding applications; to assist in preparing a long-range grant and funding application programs; and, to provide administration and reporting for awarded grants and funds; and

WHEREAS, on September 30, 2015, the City received eleven (11) responses to the Request for Proposals from the following consulting firms:

Consultant	Location
California Consulting, LLC	El Segundo, CA
Capitol Advocacy Partners	Washington, DC
Casc Engineering and Consulting	Colton, CA
Evan Brooks Associates	Pasadena, CA
Grant Writing Specialist	La Mesa, CA
Hoch Consulting	San Diego, CA
Keller McIntyre & Associates	Washington, DC
Resource Development Associates	Oakland, CA
Strategic Solutions	Palm Springs, CA
The Ferguson Group, LLC	Washington, DC
TKE Engineering, Inc.	Riverside, CA

WHEREAS, the City desires to create a short list of consultants to provide Grant Writing Services for projects proposed in the City where thereafter the City may request project specific proposals; and

WHEREAS, upon evaluation of the proposals in terms of experience and expertise in respective grant writing experience areas, staff has reviewed the proposals and concluded that three (3) firms had submitted the highest qualified team with a competitive fee for the provisions of the requested Grant Writing Services; the top three (3) rated firms are listed below:

Firm Name
California Consulting, LLC
TKE Engineering, Inc.
Evan Brooks Associates

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

Section I: Action.

1. Resolution No. 2016-10 is approved awarding Contract Service Agreements for Grant Writing Services as a short list consisting of California Consulting, TKE Engineering, and Evan Brooks Associates to provide Grant Writing Services. 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 II: Authorization.

2. City Council authorizes the City Manager for the City of Banning to execute the Contract Services Agreement with California Consulting, TKE Engineering, and Evan Brooks Associates, Inc. in the form that is approved by the City Attorney.

PASSED, ADOPTED AND APPROVED this 22nd day of March, 2016.

Art Welch, Mayor
City of Banning, California

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. 2015-60 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 23rd day of June, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Attachment 2

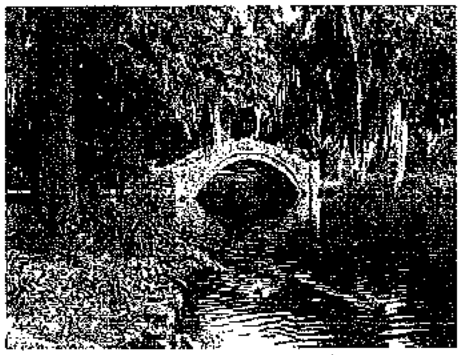
Copies of the proposals



Transportation



Housing and Community



Parks and Recreation



Water



Fire and Police

CALIFORNIA CONSULTING INC

The State's Premier Grant Writing Firm

BANNING, CA

Established 1913

Proud History
Prosperous Tomorrow

Request for Proposal
Grant Writing Services

California Consulting Offices

214 Main St., Ste. 102
El Segundo, CA 90245

2491 Alluvial Ave., Ste. 609
Clovis, CA 93611

520 Capitol Mall, Ste. 700
Sacramento, CA 95814

www.californiaconsulting.org

Due September 30, 2015

Table of Contents

Cover Letter

SECTION 1: Company Profile 1
Firm Qualifications
Founder Experience
Management Team

SECTION 2: Organization and Staffing 4
Jennifer Braun-Christensen
Ilya Malinsky

SECTION 3: Relevant Service with Reference 5
City of Waterford
City of Patterson
City of Newman

SECTION 4: Scope of Work 7
Funding Needs Analysis
Grant Research and Identification
Notification of Grant Opportunities
Strength of Competitiveness of City's Grant Capacity
Grant Preparation Process
Creating a Timeline
Grant Review and Approval Process
Project Controls
Facilitation of Partnership Meetings
Timely Submission
Example Grant Timeline
Grant Administration
Monthly Reporting
City Contract Services Agreement and Insurance Requirements

Government Advocacy 11

SECTION 5: Proposed Fee Schedule 12
Monthly Flat Rate Option
Hourly Rate Option
Per Grant Option

SECTION 6: Resumes

SECTION 7: Organizational Chart

SECTION 8: Municipal Grant Opportunities List

Cover Letter

September 30, 2015

SENT VIA OVERNIGHT COURIER

Office of the City Clerk
City of Banning
99 E. Ramsey St.
Banning, CA 92220

Dear Sir or Madam,

California Consulting, LLC is pleased to provide this Response to the Request for Proposal for Grant Writing Services for the City of Banning. Municipalities, School Districts, nonprofit organizations and our private sector clients have realized grants are a source of revenue that can be used for targeted projects, thereby preserving general funds and/or special funds to be used elsewhere. **In conjunction with government advocacy and our relationship with legislators, we are the most successful grant writing firm in California generating over $1.4 billion for our clients.**

California Consulting has a proven track record, writing over 670 successful grant applications totaling almost $166 million for our clients through grant writing alone. With over 20 grant writers, we have extensive experience in writing nearly every type of grant available whether it be Federal, State, Local or private foundation. At the outset of the contract, we conduct a thorough Needs Assessment in order to identify the priority needs of the City. Once these needs are identified we conduct extensive research to identify grant opportunities that align with those needs. The identified grant opportunities will include currently available opportunities along with upcoming grant opportunities not yet open for applications. Our Project Managers, along with input from City Staff, will create a long-term strategic plan that's designed to meet those funding needs. Once grants have been selected, a timeline for each grant will be provided to City Staff to ensure the grant is submitted timely. A detailed description of our processes and a sample timeline is included in this RFP Response.

California Consulting takes a collaborative approach to our grant writing services. While the City will be assigned a main Project Manager, they have our grant management team as well as over 20 grant writers available to them as resources for advice on unique grant opportunities and strategic planning. Our grant management team consists of Tristan Shamp - Statewide Grant Manager, Dana Leusch – Senior Director, and Danielle Sotelo – Deputy Grant Manager. The Project Managers we propose to work with the City of Banning are Jennifer Braun-Christensen or Ilya Malinsky. Individual resumes are included in this RFP Response.

We have three physical office locations with our main offices in Central and Southern California.

Southern California Office
214 Main St., Ste. 102
El Segundo, CA 90245

Central California Office
2491 Alluvial Ave., Ste. 609
Clovis, CA 93611

The contact person for questions regarding this RFP response is our Director of Operations, Shari Herbold. She can be reached at (559) 244-0801 or via email at shari@californiaconsulting.org.

Please see the enclosed original and five (5) copies along with one (1) CD in both Adobe PDF and Microsoft Word formats of the RFP Response per instructions. We would be honored to work with the City of Banning. We look forward to providing grant writing services to the City of Banning to help you achieve your funding goals.

I certify the information and data submitted is true and complete to the best of my knowledge.

Warmest regards,

Steve Samuelian
President

Company Profile

Firm Qualifications

Founded in 2004, California Consulting, LLC has offices in Southern, Central and Northern California. We have 30 members of our team throughout California with locations in Northern California and Central California with our main office in El Segundo, CA. California Consulting continues to grow and the majority of our new clients come from referrals from existing clients. We have built this solid reputation by effectively communicating with our clients and working hard for them. California Consulting, LLC is the largest grant writing firm in California. We have secured over $1.4 billion for our clients since inception through grant writing and governmental advocacy efforts combined.

California Consulting, LLC is the leader in the grant writing and advocacy industry. We have set the standard for:

1. Thorough knowledge of policy and grant writing expertise only usually reserved for large, national firms.
2. Hands on approach by the Owner, Steve Samuelian, on strategic planning and client care.
3. Grant advocacy for each client.
4. Collaborative team approach to grant writing. Our Project Managers (grant writers) use the team approach for every client.

California Consulting, LLC works collaboratively with our clients to create a strategy identifying funding opportunities that align with the client's needs, whether it's at the Federal, State or Private Foundation level.

California Consulting, LLC is committed to the following:

- Identifying client projects and pairing those projects with funding opportunities
- Developing quality grant applications
- Advocating for your grant application during the selection process
- Following up with grant agency to ensure timely fund distribution

Founder Experience

California Consulting, LLC Owner Steve Samuelian has held various leadership posts during a career spanning almost 30 years. He began as a volunteer for a political campaign and founded a political foundation where he served as president in high school and college. Steve graduated from California State Polytechnic University at Pomona with a degree in Political Science. In January 1995, he was appointed as Field Director for U.S. Congressman George Radonovich. He was later promoted to District Director overseeing the 19th Congressional District Office staff and District operations for the Congressman, where he served in this capacity for 8 years. Steve served on the

board of a Chamber of Commerce, on the board of Crime Stoppers and on the board of a County United Way.

A tireless worker for Armenian-American issues nationwide, Steve has traveled twice to Armenia. He traveled as an international election observer as part of the Office Organization of Security and Cooperation in Europe (OSCE) delegation to observe the adoption of Armenia's first Constitution. His election observation report was later filed in the US Congress Congressional Record.

In 2002, Steve was elected to the California State Assembly representing the 29th Assembly District. He was appointed to the Assembly Appropriations Committee by the Speaker and served as the Vice-Chairman of the Assembly Elections and Redistricting Committee.

Steve has been the keynote speaker, a panelist and has participated in many forums, conferences and events throughout California. He has been a guest speaker for League of Cities division meetings, Contract Cities, and other municipal and education groups. He has been interviewed by local, State and National Television, Radio and Newspaper outlets on a variety of issues related to local government and education.

Management Team

Tristan Shamp is our Statewide Grant Manager overseeing every facet of our grants program. Tristan joined California Consulting in June 2009 and has written over 250 grants earning over $15 million in grant awards for our clients. Tristan earned his Bachelor of Art's degree in History from the University of California, Los Angeles in 2005, Summa Cum Laude and has completed his Master of Arts degree in History at California State University Fresno in 2009, also Suma Cum Laude. Tristan has taught credited courses at CSU Fresno and has worked as a writing tutor and supplemental history instructor at Fresno City College. Tristan has completed the Grant Writing & Management Program through CSU Fresno in October 2010 and holds a professional certification in grant writing and program management.

Shari Herbold is our Director of Operations and she also assists the President with various special projects. Shari has been with California Consulting for over 4 years and is responsible for client retention and business development in the Central California region. In addition, she is responsible for all company operations and human resources. Shari's most recent experience is with the Fresno City Attorney's office where she supported three Senior Deputy City Attorneys in the Advisory Unit. She has over 8 years of experience in the legal field in the areas of immigration, civil litigation and land use. She has a combined experience of over 20 years in the Finance and Human Resources industries.

Dana Leusch is our Senior Director and has been with California Consulting for over 3 years. Dana, along with Tristan, oversees the grant department and grant quality assurance. She advocates for our clients at the State and local level for grant funding. Dana is one of our most successful grant writers with one of the highest awarded ratios for the firm. Dana has more than 18 years of experience in grant writing for nonprofit organizations and freelance writing and reporting for newspapers and magazines. As Development Coordinator for an organization in the Rocky

Mountains serving at-risk youth, her successful grant writing and fundraising led to the creation of a home for at-risk and homeless adolescent girls, which has since housed hundreds of teens in need.

Danielle Sotelo is our Deputy Grant Manager and assists with keeping our grant program running smoothly. Danielle has been with California Consulting for over 7 years. She has constructed over 270 federal, state and private foundation grants for school districts, cities and non-profit organizations. Danielle is directly responsible for writing and submitting grants that has resulted in over $5 million in awarded grants for our clients. She has administered state and federal grants to meet all reporting requirements. Danielle earned her Bachelor of Arts degree in International Relations with an emphasis in Political Science and a minor in Philosophy from Pepperdine University. She has worked in the office of a U.S. Congressman, has worked in Washington D.C. for the Guatemala Human Rights Commission, and has taught at San Joaquin Valley College.

Haig Kartounian is the Southern California Director for California Consulting. Haig has extensive experience in the public sector that spans over a decade. He began his career as Deputy District Director for policy and appropriations at Congressman Adam Schiff's district office. He synchronized legislative efforts from conception to enactment, liaised with government agencies, organized community outreach events, and advising the Congressman on issues ranging from federal funding initiatives, international relations, transportation, and the environment. In 2010-2011, Mr. Kartounian advised the U.S. Department of State's diplomatic mission in the Middle East on governance, infrastructure development, public diplomacy, and linguistics. Most recently, he served as Deputy Director of External Affairs for State Controller John Chiang. His responsibilities included partnerships with state and federal agencies for financial awareness, fraud prevention, and tax seminars, in addition to assignments that increased the transparency of public institutions.

Haig's professional experience includes assignments with the U.S. Department of Commerce, U.S. Department of Justice, Superior Court of California, Los Angeles County Registrar Recorder, and the Los Angeles World Affairs Council.

Haig holds a Bachelor of Arts in Political Science from the California State University, Los Angeles, a Master of Arts in International Studies from the Claremont Graduate University, and a Master of Business Administration from Pepperdine University's Graziadio School of Business and Management.

Organization and Staffing

We propose either Jennifer Braun-Christensen or Ilya Malinsky as the Project Manager for the City of Banning. The assigned Project Manager will be the main point of contact for the City. The Project Manager will conduct the initial Needs Assessment along with California Consulting Southern California Director, Haig Kartounian. Using our collaborative team approach to grant writing, your Project Manager may consult with the Management Team and other Project Managers on grants, strategy and any other subjects related to providing the City of Banning with the best possible service.

Jennifer Braun-Christensen is an Independent Consultant Project Manager at California Consulting for the Coachella Valley area. She has 15 years' experience in writing government, corporate and private foundation grants for nonprofit agencies, government agencies, and educational institutions. Jennifer's exceptional grant writing skills are enhanced by her 20 years' experience working in the corporate sector, where her experience and education led her to financial management and budget forecasting for corporation large and small. Jennifer Braun-Christensen has obtained nearly $12.5 million in grant funding for various organizations and has recently been recognized by the City of Desert Hot Springs, for her work on the Promise Zone designation, which Desert Hot Springs is currently 1 of 19 accepted applicants in the "Rural" designation.

Jennifer Braun-Christensen's passion for community development, social work, education and experience drive her to make a difference in her community by helping nonprofits, government agencies, and educational institutions obtain grant funds to achieve their given mission. She is also experienced in event coordination, and grassroots fundraising. She is comfortable in leadership positions, while understanding that to accomplish a goal, teamwork is the key to success.

Ilya Malinsky is an Independent Contractor Project Manager for California Consulting. With over a decade of professional writing experience, he has authored a wide range of successful grant proposals focusing on social services and education. During the last fiscal year, Mr. Malinsky helped secure nearly $1 million in grant funding for his clients.

Previously, Ilya has written grants for After-School All-Stars, Los Angeles Unified School District, and Jewish Family Service, as well as articles and content for organizations including AOL, Nielsen Business Media, and Audible.com.

Ilya has secured funding for a number of publicly and privately funded projects serving low-income communities and student populations. Projects have included educational and skill-building programs in underserved urban communities, programs for pregnant & parenting high school students, and comprehensive after-school programs for middle school students in cities including Los Angeles, Chicago, and Washington, DC. Ilya earned his Bachelor's Degree in Journalism from Boston University.

Please see resumes for Jennifer Braun Christensen and Ilya Malinsky, along with the California Consulting Organizational Chart at the end of this RFP Response.

Relevant Service with Reference

Since opening in 2004, California Consulting has written over 670 successful grant applications resulting in almost $166 million for our clients through grant writing alone. We currently serve approximately 85 clients statewide.

Below is a partial list of government agencies similar to the City of Banning we have obtained grant awards for:

Client	Grant Awards
City of Reedley	$2,510,723
City of Waterford	$2,052,449
City of Yuba City	$854,002
City of Chowchilla	$902,952

Since January of 2015, California Consulting has generated over $10 million for our clients through grant awards. Example grants for our municipal clients in 2015 are Land Water Conservation Fund, MLB Baseball Tomorrow Fund, CalFire Greenhouse Gas Reduction, California Department of Housing and Related Parks, Fire Prevention, CalRecycle Tire Derived, Transportation grants, and Air Pollution Control.

California Consulting gauges our success by the quality of the grants written as requested by our clients and the grants awarded. We regularly research and identify grants we feel would best fit our client's needs based on the ongoing communication with the client. We work in collaboration with the client in order to prepare and submit the best product possible. We also work smart by developing a strategic, long-term plan for funding by going after grant monies we know will not only benefit our client the most, but tailored to fit the client's eligibility increasing the ratio on grants submitted v. grants awarded.

References

City of Waterford - Tim Ogden – City Administrator/Manager; (209) 874-2328 x103; togden@cityofwaterford.org

Grants Awarded for Waterford:

1.	PetSmart Free Roaming Cat TNR Grant	$100,000
2.	CalRecycle Tire Derived	$17,438
3.	SJVAPCD Public Benefit Grant	$40,000
4.	SJVAPCD New Alternative Fuel Vehicle	$10,888
5.	Abandoned Watercraft Abatement Fund	$13,000
6.	Responsive Grants Program	$9,600
7.	CalFire Green Trees for the Golden State	$32,689
8.	Prop 84 California Rivers Parkway	$1,478,340
9.	State Legislated Safe Routes to Schools	$232,600

10. CalFire Urban Forestry Inventory Grant	$35,644
11. CalRecycle Tire Derived	$82,250

City of Patterson – Ken Irwin, City Manager; (209) 895-8015; kirwin@ci.patterson.ca.us

Grants Awarded for Patterson:

1. CalFire Urban & Community Forestry Greenhouse Gas Reduction Fund	$150,400
1. FEMA Fire Prevention and Safety	$1,800
2. FM Global Fire Prevention Grant	$1,800
3. Foundation for Youth Investment (FYI) Impact Fund	$40,000
4. CalFire Leafing Out Grant	$51,544
5. Energy Conservation Assistance	$2,876,172
6. State Legislated Safe Routes to Schools	$135,200

City of Newman – Michael Holland, City Manager; (209) 862-3665; mholland@cityofnewman.com

Grants Awarded:

1. Bullet Proof Vest Partnership Program	$2,583
2. Sierra Health Foundation Responsive Grants Program	$15,000
3. Tony Hawk Skate Park Grant	$5,000
4. SJVAPCD New Alternative Fuel Vehicle	$100,000
5. CalRecycle Tire Derived	$122,545
6. CalFire Green Trees for the Golden State	$32,038

Scope of Work

Grant Writing

California Consulting understands the City of Banning is seeking a Consulting Firm to provide professional grant evaluation, writing and management services. California Consulting is a full service grant writing firm. We are experts in the fields of grant research and identification, preparing comprehensive and concise grant application packages, submitting grants in a timely fashion and follow through after the grant has been submitted to determine the status of the grant.

California Consulting has a fundamental business philosophy founded on open communication and tailoring the grants we go after to fit the client's needs.

1. **Funding Needs Analysis and Needs Assessment (Meetings with City Department Heads to review priorities and funding needs):** We learn about the client at the outset of the contract by conducting an in-depth Needs Assessment at the City. Each client is assigned a lead Project Manager and they meet with the client regularly and talk with them on an ongoing basis. This relationship building is the key to keeping the grants pursued on target with the client's overall goals.

   Sample questions asked during the Needs Assessment:

   a) List and describe any program initiatives or priority projects.
   b) What needs, projects, or content areas would you like to target for funding? You can list specific projects or general areas in which you have funding needs.
   c) List any grants for which you are considering applying or have decided to apply. In addition, please list what kind of grant-writing support would be helpful for each grant.
   d) List past grants that have been funded.
   e) List past grant applications you would like to revise and submit again.

2. **Grant Research and Identification:** Our Project Manager's conduct thorough research on an ongoing basis. We have several grant related search engine and ListServ websites we subscribe to in order to research all current and upcoming Federal, State and Private Foundation grants. We track current and upcoming grants in order to let our client's know what is available and what we recommend would fit their situation. By regularly tracking grant announcements we are able to present these grant opportunities to our clients as soon as they are released.
3. **Notification of Grant Opportunities:** Based on the identified needs during the initial Needs Assessment and through ongoing communication, your Project Manager will provide you with grant opportunities on a regular basis. These opportunities will be communicated through email, phone communication and in person meetings. Your Project Manager will identify the grant opportunities that align most closely with the City's needs and can determine which grants the City has the best chance of getting awarded based on criteria.

4. **Strength or Competitiveness of City's Grant Capacity:** Our Project Managers are experts on grant identification. Your Project Manager will be able to assist the City in deciding which grants make the most sense on meeting the funding needs identified. The Project Manager will be able to advise the City on the strength of the City's project when competing for the grant.
5. **Grant Preparation Process:** We will write all sections of the grant application. We take your thoughts and ideas and turn them into a reality. By learning about your history, your needs and how the award will positively impact the City, we are able to communicate that information with a clear and concise grant package to get the agency's attention.
6. **Creating a Timeline**: When your staff and California Consulting agree to develop a grant proposal, we will develop a checklist and schedule. The checklist and schedule will include what things the City will be responsible for and when we will need them submitted to our office. We need your staff involved in the grant preparation process to provide required information we don't have access to. Your Project Manager will provide you with grant portions along the way for you to review for content accuracy. The more engaged you are able to be in this process, the higher quality the application will be. California Consulting retains copies of all grants we've submitted. If the application was successful, we use it as a guide for future grants.

   Below is a list of general tasks for our grant process:

   a. Create a task timeline with due dates
   b. Contact the funding agency to ensure project meets their criteria and timelines
   c. Review similar successful grant applications and apply where possible
   d. Collect information on the project, i.e. data, photos
   e. Meet with staff to create an accurate scope of work, budget, timeline, narratives, and cost analysis
   f. Attend pre-proposal conferences, webinars, as necessary
   g. Coordinate with local agencies and organizations as needed when applying for collaborative grants
   h. Obtain letters of support when necessary
   i. Work with City Staff to determine if City Council approval is required for submission and work with staff to prepare staff report for City Council
   j. Draft proposals and send to staff for review
   k. Incorporate staff edits in final drafts
   l. Ensure grant application is in the appropriate format with the required number of copies and all other grant requirements are met
   m. Submit completed application timely
   n. Monitor funding agency until grant awards are announced
   o. Obtain agency feedback if grant is not awarded and provide City with findings and advice on future applications

7. **Grant Review and Approval Process:** California Consulting takes pride in our impeccable grant applications. We have been successful in this area due to our thorough quality assurance measures. Our Grant Mangers conduct group meetings with all Project Managers twice each month. In addition, our Grant Managers meet individually with each

Project Manager regularly to review each client. These meetings thoroughly discuss the client's needs, what grants are being worked on and what additional grants may be a good fit. The review processes we use ensure the best quality product prior to final submission.

8. **Project Controls:** Depending on the compensation method chosen by the City, California Consulting will monitor and stay within the City's Budget allotted for grant writing services. If the monthly retainer option is chosen, the retainer covers the grant writing services at a monthly rate that stays the same each month. If the hourly rate option is chosen, we provide the City with a "not to exceed" amount for each grant chosen. If the "per grant" option is chosen, we will provide the City with a flat cost for the specific grant chosen. With the hourly rate and per grant options, the City approves the cost of any grant prior to the grant being submitted.
9. **Facilitation of Partnership Meetings:** Our Project Managers will arrange and schedule meetings with key City Personnel to review all grants prior to submission to ensure application accuracy.
10. **Timely Submission:** We create a precise timeline to ensure the grant is submitted on time. This timeline not only captures the submission deadline, but we create other deadlines in order to obtain the information needed for a quality submission. Everyone is on the same page and we know what needs to be done and when so there is no scrambling at the last minute. Below is a sample timeline for a CalFire grant:

EXAMPLE GRANT TIMELINE

CalFire Grant (Due January 2015)

Date	Activity/Action
August-September 2014	*Applicant completes Concept Proposal* Information Needed: - Types of trees desired to plant and number of trees & costs (for budget) - Types of tree planting materials needed & costs (for budget) - Sources of funding for matching funds - Community partners & contact info - Info on any previous similar work to tree planting grant
September 18	*Concept Proposal due to Cal Fire*
September – December 2014	*Concept proposal reviewed & if approved, applicant notified to apply for Full Proposal for Funding (by December)*
1st week December 2014	*Notified of approval to apply for full funding; contact applicant*
2nd week December 2014	*Start planning full application project – use Concept Proposal as foundation* Info Needed: - Calls/meetings with applicant to discuss project development - Commitment of client to go through with project

3rd Week December 2014	*Start developing narrative sections, scope of work, full budget* *Get resolution on docket* Info needed: - Resolution placed on agenda for Council/Board meeting; - Client provide any additional info for narrative sections, scope of work, budget (grant writer to use Concept Proposal application as basis for these parts) - Client provide site plans - Client provide site photographs
4th week December 2014	*Start environmental report & application assurance forms* Info needed: - Client typically provides info for environmental documentation - Client signs assurance forms
1st week January 2015	*Finalize narrative and budget sections, review* Info needed: - Review of narrative sections, scope of work, budget by client; revision of any items needing correction. - Contact & support secured from client partner organizations - letters of support provided - Contact with any vendors for trees, other products for grant - Client coordinate with grant writer and CalFire representative for general review
2nd week January 2015	*Finalize environmental report & assurance forms, complete resolution* Info needed: - Reviewed and signed environmental report - Copy of signed resolution provided for grant
3rd week January 2015	*Compile final application documents, final revisions* Info needed: - Signed application forms and assurances - All completed application documents reviewed and no issues remaining
3rd-4th week January 2015	Submit application to Cal Fire.

**Note: this timeline is based on past cycles and future cycles may not follow this exactly.*

11. **Grant Administration and Reporting:** Some grants require post award compliance, reporting and grant administration. California Consulting will prepare required agency reports and submit them by the required due date. We propose that to the extent legally allowed, the City hire California Consulting as grant administrators when dollars are available from within the grant (at no additional cost to the City). When grant dollars from the grant are not available for administration, reporting and evaluation purposes we will provide these services at no cost to the City if the monthly retainer option is selected. If

the City contracts with California Consulting on a per grant or hourly basis, these services can be contracted for at an hourly or flat rate basis.

12. **Monthly Reporting:** California Consulting will prepare a monthly report for the City reflecting grants in progress, grants submitted, grants awarded and upcoming grants. This will provide the City with a clear strategy on reaching funding goals. The report is useful for the City Manager to monitor the current strategy and make adjustments as needed. Additionally, the report is helpful as it provides an overview of the return on investment.
13. **City Contract Services Agreement and Insurance Requirements:** California Consulting has the ability to comply with the City standard Contract Services Agreement provided with the RFP. California Consulting maintains liability and workers compensation insurance and provides our clients with insurance certificates naming them as additional insured as required. California Consulting is licensed to do business in California and will obtain the required business license in the City of Banning if required.

Government Advocacy

California Consulting founder, Steve Samuelian is a former California State Legislator. Having this experience, expertise and established relationships with current State and Federal Legislator's gives us an edge on government relations. We specialize in relations with Government Agencies and perform government advocacy on behalf of our clients specifically with the Governor's Office, the State Legislature, and the Federal and State Agencies that issue grant monies. California Consulting maintains strong relationships with the Governor's Senior Staff and with the Departments that have grant money available for cities, i.e., Department of Housing and Community Development, Integrated Waste Management Board, FEMA, Department of Justice, State Water Resources Control Board, Department of Water Resources, Cal-Trans, Department of Parks and Recreation, Cal-EPA, Office of Traffic & Safety and many others.

California Consulting staff has regular contact with Legislators and decision makers in Sacramento and Washington DC to advocate for our client's funding needs and submitted grant applications.

Proposed Fee Schedule

California Consulting offers three different pricing options for Grant Writing for the City of Banning. This pricing includes services for grant research, grant identification, grant writing and post award administration. Any expenses to be reimbursed by the City are actual expenses and not subject to mark-up.

1. Monthly Flat Rate Option
2. Hourly Rate Option
3. Per Grant Option

Monthly Flat Rate Option

California Consulting offers a set monthly retainer to include the following unlimited services:

Task	Included in Price
Meet with City Staff to ascertain needs and goals	√
Conduct background research as requested by City	√
Attend meetings in person or by teleconference as necessary	√
Develop schedule for grants chosen by City	√
Develop evaluation strategies in accordance with funding agency's instructions	√
Adhere to decisions made by City relating to grants	√
Draft and finalize grant language with direction of City	√
Ensure timelines for grant submittal are met	√
Monthly reports to include grants in progress, grants submitted and grants awarded	√
Regular communication via email and/or phone regarding current and upcoming grant opportunities	√
Post award compliance and grant administration as required	√

We propose a flat monthly rate of **$4,400** plus reimbursement of out of pocket expenses to serve the City of Banning.

Hourly Rate Option

California Consulting, LLC can offer the above services for the City of Banning at the rate of $95 per hour plus reimbursement of out of pocket expenses. This hourly rate will remain the same for any Project Manager or Management Team Member assisting the main Project Manager assigned to the City of Banning.

Once the City of Banning has chosen a grant to pursue, we will provide the City with an approximate cost for the grant based on the time it will take to complete the grant at the hourly rate. We will provide a "not to exceed amount" to include any expenses prior to beginning work on the grant.



Per Grant Option

California Consulting can offer the above services for the City of Banning on a per grant basis. The following is a breakdown of cost per grant plus reimbursement of out of pocket expenses:

Grant Amount	Cost
Up to $10,000	$1,000
$10,001 - $50,000	$3,000
$50,001 - $100,000	$4,000
$100,001 - $250,000	$6,000
Over $250,000	$8,000

***All expenses to be reimbursed are actual expenses incurred for grant writing services. Such expenses may include copies, costs associated with binding (if required by grant agency), postage, overnight courier expenses, conference calls, and travel expenses. If awarded the contract, any expenses, or expenses over a specific amount can require preapproval by the City of Banning.*

Jennifer B. Christensen



Personal statement:
My passion for community development, social work, education and experience drive me to make a difference in our society by helping nonprofits obtain grant funds to achieve their given mission. I am experienced in event coordination, grassroots fundraising, and have managed the financial statements of companies big and small. I am comfortable in leadership positions, while understanding that to accomplish a goal teamwork is the key to success. I present well in person and in writing.

Accomplishments:
August 2014 - Graduated, 3.5 GPA Dean's List (Certificate) and named ***"Rising Star"***, UCR Nonprofit Management Program. Our curriculum consisted of *Nonprofit Management, Fundraising Essentials, Communications and Social Media Marketing, Grant Proposal Writing and Case Studies in Nonprofit Management.*

January 2015 - Received 2nd Round Designation for the Promise Zone Initiative on behalf of the City of Desert Hot Springs. The City of Desert Hot Springs is currently being reviewed by more than a dozen Federal agencies for potential final designation.

July 2014 - Received Anderson Children's Foundation grant via Futurenomic Resources, a nonprofit organization offering music production and enhancement to the "at-risk" youth of Desert Hot Springs.

April 2013 & 2014 - Co-Chair, DHS Day of the Young Child, wherein I assist in collaborating with several agencies to bring together their services and present them to the community of Desert Hot Springs. It is a day filled with food, fun, friends and informative services.

December 2012-2014 - Chair, DHS Holiday Parade. After four years of not having this event in our City, I helped in re-establishing the Holiday Parade for the community of Desert Hot Springs. I am currently serving as Chair for the DHS Holiday Parade.

Experience
Independent Grant Writer - Futurenomic Resources - April 2014 to October 2014
I have successfully written several grants and assisted in collaborating with various agencies to offer community events. One such event, Futurenomic Resources, in collaboration with several agencies, offered 400 backpacks, school supplies, cash prizes and entertainment in order to outreach to the community of Desert Hot Springs.

Student - Nonprofit Management and Volunteer Services - May 2009 to Present

Shift Manager - Borders, Rancho Mirage - January 2009 to May 2009
Job duties included: recruiting, training, supervising and appraising staff, managing budgets, maintaining statistical and financial records, planning, promoting and marketing the business, dealing with customer queries and complaints, overseeing pricing and stock control, maximising profitability and meeting sales targets, ensuring compliance with health and safety legislation and preparing promotional materials and displays.

Volunteer Fundraiser at Truman Elementary, La Quinta, CA - October 2006 - May 2009
As a "stay-at-home" wife and mother, I did not sit idly; I raised funds for the school garden, wrote several small grants for teachers and worked on the PTO. I was named "Volunteer of the Year" in 2008.

Owner/General Manager - Braun Business Solutions, Provo, UT - June 2003 to September 2006
Braun Business Solutions was a bookkeeping, payroll, taxes and accounting firm that went onsite to small businesses to offer its services to companies who did not have the wages and income to maintain a full-time bookkeeper or accountant. I began the business with one client and I sold the business three years later to our consulting accountant with more than 250 clients and 12 independent contractors. I oversaw and managed the 250 accounts and 12 contractors, ensuring and maintaining accuracy and efficiency. I also taught several business seminars on budgeting and Quickbooks and was certified as a "Quickbooks Pro."

References
Jan Pye - Desert Hot Springs Councilmember (760)567-1301
Carey Alvarez - Administrative Director, Children's Discovery Museum of the Desert (760)902-9505
Cathy Romero - Program Specialist, Family Services of the Desert (760)315-7416

Writing Samples
Grant Sample

The hope for our children comes with a change in how we educate and culturalize our youth. A 2007 study showed that students in elementary schools with superior music education scored 22% higher in English and 20% higher in math on standardized tests than students in schools with low-quality music programs. This was true regardless of socioeconomic levels.Futurenomic Resources (F.R.I.), a nonprofit 501(c)3 organization, works creatively with music and performing arts to promote the improvement of self-esteem, fitness and economic status through professional training and project completion for low-income and at-risk youth artists. At-risk and low income youth learn how a studio works, from pre to post-production. In addition to recording, the students learn about music promotion and booking, how to devise a business plan and how to organize a public event such as a concert or art show.

Case Management Final - Academic Writing
Solution

Many nonprofits in today's economy are functioning on a bare-bones staff already and cannot afford to have an Executive Director and General Manager. It must be the job of the Executive Director to lead and manage the organization and still provide a successful community-based program. Therefore, the Executive Director must have the skills necessary to carry-out the role of both leader and manager. How best do you ensure that your Executive Director has these skills? The solution has been enacted more and more in nonprofits across the world, Executive Directors are being educated and trained to build a strong Strategic Plan, implement a semi-annual review where the S.W.O.T. analysis is used to identify the organizations strengths, weaknesses, opportunities and threats and then implement and carry-out the plan.

Many programs, such as UCR's Nonprofit Management Program, are providing the education necessary to put more effective leaders at the forefront of nonprofits and giving them the skills necessary to offer services in their communities that truly impact those they serve.

Ilya Malinsky

Summary: Writing and editing professional with ten years of non-profit, editorial, and digital content experience. Bachelor's degree in Journalism from Boston University's School of Communication.

Selected experience:

9/2014 - present — **After-School All-Stars** — Los Angeles, CA
Senior Grant Writer

- Write grant proposals for after-school programs offering academic support, career exploration, project-based STEM learning, and health & fitness activities to nearly 75,000 students at 326 schools in 15 cities.
- More than $800,000 won in corporate and foundation funding.
- Conduct prospect research and solicitation.
- Write and edit copy for website and marketing collateral.

1/2014 - 7/2014 — **Jewish Family Service of Los Angeles** — Los Angeles, CA
Grant Writer

- Identified and wrote private and government grants to fund a variety of social services programs including domestic violence shelters, hunger relief, community gardens, diabetes self-management, older adult counseling, and nutrition education.

4/2012 - 9/2013 — **Corporation for National and Community Service** — Los Angeles, CA
Los Angeles Unified School District, *AmeriCorps VISTA member*

- Identified and applied to private, state, and federal grants for underserved student populations within Los Angeles, supporting various programs within LAUSD's Pupil Services & Attendance unit.
- Kept track of application deadlines and maintained contact with grant-making organizations.
- Collaborated on proposal documents with City of LA staff and LAUSD educators.
- Raised funds and facilitated attendance incentive programs at Annandale Elementary School in Highland Park, Calif.
- Reported directly to director of Pupil Services & Attendance unit.

2/2011 - 7/2011 — **AOL Music** — Los Angeles, CA
Deputy Editor (freelance)

- Increased unique daily users by 23% over previous year by implementing SEO techniques.
- Edited and published 10 articles per day, including news, interviews, and exclusive media premieres.
- Met and surpassed monthly goals for new Facebook and Twitter followers.
- Reported directly to Editor-in-Chief.

3/2009 - 2/2011 — **Four Seasons General Merchandise** — Los Angeles, CA
Web Content Editor

- Increased online sales by 8% over previous year.
- Composed and published email newsletters, press releases, marketing blasts, web banners, landing page copy, and website menus.
- Oversaw $10K budget for freelance copywriters.

2/2007 - 7/2008 **Nielsen Business Media** Los Angeles, CA

Content Manager (freelance)

- Aggregated, wrote, and published business news and trend reports for Outdoor Retailer and Fly Fishing Retailer's family of websites and blogs.

10/2004 - 8/2006 **Audible.com** Newark, NJ

Content Producer/Administrator

- Conceptualized and produced a podcast version of Stephen Colbert's speech at the White House Correspondents Dinner, a product that went to #1 in the iTunes Music Store.
- Wrote scripts to introduce audio editions of The New Yorker, Fast Company, Technology Review, Forbes, Wall Street Journal, and Harvard Business Review.
- Produced and directed monthly recording of podcast edition of Jazz Times magazine.
- Wrote summary copy for NPR programs that sold podcasts through Audible.

Education

Boston University, School of Communication '03 Boston, MA

9/1999 - 5/2003 Bachelor of Science, Journalism.



MUNICIPAL GRANT OPPORTUNITIES

CalRecycle: 2015-16 Tire Derived Product (TDP) Grant Program
Deadline: October 15, 2015
Amount: $150,000 maximum award. $650,000 allocated for entire TDP program.
Match: Grant only funds rubber product materials - any costs associated with construction and installation constitute matching funds.
Eligibility: cities, counties, public school districts, public colleges and universities, special districts, and park or recreational districts
http://www.calrecycle.ca.gov/Tires/Grants/Product/FY201516/default.htm
Under the TDP Program, applicants may apply for up to $150,000 of tire-derived rubber products for a variety of uses. Eligible products include, but are not limited to: mulch, bark, weed abatement coverings, tree care products, horse stall mats, arenas, playgrounds, tracks, sidewalks/pathways, sport surfacing, guard rails or components, railroad ties, sound barriers, and traffic safety products. The TDP can be used to fund rubber products for playgrounds, parklets and greenways, as well as drought-related landscaping projects. Only one application per qualifying entity will be accepted and only for projects within California. A minimum of 2,500 California-generated waste tires must be used per application. Multiple products/projects may be combined to achieve this minimum. Project(s) must not have previously received CalRecycle grant funds.

State Farm Company: 2016 Good Neighbor Citizenship Company Grants
Deadline: September 1, 2015 – October 30, 2015
Amount: $5,000 or greater
Match: None
Eligibility: Educational institutions; Government entities; 501(c)(3) nonprofit organizations
https://www.statefarm.com/about-us/community/education-programs/grants-scholarships/company-grants
Nationally, the State Farm Company supports communities through social investments and countrywide relationships. At a local level, our company grants focus on two areas: safety and education.
Safety Grants
State Farm values the importance of keeping our neighbors safe. Our funding is directed toward:

- Auto and roadway safety
- Teen Driver Education
- Home safety and fire prevention
- Disaster preparedness
- Disaster recovery

Education Grants
Creating better educated communities includes providing access to personal financial education and job training. Our funding is directed toward:

- Basic Economics
- Budget Counseling
- Employable Skills Training
- First Time Homebuyers Workshop
- Foreclosure Prevention Counseling

Additionally, we support efforts to provide all children with an education that will allow them to reach their greatest potential and prepare them to participate in a nation and economy that continues as a global leader. We fund three types of grants for K-12 public schools.

- Teacher Development
- Service-Learning
- Education Reform/Systemic Improvement

HCD 2015 Drought Housing Relocation Assistance Program
Deadline: October 20, 2015

Amount: Sponsors or Providers can apply for $150,000 - $1 Million
Match: None
Eligibility: Nonprofit corporations, units of local government, housing authorities
Eligibility Note: Fresno, Kings, Merced, Madera, Tulare, Tuolumne, Yolo counties are not eligible to apply as sponsors for this funding
http://www.hcd.ca.gov/financial-assistance/
The purpose of this program is to provide temporary assistance for persons moving from their Current Residence, which lacks reasonable access to Potable Water resulting from the drought for which the Governor declared a state of emergency on January 17, 2014, via Executive Order B-29, dated April 1, 2015. The program will provide appropriate temporary assistance as defined in the program guidelines for a period of twelve (12) months. The program may also utilize available funds to leverage or complement Other Rental Housing Subsidy Programs providing temporary assistance to qualifying households.

Caltrans: FY 2015-16 Sustainable Communities Transportation Planning Grant
Deadline: October 31, 2015
Amount: $50,000 - $500,000
Match: 11.47% minimum (in cash or an in-kind* contribution). The entire minimum 11.47% local match may be in the form of an in-kind contribution.
Eligibility: Metropolitan Planning Organizations and Regional Transportation Planning Agencies; Transit Agencies; Cities and Counties; Tribal Governments
http://www.dot.ca.gov/hq/tpp/offices/orip/Grants/grants.html
The FY 2015-16 Sustainable Communities Transportation Planning Grant funds transportation planning projects that achieve the Caltrans Mission and Grant Program Overarching Objectives, identify and address mobility deficiencies in the multimodal transportation system, encourage stakeholder collaboration, involve active public engagement, integrate Smart Mobility 2010 concepts, and ultimately result in programmed system improvements.

Caltrans: Low Carbon Transit Operations Program (LCTOP)
Deadline: November 1, 2015
Amount: Varies. $25 Million allocated to program
Match: None
Eligibility: Eligible agencies and transit operators must appear on the LCTOP Eligibility List:
http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/3228-ggrf/2014-2015.lowcarbon.eligibility.list.pdf
The Low Carbon Transit Operations Program (LCTOP) is one of several programs funded as part of 2014-15 State of California budget (by Senate Bill 852 and Senate Bill 862) which has a goal of reducing greenhouse gas emissions and achievement of other benefits. These programs are funded by auction proceeds from the California Air Resource Board's (ARB) Cap-and-Trade Program, with proceeds deposited into the Greenhouse Gas Reduction Fund (GGRF). Approved projects will support new or expanded bus or rail services, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance and other costs to operate those services or facilities, with each project reducing greenhouse gas emissions. Legislation passed in 2011, Senate Bill 535 which requires that programs funded from revenues in the GGRF result in benefits to disadvantaged communities. For transit agencies whose service areas include disadvantage communities, at least 50 percent of the total funds received shall be expended on projects or services that benefit the DAC.

US EPA: 2015 Urban Waters Small Grant Program
Deadline: November 20, 2015
Amount: $60,000 maximum
Match: $4,000 minimum
Eligibility: States, local governments, Indian Tribes, public and private universities and colleges, public or private nonprofit institutions/organizations, intertribal consortia, and interstate agencies
http://www2.epa.gov/urbanwaters/20152016-urban-waters-small-grants-request-proposals
The U.S. Environmental Protection Agency (EPA) is soliciting proposals from eligible applicants for projects that will advance EPA's water quality and environmental justice goals. Proposed projects will address urban runoff pollution through diverse partnerships that produce multiple community benefits, with emphasis on underserved communities. Note that proposed project activities must take place entirely within one of the Eligible Geographic Areas, as illustrated on the interactive map provided on the Urban Waters Small Grants mapping website at http://www2.epa.gov/urbanwaters/urban-waters-small-grants-mapping. EPA's Urban Waters Program helps local residents and their organizations, particularly those in underserved communities, restore their urban waters in ways that also benefit community and economic revitalization.

State Water Resources Control Board: Water Recycling Funding Program (WFRP)
Deadline: December 2015 (currently accepting applications via FAAST system)
Amount: $75,000 (for Planning Grants); $15-$20 Million (for Construction Grants)
Match: 25% (for Planning Grants); 50% (for Construction Grants)
Eligibility: local public agencies
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/proposition1_funding.shtml
The State Water Resources Control Board (State Water Board) provides funding for the planning, design, and construction of water recycling projects that offset or augment state fresh water supplies. There are two programs within this fund:

- **Planning Grants:** The purpose of the planning grant is to assist agencies or regions with completing feasibility studies for water recycling projects using treated municipal wastewater and/or treated groundwater from sources contaminated by human activities. Only local public agencies are eligible to apply for planning grants.
- **Construction Grants:** The Water Recycling Funding Program provides grants and financing to eligible applicants for the construction of water recycling facilities. Construction projects may be funded with grants and low interest financing from a state bond, a CWSRF financing agreement, or combinations of funding sources. Eligible applicants are local public agencies, nonprofit organizations, public utilities, state & federal recognized Indian tribes, and mutual water companies.

PetSmart Charities: Free-Roaming Cat Spay/Neuter Program
Release: January 15, 2016
Deadline: Continuous until funding exhausted
Amount: Up to $200,000
Match: None
http://www.petsmartcharities.org/pro/grants
The Free-Roaming Cat Spay/Neuter Program is intended to provide funding and mentoring for high-impact trap-neuter-return projects. The goal is to stabilize and ultimately reduce the free-roaming cat population within a specific geographic area. Target areas may include all or part of a county, city, township, ZIP code, census tract, neighborhood, mobile home park, or other location.

Strategic Growth Council (SGC): Affordable Housing and Sustainable Communities (AHSC) Grant Program
Release: January 2016 (Draft guidance now available for public comment)
Deadline: TBD
Amount: The maximum AHSC Program loan or grant award, or combination thereof, for a TOD, ICP and RIPA Project Area is $20 million with a minimum award of at least $1 million.
Match: None
Eligibility: A Locality, public housing authority, redevelopment successor agency, transit agency or transit operator, Regional Transportation Planning Agency (RTPA), local Transportation Commissions, Congestion Management Agencies, Joint Powers Authority (JPA), school district, facilities district, University or Community College District.
http://www.sgc.ca.gov/s_ahscprogram.php
The purpose of the AHSC Program is to reduce greenhouse gas (GHG) emissions through projects that implement land-use, housing, transportation, and agricultural land preservation practices to support infill and compact development, and that support related and coordinated public policy objectives, including the following:

1. reducing air pollution;
2. improving conditions in disadvantaged communities;
3. supporting or improving public health and other co-benefits as defined in Section 39712 of the Health and Safety Code;
4. improving connectivity and accessibility to jobs, housing, and services;
5. increasing options for mobility, including the implementation of the Active Transportation Program established pursuant to Section 2380 of the Streets and Highway Code;
6. increasing transit ridership;
7. preserving and developing affordable housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code; and (8) protecting agricultural lands to support infill development.

CA Department of Parks & Recreation (CA State Parks): Land Water Conservation Fund
Deadline: February 3, 2016
Amount: $2,000,000 maximum request
Match: dollar for dollar (1 to 1); applicants will have to demonstrate they can fund 100% of the project costs; then will be reimbursed for 50% of that total.
Eligibility: Cities, counties and districts authorized to acquire, develop, operate and maintain park and recreation areas

http://www.parks.ca.gov/?page_id=21360
The California Department of Parks and Recreation and its Office of Grants and Local Assistance (OGALS), in partnership with the National Park Service (NPS) offers the Land Water Conservation Fund (LWCF) to provide funding for cities and counties to acquire, develop, operate and maintain park and recreation areas and facilities. Priority development projects include trails, campgrounds, picnic areas, natural areas and cultural areas for recreational use. Property acquired or developed under the program must be maintained in perpetuity for public outdoor recreation use.

State Water Resources Control Board: Interim Emergency Drinking Water and Drought Related Drinking Water Funding Application
Deadline: Applications accepted until June 30, 2016
Amount: $500,000
Match: None
Eligibility: Public Agencies, Community Water Systems, Not-for-Profit Organizations, Tribes
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/caa/dw_droughtfund/index.shtml
On March 27, 2015, Governor Brown approved a $1 billion emergency drought relief package to take effect immediately. As a result of the Governor's action, the State Water Resources Control Board (State Water Board) approved $19 million in funding from the Cleanup and Abatement Account to meet interim emergency drinking water needs for those communities with a contaminated water supply or that suffer drought related water outages or threatened emergencies. Eligible projects include Bottled Water; Well Repair, Well Rehabilitation, and Replacement; Vending Machines; Point of Use Devices (for example, Filtration); Hauled Water; Emergency Interties; and Treatment Systems.

Major League Baseball Foundation: Baseball Tomorrow Fund
Deadline: Quarterly (January 1, April 1, July 1, & October 1)
Amount: $40,000 average award size
Match: 50% or more of total project cost
Eligibility: Tax exempt organizations including municipalities, school districts, and 501(c)(3) nonprofits
http://web.mlbcommunity.org/index.jsp?content=programs&program=baseball_tomorrow_fund
The Baseball Tomorrow Fund is a joint initiative between Major League Baseball and the Major League Baseball Players Association designed to promote and enhance the growth of youth participation in baseball and softball around the world by funding programs, fields, coaches' training, uniforms, and equipment. Grants are intended to finance a new program, expand or improve an existing program, undertake a new collaborative effort, or obtain facilities or equipment necessary for youth baseball or softball programs. The Baseball Tomorrow Fund supports projects that meet the following evaluation criteria: increase the number of youth participating in baseball and softball programs; improve the quality of youth baseball and softball programs.

The Hardwood Forestry Fund Grants
Deadline: Quarterly each year -- March 31, June 30, September 30, and December 31
Amount: Varies -- Funding restricted to $1/seedling or less
Match: None.
Eligibility: States, local governments, universities, nonprofits
http://www.hardwoodforestryfund.org/?page_id=105
The Hardwood Forestry Fund promotes hardwood timber growth, management, education, and environmentally sound uses of renewable forest resources by providing grant funding to partnering organizations. The Hardwood Forestry Fund supports sustainable forestry by funding selective tree planting, direct seeding, natural regeneration, management, and hardwood research requests. Member forest products companies, foundations, and individuals provide funding for Hardwood Forestry Fund projects. The Fund supports projects on public land including state, local, or university land, or on property owned by non-profit organizations. The land must be allocated for multiple use. Appropriate planting sites include: idle land being converted to forest, sites damaged by wildfire, insect or disease, ice, or wind storm, and naturally regenerating sites lacking desired stocking or species composition.

GRANTS WITH CONTINUOUS DEADLINES

Burlington Northern Santa Fe Railway Foundation
Deadline: Continuous
Amount: $100 - $500,000
Match: None
Eligibility: Nonprofit organizations, local government agencies, and educational institutions in communities served by the Burlington Northern Santa Fe Railway
http://www.bnsffoundation.org/

The Burlington Northern Santa Fe Railway Foundation provides support in communities in the company's area of operations. The Foundation considers requests falling in the following categories:

- Civic Services: This area includes organizations which are concerned with the environment and local community issues, such as crime prevention, parks and recreation, diversity and community development.
- Cultural Organizations: This area includes performing arts, visual arts, fine arts, and museums and other related activities that offer opportunities for underserved children to experience cultural learning events.
- Educational Institutions: This area includes both public and private education, primarily at the college level. (Grants of an exceptional nature may be made to vocational and non-college schools. Preferably, contributions will be directed toward the improvement of the quality of education.)
- Health and Human Service Organizations: This area includes hospitals, medical programs, and programs that address chemical dependency treatment and prevention, spouse and child abuse, women's and children's aid, and transitional shelters.
- Youth Organizations: This area includes Boys & Girls Clubs, Camp Fire, Scouts, Junior Achievement, and similar groups.

Federated organizations such as United Way and American Red Cross are also supported.
To be considered for a grant, requests should meet at least two of the following criteria:
The organization or project has significant Burlington Northern Santa Fe (BNSF) employee participation; the organization or the services provided are in close proximity to a BNSF main line or BNSF is the only railroad or major corporation in the applicant's area of the state; the request is related to the railroad industry; or, the request is for direct programming or project support.

California Energy Commission: The Energy Partnership Program
Deadline: Continuous
Amount: $20,000 of a consultant's costs
Match: Any amount in excess of the $20,000 provided by CEC
http://www.energy.ca.gov/efficiency/partnership/index.html
The Energy Partnership Program can conduct an energy audit of existing facilities identify energy saving projects, including: Conduct energy audits and prepare feasibility studies; Review existing proposals and designs; Develop equipment performance specifications; Review equipment bid specifications; Assist with contractor selection; and Review commissioning plans. The Energy partnership also provides technical assistance early in the design phase of new facility construction, including: Provide design review consultation; Identify cost-effective, energy-saving measures; Compare different technologies; Review schematics and construction plans; Provide equipment specification consultation; Develop computer simulation models of your planned project; Help select experienced professionals with energy efficiency expertise; and Assist with system commissioning.

California Farmland Conservancy Program
Deadline: Continuous
Amount: Varies
Match: 5% of grant total
http://www.conscrv.ca.gov/dlrp/cfcp/funding/Pages/request_grant_app.aspx
The Department of Conservation's California Farmland Conservancy Program provides grants to local governments and qualified nonprofit organizations for:

- voluntary acquisition of conservation easements on agricultural lands that are under pressure of being converted to non-agricultural uses;
- temporary purchase of agricultural lands that are under pressure of being converted to non-agricultural uses, as a phase in the process of placing an agricultural conservation easement;
- agricultural land conservation planning and policy projects; and,
- restoration of and improvements to agricultural land already under easement

California Statewide Communities Development Authority: Statewide Community Infrastructure Program (SCIP)
Deadline: Continuous
Amount: Varies. Financing is for low interest, tax-exempt bonds.
Eligibility: Public agencies
http://cscda.org/Apply-Online/Statewide-Community-Infrastructure-Program
In response to the increasing local agency staff time and budget pressures caused by new commercial, industrial or residential development, CSCDA offers the Statewide Community Infrastructure Program ("SCIP").

California Statewide Communities Development Authority: Taxable Bonds Program Deadline: Continuous

Amount: Varies. Financing is for low interest, tax-exempt bonds.
Eligibility: Public and private entities
http://cscda.org/Apply-Online/Taxable-Bonds
This program offers public and private entities taxable bonds for projects that provide public benefit and economic development. Longer term taxable bonds can often provide cost savings and other efficiencies.
Note: This funding opportunity is being listed on the Municipal Grant List so that cities can offer it to eligible organizations within their community.

California Statewide Communities Development Authority: Total Road Improvement Program (TRIP)
Deadline: Continuous
Amount: Varies. Local governments leverage their State Motor Vehicle Fuel Tax to finance road improvement projects.
Eligibility: Local public agencies (cities and counties)
http://cscda.org/Public-Agency-Programs/Total-Road-Improvement-Programs-(TRIP)
CSCDA offers a pooled securitization program to assist local agencies in bonding against future payments to obtain funding for more projects today. As a pooled public offering, program participants will benefit from reduced issuance costs and better interest rates as compared to stand alone issues. The program does not require a pledge of the local agency's General Fund.
The Gas Tax Accelerated Street Improvement Program will allow local governments to leverage their State Motor Vehicle Fuel Tax (the "Gas Excise Tax") to finance road improvement projects. The use of proceeds from the Gas Excise Tax, an 18-cent State excise tax collected on fuel sales, is restricted to the maintenance and construction of public streets and highways. The obligations will be secured solely by a pledge of Gas Excise Tax revenues of the participating agencies.

FEMA: Fire Management Assistance Grant Program (FMAGP)
Deadline: Continuous
Amount: $500,000
Match: FMAGP provides a 75% Federal cost share and the State pays the remaining 25% for actual costs.
http://www.fema.gov/fire-management-assistance-grant-program
The Fire Management Assistance Grant Program (FMAGP) funds the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. The FMAGP declaration process is initiated when a State submits a request for assistance to the FEMA Regional Director at the time a "threat of major disaster" exists. The entire process is accomplished on an expedited basis and a FEMA decision is rendered in a matter of hours. Eligible firefighting costs may include expenses for field camps; equipment use, repair and replacement; tools, materials and supplies; and mobilization and demobilization activities.

FireFighters Charitable Foundation
Deadline: Continuous
Amount: Varies
Match: None
http://www.ffcf.org/
Assists fire and disaster victims; and supports Volunteer Fire Departments. Grants offered for the following needs/programs: AED (Automatic External Defibrillator); Fire Department Equipment Program; Community Smoke Detector Program; and the Juvenile Fire-setter Prevention and Intervention Program.

Fire Fighters Support Foundation, Inc.
Deadline: Quarterly
Amount: $5-10,000
Match: None
http://www.ffsupport.org/assistance.html
The Firefighters Support Foundation pro-actively makes contributions to funds established for the children of fallen firefighters. This financial support may be applied for by downloading, completing, and mailing an application on the foundation's website.

Fireman's Fund Heritage Program
Deadline: Continuous
Amount: Varies
Match: None
https://www.firemansfund.com/home/policyholders/about_us/supporting_firefighters/index.html

Fireman's Fund awards grants to fire departments and fire & burn prevention organizations to support firefighters for safer communities. These grants can be used to purchase needed equipment, firefighter training, and community education programs.

FM Global Fire Prevention Grant Program
Deadline: Continuous
Award amount: $2500-$5000
Match: None
http://www.fmglobal.com/page.aspx?id=01060200
Through the Fire Prevention Grant Program, fire departments and brigades, as well as national, state, regional, local and community organizations can apply for funding to support a wide array of fire prevention, preparedness and control efforts, including:

- Pre-fire planning for commercial, industrial and institutional facilities
- Fire and arson prevention and investigation
- Fire prevention education and training programs

State Water Resources Control Board: CAA Interim Emergency Drinking Water
Deadline: Continuous
Amount: Varies ($4 Million allocated for program)
Match: None
http://www.waterboards.ca.gov/drinking_water/programs/index.shtml
The State Water Resources Control Board (State Water Board) has approved $4 million in funding from the Cleanup and Abatement Account (CAA) to provide interim replacement drinking water for economically disadvantaged communities with contaminated water supplies. In an effort to distribute funds as quickly and efficiently as possible, the State Water Board will coordinate with the Regional Water Quality Control Boards, the California Department of Public Health (CDPH) district offices, the Office of Emergency Services, and other stakeholders (e.g. environmental justice groups, community assistance groups, etc.) to identify those disadvantaged communities that are most at-risk and would benefit from financial assistance. ELIGIBILITY NOTE: Pubic Agencies, Not-for-Profit Water Districts, Not-for-Profit Organizations, Tribal Governments are eligible to apply

State Water Resources Control Board: Clean Water State Revolving Fund (CWSRF) Program
Deadline: Continuous
Amount/Financing: No maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.
Eligibility: Any city, town, district, or other public body created under state law, including state agencies
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/
The Clean Water State Revolving Fund (CWSRF) program offers low cost financing for a wide variety of water quality projects. The program has significant financial assets, and is capable of financing projects from <$1 million to >$100 million. Eligible projects include, but are not limited to:

1. Construction of publicly-owned treatment facilities: Wastewater treatment; Local sewers; Sewer interceptors; Water reclamation and distribution; Stormwater treatment; Combined sewers; Landfill leachate treatment
2. Implementation of nonpoint source (NPS) projects to address pollution associated with: Agriculture; Forestry; Urban Areas; Marinas; Hydromodification; Wetlands
3. Development and implementation of estuary comprehensive conservation and management plans for: San Francisco Bay; Morro Bay; Santa Monica Bay

State Water Resources Control Board: Proposition 1 Small Community Wastewater Program
Deadline: Continuous
Amount/Financing: $260 Million allocated to program. Like CWSRF (see above) there is no maximum funding or disbursement limits. Financing Term up to 30 years or the useful life of the project. Interest Rate is ½ the most recent General Obligation (GO) Bond Rate at time of funding approval.
Eligibility: Most cities, towns, districts, or other public bodies created under state law, including state agencies
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/projects.shtml
Section 79723 of Prop 1 allocates $260 million to the Clean Water State Revolving Fund (CWSRF) Small Community Grant (SCG) Fund. The State Water Board has an annual SCG appropriation of $8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG authority. Administering these funds as a part of the CWSRF Program allows grant funds to be easily leveraged with

low-interest financing available through the CWSRF Program. CWSRF applications are accepted on a continuous basis, and eligible projects are funded as applications are completed and approved.

State Water Resources Control Board: Safe Drinking Water State Revolving Fund (SDWSRF)
Deadline: Pre-application, requires annual invitation
Amount: $ 500,000-$5,000,000
Match: 20% of eligible project costs
http://www.waterboards.ca.gov/drinking_water/services/funding/SRF.shtml
This program provides support to engage in the demonstration of innovative technologies, methods, practices, and techniques in three areas: operational safety, infrastructure or equipment resiliency, and all-hazards emergency response and recovery methods.

Stuart Foundation Grant Funding
Deadline: Continuous (LOIs may be submitted at any time)
Amount: Varies. The amount requested from the Foundation should be proportionate to your organizational budget, project budget, and expected income from other sources
Match: None
Eligibility: school districts, universities, and government entities such as city or county agencies in California
http://www.stuartfoundation.org/BecomeOurPartner
The Stuart Foundation is dedicated to transforming the public education and child welfare systems in California and Washington so that all youth can learn and achieve in school and life. The Foundation supports nonprofit organizations that address the following priorities: The Education Systems category invests in coordinated programs, partnerships, and research and policy analysis that help students to learn and achieve in school by developing effective education systems. The Vulnerable Youth in Child Welfare category partners with child welfare agencies to help children and youth in foster care to realize positive outcomes in the following focus areas: safety, permanency, well-being, education opportunities, and youth, family, and community engagement. Letters of inquiry may be submitted at any time; the Foundation will take up to 60 days to respond to an LOI.

Union Pacific Foundation Community-Based Grant Program
Deadline: Preliminary applications: August 14, annually; Final applications: August 15, annually
Amount: $10,000
Match: None
Eligibility: Nonprofit organizations and local municipalities in communities served by the Union Pacific Railroad
http://www.up.com/found/index.shtml
The Union Pacific Foundation's mission is to improve the quality of life in the communities served by Union Pacific, primarily in the Midwestern and western United States. (A map of Union Pacific's service area is available on the UP website.)The Foundation's Community-Based Grant Program provides support in the following areas:

- Community and Civic: The goal is to assist community-based organizations and related activities that improve and enrich the general quality of life. This category includes organizations such as aquariums, botanical gardens, children's museums, history/science museums, public libraries, public television and radio, and zoos.
- Health and Human Services: The goal is to assist organizations dedicated to improving the level of healthcare and providing human services in the community. Local affiliates of national health organizations may apply for local programs only, but not for general operating support.

The Foundation has a strong interest in promoting organizational effectiveness among nonprofits. To that end, the Foundation will dedicate the majority of these grants to help nonprofit organizations build their capacity, increase their impact, and operate more efficiently and effectively.

USDA Rural Development: Community Facilities Grants & Loans
Deadline: Continuous
Amount: Varies by population & income (typically no larger than $30,000)
Match: Varies by population & income (60% - 80%)
http://www.rurdev.usda.gov/CA-CFPrograms.html
Community Facilities Programs provides grants to assist in the development of essential community facilities in rural areas and towns of up to 20,000 in population. Grants are authorized on a graduated scale. Applicants located in small communities with low populations and low incomes will receive a higher percentage of grants. Grants are available to public entities such as municipalities, counties, parishes, boroughs, and special-purpose districts, as well as non-profit corporations and tribal governments.

UPCOMING GRANTS

California Energy Commission: Water Energy Technology (WET) Program Grants for Commercial, Residential, Industrial and Renewable Power Desalination
Release: September 2015
Deadline: TBD (likely late 2015/early 2016)
Amount: Varies. $16 million allocated for entire program.
Eligibility: Public Agencies
http://www.energy.ca.gov/wet/
In response to California's drought, Governor Brown's Executive Order B-29-15 outlines bold steps to save water, increase enforcement of water use standards, streamline the state's drought response, and invest in new water energy technologies. To accelerate the deployment of innovative water and energy saving technologies and reduce greenhouse gas emissions, the California Energy Commission, jointly with the Department of Water Resources, and the State Water Resources Control Board, will implement a Water Energy Technology (WET) program to provide funding for innovative technologies that meet the following criteria, contingent on legislative approval of funding:

- Display significant water savings, energy savings, and greenhouse gas emission reductions
- Demonstrate actual operation beyond the research and development stage.
- Document readiness for rapid, large-scale deployment (but not yet widely deployed) in California.
- Technology must be commercially available.
- Funds must be used in existing facilities.

CalRecycle: Tire-Derived Product Grant Program (TDP) FY 2015-16
Release: TBD (estimated October 2015)
Deadline: TBD (estimated January 2016)
Amount: $150,000
Match: Any costs not covered by the project, including construction/installation
Eligibility: California cities, counties, public school districts, public colleges and universities, special districts, park or recreational districts, and state agencies
http://www.calrecycle.ca.gov/tires/grants/product/default.htm
CalRecycle offers the Tire-Derived Product (TDP) Grant Program to promote markets for recycled-content products derived from waste tires generated in California and decrease the adverse environmental impacts created by unlawful disposal and stockpiling of waste tires. Product can be used for agricultural/landscape, recreational, or transportation-related purposes.

US Fish & Wildlife Service: 2016 Endangered Species Grants
Release: TBD (likely October 2015)
Deadline: TBD (likely January 2016)
Amount: Varies. $50 Million in previous 2015 program budget.
http://www.fws.gov/endangered/grants/grant-programs.html
Program Description Matrix:

Grant Program	Purpose	Species Benefiting	Applicants	Competition	Financial Match Requirement*
Conservation Grants	implementation of conservation projects	federally listed threatened or endangered species	States or Territories that have entered into cooperative agreements with the Service for endangered and threatened species conservation	formula	25% of estimated project cost; or 10% when two or more States or Territories implement a joint project
Recovery Land Acquisition	acquisition of habitat in support of approved recovery goals or objectives	federally listed threatened or endangered species	States or Territories that have entered into cooperative agreements with	regional competition	25% of estimated project cost; or 10% when two or more States or Territories

			the Service for endangered and threatened species conservation		implement a joint project
Habitat Conservation Planning Assistance	support development of Habitat Conservation Plans (HCPs)	federally listed threatened or endangered species, proposed and candidate species, and unlisted species proposed to be covered by the HCP**	States or Territories that have entered into cooperative agreements with the Service for endangered and threatened species conservation	national competition	25% of estimated project cost; or 10% when two or more States or Territories implement a joint project
Habitat Conservation Plan (HCP) Land Acquisition	acquisition of land associated with approved HCPs	federally listed threatened or endangered species, unlisted (including State-listed species), proposed and candidate species covered by the HCP**	States or Territories that have entered into cooperative agreements with the Service for endangered and threatened species conservation	national competition	25% of estimated project cost; or 10% when two or more States or Territories implement a joint project

*As required under Section 6 of the Endangered Species Act, grants to states and territories must include a minimum contribution by the project's non-Federal partners. These contributions can be in-kind, through staff time or use of non-Federal equipment, or financial assistance.

**A species covered by the HCP is any species (listed or unlisted) that is included in the section 10(a)(1)(B) permit, thus receiving incidental take authorization.

US Soccer Foundation: Safe Places to Play Grants
Deadline: TBD (Likely February 2016)
Amount: $4,000 - $50,000 or a percentage of total project amount in form of vendor credit
Match: None required officially; applicants will have to contribute additional funds not covered by the grant award
Eligibility: Tax-exempt organizations including: 501(c)(3) nonprofits, churches, individual schools or school districts, cities or municipalities.
http://www.ussoccerfoundation.org/our-grants/
Safe Places to Play grants are available in four categories: Synthetic Turf, Lighting, Irrigation, and Sport Court. Multi-sport field projects are eligible for funding, but such fields must be used a majority of the time for soccer. Multi-field projects are also eligible. All Safe Places to Play grants (except for Irrigation) can be awarded for either indoor or outdoor field projects. Grants are disbursed as in-kind credit with their respective vendor:

- *Synthetic Turf Grant Amount*: up to 10% of the Hellas project quote.
- *Lighting Grant Amount*: Typically in the range of 15%-30% of project total, with a maximum of $25,000 per grant for single fields and $50,000 for multi-field projects.
- *Irrigation Grant Amount*: Typically in the range of $4,000 - $15,000, with a maximum of $15,000 per grant.
- *Sport Court Grant Amount*: Typically in the range of 15% - 50% of project total, with a maximum of $30,000 per grant.

No cash is disbursed as part of this grant. Grantees must use the specific vendor as the supplier for their field project. Applicants are required to submit an LOI describing basics of the project prior to being approved to submit a full application for funding.

California State Transportation Agency (CALSTA)/Caltrans: 2016 Transit & Intercity Rail Capital Program
Deadline: TBD (likely April 2016)
Amount: Varies. $25 Million allocated in 2014-15.
Match: None, but leveraging grant request strongly desired
Eligibility: Public agencies, including joint powers authorities, that operate existing or planned regularly scheduled intercity rail service (and associated feeder bus service), commuter rail, commuter bus service, or bus and rail transit service.

http://www.dot.ca.gov/hq/MassTrans/tircp.html
The Transit and Intercity Rail Capital Program (TIRCP) was created by Senate Bill 862 (Chapter 36, Statutes of 2014) to provide grants from the Greenhouse Gas Reduction Fund to fund capital improvements and operational investments that will modernize California's transit systems and intercity, commuter, and urban rail systems to reduce emissions of greenhouse gases by reducing vehicle miles traveled throughout California. The goals of the TIRCP are revenue to fund capital improvements and operational investments that will reduce greenhouse gas emissions, modernize California's intercity rail, and bus and rail transit systems to achieve the following objectives:

- Reduction in greenhouse gas emissions;
- Expand and improve rail service to increase ridership;
- Integrate the rail service of the state's various rail operations, including integration with the high-speed rail system; and
- Improve safety.

Projects eligible for funding under the program include, but are not limited to, the following: 1. Rail capital projects, 2. Intercity and commuter rail projects that increase service levels, improve reliability, or decrease travel times. 3. Rail integration implementation 4. Bus rapid transit and other bus transit investments to increase ridership and reduce greenhouse gas emissions.

State Water Resources Control Board: Proposition 1 Stormwater Grant Program
Release: TBD (likely December 2015)
Deadline: TBD (likely Spring 2016)
Amount: Up to $100,000 for planning grants; up to $500,000 for implementation grants
Match: 50% of the total project cost
Eligibility: Public agencies; 501(c)(3) nonprofits; public utilities; tribes; mutual water companies
http://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop1/
The Prop 1 Stormwater Grant Program promotes regional water Security, climate, and drought preparedness by contributing to improved storm water resource management to: Help water infrastructure systems adapt to climate change; Provide incentives throughout each watershed to collaborate in managing water resources and setting regional priorities for water infrastructure; and Improve regional water self-reliance. $200 million shall be available for grants for multi-benefit storm water management projects. Eligible projects may include, but shall not be limited to: Green infrastructure; Rainwater and storm water capture projects; Stormwater treatment train facilities; and Stormwater Resource Plan development (per Section
79704).

Proposition 1 Funding Schedule

*Proposition 1 authorized $7.545 billion in general obligation bonds for water projects including surface and groundwater storage, ecosystem and watershed protection and restoration, and drinking water protection. The State Water Resources Control Board (State Water Board), Department of Water Resources, California Energy Commission, and other state agencies will administer Proposition 1 funds. The **estimated** implementation schedule for each is outlined below. As individual webpages are developed for each program, those links will be provided.*

Funding Program	Description	Funding Amount	Draft Guide-lines	Public Work-shops	Final Guide-lines	Links
SWRCB: Small Community Wastewater Program **Guidelines & Application Now Available**	The State Water Board has an annual SCG appropriation of $8 million dollars, which is administered consistent with the CWSRF Intended Use Plan (IUP), and the CWSRF Policy. The Prop 1 funds will supplement existing SCG authority. Administering these funds as a part of the CWSRF Program allows grant funds to be easily leveraged with low-interest financing available through the CWSRF Program. CWSRF applications are accepted on a continuous basis, and eligible projects are funded as applications are completed and approved.	$260 million	Feb. 2015	March 2015	June 2015	http://www.waterboards.ca.gov/water_issues/programs/grants_loans/small_community_wastewater_grant/projects.shtml

SWRCB: Water Recycling Fund **Guidelines & Application Now Available**	The purpose of the WRFP is to promote water recycling by providing technical and financial assistance to local agencies and other stakeholders in support of water recycling projects and research. The WRFP functions through a number of core activities and supporting activities. Proposition 1, Water Bond (2014) water recycling guidelines and additional information will be available in early 2015.	$625 million*	Feb. 2015	April 2015	June 2015	http://www.waterboards.ca.gov/water_issues/programs/grants_loans/water_recycling/index.shtml
CEC/DWR: Water Energy Technology (WET) Program	To accelerate the deployment of innovative water and energy saving technologies and reduce greenhouse gas emissions, the California Energy Commission, jointly with the Department of Water Resources, and the State Water Resources Control Board, will implement a Water Energy Technology (WET) program to provide funding for innovative technologies that meet the following criteria, contingent on legislative approval of funding: – Display significant water savings, energy savings, and greenhouse gas emission reductions – Demonstrate actual operation beyond the research and development stage. – Document readiness for rapid, large-scale deployment (but not yet widely deployed) in California. – Technology must be commercially available. – Funds must be used in existing facilities.	$30 million	June 2015	June-July 2015	Sept. 2015	http://www.energy.ca.gov/wet/
DWR: Prop 1 Sustainable Groundwater Planning (SGWP) Grant	The SGWP Grant Program is designed to provide funding for projects that develop and implement groundwater plans and projects consistent with groundwater planning. Projects that are eligible to receive funds through the SGWP Grant Program must advance sustainable management of groundwater by doing one or more of the following items: ϖ Advancing the purpose of Proposition 1 Chapter 10, Groundwater Sustainability. ϖ Being consistent with Division 7 (commencing with Section 13000) of the Water Code and Section 13100 of the Government Code (Water Code §79707.(h)). ϖ Promoting State planning priorities and sustainable community strategies (consistent with Section 65041.1 and 65080 of the Government Code) (Water Code §79707.(i)).	$100 Million	Aug. 2015	Aug. – Oct. 2015	TBD	http://www.water.ca.gov/irwm/grants/sgwp/index.cfm
SWRCB: Stormwater Grant Program	The Prop 1 Stormwater Grant Program promotes regional water Security, climate, and drought preparedness by contributing to improved storm water resource management to: Help water infrastructure systems adapt to climate change; Provide incentives throughout	$200 million	August 2015	Sept. – Oct. 2015	Dec. 2015	http://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop1/

	each watershed to collaborate in managing water resources and setting regional priorities for water Infrastructure; and Improve regional water self-reliance. $200 million shall be available for grants for multi-benefit Stormwater management projects. Eligible projects may include, but shall not be limited to: Green infrastructure; Rainwater and stormwater capture projects; Stormwater treatment train facilities; and Stormwater Resource Plan development (per Section 79704).					
Clean, Safe and Reliable Drinking Water	Program under development.	$260 million	April 2015	May 2015	August 2015	To Be Developed
Groundwater Sustainability	Program under development.	$800 million**	April 2016	May 2016	August 2016	To Be Developed

*Proposition 1 authorized $725 million; Department of Water Resources (DWR) will administer the remaining $100 million for desalinization projects.
** Proposition 1 authorized $900 million; DWR will administer the remaining $100 million to fund projects that develop groundwater management plans

THIS PAGE LEFT BLANK INTENTIONALLY

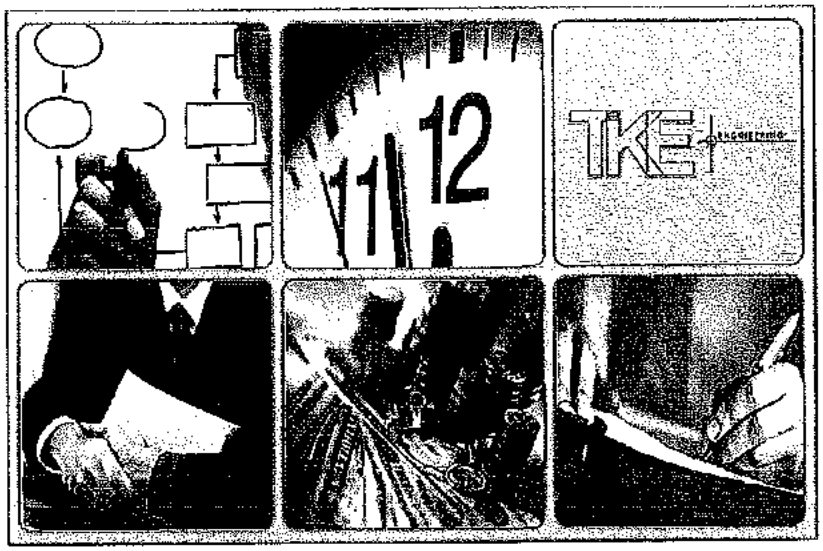
PROPOSAL

REQUEST FOR PROPOSALS (RFP) FOR GRANT WRITING SERVICES

for

City of Banning

99 East Ramey St.
P.O. Box 998
Banning, CA 92220-0998



Prepared By:

TKE

2305 Chicago Avenue
Riverside, Ca 92507
p. 951.680.0440

www.tkeengineering.com

September 30, 2015

City of Banning
Office of the City Clerk
99 E. Ramsey Street
Banning, CA 92220

Subject: Grant Writing Professional Services

Ladies and Gentlemen,

Thank you for the opportunity to present these materials outlining TKE Engineering's qualifications to provide professional grant writing services to the City of Banning (City). Enclosed herein is our proposal for professional grant writing services. Since TKE is already providing services to the City, staff is familiar with TKE. However, as it relates to this particular task, TKE has a long history of working with public agencies to develop projects, identify appropriate funding streams, prepare funding applications, and administer these same grants.

Why should the City choose TKE to provide grant administration services? Please consider the following:

1. Our Team-in addition to TKE's extensive grant administration experience mentioned above, the City will also benefit greatly by the knowledge, vision, leadership, and dedication to community exhibited by TKE's project team. TKE's comprehensive experience with both water and transportation related funding programs will provide the City with a "one stop shop" for grant needs. In addition, the City will greatly benefit from our Project Manager's considerable experience. He is currently serving the City of Calimesa as its City Engineer and as such is attending regional meetings on behalf of Calimesa. As a result of these meetings, Mr. Thornton has developed a comprehensive understanding of regional funding programs including TUMF. Mr. Thornton is supported by a team of experienced engineering professionals that have been with the firm for many years. Greater details of our project team are presented in our proposal.

2. Our Experience and Qualifications-comprehensive experience and qualifications are presented in our proposal. TKE water grant related opportunities include:

a. Federal Funding – US EPA, WRRDA

b. State – TKE recently assisted another client with a successful application for the State Proposition 84 Integrated Regional Water Management program, a program that will continue to provide funding opportunities to the City. He is continuing to manage the project on behalf of the agencies to ensure project completion and grant funding requirement compliance. In addition, TKE's experience includes a number of transportation program opportunities as discussed below:

- Federal Programs – currently, the U.S. Congress is considering a new transportation funding bill (Developing a Reliable and Innovative Vision for the Economy "DRIVE") that will fund transportation improvement projects such as the type of project anticipated to be completed in the City. The current bill approved by the US Senate subject to amendment by the US House of Representatives will authorize $270 billion over 6 years. DRIVE will maintain programs from MAP-21 (currently expiring federal transportation program) including the National Highway Performance Program (NHPP); the Highway Safety Improvement Program (HSIP); the Surface Transportation Program (STP); and the Congestion Mitigation and Air Quality Improvement Program (CMAQ). TKE has successfully prepared applications for these programs and continues to administer program processing on behalf of local jurisdictions. Key elements in the

2305 Chicago Avenue • Riverside, California 92507
(951) 680-0440 • Fax (951) 680-0490

applications are related to economic benefits, safety, congestion mitigation, environmental compliance, and project delivery performance.

- State Programs – transportation programs funded by State bond proceeds expired in 2012; however, the State is currently considering legislation that will fund infrastructure improvements. TKE continues to monitor legislative progress related to infrastructure financing for local agencies.
- Regional Programs – funding is generated through both Measure A proceeds and TUMF. In 2014, RCTC's Multi-Funding source call for project included funding from Western Riverside County Measure A Regional Arterial (MARA) for projects that are designated as regional arterials. TUMF is divided between regional arterial projects administered by RCTC and WRCOG Zones. TKE continues to provide other agencies with consulting services related to funding from these sources. In addition, RCTC implements the Active Transportation Program (ATP). Many of the above referenced programs are administered through Caltrans Local Assistance. TKE has and continues to provide Caltrans Local Assistance administrative services to our clients. We maintain a comprehensive understanding of project processing with Caltrans.

3. **Our Commitment**-TKE is committed to providing high quality, efficient services to meet all of the City's grant funding needs. Prior to beginning any services, TKE's Project Manager will meet to discuss the grant program goals and objectives including project delivery scheduling needs. Our Project Manager will be in contact with the City staff weekly to ensure services are proceeding on schedule and are within allocated budgets. It is this personal touch and contact that define our "local service" approach. We consider ourselves community builders and take ownership of projects assigned to TKE, ensuring that our personnel will be allocated on an as needed basis in order to complete all projects on schedule.

   Our broad array of services and in-house team provides the City a trusted consultant to turn to in any challenge, no matter how simple or complex. We pride ourselves in the management and completion of special, atypical projects and thrive on challenging budgets and deadlines. It is this commitment to service and diverse array of offerings that makes us unique and drives our long-standing relationship with our client base and it is these qualities and that make us "the right fit" for the City.

4 **Our Value**-TKE's management team and staff are fundamentally committed to creating value in each task that we perform. As such, we have created a professional culture wherein each member of our staff constantly strives for increased efficiency, ultimately allowing us to provide highly professional services at competitive rates. This culture of constant value creation and increased efficiencies ensures that the services contracted to, and provided by TKE, will always mean good stewardship of public resources.

Thank you for your consideration. TKE would very much appreciate the opportunity to submit a comprehensive proposal to provide services. If you have any questions, please call me at (951)680-0440 or e-mail me at mthornton@tkeengineering.com.

Sincerely,

Michael P. Thornton, P.E., P.L.S., M.S.
President
TKE Engineering, Inc.

SECTION 2: BRIEF COMPANY PROFILE

FIRM

TKE Engineering, Inc. (TKE) is a full-service, local, multi-disciplinary firm with a wide range of experience in public improvement projects. TKE was established in 2000 and over the past fifteen years has earned a reputation for providing quality services to our clients, including the City of Calimesa. Our broad range of successful services includes turnkey grant administration, design, program and project management, and delivery for a diverse array of public projects. The City of Banning (City) benefits from our broad range of experience through our intimate understanding of the legislative and grant funding selection process and our past history of successfully overcoming these challenges.

TKE's office is located at 2305 Chicago Avenue, Riverside, California, 92507, just 30 minutes away from the City. Michael Thornton, P.E., President of TKE, will serve as the project manager and the City's main point of contact. Mr. Thornton would be responsible for all day to day activities and can be reached by phone at (951) 680-0440, and by email at mthornton@tkeengineering.com.

Mr. Thornton has extensive experience with grant acquisition and administration. Mr. Thornton delivered 36,100 linear feet of waterline replacement and related improvements for the Mission Springs Water District that included a $5.0 million grant acquisition and administration under Proposition 13. In addition, Mr. Thornton has managed the successful acquisition of over $10.0 million in grant funding under Proposition 84 and Proposition 1E for a 2,000 acre-feet flood control and groundwater recharge basin in the City of Fontana. Regarding similar grant acquisition and management experience, TKE has successfully acquired millions of dollars for our clients for a wide range of project types through grants and loans, as well as special legislation at both the State and Federal level. Our funds acquisition services are enhanced by integration with our design services to facilitate integrated project delivery, expediting project start up and completion, and ensuring compliance with funding requirements. Our extensive experience in the acquisition of infrastructure funding allows us to provide our clients with the unique solutions they require.

The following is a listing of relative services provided by TKE:

Civil Engineering

TKE's Civil Engineering projects have included:

- Grant Acquisition
- Grant Administration
- District Formation and Administration
- Special Tax Assessments and Administration
- Urban Water Management Plans
- Water Resource Studies
- Master Plans
- Water Supply Assessments/Water Supply Verifications
- Fee and Rate Studies
- Roadway and Highway Improvement Funding, Planning, Design, Bidding and Construction
- Infrastructure Master Planning/Capital Improvement Program (CIPs) Development and Management
- Hydrologic Studies/Hydraulic Design
- Potable and Recycled Water Infrastructure Funding, Planning, Design, Bidding and Construction
- Sanitary Sewer Infrastructure Funding, Planning, Design, Bidding and Construction
- Sewer and Water System Hydraulic Analysis
- Storm Water Pollution Prevention Plans (SWPPP)
- Sediment and Erosion Control Facilities
- Hydromodification Studies/Water Quality Management Plans (WQMPs)

UNDERSTANDING OF SERVICES

The City desires to retain a qualified engineering consultant to provide grant evaluation, writing, and management services. Increasing pressures on public financial resources has necessitated creative new ways to finance much needed community improvements. Recognizing this simple truth, our team has taken a proactive approach to funding acquisition and grant writing. The key to being successful in grant writing, funds acquisition and management industry is specialized knowledge of funding opportunities and the ability to handcraft a message that is an ideal fit for that opportunity.

TKE will apply our extensive experience with grant writing and management to meet the needs of the City needs, as described below.

Identify and Prioritize City Projects

TKE will review the City's Capital Improvements Projects, Master Plans, General Plan and Circulation Element, and growth impacts to develop a comprehensive list of projects. TKE will meet with City staff to prioritize the list of projects. Lastly, we will identify funding streams and match to projects based on need, funding availability, schedule, and budget.

Identify Funding Sources and Opportunities

TKE has assisted clients secure funding from the following programs:

- State Water Resources Control Board - State Revolving Fund Program

- Department of Water Resources – Proposition 40 Grant Program
- Department of Water Resources - Infrastructure Rehabilitation Grant
- Federal SRTS and State SR2S (Safe Routes to Schools)
- Federal Transportation Funding thru Caltrans Local Assistance
- State Proposition 1E and 84 Flood Management Funding
- Air Quality Management District
- Environmental Protection Agency

TKE's remains involved and up to date on all working or past and future funding programs. With that knowledge and program database, TKE will identify various funding sources and opportunities available to the City. Creative grant program management often relies on multiple funding sources to complete a single project.

Prepare Grant Applications

TKE brings a well rounded approach to preparing grant applications. The grant application process is only partly completing the application in accordance with funding notification and proposal solicitation packages. TKE's approach begins with a meeting between the City and the Funding Agency to explain the project and get feedback on how the project will fit with the funding program. Insight is gained on what key project elements and benefits the Funding Agency is looking for. TKE will assist City Staff in engaging the City Council to work with Federal, State, Regional, and Local agencies for project support. For certain funding opportunities, TKE has assembled upwards of 20 support letters to better highlight the project's need, impact in the community, and public/legislative backing. Additionally, TKE technical analysis for projects is aimed at identifying and highlighting economic benefits and safety improvements. These are key scoring elements in all grant application.

Prepare a Long-Range Funding Application Program

TKE will develop a project and funding stream matrix for the City to rely on for both short- and long-range grant planning. Identifying funding opportunities early will provide the City with an understanding of future Capital Improvements Projects planning and staffing needs. TKE, along with City Staff, will follow up on and any unsuccessful funding application. Understanding why projects were not selected for funding will provide insight in prioritizing future grant planning efforts.

Provide Grant Administration and Reporting

TKE will serve at the main point of contact between the City and Funding Agency. We will administer the grant on behalf of the City including:

- Agreement Coordination and Execution
- Funding Expenditure Authorization for Various Phases of Work
- Project Reporting (e.g. quarterly and final)
- Project Accounting and Invoicing
- City Council Presentations and Updates
- Compliance with Funding Agency Rules and Regulations (e.g. Right-of-Way Acquisition Processes, Environmental Compliance Documentation)

TKE has a long history of grant acquisition and management, and delivering multi-disciplinary projects for several of the surrounding communities in which we live and work in on a daily basis, as shown in our project experience in Section 4 including grant administration. From our first project in 2000 to our current grant administration, TKE has always understood the importance of grant funding for infrastructure improvements to the local community.

PROJECT APPROACH

Successful grant delivery is our goal. Our definition of successful grant delivery is:

- Timely identification of projects and funding streams
- Grant application completion that meets all program requirements
- Project completion within budget
- Project completion on schedule

Our approach to the City's grant program, dictates that grant administration decisions must be made quickly but carefully. When this is coupled with the various constraints present with any project, it is critical that the City choose a consultant with a proven track record of delivering. With a familiar team of senior level professionals, TKE is the right choice for grant program development and administration.

With programs of this nature, our experience tells us that there must be a proactive approach to completing the work. This approach includes early identification of critical design elements and experience with common challenges. In preparing this proposal, our team researched our past grant experience and reviewed the RFQ to establish key issues so we can be prepared to mobilize on a moment's notice to assist you.

SECTION 2: BRIEF COMPANY PROFILE

Critical Issues

Identification of Critical Issues

We have identified a couple of critical issues related to the project and they are presented in the following paragraphs:

Understanding Program Scoring

As mentioned above, successful grant applications rely on understanding how the Funding Agency will score project applications. Presenting a project to specifically meet the program needs and scoring criteria will lays out the framework for the peer review committee to easily identify how the project is directly in line with scoring criteria. This will result in higher scoring applications.

Application Deadlines

Each funding opportunity has different requirements for submittal process. Understanding the application submittal requirements and process will provide the best chance in avoiding application deadlines. TKE makes sure we are familiar with online submittal procedures and any required website registrations.

Go/No-Go Approach

TKE spends to time to identify eligibility, number of grants being awarded, maximum grant award, and recent/nearby funding awards under the same program. Understanding this will allow TKE to determine the likelihood of successful grant applications.

SECTION 3: ORGANIZATION AND STAFFING

PROJECT TEAM

As presented in the RFQ, our project team has extensive experience with not only grant writing and management, but our approach in delivering successful grant applications. TKE has successfully acquired and/or managed $5.0 million under Proposition 40 for a flood control and groundwater recharge basin in the City of Upland, $1.0 million under Proposition 84 for a storm drain and basin improvements in the City of Ontario, $0.75 million under Proposition 84 for a flood control and groundwater recharge basin in the City of Yucaipa, and $5.0 million under Proposition 1E for a flood control and groundwater recharge basin in the City of Redlands.

Further, TKE has successfully acquired and currently managing a $3.3 million grant from South Coast Air Quality Management District under AB1318 Emissions Mitigation Fees Fund for a 1.0 megawatt solar facility in the City of Desert Hot Springs, a $0.45 million grant from US Department of Transportation Highway Safety Administration Congestion Mitigation and Air Quality Improvement (CMAQ) Grant Program for preliminary engineering and environmental documentation on a freeway overpass in the City of Calimesa.

Lastly, TKE is currently managing a $0.75 million grant from US Environmental Protection Agency for the preliminary design of storm drain and flood control facilities in the City of Calimesa, a $0.90 million grant from the Caltrans Safe Routes 2 School Program for non-motorized transportation safety improvements in the City of Calimesa, $1.4 million from the US Department of Transportation Highway Safety Administration SAFETEA-LU program for preliminary engineering and right-of-way acquisition in the City of Calimesa.

Michael P. Thornton, President of TKE, upon selection of TKE, will serve as the Principle in Charge. He will be responsible for all services provided by TKE.

Michael P. Thornton,
P.E., L.S., M.S.
President,
TKE Engineering, Inc.
P.L.S. No. 6867
R.C.E. No. 44226



Mr. Thornton has over 28 years of experience as a civil engineer. He has worked on a variety of grant funding applications and grant funded engineering projects including street improvements, park improvements, bike trail improvements, drainage improvements, water system improvements, wastewater system improvements, and reclaimed water system improvements projects. Mr. Thornton has been responsible for managing including funding administration, planning, evaluating, and designing these projects and has provided construction engineering and surveying services for many of these same projects.

In addition to project related experience mentioned above and detailed in his full corporate resume, Mr. Thornton has provided consulting engineering services to various communities for grant writing and management services.

In addition, during 2009 and 2010, Mr. Thornton served the City of El Monte as its engineer delivering more than $20 million of capital improvements. All of these projects included outside funding sources requiring funding compliance processing through Caltrans Local Assistance and other regional transportation agencies.

Mr. Thornton's greatest attribute is his ability to understand grant application intentions. His vast experience ensures success again and again. He also understands the importance of working as a team member. Mr. Thornton will be given direction from the City's Staff. He fully understands the need to maintain proper protocol while providing services. He further understands that his role will be to implement policy and follow directions.

Terry Renner
Vice President,
TKE Engineering, Inc.
R.C.E. No. 69984



Mr. Renner has 15 years of engineering and grant management experience as a Project and Construction Manager. Mr. Renner is a Registered Civil Engineer in the State of California. He has extensive experience in the design and construction of grant funded public works improvement projects, including project management, design engineering, construction management and surveying services. In addition, as detailed on Mr. Renner's resume, he has experience with drainage studies preparation, design and construction engineering for street, sewer and drainage system improvement projects. He will assist with grant management tasks throughout the course of providing engineering and construction services.

SECTION 3: ORGANIZATION AND STAFFING

David Kinzle
Senior Project Manager
TKE Engineering, Inc.



Mr. Kinzle has 21 years of experience providing grant writing and management services to local government, including Capital Improvement Programming, complex multi-fund project budget accounting, grant identification, grant writing, and grant program management from expenditure authorization through project close-out. Mr. Kinzle is also experienced in the implementation of Safe Routes to School programs.

Mr. Kinzle is experienced in identifying grant opportunities to fund various types of capital improvements including capacity and traffic enhancements, environmental enhancements, safety, maintenance, bikeways, trails, and in identifying and scoping projects to meet the requirements, goals, and schedules of the various grant programs. In addition, Mr. Kinzle has managed more than 40 awarded projects totaling over $27 million.

Mr. Kinzle developed and maintains an expenditure and revenue balance sheet for tracking a $135 million 5-year Capital Improvement Program with 75 projects across 35 funding sources. The balance sheet is dynamic and provides ease for shifting funds to determine the best leverage. This balance sheet has proven to be a very valuable tool for the Engineering and Finance Department.

SECTION 3: ORGANIZATION AND STAFFING



Mr. Michael Thornton, P.E., P.L.S., M.S.

Project Role
Project Manager and Principal-in-Charge

Education
MS, Civil Engineering, California State University, Long Beach

BS, Civil Engineering, California State Polytechnic University, Pomona

Registration
Registered Civil Engineer, PE 44226 (CA)
Professional Land Surveyor, LS 6867 (CA)

Affiliations
American Society of Civil Engineers

American Water Works Association

California Rural Water Association

American Public Works Association

American Council of Engineering Companies

Mr. Thornton, TKE's President, is in charge of all TKE projects. He has over 29 years of experience in engineering planning, design, land surveying and construction management for public works projects. He has worked on a variety of public works engineering projects including sewer improvements, street improvements, park improvements, bike trail improvements, drainage improvements, and reclaimed water system improvements projects. Mr. Thornton has been responsible for managing including funding administration, planning, evaluating, and designing these projects and has provided construction engineering and surveying services for many of these same projects.

Related Experience

- *Vulcan Basin, City of Fontana, CA*- Mr. Thornton is managing development, design, and construction administration for a flood control and aquifer recharge basin project located in the central part of the City. The site is current a formerly mined pit that has no community benefit. The City has essentially completed site acquisition negotiation and Michael, on behalf of the City, prepared a Proposition 1E application for funding. The project includes preparation of basin, storm drain, spillway, and structural detail construction documents (drawings, specifications, and estimates), hydrology and hydraulic analyses, environmental compliance, storm water pollution prevention plan preparation, right-of-way acquisition, aerial mapping, and related civil engineering services.
- *Opal Basin, City of Redlands, CA* – Mr. Thornton managed pre-project planning, development, and preliminary design for the proposed Opal Basin. The proposed Opal Basin is located on the north east corner of Citrus Avenue and Opal Avenue in an unincorporated area of the County of San Bernardino. Currently the site is used as a citrus grove and has been for many years. Under the proposed design, the site would be graded to hold 830 acre feet of storm and recharge waters and includes a walking trail around the basin. The basin would retain much of the same appearance as currently exists from the perimeter preserving at the property boundary. Mr. Thornton was successful in helping the City receive $5 million in grant funding.
- *Dos Palmas Waterline Replacement, Desert Hot Springs, CA* – Mr. Thornton managed the Dos Palmas Water Replacement Project is located in the City of Desert Hot Springs north of Dillon Road. TKE provided aerial target layouts with aerial mapping provided by Aerotech Surveys for construction document preparation for approximately 36,100 linear feet of water system replacement improvements including; pipeline, valves, fire hydrants, meters and appurtenances. Proposed improvements provided replacement for leaky pipelines and services with State grant funding. TKE also prepared legal descriptions, right-of-way acquisition plats, temporary construction easement plats and grant and easement deeds for 5 separate parcels. TKE prepared a successful grant application through the Department of Water Resources providing $5 million dollars to Mission Springs Water District.
- *AQMD Grant, Mission Springs Water District, CA* – Mr. Thornton prepared a

grant application for Mission Springs Water District through AQMD, a regional governmental agency responsible for meeting air quality health standards. The grant application was prepared requesting $10 million for an emission reduction project related to renewable energy. The grant application was submitted in June of 2012 and is currently under review by AQMD for selection.

SECTION 3: ORGANIZATION AND STAFFING



Mr. Terry Renner, P.E., Q.S.D.

Project Role
Director of Civil Design, Alignment Alternatives and Permitting

Education
BS, Civil Engineering, California State Polytechnic University, Pomona

Continuing Education
Caltrans SWPPP Certified QSP/QSD Training

Registration
Registered Civil Engineer, PE 69984 (CA)

Qualified SWPPP Developer and Practitioner #24329

Affiliations
Riverside-San Bernardino Counties Branch, American Society of Civil Engineers

American Public Works Association

American Council of Engineering Companies of California

Mr. Renner is the Vice President of TKE and has 15 years of experience in civil engineering infrastructure projects, including drainage improvements, sewer and water improvements, transportation improvements, facilities improvements and recreation improvements. He has managed numerous projects and has delivered projects for the City of Rialto as well as the cities of Fontana, Upland, Riverside, Redlands, and Corona. As a project manager, Mr. Renner has been responsible for design production, supervising a staff of engineers and drafters, coordinating work between the production team and the client, and for submitting all deliverables in a timely manner. He has successfully delivered a wide variety of complex and challenging projects and is dedicated to ensuring that the plans produced by TKE continue to exceed industry standards.

Related Experience

- *Vulcan Basin, City of Fontana, CA* – Mr. Renner is managing project design for a flood control and aquifer recharge basin project located in the central part of the City. The site is current a formerly mined pit that has no community benefit. The City has essentially completed site acquisition negotiation and Michael, on behalf of the City, prepared a Proposition 1E application for funding. The project includes preparation of basin, storm drain, spillway, and structural detail construction documents (drawings, specifications, and estimates), hydrology and hydraulic analyses, environmental compliance, storm water pollution prevention plan preparation, right of way acquisition, aerial mapping, and related civil engineering services
- *Opal Basin, City of Redlands, CA* – Mr. Renner was the Project Engineer for pre-project planning, development, and preliminary design for the proposed Opal Basin which is located on the north east corner of Citrus Avenue and Opal Avenue, in an unincorporated area of the County of San Bernardino. Currently the site is used as a citrus grove and has been for many years. Under the proposed design, the site would be graded to hold 830 acre feet of storm and recharge waters and include a walking trail around the basin. The basin would retain much of the same appearance as currently exists from the perimeter preserving at the property boundary. Mr. Renner was successful in helping the City receive $5 million in grant funding.
- *Dos Palmas Waterline Replacement, Desert Hot Springs, CA* – Mr. Renner managed the Dos Palmas Water Replacement Project is located in the City of Desert Hot Springs north of Dillon Road. TKE provided aerial target layouts with aerial mapping provided by Aerotech Surveys for construction document preparation for approximately 36,100 linear feet of water system replacement improvements including, pipeline, valves, fire hydrants, meters and appurtenances. Proposed improvements provided replacement for leaky pipelines and services with State grant funding. TKE also prepared legal descriptions, right-of-way acquisition plats, temporary construction easement plats and grant and easement deeds for 5 separate parcels. TKE prepared a successful grant application through the Department of Water Resources providing $5 million dollars to Mission Springs Water District.
- *AQMD Grant, Mission Springs Water District, CA* – Mr. Renner prepared a

grant application for Mission Springs Water District through AQMD, a regional governmental agency responsible for meeting air quality health standards. The grant application was prepared requesting $10 million for an emission reduction project related to renewable energy. The grant application was submitted in June of 2012 and is currently under review by AQMD for selection.

SECTION 3: ORGANIZATION AND STAFFING



David Kinzle

Project Role

Mr. Kinzle provides Project Management Services at TKE. He has over 35 years of engineering experience in San Bernardino and Riverside Counties, in both public works and land development.

Mr. Kinzle has 18 years of experience providing on-call services to local government, including project development and processing, right-of-way acquisitions, Capital Improvement Programming, complex multi-fund project budget accounting, grant identification, grant writing, and grant program management from expenditure authorization through project close-out. Mr. Kinzle is also experienced in the implementation of Safe Routes to School programs.

Related Experience

- *Capital Improvement Programming, City of Highland*

  Mr. Kinzle is experienced in identifying grant opportunities to fund various types of capital improvements including capacity and traffic enhancements, environmental enhancements, safety, maintenance, bikeways, trails, and in identifying and scoping projects to meet the requirements, goals, and schedules of the various grant programs.

  Mr. Kinzle developed and maintains an expenditure and revenue balance sheet for tracking a $135 million 5-year Capital Improvement Program with 75 projects across 35 funding sources. The balance sheet is dynamic and provides ease for shifting funds to determine the best leverage. This balance sheet has proven to be a very valuable tool for the Engineering and Finance Department.

- *Grant Writing*

  From 2004 through 2013, Mr. Kinzle has submitted over 70 competitive Grant Applications totaling over $68 million, of which 40 were awarded totaling over $27 million, a 60% success rate.

  Grant Programs to which Mr. Kinzle has been successful include:

  - (SR2S) State Safe Routes to School – 7 awards
  - (HSIP) Federal Highway Safety Improvement Program – 4 awards
  - TDA Article 3 – 11 awards
  - (SRTS) Federal Safe Routes to School – 2 awards
  - (TE) Transportation Enhancement Program – 4 awards
  - (SLPP) State Local Partnership Program – 6 awards
  - (TIGER) – Transportation – Investment – Generating – Economic Recovery – 1 award
  - (CDBG) Community Development Block Grant – 1 award
  - (BTA) Bicycle Transportation Account – 1 award
  - (IGG) Indian Gaming Grant – 1 award
  - (RAC) Rubberized Asphalt Concrete – 1 award

  Other Programs to which Mr. Kinzle is familiar or has applications pending include:

  - (PNRS) Projects of National and Regional Significance

- (MSRC) Mobile Source Reduction Committee
- (TCSP) Transportation Conservation System Planning
- (EEMP) Environmental Enhancement Mitigation Program
- (TPG) Transportation Planning Grant
- Community Showcase
- (RTP) Recreational Trails Program
- (ATP) Alternative Transportation Plan

In late 2013, Moving Ahead with Progress in the 21st Century (MAP-21) was enacted to streamline the grant funding process. MAP-21 is a data driven approach to grant funding, geared toward promotion of non-motorized transportation and pedestrian and traffic safety. MAP-21 requires provision of support data and safety and benefit/cost analysis to support claims and effectiveness of countermeasures proposed to mitigate issues as described in applications for grant funding. Mr. Kinzle is familiar and efficient in the use of SafeTREC and TIMS, he attends MAP-21 training seminars with SANBAG, CALTRANS, FHWA and others to keep apprised of on-going program development, rule making, and changes.

- *Grant Administration*

Getting a grant is the easy part, processing the grant for reimbursement can be challenging. Most federal and state grants are administered by the State Department of Transportation. Mr. Kinzle is familiar with the departments Local Assistance Procedures and Guidelines, and has experience processing grants through CALTRANS, requesting state funding allocations and federal expenditure authorizations, and processing project close-outs and final reports.

Mr. Kinzle understands the importance of meeting the federal and state delivery requirements and is familiar with the reporting and billing requirements of grant programs, he is experienced in processing consultant invoices and contractor progress payments through Caltrans, the California Transportation Commission, and other agencies for reimbursements.

Mr. Kinzle provides grant tracking services to help keep projects on schedule and off of the inactive list. In the event that a project falls behind schedule and is at risk of having grant funds de-obligated for having been placed on an inactive list, Mr. Kinzle is familiar and experienced in requesting time extension through the Cooperative Work Agreement (CWA).

- *Regional Transportation Plan (RTP) and Federal Transportation Improvement Plan (FTIP) funding and schedule programming*

Mr. Kinzle maintains regionally significant projects in the RTP and FTIP on behalf of local government through San Bernardino Associated Government's (SANBAG's) programming database.

Mr. Kinzle understands the importance of maintaining the FTIP so that funding is available when a project is ready to move forward. Mr. Kinzle has developed a relationship with the SANBAG staff that interface with Southern California Associated Governments (SCAG) in the submission and approval processing of administrative and formal Amendments to the FTIP.

- *Implementation of Safe Routes to School Programs*

Mr. Kinzle has been successful in development of Suggested Safe Walking Routes to School Plans for eight elementary schools, and getting them published.

He has also been successful in obtaining grant funding to implement 8 separate Safe Routes to School Programs. Volunteers are at the core of a successful and sustainable Safe Routes to School Program, and Mr. Kinzle has

been key in helping to bring together various organizations, businesses, governments, and the general public to implement the programs, hosting events and assemblies, educating and encouraging parents and students to walk and roll to school, hosting bicycle rodeos, and volunteering as "drivers" for walking school busses.

An active Safe Routes to School Program in your community helps to promote a fun, active, and healthy lifestyle for the children, helps reduce traffic congestion and pollution, helps free-up parent's mornings for things other than driving their children to school, and not least of all, helps to give future grant application to the Safe Routes to School Programs a competitive edge by showing commitment to program goals and objectives.

- *City of Highland City Engineering Services, Highland, CA*

As a consultant, Mr. Kinzle has provided broad range of on-call civil engineering services to the City of Highland for over 18 years.

Development services provided include development and subdivision processing, subdivision agreement and bond development and processing, conditions of approval and plan checking, utility coordination, street lighting authorizations, in-lieu and development impact fee calculations, and warranty inspections.

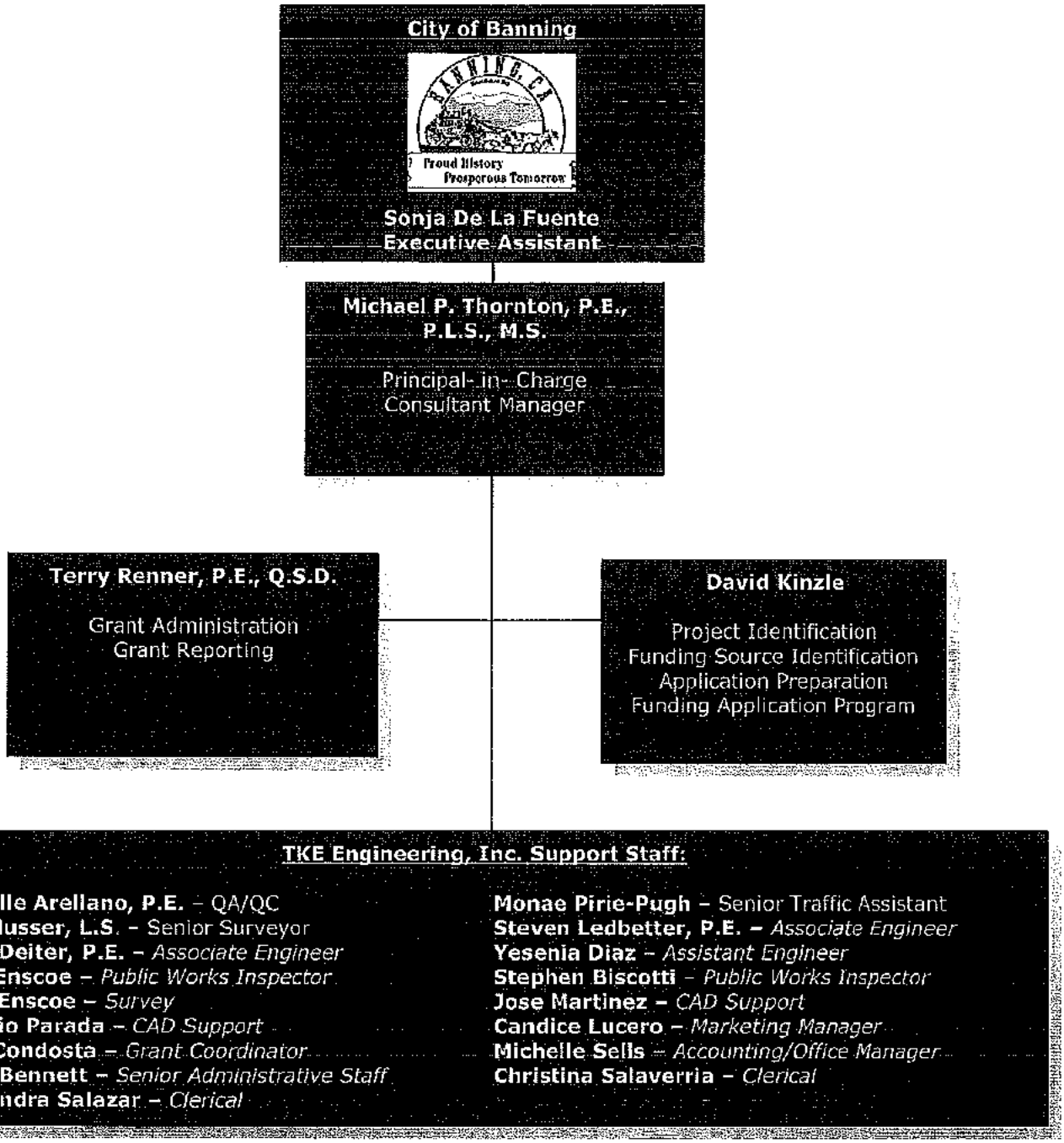
Capital Improvement Program services provided include project scoping and development, grant fund identification and acquisition, right-of-way acquisition, and funding and schedule management of a $135 million, 5-year Capital Improvement Program across 35 funding sources.

Assistant services to the Public Works Director/City Engineer include:

- Proposition 1B reporting
- Preparation of Staff Reports and Resolutions
- Attend meetings
- Measure I 5-year CIP planning and expenditure strategy
- Nexus Study and TIP management
- Writing letters
- Preparing Letter Agreements
- Preparing Legal Descriptions and Plats
- R/W negotiations and acquisitions
- Perform pedestrian, bicycle, and roadway safety analysis
- Master Planning of Major Arterial Corridors
- Consultant interface
- Contractor interface
- Public interface
- Attend Project Design Team Meetings
- Attend quarterly utility coordination meetings
- Develop Engineering Standards and Procedures
- Process invoices and progress payments
- Process reimbursement billings
- Provide technical opinions
- Regularly assists in "putting out fires" that erupt frequently in the Engineering Department

SECTION 3: ORGANIZATION AND STAFFING

TKE's proposed organizational structure is presented below:



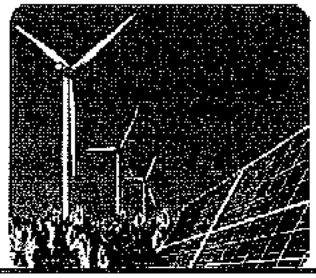
SECTION 4: RELEVANT SERVICES WITH REFERENCE

PROJECT EXPERIENCE

TKE has extensive experience with an excellent reputation in assisting public agencies with grant writing and management services. TKE has been providing these services to municipal agencies for 15 years. Throughout our history of serving the Southern California region, TKE has provided grant writing and management services for small and larger projects. We have successfully completed grant administration for complex and challenging projects a variety of municipal agencies who have continued to request that we partner with them in delivering much needed infrastructure to their communities.

We are certain that the successful results of our past performance, including the recently completed projects, along with our proven ability to develop cost effective solutions to complex engineering projects will provide a valuable resource to the City.

Further, TKE is currently working with many funding agencies including US EPA, Caltrans, and DWR. These relationships will be invaluable for expedited project payment delivery. Below are a list of sample projects TKE has assisted our clients with.



AQMD Grant

Desert Hot Springs, CA

Client Contact
Mr. Arden Wallum
General Manager
Mission Springs Water District
(760)329-5169 x138

Project Cost
10 Million

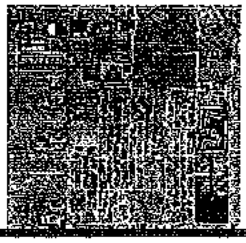
Completion Date
June 2012

Project Team
Michael P. Thornton, P.E., L.S.
Terry Renner, P.E.

Description: TKE prepared a grant application for Mission Springs Water District through AQMD, a regional governmental agency responsible for meeting air quality health standards. The grant application was prepared requesting $10 million for an emission reduction project related to renewable energy. The grant application was submitted in June of 2012 and is currently under review by AQMD for selection.

Services: TKE provided State Grant Application Review, Preparation and Submission

SECTION 4: RELEVANT SERVICES WITH REFERENCE



Dos Palmas Waterline Replacement

Desert Hot Springs, CA

Client Contact
Mr. Arden Wallum
General Manager
Mission Springs Water District
760.329.6448 x138

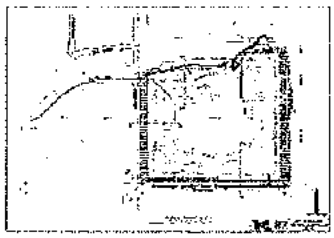
Project Cost
$5.1 Million

Completion Date
September 2008

Project Team
Michael P. Thornton, P.E., L.S.
Terry Renner, P.E.
Ron Musser, L.S.

Description: The Dos Palmas Water Replacement Project is located in the City of Desert Hot Springs north of Dillon Road. TKE provided aerial target layouts with aerial mapping provided by Aerotech Surveys for construction document preparation for approximately 36,100 linear feet of water system replacement improvements including, pipeline, valves, fire hydrants, meters and appurtenances. Proposed improvements provided replacement for leaky pipelines and services with State grant funding. TKE also prepared legal descriptions, right-of-way acquisition plats, temporary construction easement plats and grant and easement deeds for 5 separate parcels. TKE prepared a successful grant application through the Department of Water Resources providing $5 million dollars to Mission Springs Water District.

Services: Services included state grant application submission and coordination, aerial target layout and mapping, right-of-way documentation preparation, temporary construction easement preparation, water system replacement improvement plans, specifications and estimates, construction staking, and as-built verification



Opal Basin Project

City of Redlands, CA

Client Contact
Mr. Fred Mousavipour
City of Redlands
(909) 798-7589
fmousavipour@cityofredlands.org

Project Cost
$5.8 Million

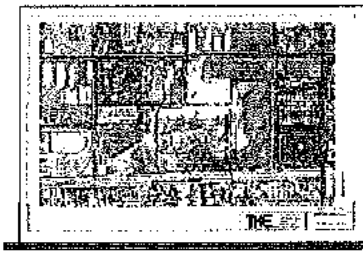
Completion Date
2011

Project Team
Michael P. Thornton, P.E., L.S.
Terry Renner, P.E.
Ron Musser, L.S.

Description: The proposed Opal Basin is a located on the north east corner of Citrus Avenue and Opal Avenue, in an unincorporated area of the County of San Bernardino. Currently the site is used as a citrus grove and has been for many years. Under the proposed design, the site would be graded to hold 830 acre feet of storm and recharge waters with a walking trail around the basin. The basin would retain much of the same appearance as currently exists from the perimeter preserving at the property boundary. TKE prepared a successful grant application through DWR's Bond Management System and Proposition 84 providing $5 million dollars to the City of Redlands.

Services: Services included pre-project planning, development, preliminary hydrology, hydraulics and design, and project grant writing.

SECTION 4: RELEVANT SERVICES WITH REFERENCE



Vulcan Basin Project

City of Fontana, CA

Client Contact
Mr. Chuck Hays
Public Works Director
909.350.6530
chays@fontana.org

Project Cost
$22.5 Million

Completion Date
Current

Project Team
Michael P. Thornton, P.E., L.S.
Terry Renner, P.E.
Ron Musser, L.S.

Description: The Vulcan Basin project is located in the City of Fontana near the corner of Arrow Route and Tokay Street. The project includes a 1700 acre foot basin, inlet and outlet facilities, storm conveyance facilities, and recycled water conveyance facilities. The project will effectively improve flood control, eliminating current flooding along the transportation corridor, enhance water conservation by recharge of an estimated 4000 acre feet of average rainfall year, storm water, and recycled water reducing the region's dependence on imported water supplies. TKE prepared a successful grant application through Proposition 1E Grant Program providing $10 million dollars to the City of Fontana.

Services: Services included design, annexation preparation, hydrology and hydraulic report preparation, bidding services, permitting from San Bernardino County Flood Control District, the Regional Quality Control Board for land fill reclamation, DSOD for a jurisdictional berm, US Army Corps of Engineers' 404 permit, bidding services, constriction administration, construction inspection, construction staking and quantity verification surveying, funding coordination, and regional water quality control Board coordination for closure of a landfill.

REFERENCES

Please see the Table below for a small, but representative list of agencies who have and continue to request TKE Engineering (TKE) to assist them in delivering valuable projects to their communities. We respectfully request that you verify our qualifications with the listed references.

AGENCY	CONTACT NAME	PHONE NUMBER	DATES SERVICES PROVIDED (FROM/THROUGH)
CITY OF FONTANA – PUBLIC WORKS DEPARTMENT	MR. CHUCK HAYS, DIRECTOR OF PUBLIC WORKS	(909) 350-6530	2000 - PRESENT
CITY OF UPLAND	MS. ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR	(909) 291-2931	2000 - PRESENT
MISSION SPRINGS WATER DISTRICT	MR. ARDEN WALLUM, GENERAL MANAGER	(760) 329-5169	2001 - PRESENT
CITY OF CALIMESA	MR. BOB FRENCH, PUBLIC WORKS DIRECTOR	(909) 795-9801	2012 - PRESENT
CITY OF YUCAIPA	MR. BILL HEMSLEY, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER	(909) 797-2489	2012 - PRESENT

TKE ENGINEERING, INC.
RATE SCHEDULE
2015-2016

	HOURLY RATE
Principal in Charge	$150.00
Project Manager/Construction Manager/Licensed Surveyor	$130.00
Senior Engineer/Project Engineer (PE)/Senior Plan Checker	$110.00
Associate Engineer	$105.00
Assistant Engineer/Plan Checker ../Designer	$100.00
AutoCAD Technician	$ 90.00
Engineering Technician	$ 60.00
Clerical	$ 65.00
Forensic Engineering	$150.00
Expert Witness Testimony	$250.00

SURVEYING SERVICES

2-Man Survey Crew	$210.00

CONSTRUCTION SERVICES

Senior Construction Inspector	$ 90.00
Construction Inspector	$ 85.00

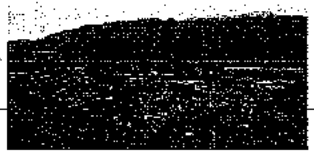
REIMBURSABLE COSTS

In-house Reproduction	Cost
Printing and Materials	Cost + 10%
Express Mail/Courier/Next Day Service	Cost + 10%
Special Subconsultant Services	Cost + 10%

evan brooks associates

PROPOSAL

GRANT WRITING SERVICES, CITY OF BANNING


PREPARED FOR
CITY OF BANNING
99 E. Ramsey Street,
Banning, CA 92220

PREPARED BY
EVAN BROOKS ASSOCIATES
1030 Arroyo Parkway, Suite 204
Pasadena, CA 91105

CONTACT
HAL SUETSUGU
626.799.8011
hal@ebaplanning.com

*For proposal inquiries or additional information, please contact William at william@ebaplanning.com

Name of Firm:
EvanBrooksAssociates

Type of Firm:
Corporation

Special Designations:
Small Disadvantaged Business Enterprise

Community Business Enterprise

Local Small Business Enterprise

Authorized Representative of Firm:
Hal Suetsugu, President

Address:
1030 Arroyo Parkway, Suite 240,
Pasadena, CA, 91105

Email:
hal@ebaplanning.com

Phone:
626.799.8011 (office)
818.521.9947 (cell)
888.421.8798 (fax)

"The City of Baldwin Park has benefited from the exceptionally thorough and professional services performed by EvanBrooksAssociates."

Daniel S. Wall
Public Works Director
City of Baldwin Park

City of Banning
99 East Ramsey Street
Banning, California 92220

RE: **Proposal for City of Banning**
Grant Writing Services

To whom it may concern,

EvanBrooksAssociates Inc. is pleased to present our proposal to provide professional grant writing services to the City of Banning. The successful delivery of services to the City, as well as the thorough completion of all assigned duties, requires a firm with highly-qualified, professional and mobile staff who have the experience and technical expertise to write award-winning grants.

EvanBrooksAssociates (EBA) provides grant writing, planning, design engineering, and project management services for public agencies to assist in achieving its desired capital program, operations efficiency and project development goals. EBA has worked with over 25 clients and our distinguished team has a broad mix of multi-disciplinary expertise, including grant writing and acquisitions, funds management, planning and design, transportation systems project management, innovative sustainability planning, federal aid processing, capital planning and development, environmental compliance, community outreach, as well as relations management.

Although EBA is a small disadvantaged business enterprise, we are confident in our abilities and can bring the following benefits to the City of Banning:

- **A Genuine Understanding of Grant Management Objectives and Responsibility**: With over 30 years of combined planning and grant writing experience working directly for California public agencies and

municipalities, the EBA management team understands the entire breadth of grant management, from identifying and informing our clients of new grant opportunities that align with current projects to preparing and submitting grant applications. We also provide administrative and funds management support after grant money has been awarded. Our firsthand knowledge and experience gives our management team and associates a genuine understanding of the necessary qualities and work ethic required to provide superior quality planning, grant writing and grant management services.

- **Leadership and Mobilization of Highly-Qualified and Responsive Staff**: EBA takes pride in our unique and diverse management team and associates, who have served public agencies in various capacities including, but not limited to, Health and Built Environment Analyst, Transportation Manager, Federal Aid Administration, Environmental Clearance Specialists, Labor Compliance Officer, and Project Manager. Our associates are accustomed to working with governmental agencies in all capacities and have an unparalleled understanding of public agency issues, procedures, and policies.

- **Exceptional Writing and Proven Results**: Our team understands the resources needed in order to research, identify and secure grant-funding opportunities. EBA has successfully acquired over $100 million dollars in local, state and federal grant funding for our client's projects.

- **Cost-effective and Transparent Rates**: EvanBrooksAssociates provides competitive rates for small and large agencies, municipalities and departments; however, we are always willing to negotiate a fair and reasonable rate, should our clients have budget constraints.

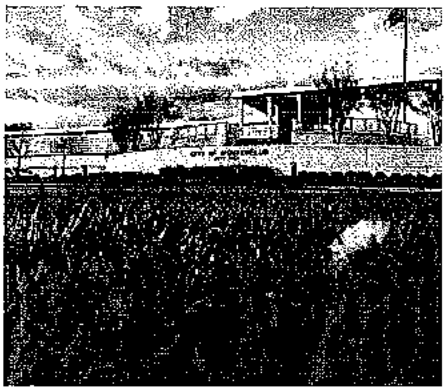
EvanBrooksAssociates is committed to providing exceptional service and is readily available to begin supporting the City of Banning. We bring over three decades of experience, best practices and knowledge from our work with other municipal and public agencies. If you have any questions or if you would like additional information, please contact Hal Suetsugu at 626.799.8011 or via email at hal@ebaplanning.com. EBA looks forward to working with the City.

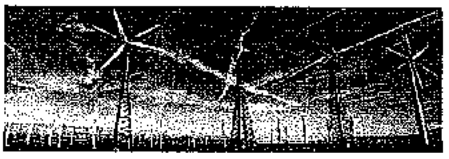
Sincerely,

Hal Suetsugu, President - Managing Partner
EvanBrooksAssociates, Inc.









CONTENT

01	Cover Letter	i
02	Table of Contents	iii
03	Company Profile	1
04	Organization and Staffing	4
05	Relevant Services References	6
	Project Approach 6	
	References 12	
06	Project Controls	16
07	Fee Schedule	18
08	Attachments and Forms	19
	Successful Grants List	
	Resumes	
	Look Fast Forward Excerpt	
	Grant Spotlight	
	Grant Application Fact Sheets	

03

COMPANY PROFILE



ABOUT EBA

EvanBrooksAssociates, or EBA, is a multifaceted strategic planning and consulting firm. We opened our doors in 2010 as a small business with limited services, three staff and less than five clients in the San Gabriel Valley. Through our exceptional work, proven ability to generate results and by consistently exceeding our clients' expectations, EBA has expanded its services and has grown to serve more than 25 clients throughout Southern California, including our newest client, the City and County of San Francisco, Department of Public Health.

Currently, EBA specializes and provides its services under the following seven areas: (1) grant writing and acquisition, (2) funds administration (3) land use and transportation planning, (4) environmental analysis and compliance, (5) municipal and community development services, (6) community engagement, and (7) multimodal studies.

Through our grant writing and aquisition services, EBA plays a crucial role in our client's projects from concept, design, engineering, funding, permitting, construction management, to project closeout by primarily providing

03

EBA AT-A-GLANCE

TYPE OF BUSINESS

- Private Corporation
- Small Disadvantaged Business Enterprise (DBE)
- Community Business Enterprise
- Local Small Business Enterprise

HEADQUARTERS

1030 S. Arroyo Parkway, Suite 204
Pasadena, California 91105

OFFICERS

Hal Suetsugu: President
Salvador Lopez Jr.: Vice President

OWNERS

Hal Suetsugu (51%)
Linda Suetsugu (49%)

YEAR ESTABLISHED

2010 (5 Years in Business)

NO. OF EMPLOYEES

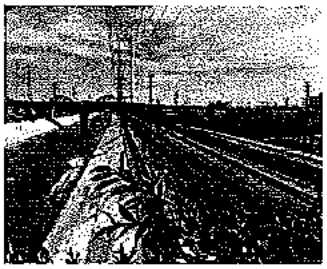
Ten (10)

lead agencies with skilled grant writers, technical expertise and project management skills coupled with external and internal agency funding strategies.

EBA's staff consists of professional planners, grant writers, analysts, urban designers, and engineers, as well as administrative support personnel. Our senior planners and engineers have extensive project management experience and come from a wide variety of local cities and regional transportation agencies, including Metro. By bringing together a diverse and experienced team of professional planners, grant writers and engineers, EvanBrooksAssociates is able to provide a full spectrum in grants acquisition and funds management services.

Over the last five years, EBA has successfully procured and managed over $100 million in grant funding for local agencies across Southern California. Our strengths and commitment have been an integral component to creating vibrant, eco-friendly, sustainable, walkable, bikeable, traffic-friendly, and healthy communities.



03

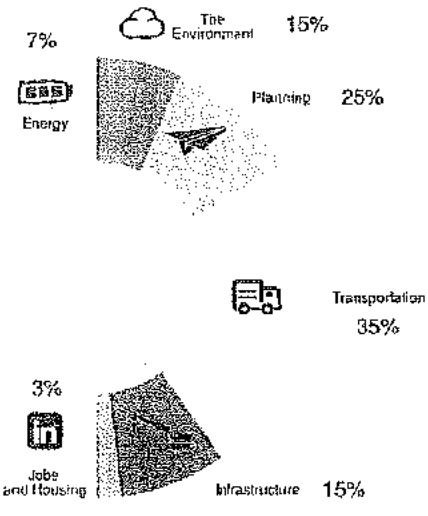
OUR GRANT WRITING PHILOSOPHY

Extraordinary writing can take you to places you have only dreamt of, and not just in the imaginary sense.

At EBA, we have taken our clients' needs, ideas and project concepts, and made them realities through powerful, persuasive writing. By pairing our clients together with a multidisciplinary team of experienced senior planners, engineers, urban designers, photographers and, most importantly, specialized grant writers, we have successfully acquired over $100 million dollars in local, state and federal grant funding for our client's projects (***ATTACHMENT 1: SUCCESSFUL GRANTS LIST***).

Our team understands the resources needed in order to research, identify and secure grant-funding opportunities. We work closely with our clients to articulate their project ideas and implement their concepts and solutions. If a client is uncertain of the best solution to a problem, we help them by developing multiple concepts and narrowing them down with the client's guidance to develop the best solution.

AREAS OF FUNDING



From composing a succinct scope of work to calculating the costs and benefits of a project, our grant writing services, custom-tailored approach, and ability to navigate the submission process consistently yields secured funding for our clients – making any idea, a reality.

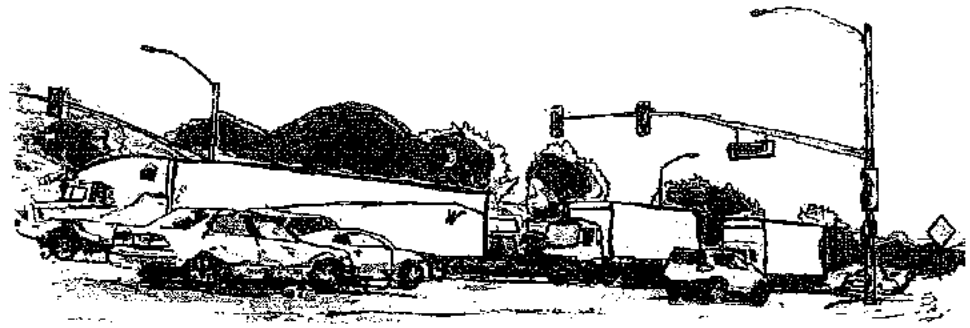
TOTAL GRANT MONEY ACQUIRED FOR CLIENTS
(as of August 2015)

$106,150,759

463

04

ORGANIZATION AND STAFFING



The EBA team understands the overall goal of the City of Banning, in its effort and approach towards the "Request for Proposal for a Consulting Firm to Provide Grant Writing Services for the City of Banning." We understand that the City is seeking firms to not only provide exceptional, results-driven grant writing; however, to also provide grant management services which can support and complement the City's goals and objectives.

EBA's proposed team consists of eight key individuals and two administrative support personnel:

- Hal Suetsugu
- Salvador Lopez (Project Leader/Day to Day Contact)
- Juliet Arroyo
- Dr. M. Yunus Rahi
- Sabry Abdelmalik
- Amy Davis
- Jorge Zarza
- Irving Anaya
- 2 Administrative Support Personnel (Melissa and William)

The following page contains our organizational chart, with the resumes of key individuals contained in our Attachments (***ATTACHMENT 2: RESUMES***).

04

ORGANIZATIONAL CHART

EBA will provide qualified staff to act as a team in order to perform all grant writing and grant management services. Our team and their roles for future tasks are provided below. All staff are available to assist on a daily basis.



PRESIDENT
Hal Spetsugu

- **Over 30 years of experience**
- **Grant Specialties:**
  Transportation
  Planning
  Environmental
- **Under his leadership, over 100+ million aquired in grant money for clients.**

GRANTS MANAGER-WRITER
(PROJECT LEADER)

- **Over 16 years of experience**
- **Grant Specialties:**
  Health
  Sustainability
  Planning
  Transportation
  Community Development



VICE PRESIDENT
Salvador Lopez Jr



SENIOR PLANNER
Juliet Arroyo

GRANTS MANAGER-WRITER

- **Over 25 years of experience**
- **Grant Specialties:**
  Planning
  Transportation
  Environmental
  Historic Resources
  Community Development



ASSOCIATE PLANNER
Amy Davis

GRANT WRITER



ASSOCIATE PLANNER
Jorge Zarza

GIS/MAPPING



SENIOR ENGINEER
Dr. M. Yunus Rahi



SENIOR ENGINEER
Sabry Abdelmalik

TECHNICAL EXPERTISE

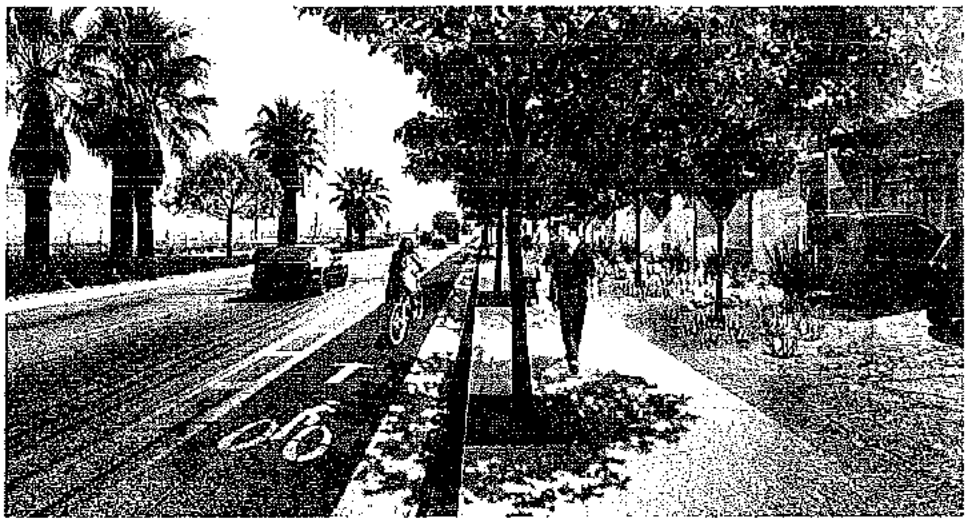


ASSITANT PLANNER
Irving Anaya

ASSISTANT

05

RELEVANT SERVICES-REFERENCES



PROJECT APPROACH & SERVICES

EBA's primary service and expertise is grant writing. Since 2010, EBA has acted as both the lead and support for various projects, from reviewing grant applications and providing recommendations to researching, writing and submitting grant applications on behalf of public agencies and municipal clients throughout California.

Currently, EBA processes and maintains more than 20 state and federal grants yearly; grant sources include FTA 5307/5309/5310, TCSP, TCRP, TEA21, SRTS/SR2S, HSIP, ATP, DROPS, MSRC, including other grants such as Metro Call for Projects, Community Development Block Grants, Sustainable Transportation Planning Grants, and Measure R funds administration.

We are readily available to assist the City in the discipline of grant writing/ grants management and have the resources and experience to complete any and all grant-related assignments. While the following scope of work, or project approach, is not comprehensive, as we can offer many additional services, our brief project approach and the relevant services provided by EBA is divided into the following areas:

05

1. Funding Needs Analysis

EBA staff can assist city staff members to identify the city's project priorities and available local funding sources. This information will be used to identify both the amount of additional funding needed to implement individual projects, help the city prioritize proposed projects based on exiting project budgets and funding levels, and identify funding for local match requirements of various funding programs.

EBA can research funding programs at local, regional, state, and federal levels to identify potential funding sources that may be eligible for specific projects. EBA can also summarize the policy requirements and goals of the individual programs to determine consistency between the funding programs' policies and the city's goals for the individual projects.

2. Grant Funding Research

EBA staff can prepare a personalized grants opportunities report that identifies available regional, state, and federal programs that can be used to implement the city's projects in areas. Potential funding programs may include, but are not limited to:

Community/Economic Development:	Strategic Growth Council, HUD, HCD, CDBG
Engineering Efficiency:	DOE, CEC
Health Services:	HEAL, LACDPH, Caltrans, Community Transformation, HKHC, Robert Wood Johnson Foundation, First 5, California Endowment
Housing and Housing Services:	HUD, CDBG Housing
Infrastructure Development and Maintenance:	MAP 21, Caltrans, Metro Call for Projects
Park Development:	Urban Greening, County Prop A
Public Safety:	COPS, TAG, SAFER, SRTS, SR2S, Caltrans, HSIP

05

Recreation Programs*	Recreational Trails Program, Rails to Trails Program
Sustainability Programs*	Prop 84 Sustainability Planning, EEMP
Technology*	AQMD MSRC
Transportation*	SR2S, SRTS, HSIP, Metro Call for Projects, Caltrans Transportation Planning, TIGER, CalRecycle Pavement, Appropriations, ExpressLanes Toll Re-Investment
Water Quality and Storm Water Management*	State Water Board, Sustainable Communities, EEMP, Storm Water Management, RMC, Water Recycling Facilities
Water Conservation*	State Water Board, Interim Emergency Drinking Water Funding, EEMP, Storm Water Management

** Please note, the table to the right contains only examples of grants. Some are available only upon additional funding or only in certain years.*

The Grant Opportunities Report may include the following information:

- Funding agency
- General program/agency requirements
- Total funding availability
- Funding years
- Maximum project funding amount
- Local match requirements
- Release date of grant applications
- Grant application due date
- Grant application content requirements (based on previous years' requirements if current application has not been released)
- Grant application submittal requirements (i.e. number of paper and/or electronic copies, grant submittal location, whether the grant must be submitted electronically, etc.)
- Examples of projects previously funded by the individual programs

This report can also include a status report of submitted grant applications including date of submittal, notification of receipt from the grant funding agency, and the agency's project selection schedule. EBA can also notify city staff in the event that a funding agency is requiring additional information or clarification for any submitted grant application.

05

3. Grant Writing and Proposal Development

EBA can assist city staff with the preparation of grant funding applications once a specific funding opportunity has been identified for a specific city project or program. Based on city staff availability, EBA staff can work independently or with city staff to develop a technically sound and reasonable project scope, schedule, and budget for the portion of the project or programs to be funded by the grant.

EBA can also provide additional items crucial to the competitiveness of the grant such as planning documents, policies, data sheets, diagrams, electronic mapping (GIS or CADD), engineering designs, photographs, design-related items (wayfinding signage, logos, etc) and demonstration of local project support (letters of support). EBA would be responsible for preparing the grant application and assembling the required supporting documentation including funding plans. Samples of these additional documents are below.

PHOTO SAMPLE
City of Pico Rivera

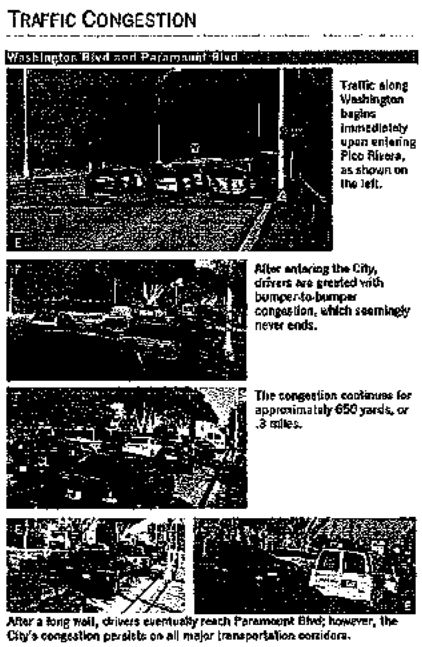
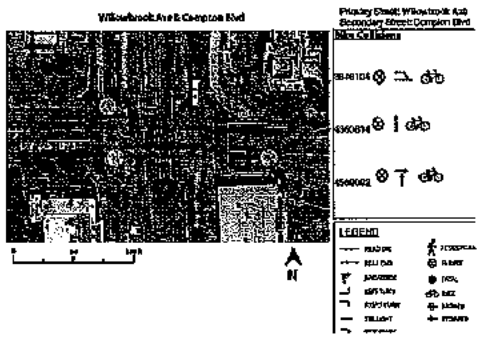


DIAGRAM SAMPLE
City of Compton



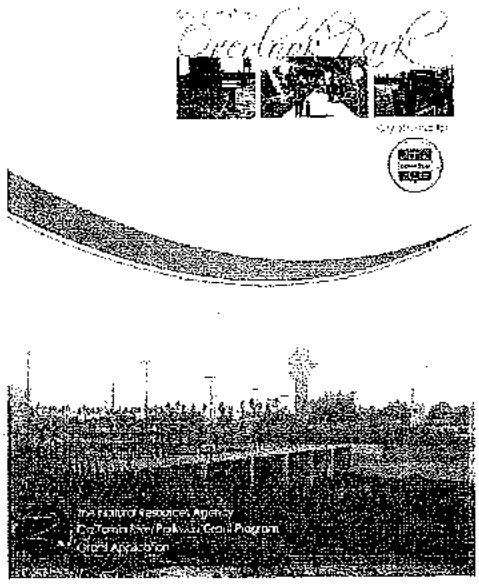
WAYFINDING SIGN SAMPLE
City of San Gabriel



05

4. Grant Administration and Reporting

Once EBA has completed a grant application and the City has provided all required signatures, EBA can fully package and submit the grant application as per grant guidelines on the City's behalf. This may include printing the required number of hard copies, spiral bounding, designing complementary cover pages (shown as a sample on the left), creating unique section dividers, burning electronic copies on CDs and delivery. A receipt to track the delivery of the City's application and a tentative awarding schedule will be provided after the grant has been submitted.



EBA continues to monitor our client's grant applications after submission and notifies our clients of any awarding schedule changes. Additionally, EBA can provide reporting of awarded grants and the next steps involved.

5. Funds Obligation and Management

After a grant has been awarded, many funding agencies require additional forms and paperwork. As an extension of our grant writing services, EBA can easily provide these additional items under our funds management services. We will ensure the appropriate steps are taken to obligate funds so the City may begin invoicing the funding agency and the City project may continue. A service proposal to complete this work will be provided should the City require assistance with this process.

470

05

6. Grant Monitoring: Look Ahead and Grant Spotlight

When requested, EBA provides grant monitoring of new and upcoming grants in our "Look Fast Forward." An excerpt from our current edition is attached (***ATTACHMENT 3: LOOK- FAST FORWARD EXCERPT***).

Should our clients require additional information on any single grant opportunity found in our "Look Ahead," we provide our "Grant Spotlight," which highlights and provides an easy to read, 1-2 page summary of the important elements on the specific grant the City is interested in. A sample of our "Grant Spotlight" is attached (***ATTACHMENT 4: GRANT SPOTLIGHT***).

7. Additional Administrative/Standard Services

Our approach to successful delivery of services to our clients typically includes, but is not limited to:

- Initial in-person or teleconference meeting with new clients to discuss and ensure complete and full understanding of all components of project and assignments.
- Maintaining daily, open lines of communication via email, phone and fax.
- Participating in phone meetings and in-person meetings, as necessary.
- Preparing all documents and other items at our offices.
- Maintaining oversight and quality control over documents prepared by associates.
- Providing administrative support, such as packaging deliverables and submitting them to the appropriate agency on behalf of our clients.
- Retrieving and hand delivering essential, time-sensitive items directly to and from our clients, when necessary.
- Collaborating with firms and consultants, who are also contracted with the same client.

05

REFERENCES

EvanBrooksAssociates provides grant writing services for various small and large municipal agencies. We have provided two examples of our qualifying representative experience, which highlights recent grant writing projects below. References are also provided for each client/case study.

Case Study 1: Compton, California (2013-Current)

EBA currently provides the City of Compton, California with grant writing, grant management, public works/administrative assistance, and planning services. We are the lead on all grant writing projects and recently completed three applications for the City. EBA spearheaded Compton's 2015 Metro Call for Projects Application, which was awarded over $1 million in funding and will have significant impacts on public health via increased access and use of active transportation among the City's residents. EBA also completed and submitted the City's 2015 Federal TIGER Grant Program application in June 2015, which seeks to rebuild Compton's failing infrastructure, reopen bridges that have been deemed unsafe and increase overall economic activity in the City. More recently, EBA completed the City's 2015 Highway Safety Improvement Program application, which seeks to improve safety along Compton Blvd, a major corridor, via installation of raised medians and dedicated Class II bike lanes. A fact sheet for the Call for Projects application and TIGER grant application are attached (***ATTACHMENT 5: GRANT APPLICATION FACT SHEETS***).

2015 GRANT MONEY ACQUIRED FOR COMPTON (as of Sept. 2015)

$1,077,727

CITY CONTACT

GLEN KAU, P.E.
TITLE: Director of Public Works
PHONE: 310.605.5505
EMAIL: Gkau@comptoncity.org

472

05

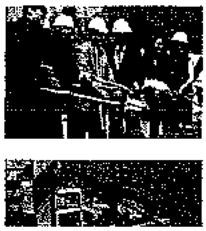
Case Study 2: Baldwin Park, California (2011-Current)

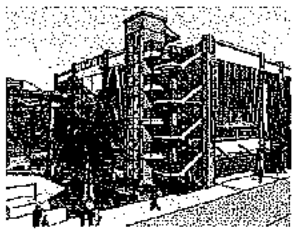
EBA currently provides the City of Baldwin Park, California with grant writing, health and sustainability planning, and technical services. EBA successfully completed the City's grant application for the State of California's Strategic Growth Council for Sustainable Communities Planning Grant and Incentive Program under Prop 84 Bond Act of 2006. In addition to the success of the grant application, EBA provided project management and administrative support services to the City for the grant program. The program successfully met all quarterly reporting requirements, was on budget and was completed on time. Our high performance evaluation by the City has yielded consistent grant writing and project management services with the City. A fact sheet for the project management services provided, titled "Health and Sustainability Element", is attached (***ATTACHMENT 5***).

More recently, EBA acquired over $600,000 via the 2015 METRO Call for Projects, to improve pedestrian infrastructure by providing safe and efficient non-motorized connections to and from public transit facilities and destinations within Downtown Baldwin Park. To date, EBA staff has acquired over $16 million for the City of Baldwin Park via our planning and grant writing expertise.

TOTAL GRANT MONEY ACQUIRED FOR BALDWIN PARK (since 2011)

$16,068,236





BALDWIN P·A·R·K

CITY CONTACT

DAN WALL, P.E.
TITLE: Director of Public Works
PHONE: 626.960.4011
EMAIL: dwall@baldwinpark.com

05

Case Study 3: San Fernando, California (2012-Current)

EBA currently provides the City of San Fernando, California with grant writing, grant management, staff augmentation, and planning services and was recently selected to provide on-call engineering and plan check review services. Through our grant writing services, EBA recently completed three grant applications for the City. EBA wrote San Fernando's 2015 Metro Call for Projects Application, which was awarded over $700,000 in funding. The proposed project, called the Citywide Signal Synchronization and Bus Speed Improvements project, aims to improve operation of six major arterials by synchronizing 35 intersections along major corridors, as well as signal modifications and installation of three changeable message signs.

Recently, in September 2015, EBA wrote and submitted two Mobile Source Air Pollution Reduction Review Committee (MSRC) grant applications on the City's behalf. If either application is chosen for funding, the acquired money will allow the City to promote clean transportation alternatives via installation of electric vehicle charging stations in the Civic Center and Downtown areas and the installation of Class I and Class II bike lanes. The projects promote clean air and connectivity by providing bicyclists with enhanced access to transit options, education and employment opportunities among other benefits.

2015 GRANT MONEY ACQUIRED FOR SAN FERNANDO
(as of Sept. 2015)

$775,376





CITY CONTACT

CHRIS MARCARELLO, P.E
TITLE: Deputy City Manager/
Public Works Director
PHONE: 310.605.5505
EMAIL: cmarcarello@sfcity.org

05

ADDITIONAL REFERENCES

The following are other municipal agencies for which we have provided grant writing, grant management, grant administration, and/or grant-related services:

AZUSA
Work Task: Federal Obligations, Grants Acquisitions, Funds Management

Agency Contact: Daniel Bobadilla, Interim Public Works Director
626.812.5254
dbobadilla@ci.azusa.ca.us

EL MONTE
Work Task: Project Management, Government/Community Relations, Planning Studies, Environmental, Federal Obligations, GIS Analysis, Grants Acquisitions, Funds Planning and Management

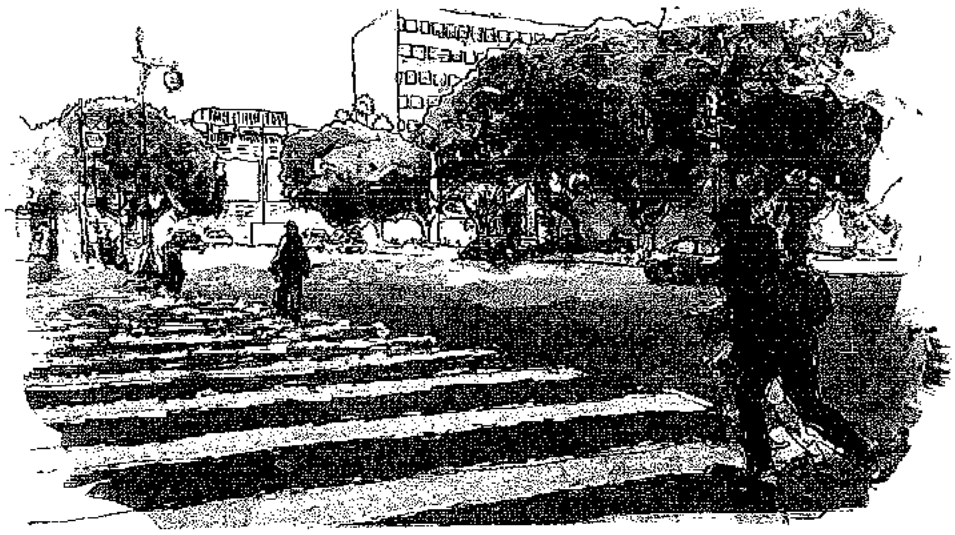
Agency Contact: Jesus Gomez, City Manager
626.580.2001
citymanager@ci.el-monte.ca.us

PICO RIVERA
Work Task: Federal Obligations, Grants Acquisitions, Funds Management

Agency Contact: Rene Bobadilla, City Manager
562.942.2000
rbobadilla@pico-rivera.org

6

PROJECT CONTROLS



EvanBrooksAssociates employs various methods to ensure costs stay within budget, schedules are adhered to and accurate and timely invoices are provided.

COST CONTROLS

EBA begins projects, such as a grant application, with a service proposal. Our service proposals typically contain the elements required for the grant, our understanding of the proposed city project that needs funding, a timeline or schedule, and a proposed budget, with a not-to-exceed amount.

If it is a grant application we have completed in prior years, we use our historic records and knowledge of the intensity of the application to calculate precise hours and provide a budget based on our hourly rate for each item. In the event that it is a new grant application for which EBA has never completed, we review application requirements and any additional analysis required and develop a budget based on our extensive history, knowledge and grant writing experience.

6

Our clients can rest assured knowing that our proposed budget will be adhered to and we will not go over our not-to-exceed amount (even in the event our internal costs increase due to unforeseen or extraneous reasons).

SCHEDULE CONTROLS

Within our service proposal, we typically provide a schedule or timeline that contains important dates, such as a date when a draft grant application will be available for the City to review (if they opt for this option) and/or when the final application is due to the funding agency. Our project managers and administrative staff ensure our timelines are adhered via in-house staff meetings to discuss level of completion on various elements of each project manager's grant application. On large grant applications, our administrative assistant checks in with each project manager daily and maintains a log of work completed. Should a project manager be behind on their schedule, we reallocate our staff resources to assist the project manager on any hurdles or unexpected challenges.

INVOICE CONTROLS

Invoices are submitted once work has been completed. Our project managers and staff work together to create accurate invoices of work completed, hours and hourly rates. It is then submitted to our administrative staff, who ensure the invoice is correct and submit it in a timely fashion to be processed by our clients. Our administrative staff also maintains contact with the City's finance department, when appropriate, to ensure invoices are in the style and format preferred by the City.

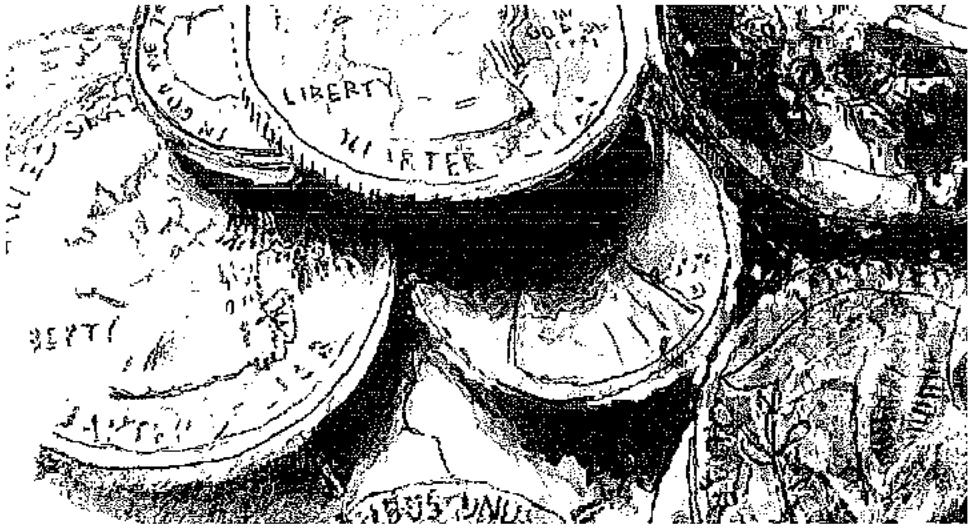
EASE OF MIND: CONTINGENCY PLAN

EBA cross trains our associates and staff. We always assign two or more associates to work together on a project. In the event that one of our associates leaves or is working in the field, another associate will be available to answer any questions and continue working on the project.

477

07

PROPOSED FEE SCHEDULE



EvanBrooksAssociates' proposed fee schedule is below. Our fees include time and materials charges directly related to client services. This includes hours for work tasks, project management and coordination services (e.g. staff meetings, public presentations, and project direct expenses). The following table provides a breakdown of the our 2015 hourly rates for consulting work. Based on intensity of application or assignment, EBA will submit to the City a service proposal, which will include a budget and/or estimated hours with the following hourly rates. *Please note, we are always willing to negotiate and work with the City on budget and cost.*

Assigned Personnel	Hourly Rate
Project Principal (President)	$140
Project Manager/Leader	$120
Senior Planner/Grant Writer/Engineer	$110
Environmental Specialist	$110
Associate Planner/Grant Writer/Engineer	$100
Research/Funds Analyst	$95
Assistant Planner	$75
Graphics/Mapping	$75
Administrative Support	$55

08

LIST OF ATTACHMENTS



ATTACHMENT 1: SUCCESSFUL GRANTS LIST

ATTACHMENT 2: RESUMES

ATTACHMENT 3: LOOK- FAST FORWARD EXCERPT (first 3 pages)

ATTACHMENT 4: GRANT SPOTLIGHT

ATTACHMENT 5: GRANT APPLICATION FACT SHEETS

ATTACHMENT 1: SUCCESSFUL GRANTS LIST

List of Successes and Accomplishments
Grant-Funded Projects - Sorted by Funding Program

Revised: August 11, 2015

Funding Agency	Funding Program	Sponsor Agency	Project	Grant Amount	Program Total
AQMD	CMAQ	Alhambra	CNG Refueling	$300,000	
AQMD	CMAQ	Baldwin Park	Electric Vehicle Charging Stations	$464,000	
AQMD	CMAQ	Baldwin Park	CNG Refueling	$269,000	$1,033,000
AQMD	Energy CEC	Alhambra	LED Signal Upgrade	$950,000	
AQMD	Energy CEC	Bellflower	Electric Vehicle Charging Stations	$400,000	
AQMD	Energy CEC	Inglewood	Street Lighting Improvements	$650,000	$2,000,000
CA-DHCD	Parks Program	San Fernando	Recreation & Parks Improvements	$176,550	$176,550
CA - SGC	Sust. Comm.	Baldwin Park	Health & Sustainability Element Preparation	$368,000	
CA - SGC	Sust. Comm.	SCAG	SCS Implementation	$983,541	$1,351,541
CalRecycle	Rubberized Pvmt	La Verne	Esperanza Ave Rehabilitation	$101,000	$101,000
Caltrans	ATP	Baldwin Park	Maine Ave Complete Street Improvements	$2,201,000	
Caltrans	ATP	Compton	Wilminton Ave Safe Street Improvements	$996,000	
Caltrans	ATP	Huntington Park	Randolph Street Rails-to-Trails Study	$400,000	
Caltrans	ATP	Huntington Park	State Street Complete Street	$1,184,000	$4,781,000
Caltrans	HSIP	Alhambra	Mission Drive	$390,000	
Caltrans	HSIP	Alhambra	Valley Bl/Marengo Ave Intersection	$440,000	
Caltrans	HSIP	Alhambra	Valley Bl/New Ave Intersection	$645,000	
Caltrans	HSIP	Azusa	Arrow Highway Safety Improvements	$490,600	
Caltrans	HSIP	Baldwin Park	Bogart Ave Signal Improvement	$345,000	
Caltrans	HSIP	Bellflower	Bellflower Bl Safety Improvements	$913,000	
Caltrans	HSIP	Commerce	Washington/Garfield Improvements	$559,000	
Caltrans	HSIP	Commerce	Washington/I-5 Interchange	$353,000	
Caltrans	HSIP	Hermosa Beach	Valley Bl Safety Improvements	$120,000	
Caltrans	HSIP	Inglewood	Crenshaw S Curve	$273,000	
Caltrans	HSIP	Inglewood	Manchester Ave Safety	$172,000	
Caltrans	HSIP	La Verne	Bonita/White, Bonita/B Traffic Signals	$505,600	
Caltrans	HSIP	Lawndale	Mansel/Marine Improvements	$249,000	
Caltrans	HSIP	Rosemead	SR 19 Rosemead BL Safety Improvements	$479,000	
Caltrans	HSIP	Rosemead	Walnut Grove/Rosemead/Garvey Safety Imps.	$377,000	$6,311,200
Caltrans	SRTS	Alhambra	Alhambra HS	$256,000	
Caltrans	SRTS	Alhambra	Commonwealth Ave	$270,000	
Caltrans	SRTS	Baldwin Park	Safety Improvements around Schools	$450,000	
Caltrans	SRTS	Baldwin Park	Sidewalks and bike lanes around Schools	$1,000,000	
Caltrans	SRTS	Bellflower	Eucalyptus ES ped improvements	$642,000	
Caltrans	SRTS	Bellflower	Palm/Clark	$477,000	
Caltrans	SRTS	Commerce	Laguna/Bandini	$572,000	
Caltrans	SRTS	Inglewood	La Tijera Safety Improvements	$325,000	
Caltrans	SRTS	Inglewood	Ivy Sidewalks	$239,000	
Caltrans	SRTS	Rosemead	Northeast Rosemead	$1,018,000	
Caltrans	SRTS	Rosemead	Northwest Rosemead	$860,000	
Caltrans	SRTS	Rosemead	South Rosemead	$526,000	
Caltrans	SRTS	Rosemead	Citywide SRTS	$490,000	
Caltrans	SRTS	San Marino	Citywide SRTS	$727,000	
Caltrans	SRTS	South Pasadena	Fair Oaks Ave	$251,000	$8,103,000
Caltrans	Sust. Comm.	Compton	Safe Routes to School Plan	$222,600	
Caltrans	Sust. Comm.	SCAG - San Marino	Huntington Dr. Safe Streets Corridor Impr.	$180,000	
Caltrans	Sust. Comm.	SCAG - Vernon	Los Angeles River Bikeway Feasibility Study	$237,800	
Caltrans	Sust. Comm.	San Fernando	Safe Routes to School Plan	$144,200	$754,600
Caltrans	TCRP	Pomona	SR71/Mission Bl Interchange	$16,400,000	$16,400,000
*Caltrans	Transp. Planning	SCAG	Aviation Corridor Improvements	$221,600	
*Caltrans	Transp. Planning	SCAG	RTA - First/Last Mile Mobility Plan	$171,600	$393,200
FTA	BOS ARRA	Redondo Beach	ADA Improvements	$200,000	
FTA	BOS ARRA	Redondo Beach	Bus Stop Improvements	$218,000	$418,000
FTA	BSEP	Baldwin Park	Bus Stop Enhancements	$40,000	
FTA	BSEP	Baldwin Park	Bus Stop Enhancements	$40,000	
FTA	BSEP	El Monte	Bus Stop Enhancements	$30,000	
FTA	BSEP	La Verne	Bus Stop Enhancements	$40,000	$150,000
Metro	Call for Projects	Alhambra	Valley Bl	$1,500,000	
Metro	Call for Projects	Arcadia	Huntington Drive	$1,010,000	
Metro	Call for Projects	Azusa	Azusa Ave TEA	$800,000	
Metro	Call for Projects	Azusa	Transit Center	$4,200,000	
Metro	Call for Projects	Baldwin Park	First-Last Mile Connections	$656,256	

List of Successes and Accomplishments
Grant-Funded Projects - Sorted by Funding Program

Revised: August 11, 2015

Funding Agency	Funding Program	Sponsor Agency	Project	Grant Amount	Post-Ground Breaking
Metro	Call for Projects	Baldwin Park	Regional Commuter Bikeway	$400,000	
Metro	Call for Projects	Baldwin Park	Metrolink Ped Bridge	$1,800,000	
Metro	Call for Projects	Baldwin Park	TDM	$300,000	
Metro	Call for Projects	Baldwin Park	Transit Center	$4,200,000	
Metro	Call for Projects	Baldwin Park	Clean Fuel Buses for BP Transit	$1,150,481	
Metro	Call for Projects	Bellflower	Downtown Smart Park	$370,290	
Metro	Call for Projects	Carson	Avalon RSTI	$6,700,000	
Metro	Call for Projects	Compton	Central Avenue Regional Commuter Bikeway	$1,077,727	
Metro	Call for Projects	Duarte	Gold Line Station Ped Linkages	$530,000	
Metro	Call for Projects	El Monte	Downtown TDM	$316,000	
Metro	Call for Projects	El Monte	Ramona Signal Synchronization	$2,760,000	
Metro	Call for Projects	El Monte	Valley Bl RSTI	$1,470,000	
Metro	Call for Projects	El Monte	El Monte Clean Fuel Bus Replacement	$1,451,178	
Metro	Call for Projects	El Monte	Regional Bikeway Connector Access Imps.	$986,803	
Metro	Call for Projects	Huntington Park	HP Sig Synch & Bus Speed Improvements	$936,927	
Metro	Call for Projects	Huntington Park	Downtown HP i-Park System	$545,974	
Metro	Call for Projects	Inglewood	Century Bl RSTI	$3,200,000	
Metro	Call for Projects	Inglewood	Florence Avenue RSTI	$2,400,000	
Metro	Call for Projects	Inglewood	La Brea Ave S Curve	$6,300,000	
Metro	Call for Projects	La Verne	La Verne Regional Bike Gap Closure	$1,122,466	
Metro	Call for Projects	Lawndale	Inglewood/Marine Improvements	$1,019,000	
Metro	Call for Projects	Pico Rivera	Telegraph Road Bridge Replacement	$2,298,643	
Metro	Call for Projects	Pomona	SR71/Mission Bl Interchange	$3,200,000	
Metro	Call for Projects	Redondo Beach	Transit Center	$3,200,000	
Metro	Call for Projects	Rosemead	Valley Bl RSTI	$780,000	
Metro	Call for Projects	Rosemead	Rosemead/S. El Monte Regional Bike Corridor	$923,721	
Metro	Call for Projects	San Fernando	Citywide Signal Synchronization	$775,376	
Metro	Call for Projects	San Marino	Huntington Drive Capacity Enhancements	$939,435	$59,320,277
Metro	JARC	Pico Rivera	Transit Expansion Service	$680,000	$680,000
Metro	Mini Call	Alhambra	Bus Purchase	$400,000	
Metro	Mini Call	Baldwin Park	Bus Purchase	$400,000	$800,000
Metro	TOD Planning	Baldwin Park	Infill/TOD Planning and Zoning	$289,670	
Metro	TOD Planning	El Monte	Infill/TOD Planning and Zoning	$400,400	
Metro	TOD Planning	Irwindale	Metrolink Station Specific Plan	$460,000	
Metro	TOD Planning	San Fernando	Infill/TOD Planning and Zoning	$282,392	$1,432,462
Metro	Toll Grant	Baldwin Park	Commuter Connector Express Line	$742,395	
Metro	Toll Grant	Baldwin Park	Frazier St. Complete Street	$952,434	$1,694,829
SCAG	Compass BP	Inglewood	La Cienega Corridor Study	$250,000	$250,000
			TOTAL FUNDING AMOUNT	**$106,150,759**	

List of Successes and Accomplishments
Grant-Funded Projects - Sorted by Project Sponsor

Revised: August 11, 2015

Sponsor Agency	Project	Funding Agency	Funding Program	Grant Amount	Agency Total
Alhambra	CNG Refueling	AQMD	CMAQ	$300,000	
Alhambra	LED Signal Upgrade	AQMD	Energy CEC	$950,000	
Alhambra	Mission Drive	Caltrans	HSIP	$390,000	
Alhambra	Valley Bl/Marengo Ave Intersection	Caltrans	HSIP	$440,000	
Alhambra	Valley Bl/New Ave Intersection	Caltrans	HSIP	$645,000	
Alhambra	Alhambra HS	Caltrans	SRTS	$256,000	
Alhambra	Commonwealth Ave	Caltrans	SRTS	$270,000	
Alhambra	Valley Bl	Metro	Call for Projects	$1,500,000	
Alhambra	Bus Purchase	Metro	Mini Call	$400,000	$5,151,000
Arcadia	Huntington Drive	Metro	Call for Projects	$1,010,000	$1,010,000
Azusa	Arrow Highway Safety Improvements	Caltrans	HSIP	$490,600	
Azusa	Azusa Ave TEA	Metro	Call for Projects	$800,000	
Azusa	Transit Center	Metro	Call for Projects	$4,200,000	$5,490,600
Baldwin Park	Electric Vehicle Charging Stations	AQMD	CMAQ	$464,000	
Baldwin Park	CNG Refueling	AQMD	CMAQ	$269,000	
Baldwin Park	Health & Sustainability Element Preparation	CA - SGC	Sust. Communities	$368,000	
Baldwin Park	Maine Ave Complete Street Improvements	Caltrans	ATP	$2,201,000	
Baldwin Park	Bogart Ave Signalization	Caltrans	HSIP	$345,000	
Baldwin Park	Safety Improvements around Schools	Caltrans	SRTS	$450,000	
Baldwin Park	Sidewalks and bike lanes around Schools	Caltrans	SRTS	$1,000,000	
Baldwin Park	Bus Stop Enhancements	FTA	BSEP	$40,000	
Baldwin Park	Bus Stop Enhancements	FTA	BSEP	$40,000	
Baldwin Park	First-Last Mile Connections	Metro	Call for Projects	$656,256	
Baldwin Park	Regional Commuter Bikeway	Metro	Call for Projects	$400,000	
Baldwin Park	Metrolink Ped Bridge	Metro	Call for Projects	$1,800,000	
Baldwin Park	TDM	Metro	Call for Projects	$300,000	
Baldwin Park	Transit Center	Metro	Call for Projects	$4,200,000	
Baldwin Park	Clean Fuel Buses for BP Transit	Metro	Call for Projects	$1,150,481	
Baldwin Park	Bus Purchase	Metro	Mini Call	$400,000	
Baldwin Park	Commuter Connector Express Line	Metro	Toll Grant	$742,395	
Baldwin Park	Frazier St. Complete Street	Metro	Toll Grant	$952,434	
Baldwin Park	Infill/TOD Planning and Zoning	Metro	TOD Planning	$289,670	$16,068,236
Bellflower	Downtown Smart Park	Call for Projects	Call for Projects	$370,290	
Bellflower	Electric Vehicle Charging Stations	AQMD	Energy CEC	$400,000	
Bellflower	Bellflower Bl Safety Improvements	Caltrans	HSIP	$913,000	
Bellflower	Eucalyptus ES ped improvements	Caltrans	SRTS	$642,000	
Bellflower	Palm/Clark	Caltrans	SRTS	$477,000	$2,802,290
Carson	Avalon RSTI	Metro	Call for Projects	$6,700,000	$6,700,000
Commerce	Washington/Garfield Improvements	Caltrans	HSIP	$559,000	
Commerce	Washington/I-5 Interchange	Caltrans	HSIP	$353,000	
Commerce	Laguna/Bandini	Caltrans	SRTS	$572,000	$1,484,000
Compton	Safe Routes to School Plan	Caltrans	Sust. Comm.	$222,600	
Compton	Central Avenue Regional Commuter Bikeway	Metro	Call for Projects	$1,077,727	
Compton	Wilmington Ave Safe Street Improvements	Caltrans	ATP	$996,000	$2,296,327
Duarte	Gold Line Station Ped Linkages	Metro	Call for Projects	$530,000	$530,000
El Monte	Bus Stop Enhancements	FTA	BSEP	$30,100	
El Monte	Downtown TDM	Metro	Call for Projects	$316,000	
El Monte	Ramona Sig Synch	Metro	Call for Projects	$2,760,000	
El Monte	Valley Bl RSTI	Metro	Call for Projects	$1,470,000	
El Monte	El Monte Clean Fuel Bus Replacement	Metro	Call for Projects	$1,451,178	
El Monte	Regional Bikeway Connector Access Imps.	Metro	Call for Projects	$986,803	
El Monte	Infill/TOD Planning and Zoning	Metro	TOD Planning	$400,400	$7,414,481
Hermosa Beach	Valley Bl Safety Improvements	Caltrans	HSIP	$120,000	$120,000
Huntington Park	Randolph Street Rails-to-Trails Study	Caltrans	ATP	$400,000	
Huntington Park	State Street Complete Street	Caltrans	ATP	$1,184,000	
Huntington Park	HP Sig Synch & Bus Speed Improvements	Metro	Call for Projects	$936,927	
Huntington Park	Downtown HP I-Park System	Metro	Call for Projects	$545,974	$3,066,901

List of Successes and Accomplishments
Grant-Funded Projects - Sorted by Project Sponsor

Revised: August 11, 2015

Sponsor Agency	Project	Funding Agency	Funding Program	Grant Amount	Agency Total
Inglewood	Street Lighting Improvements	AQMD	Energy CEC	$650,000	
Inglewood	Crenshaw S Curve	Caltrans	HSIP	$273,000	
Inglewood	Manchester Ave Safety	Caltrans	HSIP	$172,000	
Inglewood	La Tijera Safety Improvements	Caltrans	SRTS	$325,000	
Inglewood	Ivy Sidewalks	Caltrans	SRTS	$239,000	
Inglewood	Century Bl RSTI	Metro	Call for Projects	$3,200,000	
Inglewood	Florence Avenue RSTI	Metro	Call for Projects	$2,400,000	
Inglewood	La Brea Ave S Curve	Metro	Call for Projects	$6,300,000	
Inglewood	La Cienega Corridor Study	SCAG	SCAG	$250,000	$13,809,000
Irwindale	Metrolink Station Specific Plan	Metro	TOD Planning	$460,000	$460,000
La Verne	Bonita/White, Bonita/B Traffic Signals	Caltrans	HSIP	$505,600	
La Verne	Esperanza Ave Rehabilitation	CalRecycle	Rubberized Pvmt.	$101,000	
La Verne	Bus Stop Enhancements	FTA	BSEP	$40,000	
La Verne	La Verne Regional Bike Gap Closure	Metro	Call for Projects	$1,122,466	$1,769,066
Lawndale	Mansel/Marine Improvements	Caltrans	HSIP	$249,000	
Lawndale	Inglewood/Marine Improvements	Metro	Call for Projects	$1,019,000	$1,268,000
Pico Rivera	Telegraph Rd Bridge Replacement	Metro	Call for Projects	$2,298,643	
Pico Rivera	Transit Expansion Service - Job Access	Metro	JARC	$680,000	$2,978,643
Pomona	SR71/Mission Bl Interchange	Caltrans	TCRP	$16,400,000	
Pomona	SR71/Mission Bl Interchange	Metro	Call for Projects	$3,200,000	$19,600,000
Redondo Beach	ADA Improvements	FTA	BOS ARRA	$200,000	
Redondo Beach	Bus Stop Improvements	FTA	BOS FTA	$218,000	
Redondo Beach	Transit Center	Metro	Call for Projects	$3,200,000	$3,618,000
Rosemead	SR 19 Rosemead BL Safety Improvements	Caltrans	HSIP	$479,000	
Rosemead	Walnut Grove/Rosemead/Garvey Safety Imps.	Caltrans	HSIP	$377,000	
Rosemead	Northeast Rosemead	Caltrans	SRTS	$1,018,000	
Rosemead	Northwest Rosemead	Caltrans	SRTS	$860,000	
Rosemead	South Rosemead	Caltrans	SRTS	$526,000	
Rosemead	Citywide SRTS	Caltrans	SRTS	$490,000	
Rosemead	Valley Bl RSTI	Metro	Call for Projects	$780,000	
Rosemead	Rosemead/S. El Monte Regional Bike Corridor	Metro	Call for Projects	$923,721	$5,453,721
San Fernando	Safe Routes to School Plan	Caltrans	Sust. Comm.	$144,200	
San Fernando	Citywide Signal Syncronization Project	Metro	Call for Projects	$775,376	
San Fernando	Infill/TOD Planning and Zoning	Metro	TOD Planning	$282,392	
San Fernando	Recreation & Parks Improvements	CA-DHCD	Parks Program	$176,550	$1,378,518
San Marino	Citywide SRTS	Caltrans	SRTS	$727,000	
San Marino	Huntington Drive Capacity Enhancements	Metro	Call for Projects	$939,435	$1,666,435
SCAG - San Marino	Huntington Dr. Safe Streets Coordior Impr.	Caltrans	Sust. Comm.	$150,000	
SCAG - Vernon	Los Angeles River Bikeway Feasibility Study	Caltrans	Sust. Comm.	$257,800	
SCAG	SCS Implementation	CA - SGC	Sust. Communities	$983,941	
SCAG	Aviation Bl Corridor Plan	Caltrans	Transp. Planning	$221,600	
SCAG	RTA - First/Last Mile Mobility Plan	Caltrans	Transp. Planning	$171,600	$1,764,941
South Pasadena	Fair Oaks Ave	Caltrans	SRTS	$251,000	$251,000
			TOTAL FUNDING AMOUNT		$106,150,759

List of Successes and Accomplishments

Grant Funding Secured for Client Agencies

Revised: August 11, 2015

Project Sponsors	AQMD CMAQ	AQMD Energy EC	SGC	California DHCD	CalRecycle	ATP	HSIP	Caltrans Planning	SRTS	TCRP	BOS ARRA	FTA BOS FTA	BSEP	CRP	SARC	Metro Mini Call	Toll	TOD	SCAG Compass	Sponsor Total
Alhambra	$800,000	$450,000					$1,475,000		$526,000					$1,500,000		$400,000				$4,151,000
Arcadia														$1,010,000						$1,010,000
Azusa							$490,600							$5,000,000						$5,490,600
Baldwin Park	$733,000		$368,000			$2,201,000	$345,000		$1,450,000				$80,000	$8,506,737		$400,000	$1,694,829	$289,670		$15,068,236
Bellflower		$400,000					$913,000		$1,119,000					$370,290						$2,802,290
Carson														$6,700,000						$6,700,000
Commerce							$912,000		$572,000											$1,484,000
Compton						$998,000		$222,800						$1,077,727						$2,296,327
Covina														$530,000						$530,000
El Monte													$30,100	$6,983,981				$400,400		$7,414,481
Hermosa Beach							$120,000													$120,000
Huntington Park						$1,584,000								$1,482,901						$3,066,901
La Habra		$650,000					$445,000		$564,000					$11,800,000					$250,000	$13,709,000
Irwindale																		$460,000		$460,000
La Verne					$101,000		$505,800						$40,000	$1,122,466						$1,769,266
Lawndale							$249,000							$1,019,000						$1,268,000
Los Alamitos														$2,288,643	$680,000					$2,968,643
Pomona										$16,400,000				$3,200,000						$19,600,000
Redondo Beach											$200,000	$218,000		$3,200,000						$3,618,000
Rosemead							$856,000		$2,894,000					$1,703,721						$5,453,721
San Fernando				$176,550				$144,200						$775,376				$282,392		$1,378,518
San Marino									$727,000					$939,435						$1,666,435
Signal Hill			$393,541					$393,200		$387,800										$1,174,541
South Pasadena									$251,000											$251,000
Program Totals	$1,533,000	$2,000,000	$761,541	$176,550	$101,000	$5,783,000	$6,811,400	$760,000	$8,103,000	$16,787,800	$200,000	$218,000	$150,100	$59,920,777	$680,000	$800,000	$1,694,829	$1,431,462	$250,000	$106,179,459
Agency Totals	$3,033,000		$761,541	$1,629,091			$6,749,000		$8,103,000			$568,000				$6,929,568				

ATTACHMENT 2: RESUMES

evan brooks associates

HAL SUETSUGU, Managing Partner

Grant Writing, Transportation, Environmental, Funds Planning and Management Services

Education

- MA, Urban Planning, UCLA
- Graduate studies in Geography/Urban Studies, California State University, Los Angeles
- BA, Geography (Minor in Business) California State University, Los Angeles

Professional Experience

- Vice President/Principal, Evan Brooks Associates
- Vice President of Planning, Transtech Engineers
- Transportation Manager, City of South Pasadena
- Transportation Planning Manager, Capital Planning and Programming, Los Angeles County MTA
- Board of Directors Transportation Deputy, Los Angeles County MTA
- Transportation Planning Manager, Westside Area Team, Los Angeles County MTA

Boards and Commissions

- Member, American Planning Association
- Recreation Commissioner, City of San Marino
- Board of Trustees, San Marino School Foundation
- Board Member, Nikkei Senior Garden

Summary of Experience

Mr. Suetsugu has over 20 years of experience in transit and transportation projects, urban planning, legislative policy planning, grants management, funding, program and project management, public and community relations, public and private sector contracts administration, federal, state and regional agency liaison, customer relations and organizational and intergovernmental coordination.

He has managed transportation projects and administered public and private contracts; supported local agencies on grants management and administration activities; developed and maintained interagency coordination; and supervised technical and administrative staff. He is a specialist in grant writing and grant management. He has extensive experience in federal funding programs and fund management. His experience includes working for Los Angeles County Metropolitan Transportation Authority as the federal funding program coordinator. He has extensive experience in working with State of California Department of Transportation (Caltrans) and Federal Highway Administration (FHWA), including Caltrans/FHWA headquarters in Sacramento.

Evan Brooks Associates

Mr. Suetsugu is President and managing partner for Evan Brooks Associates. He is charged with overseeing responsibilities for all of the firm's program and strategic management activities. He also oversees each project to ensure effective and efficient project oversight, delivery, guidance and team support. His specialty is managing, administrating and coordinating regional, state, federal transportation funded projects as well as strategic management and planning for all the firm's team projects.

In the 2013 Metro Call for Projects, he prepared funding applications in all seven categories for eight client cities, successfully receiving more than $23 million in transportation-related projects throughout Los Angeles County. To date, under Mr. Suetsugu's leadership, the firm has successfully secured more than $100 million in transportation related grants and other grant-related funding sources. Mr. Suetsugu has uniquely integrated the firm's specialties of transportation, environmental and funds management into an effective and strategic planning and development team to solve public municipality issues.

Selected Project Experience

MUNICIPAL GRANT AQUISTIONS AND MANAGEMENT

- Strategic Funds Manager, secured approximately $45 million, Los Angeles County

CITY TRANSPORTATION PLANNING AND FUNDING

- Manage City's $20 million transportation budget, City of South Pasadena
- Metro Gold Line sound mitigation, City of South Pasadena
- Transportation Commission Advisor, City of South Pasadena
- Funds Manager, Transportation and Air Quality, City of South Pasadena

TRANSPORTATION AND TRANSIT PLANNING

- Statistical Analysis and Database Management, SCAG's Regional Cordon Survey
- Project Management, OCTA's SR-91 Origin Destination Analysis
- Project Management, Lawndale's Congestion Management Plan
- Transit Study, City of Bradbury
- Transit Study, City of Temple City

STRATEGIC FUNDING MANAGEMENT

- Advisor, Regional Surface Transportation Program
- Advisor, State Transportation Improvement Program
- Supervisor, funds tracking system for federally funded Surface Transportation

TRANSPORTATION POLICY

- Metro staff to League of California Cities Transportation Committee
- Cost-benefit Analysis, Metro Board of Directors
- Policy Guidelines, Metro Board of Directors

evan brooks associates

SALVADOR LOPEZ, JR., Vice President

Grant Writing, Sustainability and Community Planning

Education

- BS, Urban and Regional Planning, California State Polytechnic University, Pomona

Professional Experience

- Associate Planner, City of Baldwin Park
- Planning Intern, City of Pasadena

Professional Affiliations

- Member, American Planning Association

Summary of Experience

Mr. Lopez has over 16 years of experience as a city planner specializing in land use planning, urban design, smart growth, bicycle and pedestrian design and grants management. Mr. Lopez has worked as a Health and Built Environment Analyst. Through this position, he integrates health and the built environment to collaborate with city departments to ensure that cities see the benefits of working on long term planning to address economic and development challenges that affect public health and the built environment.

He works to ensure long term sustainability of the community and to engage residents and stakeholders. He has been instrumental in the passage of health driven policies including smoke free multi-family ordinances, tobacco retail licensing, healthy retail guidelines, healthy vending polices and Complete Streets. Mr. Lopez has been an integral component to creating walkable and healthy cities.

Evan Brooks Associates

Mr. Lopez is responsible for providing on-call planning work for client cities. He provides planning project review services including environmental review and design review, consistency with plans and policies, and document preparation including staff reports and technical studies.

Mr. Lopez also provides community outreach services for project or program specific services, including print and on-line communications, visioning workshops, inter-governmental agency collaborations, and public opinion surveys.

Selected Project Experience

PLANNING INITIATIVES

- Complete Streets Policy and Manual, City of Baldwin Park
- Design Guidelines, City of Baldwin Park
- Zoning Code Update
- Downtown Specific Plan
- General Plan Update

HEALTH INITIATIVES

- Healthy Baldwin Park
- Corner Store Conversions
- Smoke Free Multi-Housing Ordinance
- Smoke Free Policies
- Tobacco Retail Licensing Ordinance

GRANT WRITING

- RENEW, Renewing Environments for Nutrition, Exercise & Wellness

HEAL, HEALTHY EATING ACTIVE LIVING

- Caltrans, Community Based Transportation Planning
- Caltrans, Corridor and Neighborhood Enhancement Plan
- Caltrans, Environmental Justice
- Caltrans, Safe Routes to Schools
- AQMD, Tree Partnership

PUBLIC OUTREACH

- Public Advisory Committee, Health Baldwin Park
- Bicycle and Pedestrian Planning

POLICY PLANNING

- Healthy Retailing Policy
- Tobacco Retailing Policy
- Complete Streets Policy

SUSTAINABILITY PLANNING

- Sustainability Element of the Baldwin Park General Plan
- Non-Motorized Transportation Plan

evan brooks associates

JULIET M. ARROYO, Senior Planner

Grant Writing, Environmental Compliance and Historic Resources

Education

- MA, Urban Planning, UCLA
- BA, Geography, California State University, Fresno
- Coursework in Historic Preservation, USC

Professional Experience

- Project Planner, Evan Brooks Associates
- Principal/Historic Resources Consultant, Arroyo Associates
- Questa Environmental, CEQA Project Manager and Peer Reviewer for LAUSD
- Historic Preservation Specialist and CEQA Coordinator, City of Glendale
- Redevelopment Associate, Katz Hollis

Publications

- Author, "Early Glendale", Arcadia Publishing (2005)
- Author, "Glendale: 1940 to 2000", Arcadia Publishing (2006)
- Contributing Writer, Dance Magazine, Ink (2006-2008)

Summary of Experience

Ms. Arroyo has over 20 years of experience in urban planning specializing in environmental review and compliance at the California and Federal levels for large and small, private and public projects. She has additional experience in transportation planning, historic resources, urban design, land use planning, public funding, and redevelopment. Ms. Arroyo manages the environmental review process and prepares technical studies and environmental documents.

She conducts the public review process and final document review approvals. She also prepares transportation plans, parking studies, and surveys for local agencies. She writes grants for transportation projects and manages the funding compliance requirements. Ms. Arroyo prepares historic resource assessments. She wrote a demolition review ordinance and the historic district ordinance. Ms. Arroyo has prepared numerous redevelopment plans for California agencies. She has won awards for her individual and group work in historic resources and community organizing.

Evan Brooks Associates

Ms. Arroyo prepares transportation related reports and environmental review for transportation projects under Caltrans environmental regulations, CEQA, NEPA, and other local, State and Federal environmental requirements. She coordinates technical studies required for environmental review and manages community and government outreach activities for proposed projects and studies.

She also provides strategic funds management support for several Los Angeles County local jurisdictions. Additionally, Ms. Arroyo prepares historic resource technical studies for CEQA and Section 106 purposes.

Selected Project Experience

HISTORIC RESOURCES

- Authored Historic District Ordinance & Demolition Review Ordinance, City of Glendale
- Peer Reviewer, Historic Resource Assessments & Rehabilitation Plans, Los Angeles USD

- Historic Resource Assessments, Inglewood, Glendale, Los Angeles, Beverly Hills
- Design Review Conformance with Historic Resource Standards, Glendale, Los Angeles
- Historic Resource Survey, Downtown Glendale
- Created Mills Act Incentive Program, City of Glendale

ENVIRONMENTAL REVIEW

- Updated City CEQA Guidelines, City of Glendale
- Processed Negative Declaration, City of Glendale
- Managed CEQA document preparation and review, LAUSD
- Prepared Preliminary Environmental Studies, for Caltrans funded projects
- EIR Preparation and Management, Inglewood Promenade, City of Inglewood

GRANT WRITING AND MANAGEMENT

- Metro, Transit Oriented Development Planning Grants
- Funds Management for Transit Center, Baldwin Park
- Application, State Environmental Mitigation and Enhancement Program, Baldwin Park
- Federal Funds Management for La Brea Avenue Roadway Improvements, City of Inglewood
- Grant Author, State Office of Historic Preservation, Glendale Craftsman Historic Survey

TRANSPORTATION PLANNING

- Authored City-wide Parking Study in Residential Area, City of Lawndale
- Managed, Circulation Element, City of Calimesa
- Prepared the Bicycle Transportation Plan for the City of Rosemead
- Non-Motorized Transportation Plan, City of Baldwin Park

CITY PLANNING

- Plan and Policy Consistency, City of Glendale
- Staff to Historic Preservation Commission, City of Glendale
- Design Review for Historic Resources, City of Glendale

COMMUNITY OUTREACH

- Community Outreach for Glendale's Historic Districts
- New School Construction, Los Angeles Unified School District, Central Los Angeles
- Redevelopment Project Area Committee Formation, City of Inglewood

REDEVELOPMENT

- Merged Downtown Redevelopment Plans, City of Fresno, Redevelopment Agency
- Army Depot Closure, Redevelopment Plan, City of Sacramento, Redevelopment Agency
- Imperial-Prairie Redevelopment Plan, City of Inglewood

evan brooks associates

JORGE ZARZA, Associate Planner

Municipal Services, Urban Planning, GIS and Graphic Design

Education

- BS, Urban and Regional Planning, California State Polytechnic University, Pomona
- GIS Certificate, Rio Hondo College

Professional Experience

- Planner, City of San Fernando
- GIS Technician, Evan Brooks Associates
- Planner and GIS Technician, Southern California Association of Governments
- Assistant Planner, City of Baldwin Park

Professional Affiliations

- American Planning Association (APA), Member

Summary of Experience

Mr. Zarza is a planner with over 14 years of experience specializing in Land Use Planning, GIS and mapping. In addition to his current planning expertise, his projects include: cartographically preparing map layouts and printing maps for staff reports and meeting presentations, assembling census geography and attributes for community mapping and analysis, geocode addresses, digitizing and assembling geo-databases.

Evan Brooks Associates

Mr. Zarza is responsible for cartographically preparing map layouts and print maps for staff reports and meeting presentations, assembling census geography and attributes for community mapping and analysis, geocode addresses, digitizing and assembling geodatabases. He has produced highly-detailed current and proposed maps for various award-winning grant applications, such as METRO Call for Projects, California Department of Transportation Highway Safety Improvement Grant Program, and Active Transportation Program grant applications.

When our clients are understaffed or simply need additional in-house support, Mr. Zarza provides his experience and expertise as a planner to serve in various capacities within municipal departments. From assisting the general public with planning and zoning inquires to performing advanced planning activities, Mr. Zarza understands the full breadth of planning and consistently provides successful staff augmentation services.

Selected Project Experience

MUNICIPAL PLANNING

- Advised and assisted the general public with planning, zoning inquiries, and various land use application submittals.
- Checked and verified plans submitted by developers and the public for completeness and in conformance with submission standards.
- Coordinated approval of plans with other city departments and regulatory agencies.
- Assisted in developing and presenting recommendations on development permits, variances, tentative tract maps, residential planned development permits, and other zoning applications; prepared appropriate reports.
- Prepared environmental checklist and related documents.
- Performed inspections for projects to ensure compliance with City policies, ordinances and codes.

TRANSPORTATION AND SUSTAINABILITY

- Updating land-use database for Southern California Association of Governments for the 2016-2040 Regional Transportation Plan and Sustainable Communities Strategy.

GIS MAPPING

- Produced over 60 maps for the City of Montebello's Line-by-Line Analysis Report, including but not limited to bus line system maps, weekly boarding by stop and direction, transit use by census tract, and route change proposal maps.
- Created various detailed maps for the City of Montebello, including but not limited to, maps for population density, median age, zero vehicle households, projected population growth, jobs, language, and workers transit use by census tract.
- Produces current and proposed maps for all EBA projects and grant applications.

evan brooks associates

AMY DAVIS, Associate Planner

Grant Writing and Municipal Services

Education

- BS, Urban and Regional Planning, Cal Poly Pomona
- AA, Journalism, Fullerton College

Professional Experience

- Associate Planner, Evan Brooks Associates
- Planning Assistant/Planning Aide, City of West Covina
- Assistant Planner/Planning Intern, City of Whittier
- Pedestrian/Urban Environment Transportation Linkages Intern, METRO
- Media Publications/Employee Communications Intern, METRO
- Planning Intern, City of Azusa

Summary of Experience

Ms. Davis has over 10 years of experience in municipal planning. She earned a Bachelor of Science in urban and regional planning from Cal Poly Pomona, as well as an Associate of Arts in journalism from Fullerton College. She enjoys combining her background in communications and interest in the built environment through working with the public and producing effectively-written documents for client projects. She gained experience in municipal planning from positions with the City of Azusa and City of Whittier. She also gained experience in transportation planning from positions in the Countywide Planning Department and Communications Department of the Los Angeles County Metropolitan Transportation Authority (Metro). Prior to joining the EBA team, Ms. Davis was a planner for the City of West Covina for over seven years.

Evan Brooks Associates

Ms. Davis provides planning-related services to client cities. Through her full-time positions with the City of West Covina and the City of Whittier, she processed a variety of entitlement applications, including general plan amendments, zone changes, tentative parcel maps, variances, conditional use permits, administrative use permits and various levels of design review. As part of the entitlement review process, she ensured project completeness; coordinated meetings with applicants and City staff; prepared and disseminated public notices and public hearing notices; prepared staff reports, resolutions, findings, conditions of approval and PowerPoint presentations; and presented projects to the appropriate hearing body, including the Planning Commission, Design Review Board, Historic Resources Commission and Planning Commission Subcommittee for Design Review.

Ms. Davis' background in journalism, municipal planning and media publications provides her with the ability to merge her unique, stylistic writing with grant writing. Though relatively new to EBA, her experience has allowed her to write succinct off-street parking studies and grant applications for client cities. She also provides summaries of large grant applications for quick review by client cities.

Selected Project Experience

CITY PLANNING

- Staff coordinator, Planning Commission Subcommittee for Design Review, City of West Covina
- Processed Code Amendment for Wireless Telecommunications Facilities, City of West Covina
- Processed entitlement applications for reconstruction of McDonald's restaurant and drive-through on Valley Boulevard, City of West Covina
- Processed entitlement applications for construction of International House of Pancakes restaurant on Whittier Boulevard, City of Whittier

HISTORIC RESOURCES

- Processed first historic landmark designation application for the Taylor House (City-owned Craftsman-style house constructed in 1912), City of West Covina
- Processed Certificate of Appropriateness applications (including proposed four-story elevator tower for Victorian-style house constructed in 1887), City of Whittier
- Citywide photo survey of potentially significant historic resources, City of Azusa

ENVIRONMENTAL REVIEW

- Prepared Draft Initial Study, two-lot subdivision, City of West Covina
- Reviewed Draft Initial Study, three-lot subdivision, City of West Covina

GRANT WRITING AND MANAGEMENT

- Assisted with application process for 2015 Metro Call For Projects
- Assisted with application process for 2015 Caltrans Active Transportation Program Cycle 2
- Prepared applications for 2015 Clean Transportation Funding from the MSRC
- Summarized client grant applications for 2015 TIGER grant, City of Compton

TRANSPORTATION PLANNING

- Prepared news and feature stories for internal dissemination on Metro's intranet
- Prepared informational materials for external dissemination to promote ridership
- Project tracking for Metro Call for Projects grant recipients
- Managed and prepared Off-Street Parking Analysis, City of Gardena

COMMUNITY OUTREACH

- Tyler Avenue Bike Lane Ribbon Cutting Ceremony and Community Bike Ride, City of El Monte (project funded via 2007 Metro Call For Projects)
- Attended community meetings for General Plan update, City of West Covina

evan brooks associates

M. YUNUS RAHI, Senior Engineer

PhD, Licensed Professional Civil Engineer and Transportation Engineer

Education

- PhD, Civil Engineering (Transportation)
- MS, Civil Engineering (Transportation), Washington State University
- BS, Civil Engineering, Washington State University
- Bangladesh University of Engineering and Technology

Professional Experience

- Sr. Transportation Engineer, Evan Brooks Associates
- Transportation Engineer, Transtech Engineers
- Transportation Planner & Traffic Engineer, Parsons Transportation Group
- Assistant Profession, Washington State University

Professional Affiliations

- Member, American Society of Civil Engineers (ASCE)
- Member, Institute of Transportation Engineers (ITE)
- Planning Commissioner, City of San Dimas, CA

Summary of Experience

Mr. Rahi is a California Professional Engineer with over 25 years of professional experience in the areas of traffic engineering, transportation planning and engineering, civil engineering, and municipal engineering. He has authored numerous traffic impact studies and designed technically sound work area traffic control and detour plans.

Mr. Rahi has successfully prepared proposals and represented clients in public hearings, community meetings, planning commissions and city councils. He is an expert in highway and traffic signal design and planning and has served as project manager for multiple transportation plans and engineering studies. Additionally, Mr. Rahi has served as project manager for capital improvement project programs for local agencies, including applications for project funding, reimbursement requests, federal and state fund obligation and project close-out reports. He is a resident engineer on federal-aid construction projects for local agencies and a consultant for city traffic engineer services.

Evan Brooks Associates

Mr. Rahi is responsible for managing and performing technical and professional engineering services for client projects. He provides traffic studies, transportation plans, traffic impact analyses, parking management studies, and city traffic engineering services for EBA clients.

He also provides engineering compliance for federally-funded transportation projects, such as preparing traffic studies to obligate grant money for client cities. Mr. Rahi also assists with grant applications requiring technical and professional transportation engineering services. Additionally, he prepares engineering calculations and Preliminary Study Report Equivalents (PSRE) for grant applications requiring technical engineering expertise.

Selected Project Experience

City Traffic Engineering

- Cities of Monrovia, Temple City, and Commerce

City of Alhambra Resident Engineering

- Alhambra Road Rehabilitation Project
- Safe Route to Schools Project
- Valley Boulevard Rehabilitation Project

Transportation Planning Project Experience

- Arrowhead Springs Specific Plan, Master Plan Study, San Bernardino County
- Rancho Cucamonga Industrial Area Specific Plan Amendment EIR, Rancho Cucamonga
- Traffic Counts and Trip Generation Study, Private School, North Hollywood, Los Angeles
- Monrovia General Plan Update, Circulation Element, City of Monrovia
- City of San Bernardino General Plan Update, Circulation Element, San Bernardino

Traffic Studies

- Los Angeles Unified School District South Region High School No. 7 Traffic Study
- Traffic Impact Study, 820 Hoover Street Mixed-Use Project, Los Angeles
- Santa Clarita Valley Joint Sewerage System Facilities Plan EIR, County Sanitation Districts

Traffic Signal Design

- Holt Avenue Signal Interconnect Plan, City of Pomona
- Rosemead Boulevard/Las Tunas Drive Median Design, Temple City
- Lakewood Boulevard Traffic Signal Synchronization Plans, County of Los Angeles

Highway and Freeway Design

- I-215 Flyover/Grade Separation Project at University Parkway, City of San Bernardino
- Alameda Corridor East - Grade Crossing/Safety Improvement Plans
- Alameda Corridor East – Pomona Avenue Train Diversion Plans

Traffic Engineering

- Traffic Control Plans, Pasadena Civic Center Expansion in Pasadena, CA
- Traffic Control Plans, Safe Route to School Projects in Palmdale, CA

Capital Improvement Project Management

- Mission Boulevard/SR-71 Grade Separation, City of Pomona

evan brooks associates

SABRY ABDELMALIK, Senior Engineer

Licensed Professional Civil Engineer

Education

- BS, Civil Engineering

Registration

- State of California and Texas Registered Civil Engineer
- General Engineering Contractor, State of California

Professional Experience

- Senior Civil Engineer, Evan Brooks Associates
- President and Owner, West Site Engineering
- Senior Design Engineer, Transtech Engineers
- Senior Project Engineer, Walden and Associates
- Senior Project Engineer, Rox Consulting Group
- Project Engineer, United Engineering Technology
- Project Manager, Cairo Airport Authority

Summary of Experience

Mr. Abdelmalik has more than 35 years of experience and has participated on numerous multi-disciplinary teams dealing with the planning and development of civil engineering, urban and rural development, and public works projects. He has designed numerous street and highway, grading, storm drain, hydrology, water, and sewer improvement projects. His involvement varied from a staff design engineer to supervising project design engineer responsible for the entire project design and coordination. These projects also included coordination and review of the traffic improvement design, such as traffic signal, street lighting, channelization and traffic control/detour, as part of the contract plans.

For 21 years, Mr. Abdelmalik worked for Cairo Airport Authority in Egypt, serving as a design engineer, project manager, and ultimately as Chief Airport Civil Engineer for civil engineering projects in and around the airport district, including runways, roads, utilities, water, sewer and storm drain projects. The most important project which was carried out under Mr. Abdelmalik's supervision as the manager of the civil engineering teams was the construction of the new terminal at Cairo Airport, which included the main terminal buildings and runway. His additional accomplishments included successful construction of the Aero-port de Paris and the supervision of the design and the construction management teams.

Evan Brooks Associates

Mr. Abdelmalik provides multi-disciplinary engineering services to client cities. Through his consulting firm, which provides professional and technical services in engineering, to governmental agencies, educational institutions and private sectors, Mr. Abdelmalik is able to provide a wide range of services.

Mr. Abdelmalik also oversees grant applications requiring the assistance of a professional civil engineer. He provides feedback and assists our primary grant writers with any technical information they may need. Once a grant application has been thoroughly reviewed by Mr. Abdelmalik, he signs the application, when appropriate. He also provides initial planning and design, engineering and technical assistance.

Selected Project Experience

Civil Engineering for Municipalities

- Rail Grade Crossing Improvement Project, Alameda Corridor Agency East (ACE)
- 2000/01 Annual street rehabilitation project, City of Alhambra
- Tubeway and Yates street reconstruction project, City of Commerce
- Valley Boulevard Widening Project, County of Los Angeles/City of Alhambra
- Gracewood Sewer project, City of Temple City
- 710 Interim local streets improvement project, Caltrans/City of Alhambra

Plan Checking Services

- Provided direct plan checking services for: City of San Bernardino, City of La Habra Height and City of Pomona

Civil Engineering for Educational Institutes

- Civil engineering design for new access road around the campus of Cal State University San Bernardino.
- Infrastructure utility study for west campus of University of California Riverside (UCR).
- Grading and drainage construction documents for Surge Research building at UCR.
- Civil engineering design for Metro link parking structure at Santa Fe Depot

Construction Document Packages

- Riviera Palm Subdivisions, City of Deer Park, Texas.
- 620 East Grand Ave., City of Corona.
- University Park subdivision, City of San Bernardino.
- Precise grading & pavement design plan for Arbor-Vitae Parking Lots , City of Inglewood
- Design and Prepare Civil Engineering details, LAUSD-ADA Bundle QA for ten schools
- Flood Mitigation Design at Laguna Woods Village, City of Laguna Woods
- Traffic Control Construction Plans, City of Palmdale
- Rough Grading Plan for new Gas Station, Intersection HWY 15 and 138

evan brooks associates

IRVING ANAYA, Assistant Planner

Municipal Services

Education

- BS, Urban and Regional Planning, Cal Poly Pomona
- Geographic Information Systems, Pierce College (present)

Professional Experience

- Assistant Planner, Evan Brooks Associates
- Planning Technician, City of Baldwin Park

Skills

- MS Office (Word/ Excel/ PowerPoint/ Outlook)
- ArcGIS 10.1
- Fluent in Spanish (verbal and written)

Summary of Experience

Mr. Anaya earned a Bachelor of Science in Urban and Regional Planning from Cal Poly Pomona and has experience with Geographic Information Systems. He has attained experience in Municipal Planning by working with local agencies in processing land use entitlements, conducting design/plan reviews, issuing ministerial permits, and generating maps for planning studies.

He has planning experience and has worked with other municipal agencies, such as the City of Baldwin Park, in which he has worked with staff on staff reports, design reviews, plan checks and customer service support. Mr. Anaya was also a Technical Advisory Committee Member for the City's HEAL Grant and the Project Coordinator for the 2015 Spring Job Fair.

Evan Brooks Associates

Mr. Anaya provides planning-related services to client cities.
He recently joined EBA and has been assigned to various projects. He currently provides the City of San Fernando with various planning services and is readily available to assist other municipal agencies with planning-related services.

ATTACHMENT 3: LOOK-FAST FORWARD



LOOK:
FAST FORWARD

This publication of "Look: Fast Forward" Grant Opportunities listing is provided to our clients as a way to seek out funding opportunities within the transportation, environmental, and community development fields.

***Published: September 2015** (v2)*

For more information on any of the opportunities contained herein, please contact:

evan brooks associates

Firm Name:	EvanBrooksAssociates, Inc.	**Office:**	626.799.8011
Address:	1030 S. Arroyo Parkway, Pasadena, CA 91105	**Fax:**	888.421.8798
		Mobile:	818.521.9947
Website:	www.ebaplanning.com	**Email:**	hal@ebaplanning.com

October 2015

Caltrans Sustainable Transportation Planning Grant Program
Minimum and maximum grant amounts are $50,000 to $500,000 (Sustainable Communities) and $100,000 to $500,000 (Strategic Partnerships).
Due Date: October 30, 2015

The Sustainable Transportation Planning Grant Program was created to support the California Department of Transportation's (Caltrans) current mission to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. In this 2016-2017 cycle, Caltrans aims to promote a sustainability, preservation, mobility, safety, innovation, economy, health and equity. The Caltrans Division of Transportation Planning provides the two types of transportation planning grants (1) Strategic Partnerships and (2) Sustainable Communities. The grants may be used for a wide range of transportation planning purposes, which address local and regional transportation needs and issues. The implementation of these grants should ultimately lead to the adoption, initiation, and programming of transportation improvements.

November 2015

Wayfinding Signage Grant Pilot Program
Maximum grant amount to be determined.
Due Date: November 13, 2015

The Los Angeles County Metropolitan Transportation Authority ("Metro") created a two-year pilot Wayfinding Signage Grant Program to implement components of Metro's First/Last Mile Strategic Plan in late 2014. The Pilot Program provides $500,000 over a two year period, Fiscal Year (FY) 2015-16 and 2016-17 to assist agencies in designing and implementing static Wayfinding signage systems on non-Metro properties within one mile to and from transit stations. Funding for FY 2015-16 and FY 2016-17 will be awarded through this application process. The "Metro" Wayfinding Signage Grant Program will provide funds to eligible agencies wishing to install static wayfinding signage within one mile to and from Metro fixed guideway stations that will be open by June 30, 2017. Eligible agencies includes: cities, County and Port of Los Angeles/Long Beach, municipal and local transit operators, and Caltrans.

Contact Us
1030 Arroyo Parkway
Pasadena, CA 91105
626.799.8011
888.421.8798 (fax)
www.ebaplanning.com

December 2015

CalRecycle Rubberized Pavement Grant Program
Maximum grant amount $250,000
Due Date: December 2015 (date to be determined)

This grant program, formerly called the Rubberized Asphalt Concrete (RAC) Grant Program, aims to promote markets for recycled-content surfacing products derived from waste tires generated in California and to decrease the adverse environmental impacts created by unlawful disposal and stockpiling of waste tires. RAC is a proven road paving material that has been used in California since the 1970s. Applicants that have been previously awarded Pavement Grants are not eligible to apply in the following fiscal year.

Ongoing 2015

Water Recycling Facilities Planning Grant Application
Maximum grant amount is 50% of eligible costs up to $75,000.
Due Date: Ongoing

The State Water Resources Control Board (State Water Board) provides funding for the planning, design, and construction of water recycling projects that offset or augment state fresh water supplies. The Water Recycling Funding Program (WRFP) is administered by the Division of Financial Assistance (Division). Grants are provided for facilities planning studies to determine the feasibility of using recycled water to offset the use of fresh/potable water from state and/or local supplies. Pollution control studies, in which water recycling is an alternative to disposal, are not eligible. Only local public agencies are eligible to receive a facilities planning grant. Application requirements are: Application Form, Resolution, Study Scope, Proof of Compliance with the Division of Financial Assistance, AB 1420 and AB 2572.

Contact Us
1030 Arroyo Parkway
Pasadena, CA 91105
626.799.8011
888.421.8798 (fax)
www.ebaplanning.com

ATTACHMENT 4: GRANT SPOTLIGHT

LOOK AHEAD: GRANT SPOTLIGHT

CalRecycle Rubberized Pavement Grant Program

ABOUT THE PROGRAM

Administered by The Department of Resources, Recycling and Recovery (CalRecycle), the CalRecycle Rubberized Pavement Grant Program is designed to promote the use of rubberized pavement while encouraging the recycling of California-generated waste tires. It is made possible through an annual appropriation from the California Tire Recycling Management Fund to administer the California Tire Recycling Act, which allows for the awarding and funding of grants for activities and applications that result in reduced landfill disposal or stockpiling of waste tires.

The maximum grant award is $250,000, with applications tentatively due in December 2015.

ELIGIBLE APPLICANTS

Local government agencies (cities, counties, or city and county; special districts, Joint Powers Authorities and regional park districts)

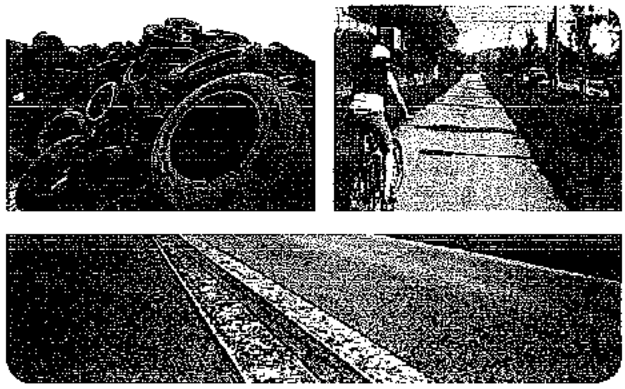
Qualifying Indian tribes

State agencies

** Proposed eligibility criteria and evaluation process changes will allow applicants to apply and receive grants in consecutive fiscal years. Approval of changes will be considered on 9/15/15*

EBA EXPERIENCE

EBA has acquired every grant application submitted under this program. Last year, EBA successfully obtained over $100,000 for the City of La Verne.



ELIGIBLE PROJECTS

Eligible projects include, but are not limited to: rubberized street pavement projects, Class I bikeways, disability access projects at parks, and greenways. Projects must use material that contains a minimum of 300 pounds (equivalent to 15 percent by weight) of tire-derived crumb rubber per ton of rubberized binder.

The program expands the market for rubberized pavement by encouraging first-time or limited users of rubberized pavement in two areas:

(1) *RAC Hot-Mix*: Eligible projects must use a minimum of 3,500 tons of RAC hot-mix (grant awards in this category are proposed to be based on a fixed dollar amount per ton of RAC hot-mix). (2) *Rubberized Chip Seal*: Eligible projects must use a minimum area of 40,000 square yards of rubberized chip seal material (grant awards in this category are based on a fixed amount per square yard of chip seal)

** Initial available funding will be allocated (approximately) two-thirds for RAC projects and one-third for rubberized chip seal projects*

1030 Arroyo Parkway, Suite 204 | Pasadena, CA 91105
626.799.8011 | info@ebaplanning.com | www.ebaplanning.com
evan brooks associates

ATTACHMENT 5: GRANT APPLICATION FACT SHEETS

Fact Sheet

Call for Projects 2015

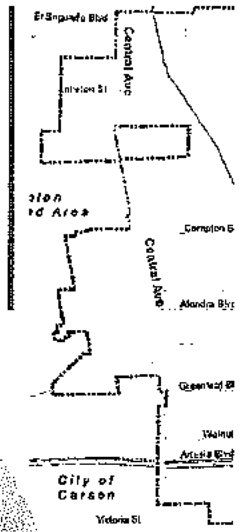


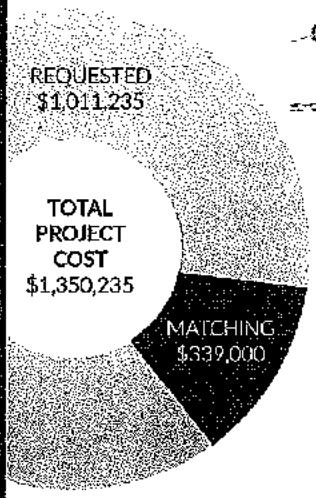
Project Title Central Avenue Regional Commuter Bikeway Project

Project Improvements Installation of a Class IV buffered bike lane, signage and pedestrian safety improvements, including sidewalk gap closures, pedestrian-activated crosswalk safety systems, countdown pedestrian signals, high-visibility crosswalk striping and improved pedestrian lighting.

Project Limit

Central Avenue, between El Segundo Blvd on the north and City limits on the south (south of State Route 91)





The majority of the corridor is located in the 90th percentile range, per CalEnviroScreen 2.0 results; 100 percent of the requested funds will be expended in this disadvantaged community.

Current Issues

The proposed Class IV bike lane will replace an existing Class II bike lane that was installed in the early 2000s but is substandard and deteriorated, while segments do not comply with MUTCD and Complete Streets standards.



The existing Class II bike lane is misaligned as cyclists approach intersections, while some segments feature poor line-of-sight.

Sidewalks do not exist along some segments of the corridor, as a result, pedestrians are often forced to walk in the main roadway.

Users of Corridor

The current conditions create a dangerous conflict between motorists, bicyclists and pedestrians. The corridor serves more than eight public schools, as well as a large student population at Cal State Dominguez Hills and a large regional employment hub in the south. Many users of non-motorized modes of transportation utilize Central Avenue to access bus stop locations for their first/last mile connection to access the Metro Blue and Green Line Stations.

Project Benefits

This project will increase the use of active transportation among students and commuters by creating a safer environment for pedestrians and bicyclists who travel along the Central Avenue corridor.

The project will have a significant impact on public health by supporting increased access and use of active transportation among the City's residents, especially children. 50.8 percent of the City's 5th, 7th and 9th grade students are overweight or obese, ranking Compton as the city with the 3rd highest percentage of overweight children in the State (according to the Overweight and Obesity Among Children By California Cities study).

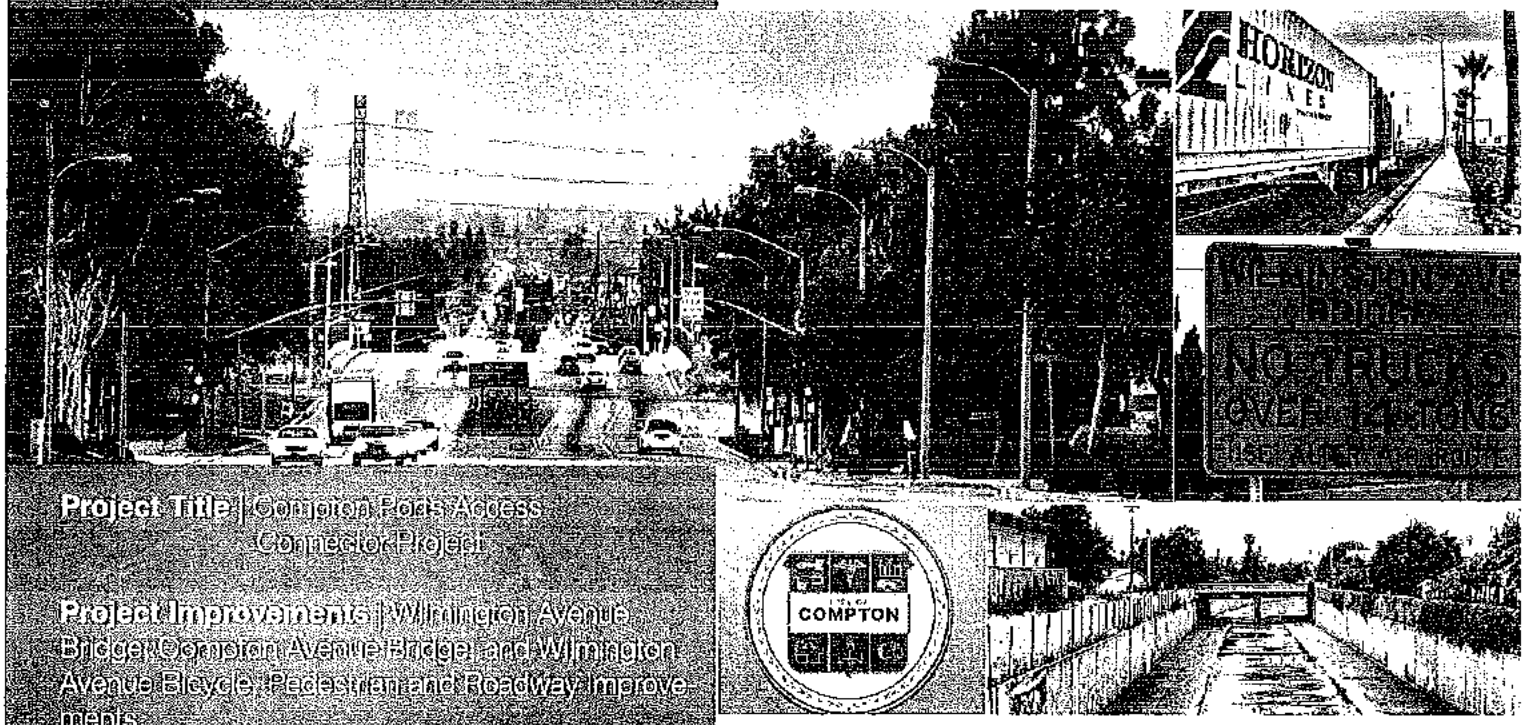
City of Compton, CA

City of Compton, California

2015 TIGER: FACT SHEET

PORTS ACCESS CONNECTOR

For more information, visit: www.comptoncity.org and search "2015 TIGER Grant Application."



Project Title: Compton Ports Access Connector Project

Project Improvements: Wilmington Avenue Bridge, Compton Avenue Bridge, and Wilmington Avenue Bicycle, Pedestrian, and Roadway Improvements

Total Project Cost: $14,000,000

ABOUT THE PROJECT

Wilmington Avenue provides direct north-south access from the Port of Los Angeles and its international container staging areas to State Route 91 and Interstate 105, as well as connections on to Interstate 110 and Interstate 605. The segment of Wilmington Avenue between Victoria Street and El Segundo Boulevard has not been rebuilt or upgraded since its original construction in 1938.

History

In 2005, the City was forced to close truck traffic on Wilmington Avenue and Compton Boulevard due to deteriorating structural conditions that resulted in weight capacity restrictions on the two bridges. In 2009, the County downgraded the weight restriction for the two bridges to below 12 metric tons, an unrealistic weight limitation for today's goods movement roadway.

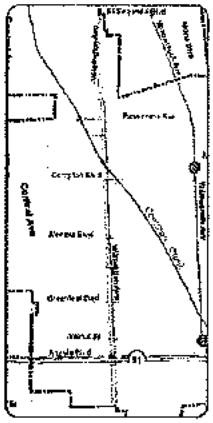
The two roadways have significant deterioration from decades of truck traffic and are in need of major reconstruction. Both roadways can no longer accommodate current and future goods movement traffic and do not meet the needs of other non-motorized users, such as bicyclists and pedestrians.

Project Benefits

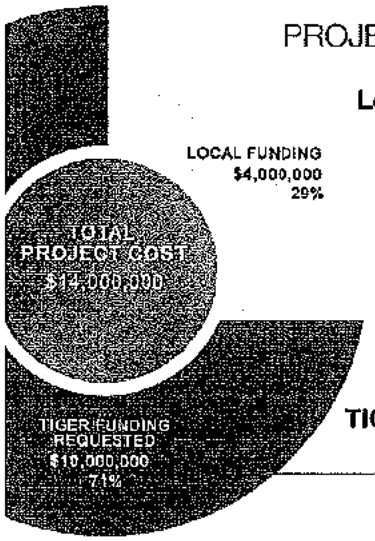
Improvements will allow goods movement activities to resume along the direct-access corridor. The project will increase the City's economic viability and sustainability by expanding its regional distribution and warehousing activities. Reconstruction of the corridor will bring the roadway and bridges up to standards accepted by the Federal Highway Administration and California Department of Transportation. The project will ensure that all modes of travel can co-exist in a safe and efficient manner.

PROJECT LIMIT

Wilmington Avenue, between Victoria Street on the south and El Segundo Boulevard on the north



PROJECT FUNDS



Local Funding	
$1,505,000 *(L.A. County)*	
$1,499,000 *(METRO)*	
$996,000 *(Caltrans)*	
$4,000,000	
TIGER Funding Requested	
$10,000,000	

Health and Sustainability Element

City of Baldwin Park

BALDWIN PARK

growing healthier • greener • stronger

Client:
City of Baldwin Park, CA

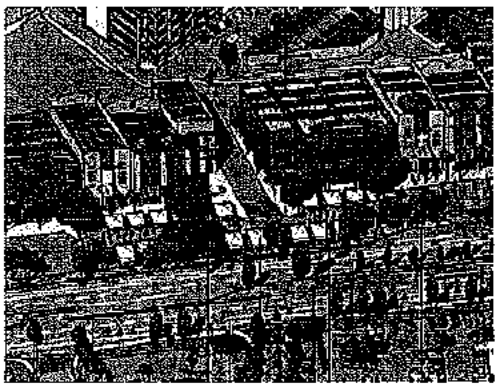
Contact:
Amy Harbin, City Planner
626-813-5261
Email: aharbin@baldwinpark.com

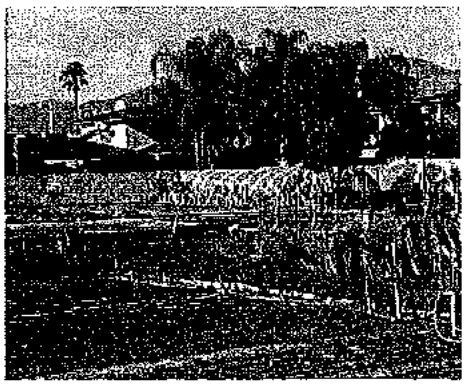
Services:
Multimodal Planning
Land Use Planning
Health & Built Environment Policies
Community Outreach
Grants Management

Project Fee: $289,000
Status: Completed, November 2014

Upon EBA's successful grant acquisition from the State of California's Strategic Growth Council for Sustainable Communities Planning Grant, EBA partnered with MIG consultants and the City to draft a new Health and Sustainability Element for the City's General Plan. The goal was to adopt an Element to comprehensively plan for a healthier, greener and stronger Baldwin Park. The Plan will define actions the city will take over the next several years to improve the health of Baldwin Park residents and to create a cleaner, more sustainable environment. The Plan is also intended to complement the upcoming Transit Oriented Development Specific Plan for Downtown Baldwin Park.







Attachment 3

Copies of the evaluations

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: California Consulting, LLC

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	*SERVICE TEAM* - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	70	
2	*FIRM'S CAPABILITIES* - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	7	70	
3	*UNDERSTANDING AND APPROACH* - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	8	120	
4	*PROJECT CONTROLS OF OVERSIGHT* - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	
5	*REFERENCES* - Record of producing a quality product on similar services, on time and within budget.	5	7	35	
GENERAL NOTES:			TOTAL		335

NAME: M Mician TITLE: Sust. Mgr PS DATE: 10/6/15

CONSULTANT EVALUATION

Service: **Grant Writing Services**

Consultant: **California Consulting, LLC**

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	***SERVICE TEAM*** - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	9	90	
2	***FIRM'S CAPABILITIES*** - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	10	100	
3	***UNDERSTANDING AND APPROACH*** - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	9	135	
4	***PROJECT CONTROLS OF OVERSIGHT*** - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	45	
5	***REFERENCES*** - Record of producing a quality product on similar services, on time and within budget.	5	10	50	
GENERAL NOTES: Extension Consultants Recommended		46	**TOTAL**		420

NAME: Arturo Davila TITLE: Council DATE: 10/07/15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: California Consulting, LLC

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	*SERVICE TEAM* - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	70	
2	*FIRM'S CAPABILITIES* - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	7	70	FOUNDED 2004 85 CA CLIENTS
3	*UNDERSTANDING AND APPROACH* - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	8	170	
4	*PROJECT CONTROLS OF OVERSIGHT* - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	EL SEGUNDO, CA
5	*REFERENCES* - Record of producing a quality product on similar services, on time and within budget.	5	4	20	
GENERAL NOTES:			TOTAL		320

NAME: RG TITLE: ACDD DATE: 10-19-15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: TKE Engineering

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	*SERVICE TEAM* - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	70	
2	*FIRM'S CAPABILITIES* - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	8	80	
3	*UNDERSTANDING AND APPROACH* - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	7	105	
4	*PROJECT CONTROLS OF OVERSIGHT* - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	
5	*REFERENCES* - Record of producing a quality product on similar services, on time and within budget.	5	8	40	
GENERAL NOTES:			TOTAL		335

NAME: _____ TITLE: _____ DATE: _____

AD Mician Sust Mgr CORS 10/7/15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: TKE Engineering

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	*SERVICE TEAM* - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	8	80	
2	*FIRM'S CAPABILITIES* - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	7	70	
3	*UNDERSTANDING AND APPROACH* - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	8	120	
4	*PROJECT CONTROLS OF OVERSIGHT* - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	
5	*REFERENCES* - Record of producing a quality product on similar services, on time and within budget.	5	8	40	
GENERAL NOTES: Planner position to Plus Team		39	**TOTAL**		350

NAME: [illegible] TITLE: Chief DATE: 10/07/15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: TKE Engineering

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	***SERVICE TEAM*** - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	70	
2	***FIRM'S CAPABILITIES*** - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	7	70	Planning Board WATER WASTEWATER
3	***UNDERSTANDING AND APPROACH*** - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	9	135	
4	***PROJECT CONTROLS OF OVERSIGHT*** - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	RIVERSIDE, CA
5	***REFERENCES*** - Record of producing a quality product on similar services, on time and within budget.	5	4	20	
GENERAL NOTES: WTR / WASTEWATER COST: 150-65			**TOTAL**		335

NAME: BG TITLE: ACOD DATE: 10-19-15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: Evan Brooks Associates

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	***SERVICE TEAM*** - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	10	100	100
2	***FIRM'S CAPABILITIES*** - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	9	90	90
3	***UNDERSTANDING AND APPROACH*** - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	8	120	120
4	***PROJECT CONTROLS OF OVERSIGHT*** - Ability to the timely response to City requirements. - Accessibility to City staff.	5	7	—> 35	
5	***REFERENCES*** - Record of producing a quality product on similar services, on time and within budget.	5	6	—> 30	
GENERAL NOTES:			TOTAL		375

NAME: M. Mician TITLE: COPS Sust. Mngr DATE: 10/6/15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: Evan Brooks Associates

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	***SERVICE TEAM*** - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	7.0	
2	***FIRM'S CAPABILITIES*** - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	8	80	
3	***UNDERSTANDING AND APPROACH*** - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	7	105	
4	***PROJECT CONTROLS OF OVERSIGHT*** - Ability to the timely response to City requirements. - Accessibility to City staff.	5	6	30	
5	***REFERENCES*** - Record of producing a quality product on similar services, on time and within budget.	5	5	25	
GENERAL NOTES:		33	TOTAL		310

NAME: [illegible] TITLE: [illegible] DATE: 10/07/15

CONSULTANT EVALUATION

Service: Grant Writing Services

Consultant: Evan Brooks Associates

NO	CRITERIA	WEIGHT	SCORE (1 to 10)	SCORE (Wt x Score)	COMMENTS
1	***SERVICE TEAM*** - Qualifications/Relevant Individual Experience - Time commitment of key members - Organizational Chart	10	7	70	GE. / PLANNING MUNICIPAL WP
2	***FIRM'S CAPABILITIES*** - Demonstrated capability on similar/related services - Management/Organizational capabilities - Impacts of other on-going services and priorities - Staff availability - Ability to meet City's insurance requirements	10	8	80	$100 MILLION (EA) 35% TRANSPORTATION COMPLETE STREETS TRANSIT CENTER
3	***UNDERSTANDING AND APPROACH*** - Demonstrated knowledge of the work required - Provided an explanation of the service - Showed familiarity with the City's needs - Logical course of action to meet goal - Had internal measures proposed to meet service needs - Included innovative approaches	15	8	120	
4	***PROJECT CONTROLS OF OVERSIGHT*** - Ability to the timely response to City requirements. - Accessibility to City staff.	5	8	40	PASADENA, CA
5	***REFERENCES*** - Record of producing a quality product on similar services, on time and within budget.	5	4	20	
GENERAL NOTES: TRANSPORTATION			**TOTAL**		330

COST 140-55

NAME: BG TITLE: AGOD DATE: 10-19-15

Attachment 4

Copy of the Request for proposal

STAGECOACH TOWN USA

City of Banning

99 E. Ramsey Street · P.O. Box 998 · Banning, CA 92220-0998 · (951) 922-3105 · Fax (951) 846-8611

OFFICE OF THE CITY MANAGER

September 16, 2015

REQUEST FOR PROPOSALS (RFP) FOR A CONSULTING FIRM TO PROVIDE GRANT WRITING SERVICES FOR THE CITY OF BANNING

Closing Date and Time:	**September 30, 2015, by 4:00 P.M.**
Submittal Location:	City of Banning, Office of the City Clerk 99 E. Ramsey Street, Banning, CA 92220
Submittal Must Include:	Five (5) Original Copies of Proposal and One (1) CD in both Adobe PDF and Microsoft Word document formats
Contact Person:	Sonja De La Fuente, Executive Assistant Phone: (951) 922-4860 E-mail: sdelafuente@ci.banning.ca.us

I. INVITATION

The City of Banning is requesting proposals from consulting firms to provide professional grant evaluation, writing and management services to: 1) identify and prioritize City projects in need of grants/funding; 2) identify grant/funding sources and opportunities; 3) prepare grant/funding applications; 4) assist in preparing a long-range grant/funding application program; and, 5) provide administration and reporting for awarded grants/funds. The scope of work, required content and the selection process are further described in the Request for Proposals (RFP). The selected firm will provide the requested services under the direction of the City Manager's Office.

II. SELECTION TIMELINE (TENTATIVE)

City Issuance of the RFP	September 16, 2015
RFP Closing Date (due date)	September 30, 2015
Staff Evaluation	October 1-7, 2015
City Council Approval	October 13, 2015

III. INQUIRIES

Bidders must carefully examine this RFP and any addenda that may be posted on the City's website (www.ci.banning.ca.us) prior to submission of their proposal. Bidders must seek clarification of any ambiguity, conflict, omission or other error in this RFP in writing prior to submission of their proposal. If an answer materially affects the RFP, the information will be incorporated into an addendum and distributed to all vendors via the City's website; no other contact shall be made by the City to vendors regarding addenda to the RFP. It shall be the vendor's sole responsibility to check the City's website to determine if any addenda have been posted prior to the proposal due date.

IV. SUBMITTAL INSTRUCTIONS

Please submit five (5) original hard copies and one (1) CD (PDF & MS Word) in a sealed envelope. Qualifications packages are to be submitted inside an envelope marked on the outside with "PROPOSALS FOR GRANT WRITING SERVICES FOR THE CITY OF BANNING".

ALL PROPOSALS MUST BE RECEIVED IN THE CITY OF BANNING, OFFICE OF THE CITY CLERK, NO LATER THAN 4:00 P.M. ON SEPTEMBER 30, 2015. NO LATE, EMAILED, OR FAXED PROPOSALS WILL BE ACCEPTED.

V. REQUIRED PROPOSAL FORMAT

The proposal package should be limited to 35 single sided pages (not counting the table of contents, cover letter or dividers). In order to maintain uniformity with all proposals submitted, it is required that the Consultant's proposal include the minimum information below:

1. Cover Letter - A brief cover letter signed by the highest company executive who can bind the company in contractual services. The cover letter must summarize key points of the firm's qualifications and key individuals involved in the firm with regard to the scope of the work requested by the City.

2. Brief Company Profile – General company information including number of employees, location of company headquarters and branch offices, number of years in business and organization, disciplines, and staffing. Describe the general qualifications of the firm.

3. Organization and Staffing – Provide information showing all proposed staff assignments and sub-consultants including their relationships with the proposed work. Identify the project leader/manager that will be the day-to-day contact. Provide resumes for all applicable personnel and their qualifications with regard to the requested service in this RFP. Provide an organizational chart depicting the relationship between the team members.

4. Relevant Services with Reference - List recently performed and similar services that are being requested in this RFP. Indicate the past performances and abilities of the proposed team. Provide the name of a contact person who was the primary contact for the municipality in which the relevant work was performed. The City will contact any of the listed references at any time to make any other reasonable investigation into the Consultant's background and experience.

5. Proposed Fee Schedule – Provide a statement of the proposed fee and hourly rates for all proposed classifications, including rates for sub-consultants, if any, as well as any proposed percentage mark-up of reimbursable expenses. Please note that the City will not reimburse for mileage in the performance of work.

VI. SELECTION CRITERIA

Proposal will be reviewed by the City staff. The proposal will be rated/ranked according to the following criteria:

- Cost.
- Proposed Personnel – The experience and qualifications of the proposed personnel and the firm on similar services. The availability of proposed personnel and overall firm capabilities to meet additional needs of the City. Proven experience of principle personnel for specific positions.
- Project Approach – The proposed approach and services that the firm is capable of providing and how the firm's approach meets the needs of the City.
- Project Controls – The firm's ability to control costs and provide accurate and timely invoices; to monitor and stay within budget; to monitor schedule and review times and the techniques used to complete services within the proposed time frames.
- Client References – Provide at least three (3) current references. The references should identify the client, a contact name and telephone number, a description of the services provided. The City also reserves the right to contact the clients that terminated contracts with the firm as listed in the firm's submittal.
- Ability to comply with City standard Contract Services Agreement.
- Award will be in accordance with the provisions of the Banning City Code. The proposals may be reviewed individually by staff members; and, may be reviewed through an ad hoc committee to assist in the selection process. The finalists may be requested to provide the CITY with a presentation and/or oral interview. The ad hoc committee may review the RFP's as well as any requested presentations and/or oral interviews to gather information that will assist in making a recommendation to City Council.

The CITY reserves the right to:

- ❖ Reject any and all proposals at its discretion
- ❖ Cancel the entire RFP
- ❖ Waive any minor errors or informalities in any Proposals, to the extent permitted by law
- ❖ Conduct oral interviews
- ❖ Negotiate with one or more CONSULTANTS
- ❖ Require a best and final offer from one or more CONSULTANTS
- ❖ Issue an amended RFP to ensure compatibility of the Proposal for comparison

The successful firm may be invited to interview and enter into a Contract Services Agreement with the City.

VII. SCOPE OF WORK

The City requires the services of consulting firms to: 1) identify and prioritize City projects in need of grants/funding; 2) identify grant/funding sources and opportunities; 3) prepare grant/funding applications; 4) assist in preparing a long-range grant/funding application program; and, 5) provide administration and reporting for awarded grants/funds.

Consultant services – The successful vendor will provide personnel to act independently in accomplishing work for the City.

VIII. ATTACHMENTS

A. City Standard Contract Services Agreement with insurance requirements

The agreement for services shall be for the term of one (1) year, commencing from the date of City Council award, with the ability to extend the agreement for up to an additional two (2) years. City Council may amend the term at their discretion.

A sample Contract Service Agreement is attached for your review. Upon selection of a successful proposal, the sample agreement will be executed with the proposal attached as a description of terms and costs for the services provided.

IX. AWARD CRITERIA

General Provision – The award of contract(s) shall be at the sole discretion of the City. It is the intent to make an award to one (1) Bidder for all items, although the City reserves the right to make multiple awards depending on the needs and best interests of the City. The City may accept or reject any or all proposals in whole or in parts and may waive informalities in the process. The contents of the proposal of the selected Bidder will become the basis for a contractual obligation when the award is made.

Professional Services – Award will be made to the most qualified Bidder whose proposal is determined to be the most advantageous to the City at a reasonable price.

X. TERMS AND CONDITIONS

A. Applicable Laws – The laws of the State of California will govern the contract. The applicable law for any legal dispute arising out of the contract shall be the law of the State of California. The Bidder shall comply with all federal, state, county and local laws concerning this type of commodity/service. All system provided by the Bidder shall comply with all applicable federal, state, and local building, fire, safety, and electrical codes and all relevant industry standards.

B. Equal Employment Opportunity – The Bidder shall comply with all applicable state and federal laws addressing Equal Employment Opportunity.

C. Conflict of Interest – Except for items that are clearly promotional in nature, mass produced, trivial in value and not intended to invoke any form of reciprocation, employees of the City of Banning may not accept gratuities, entertainment, meals of anything of value whatsoever from current or potential suppliers. The offer of such gratuity to an employee of the City shall be cause for declaring such supplier to be an irresponsible proposer and preventing him from bidding.

D. Independent Contractor Status – It is expressly understood that the Bidder named in any contract entered into by the City is acting as an "independent contractor" and not as an agent or employee of the City of Banning.

E. Default of Contractor/Consultant – The City of Banning shall hold the Bidder responsible for any damage that may be sustained because of the failure or neglect of the Bidder to comply with any term or condition listed herein.

F. Permits and Licenses – The Bidder shall secure or maintain in force during the period covered by any contract resulting from this specification all licenses and permits required by law for the operation of their business including a Banning Business License.

G. Appropriation of Funds – If the terms of this agreement extend into fiscal years subsequent to that in which it was approved, such continuation of the contract is subject to the appropriation of funds for such purpose by the City of Banning City Council. If funds to effect such continued payment are not appropriated, the Bidder agrees to terminate any goods or service supplied to the City under this agreement.

H. Assignment – The Bidder shall, under no circumstances, assign any contract issued as a result of this proposal by any means whatsoever, or any part thereof to another party without express written permission of the City of Banning.

I. Award of Contract – Award of any contract arising from any proposal submitted as a result of this RFP may require approval by the City of Banning City Council as prescribed by City Ordinances and Codes. All awards require a City of Banning Purchase Order prior to work or delivery. If, after award of contract, consultant provides additional terms or conditions, the award shall be considered VOID.

J. Signed Submission of Proposals – The submission of proposals must be signed in longhand by the Bidder with his/her usual signature. Submission of proposals by partnerships must be signed with the partnership name by the principal partner, followed by the signature and designation of the person signing; submission of proposals by corporations must be signed with legal name of the corporation of president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall be typed or printed below the signature.

K. Addendum to the RFP – If it becomes necessary to revise any part of this RFP, an addendum to the RFP will be posted on the City's website (see "Bid Submittal Instructions"). All addenda issued during the time of bidding will be incorporated into any resulting contract.

L. Late Submission of Proposal – Any submission of proposals received after the due date and time specified in this RFP will not be considered.

M. Withdrawal of Submission of Proposals – Any Bidder may withdraw his/her submission of proposals, either personally or by written or facsimile request at any time prior to the time set for the proposals opening, provided that written confirmation of any facsimile withdrawal of the signature of the Bidder is placed in the mail and postmarked prior to the time set for the opening thereof. Negligence on the part of the Bidder in preparing his/her submission of proposals confers no right of withdrawal or modification of his/her submission after such submission has been opened.

N. Rejection of Submission of Proposals – The RFP does not commit the City of Banning to award any contract. The City reserves the right, at its sole discretion, to reject any or all proposals without penalty, to waive irregularities in any proposals or in the RFP procedures, and to be the final judge as to which is the responsible, qualified proposal. Any proposal that contains items not specified, items that are incorrect, that does not complete all the items scheduled, or does not respond to items in the manner specified in this RFP, and proposals received by telephone or facsimile, may be considered non responsive and may be rejected on these bases in the sole discretion of the City. Proposals offering less than 90 days for acceptance from the proposed closing date may be considered non-responsive and may be rejected.

   Non-acceptance of any proposal will not imply any criticism of the proposal or convey any indication that the proposal was deficient. Non-acceptance of any proposal will mean that another proposal was deemed to be more advantageous to the City of Banning, or that no proposal was deemed acceptable.

O. Public Information – After the date specified for the opening of the RFP, all materials received relative to general service proposals become public information and are available for inspection. Professional service proposals become public upon award of contract. The City reserves the right to retain all proposals submitted, whether or not the proposal was selected or judged to be responsive.

P. Bidder's Cost to Develop Proposal – Costs for developing proposals in response to this RFP are entirely the obligation of the Bidder and shall not be chargeable in any manner to the City of Banning.

Q. News Releases – The Bidder shall not make news releases pertaining to an award resulting from proposals made in response to the RFP without the prior written approval of the City of Banning Administrative Services Director. In addition, the successful Bidder must agree not to release any advertising copy mentioning the City of Banning or quoting the opinion of any City employee without written approval by the City of Banning Administrative Services Director.

R. Right to Negotiate Proposals – The City of Banning reserves the right to negotiate any price or any provision, accept any part, or all parts of any and all proposals whatever is in the best interest of the City and the taxpaying public. Bidders are encouraged to submit their best prices in the proposal as negotiations may only occur with the lowest responsible bidder for general services. For professional services, fees may be negotiated with the most qualified proposer.

XI. CONSULTANT COMPENSATION

Selected consultant will be asked to provide specific scope and "not to exceed fixed budget/fee" prior to the issuance of the notice to proceed.

XII. CITY DISCLAIMER

The City reserves the right to reject any or all the Proposal, to waive any informality in any Qualification, and to select the Proposal that best meet the needs of the City. The City also reserves the right to reduce or revise elements of the scope of services, or to amend or modify the contractual requirements, or to negotiate with any qualified consultant.

No representation is made that any contract will be awarded pursuant to this RFP. In no way shall a contract be viewed as an exclusive contract in any way. The City reserves the right to retain additional consultants as necessary to satisfy the needs of the City. All costs incurred in the preparation of the proposal, in the submissions of additional information and/or in any other aspect of a proposal prior to the award of a written contract will be borne by the proposed firm. Information submitted to the City in response to this RFP will become the property of the City of Banning and will not be returned. The "technical" portion of the Proposal will be considered public information.

XIII. STANDARD CONTRACT/AGREEMENT

Firms that are interested should be willing to enter into a Contract Services Agreement with the City and comply with the City's insurance requirements as indicated in the agreement. A sample of the standard agreement is included in Exhibit "A" for reference.

Questions regarding this RFP should be directed to:

City of Banning, City Manager's Office
Sonja De La Fuente, Executive Assistant
Phone: (951) 922-4860
E-mail: sdelafuente@ci.banning.ca.us

EXHIBIT "A"
Sample Contract Services Agreement

CONTRACT SERVICES AGREEMENT

By and Between

THE CITY OF BANNING,
A MUNICIPAL CORPORATION

and

_____

AGREEMENT FOR CONTRACT SERVICES
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND

_____

THIS AGREEMENT FOR CONTRACT SERVICES (herein" Agreement") is made and entered into this ___day of _____, 20_____ by and between the City of Banning, a municipal corporation ("City") and _____, ("Consultant" or "Contractor"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties." "). (The term Consultant includes professionals performing in a consulting capacity.)

RECITALS

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

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

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

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

OPERATIVE PROVISIONS

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

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services

contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Service shall include the Consultant's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Work.

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

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents,

plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Warranty.

Consultant warrants all Work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Consultant agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Consultant shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Consultant shall act sooner as requested by the City in response to an emergency. In addition, Consultant shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other Consultants) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Consultant's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Consultant shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Consultant. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Consultant for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Consultant agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Consultant fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Consultant's sole expense. Consultant shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

1.8 **Prevailing Wages.**

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement

of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.9 Further Responsibilities of Parties.

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

1.10 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Agreement Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to five percent (5%) of the Agreement Sum or $25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.11 Special Requirements.

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

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ (the "Contract"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

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

2.3 Reimbursable Expenses.

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

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

2.5 Waiver.

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

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

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

3.2 Schedule of Performance.

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

3.3 Force Majeure.

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

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section X, pertaining to indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 8 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

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

(Name)	(Title)
(Name)	(Title)
(Name)	(Title)

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

4.2 Status of Consultant.

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

4.3 Contract Officer.

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

4.4 Independent Consultant.

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

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the Agency 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 Agency. 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 Agency. 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 Agency.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

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

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

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Consultant and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

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

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

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

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said

policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

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

CANCELLATION:

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

[to be initialed] _____
Agent Initials

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

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

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

5.3 Indemnification.

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

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

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

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

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

5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Consultant shall deliver to City performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Consultant promptly and faithfully performs all terms and conditions of this Agreement.

5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Consultant shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

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

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost

of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

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

6.4 Confidentiality and Release of Information.

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

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

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

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other

discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

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

7.2 Disputes; Default.

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

7.3 Retention of Funds.

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

7.4 Waiver.

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

7.5 Rights and Remedies are Cumulative.

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

7.6 Legal Action.

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

7.7 Liquidated Damages.

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

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Agency, except that where termination is due to the fault of the Agency, 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 Agency Officers and Employees.

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

8.2 Conflict of Interest.

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

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

8.3 Covenant Against Discrimination.

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

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

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

9.2 Interpretation.

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

9.3 Counterparts.

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

9.4 Integration; Amendment.

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

9.5 Severability.

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

9.6 Corporate Authority.

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

[SIGNATURES ON FOLLOWING PAGE]

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

CITY:

CITY OF BANNING, a municipal corporation

_____

City Manager

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

_____

David Aleshire, City Attorney

CONSULTANT:

_____

_____

By:_____

Name:

Title:

By:_____

Name:

Title:

Address:_____

_____

_____

Two signatures are required if a corporation.

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER
  _____
  TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER_____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

_____
TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER _____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

_____
SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services:

A.

B.

C.

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

A.

B.

C.

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

A.

B.

C.

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.

B.

C.

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

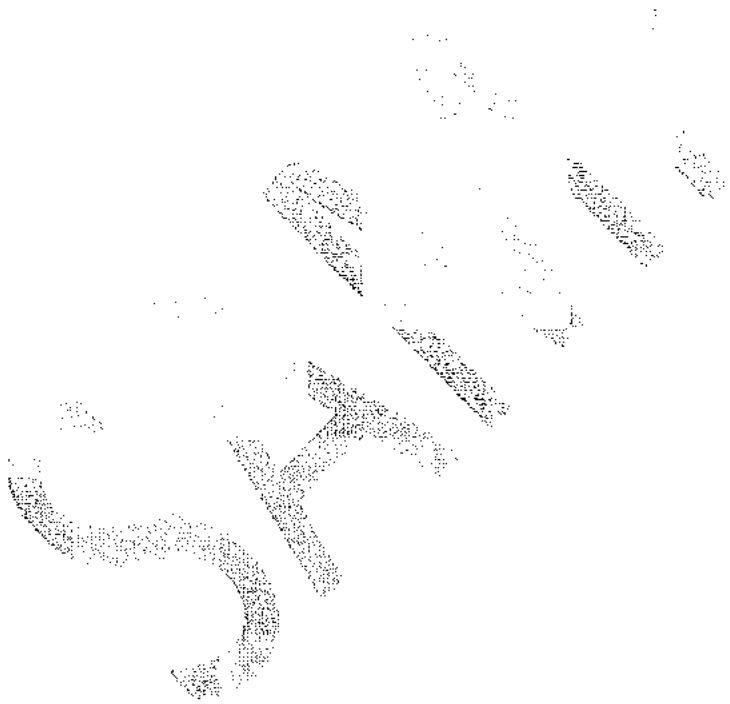


EXHIBIT "C"
COMPENSATION

I. Consultant shall perform the following tasks:

		RATE	TIME	SUB-BUDGET
A.	Task A	_____	_____	_____
B.	Task B	_____	_____	_____
C.	Task C	_____	_____	_____
D.	Task D	_____	_____	_____
E.	Task E	_____	_____	_____

II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as a part of the final payment upon satisfactory completion of services.

III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.

VI. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

V. The total compensation for the Services shall not exceed $_____, as provided in Section 2.1 of this Agreement.

VI. The Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all services timely in accordance with the following schedule:

		Days to Perform	Deadline Date
A.	Task A	_____	_____
B.	Task B	_____	_____
C.	Task C	_____	_____
D.	Task D	_____	_____
E.	Task E	_____	_____

II. Consultant shall deliver the following tangible work products to the City by the following dates.

A.

B.

C.

D.

E.

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

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Public Works Director
Holly Stuart, Management Analyst

MEETING DATE: March 22, 2016

SUBJECT: Resolution No. 2016-14, "Approving the Purchase of a New Dump Truck from RWC Group of Whittier, CA in the amount of $121,662.62"

RECOMMENDATION:

The City Council adopt Resolution No. 2016-14:

I. Approving the purchase of a new 2016 Dump Truck from RWC Group of Whittier, CA in the amount of $121,662.62

II. Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the purchase of the dump truck.

JUSTIFICATION:

The existing dump truck is 24 years old and has reached the end of its service life, does not meet the needs of the water department and has become inefficient to operate. The purchase of a new dump truck for the Water Division will support the water utility operations.

BACKGROUND:

The Water Division of the City of Banning currently has a fleet consisting of several work trucks, large pieces of equipment (backhoes, loaders, etc.) and miscellaneous equipment (air compressors, welders, etc.). As part of its fleet the division operates with two dump trucks: Unit #808, a 1991 GMC Topkick and Unit #809, a 2002 International. As recommended in this staff report, the purchase of a new dump truck would replace Unit #808.

Unit No. 808, which is 24 years old, has approximately 50,000 miles and has reached the end of its service life. This vehicle is used regularly during the operations of the water division

including water leak repairs, repairs of street subsidence, hauling of materials (dirt, sand, asphalt, rock, etc.) and towing of equipment.

Unit #808 has an old diesel engine and is classified as a Tier 0. In order to meet emission requirements the unit was equipped with a particulate matter (PM) filter to reduce the amount of soot from the exhaust system. During use of the dump truck the PM filter has to be regularly regenerated, a process that turns the soot to ash in order to the clean the filter. During the regeneration process the dump truck is non-operable for approximately one hour. During continuous use the PM filter requires regeneration every two hours.

In addition to the abovementioned, there are other issues including electrical issues, engine overheating and damage to the bed. It has been determined that some components needed for repair have been discontinued.

As a result, a Request for Proposals ("RFP") for the purchase of a new dump truck was advertised on December 19, 2015 in the Press Enterprise and on the City's website. In response to these efforts, the Public Works Department received three (3) proposals from the following companies:

Companies	**Bid Amount**
1) Los Angeles Freightliner of Los Angeles,	$120,304.44
2) RWC Group of Whittier, CA	$121,662.62
3) Western Truck Exchange of Los Angeles, CA	$127,170.00

Upon receipt of the above bids, staff visited fleets with similar trucks to those offered by the two lowest bidders in order to evaluate and compare the vehicles. In reviewing the dump trucks, staff determined that the dump truck proposed by RWC Group had characteristics that made routine maintenance easier, was more durable (bed and body) and had greater adaptability between the bed and chassis. For these reasons a recommendation to purchase the dump truck from RWC Group is given.

The specifications for the new dump truck as provided by RWC Group are attached as Exhibit "A".

If approved, staff will surplus Unit #808 per the City's Administrative Policies and recommend to sell the truck at a public auction. It is estimated that the truck would sell in the range of $3,000 to $5,000.

OPTIONS:

The City Council may choose to take no action at this time which will result in the continued use of Unit #808 which will affect the operations of the water division. Additionally, with continued use of Unit #808, maintenance and repair costs will continue to increase over time.

FISCAL IMPACT:

The dump truck purchase will be funded by the Water Division Fund Account No. 660-6300-471.90-51 (Automotive Equipment) in the amount of $121,662.62. Funding for the purchase of a new dump truck was included in the current approved budget (FY15/16) in the amount of $125,000.00.

ATTACHMENT: Exhibit "A" – Specifications

Prepared and Reviewed by:

Art Vela,
Public Works Director

Reviewed by:

Rochelle Clayton,
Administrative Services Director/
Deputy City Manager

Approved by:

Michael Rock,
City Manager

THIS PAGE LEFT BLANK INTENTIONALLY

RESOLUTION NO. 2016-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE PURCHASE OF A NEW DUMP TRUCK FROM RWC GROUP OF WHITTIER, CA IN THE AMOUNT OF $121,662.62

WHEREAS, as part of the Water Division fleet the division operates two dump trucks: Unit #808, a 1991 GMC Topkick and Unit #809, a 2002 International; and

WHEREAS, it is recommended that Unit #808, which is 24 years old, has approximately 50,000 miles and has reached the end of its service life be replaced with a new dump truck; and

WHEREAS, a Request for Proposals ("RFP") for the purchase of a new dump truck was advertised on December 19, 2015 in the Press Enterprise and on the City's website and as a result the City received three (3) proposals; and

WHEREAS, upon receipt of the bids, staff visited similar trucks to those offered by the two lowest bidders in order to evaluate and compare the vehicles to determine differences and suitability; and

WHEREAS, based on the evaluation staff determined that the 2016 dump truck, Model 440 SBA 4X2 offered by RWC Group best fits the needs of the Water Division operations; and

WHEREAS, under this resolution, a new dump truck will be purchased from RWC Group in the amount of $121,662.62; and

WHEREAS, funding for the purchase of a new dump truck was approved as part of the fiscal year 2015/2016 budget and will be funded by the Water Division Fund Account No. 660-6300-471.90-51 (Automotive Equipment) in the amount of $121,662.62.

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. 2016-14 approving the Purchase of a New 2016 Dump Truck from RWC Group of Whittier, CA in the amount of $121,662.62.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and transfers related to the vehicle purchase.

PASSED, ADOPTED AND APPROVED this 22nd day of March, 2016.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, 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. 2016-14, was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 22nd day of March, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____

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

THIS PAGE LEFT BLANK INTENTIONALLY

EXHIBIT "A"

SPECIFICATIONS



4400 SBA 4x2

Sales Proposal For:

Banning, City Of

Presented By:

RWC Group

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
MA03500	Base Chassis, Model 4400 SBA 4X2 with 160.00 Wheelbase, 92.90 CA, and 39.00 Axle to Frame.	6666/3182	9848
1570	TOW HOOK, FRONT (2) Frame Mounted	8/0	8
1CAD	FRAME RAILS High Strength Low Alloy Steel (80,000 PSI Yield); 10.250" x 3.092" x 0.375" (260.4mm x 78.5mm x 9.5mm); 427.0" (10846mm) Maximum OAL	106/107	213
1LLD	BUMPER, FRONT Full Width, Aerodynamic, Steel; 0.142" Material Thickness	0/0	0
	Includes : BUMPER, FRONT Powder Coated Gray (Argent) Color		
1WEH	WHEELBASE RANGE 134" (340cm) Through and Including 197" (500cm)	0/0	0
2AUX	AXLE, FRONT NON-DRIVING (Navistar Select) Wide Track, I-Beam Type, 12,000-lb Capacity	37/0	37
3ADC	SUSPENSION, FRONT, SPRING Parabolic, Taper Leaf; 12,000-lb Capacity; With Shock Absorbers	99/0	99
	Includes : SPRING PINS Rubber Bushings, Maintenance-Free		
	Notes : The following features should be considered when calculating Front GAWR: Front Axles; Front Suspension; Brake System; Brakes, Front Air Cam; Wheels; Tires.		
4091	BRAKE SYSTEM, AIR Dual System for Straight Truck Applications	110/46	156
	Includes : BRAKE LINES Color and Size Coded Nylon : DRAIN VALVE Twist-Type : GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster : PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel : PARKING BRAKE VALVE For Truck : QUICK RELEASE VALVE Bendix On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4 : SLACK ADJUSTERS, FRONT Automatic : SLACK ADJUSTERS, REAR Automatic : SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4		
	Notes : Front and Rear Dust Shields not Included : Rear Axle is Limited to 19,000-lb GAWR with Code 04091 BRAKE SYSTEM, AIR and Code 04NCL BRAKES, REAR, AIR CAM Regardless of Axle/Suspension Ordered. : Rear Axle is Limited to 20,000-lb GAWR with Code 04091 BRAKE SYSTEM, AIR and Code 04NCG BRAKES, REAR, AIR CAM Regardless of Axle/Suspension Ordered. : Rear Axle is Limited to 23,000-lb GAWR with Code 04091 BRAKE SYSTEM, AIR and Standard Rear Air Cam Brakes Regardless of Axle/Suspension Ordered.		
4196	BRAKES, FRONT, AIR CAM 16.5" x 5", Includes 24 Sqln Long Stroke Brake Chambers	-146/0	-146
4619	TRAILER CONNECTIONS Four-Wheel, With Hand Control Valve and Tractor Protection Valve, for Straight Truck	2/0	2
4AZA	AIR BRAKE ABS (Bendix AntiLock Brake System) Full Vehicle Wheel Control System (4-Channel)	9/21	30

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
4EBD	AIR DRYER (Meritor Wabco System Saver 1200) with Heater	-42/54	12
	Includes : AIR DRYER LOCATION Inside Left Rail, Back of Cab		
4EXU	BRAKE CHAMBERS, REAR AXLE (Bendix EverSure) 30/30 Spring Brake	0/0	0
4EXV	BRAKE CHAMBERS, FRONT AXLE (Bendix) 24 Sqln	0/0	0
4NDB	BRAKES, REAR, AIR CAM S-Cam; 16.5" x 7.0"; Includes 30/30 Sq.In. Long Stroke Brake Chamber and Spring Actuated Parking Brake	0/211	211
	Notes : The following features should be considered when calculating Front GAWR: Front Axles; Front Suspension; Brake System; Brakes, Front Air Cam; Wheels; Tires.		
4WBX	DUST SHIELDS, FRONT BRAKE for Air Brakes	4/0	4
4WDM	DUST SHIELDS, REAR BRAKE for Air Brakes	0/6	6
4WZJ	AIR TANK LOCATION (2) : One Mounted Under Each Frame Rail, Front of Rear Suspension, Parallel to Rail	7/18	25
5710	STEERING COLUMN Tilting and Telescoping	0/0	0
5CAL	STEERING WHEEL 2-Spoke, 18" Diam., Black	0/0	0
5PSM	STEERING GEAR (Sheppard HD94) Power	39/-2	37
7BEP	EXHAUST SYSTEM Switchback Horizontal Aftertreatment Device, Frame Mounted Right Side Under Cab; Includes Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab	133/-30	103
7WAE	RAIN CAP With Single Exhaust, Non-Bright Finish	2/0	2
8000	ELECTRICAL SYSTEM 12-Volt, Standard Equipment	0/0	0
	Includes : BATTERY BOX Steel : DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab : FUSES, ELECTRICAL SAE Blade-Type : HAZARD SWITCH Push On/Push Off, Located on Top of Steering Column Cover : HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever : JUMP START STUD Located on Positive Terminal of Outermost Battery : PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light : STARTER SWITCH Electric, Key Operated : STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector : TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature : TURN SIGNALS, FRONT Includes Reflectors and Auxiliary Side Turn Signals, Solid State Flashers; Flush Mounted : WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever : WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted : WIRING, CHASSIS Color Coded and Continuously Numbered		
8GXD	ALTERNATOR (Leece-Neville AVI160P2013) Brush Type; 12 Volt 160 Amp. Capacity, Pad Mount, With Remote Sense	0/0	0
8MKX	BATTERY SYSTEM (International) Maintenance-Free (3) 12-Volt 2775CCA Total	43/15	58
8RKB	RADIO (Panasonic CQ120) AM/FM, Includes Multiple Speakers, Includes Auxiliary Input	2/0	2

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
	Includes : SPEAKERS IN CAB (2) Dual-Cone with Deluxe Interior : SPEAKERS IN CAB (4) Coaxial with Premium Interior		
8TMG	TRAILER CONNECTION SOCKET 7-Way; Mounted at rear of Frame, Wired for Turn Signals Combined With Stop, Compatible With Trailers That Use Combined Stop, Tail, Turn Lamps	7/0	7
8VAY	HORN, ELECTRIC Disc Style	0/0	0
8WCL	HORN, AIR Black, Single Trumpet, Air Solenoid Operated	2/0	2
8WTK	STARTING MOTOR (Delco Remy 38MT Type 300) 12 Volt; less Thermal Over-Crank Protection	0/0	0
8WWJ	INDICATOR, LOW COOLANT LEVEL With Audible Alarm	0/0	0
8WZK	HEADLIGHTS Halogen; Composite Aero Design for Two Light System	0/0	0
8XDU	BATTERY BOX Steel, With Aluminum Cover, 14" Wide, 3 Battery Capacity, Mounted Left Side Under Cab	56/35	91
9HAD	GRILLE Chrome	0/0	0
9WAY	FRONT END Tilting, Fiberglass, With Three Piece Construction	0/0	0
10060	PAINT SCHEMATIC, PT-1 Single Color, Design 100	0/0	0
	Includes : PAINT SCHEMATIC ID LETTERS "GA"		
10761	PAINT TYPE Base Coat/Clear Coat, 1-2 Tone	0/0	0
10UAC	VEHICLE REGISTRATION IDENTITY ID for the State of California	0/0	0
11LEA	CLUTCH (Eaton Fuller EP1402 SD) Easy-Pedal Plus, Two-Plate, Cast Angle Spring; Ceramic, 14" Diameter, "Super Duty", 8-Spring Coaxial Free Travel Damper, Mechanical Pull Type Control, Kwik-Adjust(Manual) Feature, With 1.75" Diam. Spline, 1400 lb-ft Torque Capacity	0/0	0
	Includes : CLUTCH RELEASE BEARING Greasable		
12640	ANTI-FREEZE Red, Extended Life Coolant; To -34 Degrees F/ -36.7 Degrees C, Freeze Protection	0/0	0
12NWD	ENGINE, DIESEL (Navistar N9) EPA 2010, SCR, 315 HP @ 2000 RPM, 950 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 315 Peak HP (Max)	0/0	0
	Includes : AIR COMPRESSOR AIR SUPPLY LINE Naturally-Aspirated (Air Brake Chassis Only) : COLD STARTING EQUIPMENT Intake Manifold Electric Grid Heater with Engine ECM Control : CRUISE CONTROL Electronic; Controls Integral to Steering Wheel : ENGINE OIL DRAIN PLUG Magnetic : ENGINE SHUTDOWN Electric, Key Operated : FUEL FILTER Included with Fuel/Water Separator : FUEL/WATER SEPARATOR Fuel/Water Separator and Fuel Filter in a Single Assembly; With Water-in-Fuel Sensor; Engine Mounted : GOVERNOR Electronic : OIL FILTER, ENGINE Spin-On Type : WET TYPE CYLINDER SLEEVES		

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
12THT	FAN DRIVE (Horton Drivemaster) Direct Drive Type, Two Speed With Residual Torque Device for Disengaged Fan Speed	0/0	0
	Includes : FAN Nylon		
	Notes : Recommend Code 12THT when using front mount obstructions (winches, cones, reels, etc.) that restrict air flow through the radiator.		
12UAV	RADIATOR Aluminum; 2-Row, Cross Flow, Over Under System, 1045 Sqin Louvered, With 373 Sqin CAC	-25/3	-22
12UPA	FEDERAL EMISSIONS (Navistar N9 & N10) EPA, OBD and GHG Certified for Calendar Year 2016	0/0	0
12VBR	AIR CLEANER With Service Protection Element	0/0	0
	Includes : GAUGE, AIR CLEANER RESTRICTION Air Cleaner Mounted		
12VXT	THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel	0/0	0
12VZA	ENGINE CONTROL, REMOTE MOUNTED Provision for; Includes Wiring for Body Builder Installation of PTO Controls; With Ignition Switch Control for MaxxForce and Navistar post 2007 Emissions Electronic Engines	0/0	0
12WZB	EMISSION COMPLIANCE Low NOx Idle Engine, Complies with California Clean Air Regulations; Includes "Certified Clean Idle" Decal on Hood	0/0	0
13GJT	TRANSMISSION, MANUAL (Fuller FR-9210B) 10-Speed Manual; With Air Shift	190/98	288
	Includes : CLUTCH BRAKE Torque Limiting : FILL PLUG, MAGNETIC		
13XAA	PTO CONTROL, DASH MOUNTED For Customer Provided PTO; Includes Switch, Electric/Air Solenoid, Piping and Wiring	3/0	3
14ARB	AXLE, REAR, SINGLE (Meritor RS-23-160) Single Reduction, 23,000-lb Capacity, 200 Wheel Ends, Driver Controlled Locking Differential . Gear Ratio: 3.21	0/227	227
	Notes : The following features should be considered when calculating Rear GAWR: Rear Axles; Rear Suspension; Brake System; Brakes, Rear Air Cam; Brake Shoes, Rear; Special Rating, GAWR; Wheels; Tires. : When Specifying Axle Ratio, Check Performance Guidelines and TCAPE for Startability and Performance		
14VAH	SUSPENSION, RR, SPRING, SINGLE Vari-Rate; 23,500-lb Capacity, With 4500 lb Auxiliary Rubber Spring	0/35	35
	Notes : The following features should be considered when calculating Rear GAWR: Rear Axles; Rear Suspension; Brake System; Brakes, Rear Air Cam; Brake Shoes, Rear; Special Rating, GAWR; Wheels; Tires.		
15LKH	FUEL/WATER SEPARATOR with Filter Restriction/Change Indicator, Includes Standard Equipment Water-in-Fuel Sensor	5/0	5
15SXJ	FUEL TANK Top Draw; Non-Polished Aluminum, 24" Diam., 50 U.S. Gal., 189 L Capacity, Mounted Left Side Under Cab	14/4	18

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
15WCN	DEF TANK 6 U.S. Gal. Capacity; Frame Mounted Outside Left Rail, Under Cab	-8/21	13
16030	CAB Conventional	0/0	0
	Includes : ARM REST (2) Molded Plastic; One Each Door : CLEARANCE/MARKER LIGHTS (5) Flush Mounted : COAT HOOK, CAB Located on Rear Wall, Centered Above Rear Window : CUP HOLDERS Two Cup Holders, Located in Lower Center of Instrument Panel : DOME LIGHT, CAB Rectangular, Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Console, Center Mounted : GLASS, ALL WINDOWS Tinted : GRAB HANDLE, CAB INTERIOR (1) "A" Pillar Mounted, Passenger Side : GRAB HANDLE, CAB INTERIOR (2) Front of "B" Pillar Mounted, One Each Side : INTERIOR SHEET METAL Upper Door (Above Window Ledge) Painted Exterior Color : STEP (4) Two Steps Per Door		
16HBA	GAUGE CLUSTER English With English Electronic Speedometer	0/0	0
	Includes : GAUGE CLUSTER (5) Engine Oil Pressure (Electronic), Water Temperature (Electronic), Fuel (Electronic), Tachometer (Electronic), Voltmeter : ODOMETER DISPLAY, Miles, Trip Miles, Engine Hours, Trip Hours, Fault Code Readout : WARNING SYSTEM Low Fuel, Low Oil Pressure, High Engine Coolant Temp, and Low Battery Voltage (Visual and Audible)		
16HGJ	GAUGE, OIL TEMP, MANUAL TRAN for Manual Transmission	1/0	1
16HGN	GAUGE, AIR APPLICATION	1/0	1
16HKT	IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster	0/0	0
16HLJ	GAUGE, DEF FLUID LEVEL	0/0	0
16JNZ	SEAT, DRIVER {National 2000} Self Contained with Compressor, High Back with Integral Head Rest, Vinyl, Isolator, Mechanical Lumbar, 2 Position Front Cushion Adjust, -3 to +14 Degree Back Angle Adjust	6/3	9
	Includes : SEAT BELT 3-Point, Lap and Shoulder Belt Type		
16SMH	SEAT, TWO-MAN PASSENGER {National} Fixed Back, Integrated Headrest in Both Occupant Positions, Vinyl, With Under Seat Storage Compartment	36/35	71
16SNB	MIRRORS (2) {Lang Mekra} Rectangular, Thermostatically Controlled Heated Heads, Black Heads, Brackets and Arms, Breakaway Type, 7.55" x 14.1" Integral Convex Both Sides, 102" Inside Spacing	-3/0	-3
16WCT	AIR CONDITIONER {Blend-Air} With Integral Heater & Defroster	64/7	71
	Includes : HEATER HOSES Premium : HOSE CLAMPS, HEATER HOSE Mubea Constant Tension Clamps : REFRIGERANT Hydrofluorocarbon HFC-134A		
16WJS	INSTRUMENT PANEL Center Section, Flat Panel	0/0	0
16WLE	STORAGE POCKET, DOOR Molded Plastic, Full Width; Mounted on Passenger Door	1/0	1

Code	Description	F/R Wt (lbs)	Tot Wt (lbs)
16WRX	CAB INTERIOR TRIM Deluxe	0/0	0
	Includes : "A" PILLAR COVER Molded Plastic : CAB INTERIOR TRIM PANELS Cloth Covered Molded Plastic, Full Height; All Exposed Interior Sheet Metal is Covered Except for the Following: with a Two-Man Passenger Seat or with a Full Bench Seat the Back Panel is Completely Void of Covering : CONSOLE, OVERHEAD Molded Plastic; With Dual Storage Pockets with Retainer Nets and CB Radio Pocket : DOOR TRIM PANELS Molded Plastic; Driver and Passenger Doors : FLOOR COVERING Rubber, Black : HEADLINER Soft Padded Cloth : INSTRUMENT PANEL TRIM Molded Plastic with Black Center Section : STORAGE POCKET, DOOR (1) Molded Plastic, Full-Length; Driver Door : SUN VISOR (2) Padded Vinyl with Driver Side Toll Ticket Strap, Integral to Console		
26DTJ	WHEEL, SPARE, DISC (Maxion 90541) 22.5" Painted Steel, 2-Hand Hole, 10-Stud (285.75MM BC Hub Piloted) Flanged Nut, Metric Mount, 8.25 DC Rim	0/70	70
27DPX	WHEELS, FRONT DISC; 22.5" Painted Steel, 2-Hand Hole 10-Stud (285.75MM BC) Hub Piloted Flanged Nut, Metric Mount, 8.25 DC Rims; With .472" Thick Increased Capacity Disc and Steel Hubs	9/0	9
	Includes : PAINT IDENTITY, FRONT WHEELS White		
	Notes : Compatible Tire Sizes: 11R22.5, 12R22.5, 255/70R22.5, 255/80R22.5, 265/75R22.5, 275/70R22.5, 275/80R22.5, 295/75R22.5, 295/80R22,5		
28DTJ	WHEELS, REAR (Maxion 90541) DUAL DISC; 22.5" Painted Steel, 2 Hand Hole, 10 Stud (285.75MM BC) Hub Piloted, Flanged Nut, Metric Mount, 8.25 DC Rims; With Steel Hubs	0/567	567
29PAS	PAINT IDENTITY, REAR WHEELS Disc Rear Wheels; With Vendor Applied White Powder Coat Paint	0/0	0
60AAG	BDY INTG, REMOTE POWER MODULE Mounted Inside Cab behind Driver Seat; Up to 6 Outputs & 6 Inputs, Max. 20 amp. per Channel, Max. 80 amp Total (Includes 1 Switch Pack With Latched Switches)	0/0	0
7382135429	(2) TIRE, FRONT 11R22.5 ECO PLUS HS3 (CONTINENTAL) 495 rev/mile, load range H, 16 ply	74/0	74
7382135429	(4) TIRE, REAR 11R22.5 ECO PLUS HS3 (CONTINENTAL) 495 rev/mile, load range H, 16 ply	0/148	148
OBD001	AIR COMPRESSOR AIR COMPRESSOR,18.7 CFM Air Compressor	0/0	0
	Services Section:		
40116	WARRANTY Standard for Durastar 1000/4000 Series, Effective with Vehicles Built January 2, 2015 or Later, CTS-2475P	0/0	0
	Total Component Weight:	**7512/4881**	**12393**

The weight calculations included in this proposal are an estimate of future vehicle weight. The actual weight as manufactured may be different from the estimated weight. Navistar, Inc. shall not be liable for any consequences resulting from any differences between the estimated weight of a vehicle and the actual weight.

There is no weight study for this proposal.

SE INC.
Scelzi Equipment, Inc.
Custom Truck Body Manufacturing

Annadale Office, 2316 E. Annadale, Fresno, CA 93706
Phone: 559-237-5541 Fax: 559-237-5564 Toll Free: (800) 858-2883

WORK ORDER / ESTIMATE

A100826

Customer: RWC GROUP
Address: CITY OF BANNING

Date: 01/13/16
Phone: (602) 740-3298 FAX:
Contact: JOE LEIVIAN
Terms: C.O.D.

Make	Year	Model	Vehicle Info	Type	VIN #
	2016	CUSTTRUCK	INTERNATIONAL, WHITE, REG CAB, DRW, DSL, 108 CA	Customer	

Quantity	Part No / Description	Price

PAINT WHITE

1 EA DUMP
12' 7-9 CUBIC YARD HARDOX 450 SQUARE STYLE

BODY: 12' LONG X 86" WIDE INSIDE X 28" SIDES X 34" TAIL GATE X 42" BULKHEAD
3/16" HARDOX 450 FLOOR, SIDES, ENDS, HOIST WELL, AND BEVELED SIDE CORNERS
6 PANEL AIR LIFT TAILGATE
4 FLANGE BOXED TOP RAIL
HORIZONTAL CENTER SIDE PANEL DOUBLE WALL CORRUGATED (HIDES INTERIOR DENTS ON SIDES)
SLOPED RUNNING BOARDS CLOSED AT BOTTOM
8" OR 9" CHANNEL LONGS
¼ SIZE CAB SHIELD
8" X 3/16" HARDOX 450 SPREADER APRON
LED LIGHT KIT, OVAL STOP & TURN
BODY PAINTED WHITE
2 SETS OF MUD FLAPS
AIR OPERATED LOWER TAILGATE LOCK

HOIST: 53-4592-106 FRONT MOUNT HOIST
DIRECT MOUNT AIR SHIFT PTO & HOIST CONTROL
DIRECT MOUNT PUMP & VALVE
25 GALLON HYDRAULIC OIL TANK W/GAUGE, SUCTION STRAINER, BALL VALVE
2X3 RECTANGULAR TUBING DUAL POST BODY PROPS
2" HARDWOOD CUSHION ON TRUCK CHASSIS
LED BODY RAISED WARNING LIGHT

1EA - FOLD DOWN LADDER LEFT SIDE AT REAR

2EA - 2 X 6 CHEATER BOARDS

PULL TARP S.9 SEMI AUTOMATIC BLACK MESH TARP WITH SIDE FLAPS

2EA - BUYERS 1492128 LED FLOOD LIGHTS MOUNTED AT REAR FACING REAR WIRED TO SWITCH ON DASH

Scelzi Equipment, Inc.
Custom Truck Body Manufacturing

Annadale Office, 2316 E. Annadale, Fresno, CA 93706
Phone: 559-237-5541 Fax: 559-237-5554 Toll Free: (800) 658-2883

WORK ORDER / ESTIMATE

A100826

Customer: RWC GROUP
Address: CITY OF BANNING

Date: 01/13/16
Phone: (602) 740-3298 FAX:
Contact: JOE LEIVIAN
Terms: C.O.D.

Make	Year	Model	Vehicle Info	Type	VIN #
	2016	CUSTTRUCK	INTERNATIONAL, WHITE, REG CAB, DRW, DSL, 108 CA	Customer	

Quantity	Part No / Description	Price
	1EA - WHELEN 51" LIGHT BAR # IX8AAAA MOUNTED ON FRONT OF CAB SHIELD WIRED TO SWITCH ON DASH	
	1EA - WHELEN TRAFFIC DIRECTOR # TACF85LH MOUNTED ON REAR OF BODY WITH CONTROLLER ON DASH	
	1EA - 3/4" BUCK PLATEW3ITH PREMIER 690L PINTLE HITCH, (2) D-RINGS, 7 PIN PLUG #12063 (CENTER PIN WIRED TO ABS TO IGNITION), AND GLAD HANDS	
	1EA - ECCO 610 BACK UP ALARM	
1 EA	TOOLBOX 36" X 18" X 16" UNDERBODY TOOL BOX FRAME MOUNTED PASSENGER SIDE IN FRONT OF REAR TIRES	
1 EA	HWD FEE HAZARDOUS WASTE DISPOSAL FEE	
1 EA	WEIGHT CERTIFICATE WEIGHT CERTIFICATE OF COMPLETED UNIT	
1 EA	WILL CALL CUSTOMER TO PICK UP COMPLETED UNIT	
1 EA	EXCEPTION TO BID SPECIFICATION THERE ARE NO CROSSMEMBERS ON A HARDOX 450 BODY ONLY LONGITUDINALS	

Scelzi Equipment, Inc.
Custom Truck Body Manufacturing

Annadale Office, 2816 E. Annadale, Fresno, CA 93706
Phone: 559-237-5541 Fax: 559-237-5554 Toll Free: (800) 559-2503

WORK ORDER / ESTIMATE

A100826

Customer: RWC GROUP
Address: CITY OF BANNING

Date: 01/13/16
Phone: (602) 740-3298 FAX:
Contact: JOE LEIVIAN
Terms: C.O.D.

Make	Year	Model	Vehicle Info	Type	VIN #
	2016	CUSTTRUCK	INTERNATIONAL, WHITE, REG CAB, DRW, DSL, 108 CA	Customer	

Quantity	Part No. / Description	Price

Disclaimer: ***SCELZI ENTERPRISES INC. DOES NOT GUARANTEE A PERFECT COLOR MATCH DUE TO INCONSISTENCIES IN FACTORY PAINTS AND PROCEDURES***

REVISIONS AFTER APPROVAL DATE ARE SUBJECT TO ADDITIONAL CHARGES

PRICES SUBJECT TO CHANGE WITHOUT NOTICE

THIS WORK AUTHORIZED BY: _____ DATE: _____

Payment in full on completion of job if credit arrangements have not been made in advance.

The above quotation is submitted according to specifications submitted by customer. Any alterations or changes increasing production costs will be charged for accordingly.

ESTIMATE PREPARED BY: CORTINAS, SCOTT

SALESMAN: TED GRIFFIN

References:

City of Chula Vista

Steve Dorsey 619-397-6079

SDorsey@ci.chula-vista.ca.us

October 2015

Arizona Department of Transportation

Jack Dreyer 602-712-6506

jdreyer@azdot.gov

December 2014

City of Santa Monica

Regina Benavides 310-458-2211

Regina.Benavides@SMGOV.NET

December 2015

Exceptions:

16.5 CFM Air Compressor Offered

RADIATOR Aluminum; 2-Row, Cross Flow, Over Under System, 1045 Sqln Louvered, With 373 Sqln CAC Offered

THERE ARE NO CROSSMEMBERS ON A HARDOX 450 BODY ONLY
LONGITUDINALS

THIS PAGE LEFT BLANK INTENTIONALLY

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Brian Guillot, Community Development Director
Yvonne Franco, Contract Planner

MEETING DATE: March 22, 2016

SUBJECT: Resolution No. 2016-19
General Plan Annual Progress Report for Calendar Year 2015

RECOMMENDATION:

That the City Council:

1. Adopt Resolution No. 2016-19 (Attachment 1) approving the General Plan Annual Progress Report for Calendar Year 2015 (Attachment 2); and, direct staff to file it with the State of California Office of Planning and Research (OPR) and State Department of Housing and Community Development (HCD).

PLANNING COMMISSION:

On March 3, 2016, the Planning Commission approved Resolution 2016-02 recommending that the City Council approve the General Plan Annual Progress Report for Calendar Year 2015 (Attachment 3).

JUSTIFICATION:

State law requires cities and counties to have a legally adequate General Plan (Government Code sec. 65300 et seq), which primarily addresses the physical development of the City. The mandatory seven elements include: Land Use, Circulation, Housing, Conservation, Open Space, Noise, and Safety.

Cities and counties are allowed to include optional elements; and combining elements is permissible. However, once the element is adopted, the goals, policies, and objectives in the non-mandated elements have equal status. For example, the land use policies are not any superior to the open space element or economic development element. Each of the element goals, policies,

and objectives shall be internally consistent in text, maps, and diagrams in that they cannot conflict with each other.

The City's twenty-one elements of the General Plan listed below; and, are divided into four sections as follows:

Community Development

- Land Use Element
- Economic Development Element
- Circulation Element
- Parks and Recreation Element
- Housing Element

Environmental Resources

- Water Resources Element
- Open Space and Conservation Element
- Biological Resources Element
- Archaeological and Historic Resources Element
- Air Quality Element
- Energy and Mineral Resources Element

Environmental Hazards

- Geotechnical Element
- Flooding and Hydrology Element
- Noise element
- Wildland Fire Hazards Element
- Hazardous and Toxic Materials Element

Public Services and Facilities

- Water, Wastewater and Utilities Element
- Public Building and Facilities Element
- School and Libraries Element
- Police and Fire Protection element
- Emergency Preparedness Element

California State law, Government Code section 65400, further mandates the preparation of a General Plan Annual Progress Report to the City Council and must be filed by April 1st of each year with the Governor's Office of Planning and Research (OPR) and the State Housing and Community Development Department. The State uses the information submitted by the City to identify statewide trends in the land use decision making process and how local planning and development activities relate to statewide planning goals and policies.

The purpose of the General Plan Annual Progress report is to provide enough information to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation.

BACKGROUND:

On January 31, 2006, the City Council adopted Resolution No. 2006-12 approving the Comprehensive General Plan Update. Over the years, when economically feasible the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. As in previous years, budgetary constraints have played a role in the lack of follow through in implementing some of the General Plan programs.

In keeping with the organizational format of the 2006 General Plan, the General Plan Annual Progress Report arranges the twenty-one elements among the four subject chapters. Each section contains the adopted goals and policies including a summary table that reflects the action program, responsible City department or agency, adopted schedule and implementation status.

Similar to the previous year, the information contained within the General Plan Annual Progress report was obtained (through a series of inter-department meetings) from the following City departments: Community Development, Public Works, Electric Utility, Water/Waste Water Utility, Community Services, Fire Services and Police.

For easy reference, the action programs that have been completed and/or are active and ongoing are highlighted in **bold type**, while the programs that have not been completed/initiated are highlighted in *italics*.

In addition to the attached General Plan Annual Progress Report, additional information is required to be submitted to State Housing and Community Development Department (HCD), in regards to housing related to the construction of affordable housing, rehabilitated homes, and the Regional Housing Needs Assessment requirements. The 2014-2021 Regional Housing Needs Assessment (RHNA) obligations, as prepared by the Southern California Association of Governments (SCAG), sets forth the planning period goal of 3,792 units for the City. It is noted that in the past six (6) years the City has issued just six (6) permits for single family dwellings.

It should be stated that the purpose of this process is to review the General Plan Annual Progress Report from the standpoint of providing information to OPR and HCD as to how the City's adopted General Plan programs have been implemented, rather than to solicit direction as to which programs should be changed or eliminated.

FISCAL IMPACT:

There is no direct fiscal impact to the City's General Fund as a result of the recommended action.

Reviewed and Prepared By:

Brian Guillot
Community Development Director

Approved By:

Michael Rock
City Manager

ATTACHMENTS:

1. Resolution No. 2016-19
2. General Plan Annual Progress Report for Calendar Year 2015
3. Copy of PC Resolution No. 2016-03

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 1

(Resolution No. 2016-19)

RESOLUTION NO. 2016-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2015

WHEREAS, the California state law requires that each city and county adopt a general plan to guide development in their city and land outside its boundaries that has relation to its city planning (Govt. Code §65300); and

WHEREAS, the California State law requires that the General Plan include seven (7) mandated elements: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise; and

WHEREAS, the City undertook a comprehensive update to the General Plan and Zoning Ordinance which were adopted by the City Council on January 31, 2006 by Resolution No. 2006-12; and

WHEREAS, the City of Banning General Plan has 21 elements (seven (7) of which are mandated by the State); and

WHEREAS, Government Code §65400 mandates that cities and counties in California submit an annual report on the status of the General Plan and progress in its implementation to their decision makers (City Council or Board of Supervisors), the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1st of each year; and

WHEREAS, the purpose of the General Plan annual report is to provide enough information to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation; and

WHEREAS, the City is also required to report progress in implementing its housing element and the Regional Housing Needs Assessment as part of the annual report; and

WHEREAS, the economic recession has hampered development in the community, including housing construction because financial institutions have tighter regulations and are not lending any construction loans; and

WHEREAS, on December 29, 2011, the California Supreme Court upheld the validity of the Assembly Bill (AB) 1X 26 and invalidated AB 1X 27 which resulted in dissolution of redevelopment agencies in California including the City of Banning Community Redevelopment Agency which completely cut-off sources of funding for construction of infrastructure, elimination of blight, and construction and maintenance of affordable housing; and

WHEREAS, the City continues to take proactive steps in implementing the goals, policies and action programs of the General Plan; and

WHEREAS, over the course of the past ten (10) years, the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. While the City has been implementing the General Plan, the primary reasons why some of the action programs have not been completed or initiated is due to budget constraints, available staff resources, and work program priority for each of the City departments; and

WHEREAS, the General Plan Annual Progress Report for Calendar Year 2015 contains the reporting forms on progress for implementing the Housing Element and details the implementation action programs and status; and

WHEREAS, on March 2, 2016, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2016-03 recommending to the City Council the approval of the General Plan Annual Progress Report for Calendar Year 2015; and

WHEREAS, on the 22rd day of March 2016, the City Council held the noticed public meeting at which interested persons had an opportunity to testify in support of, or opposition to the proposed General Plan Annual Progress Report for Calendar Year 2015; and

WHEREAS, at this public meeting on the 22rd day of March 2016, the City Council considered and heard public comments on the proposed General Plan Annual Progress Report for Calendar Year 2015; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public meeting held on the 22rd day of March 2016.

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

SECTION 1: Compliance with Government Code Section 65400.

The City Council determined that this General Plan Annual Progress Report for Calendar Year 2015 was prepared for compliance with Government Code Section 65400.

SECTION 2: City Council Action.

The City Council approves the General Plan Annual Progress Report for Calendar Year 2015; and, directs staff to file the report with the State Office of Planning and Research and the State Department of Housing and Community Development.

PASSED, APPROVED, AND ADOPTED this 22rd day of March 2015.

Arthur L. Welch, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, City Attorney
Aleshire & 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 Resolution No. 2016-19 was duly adopted at a regular meeting of said City Council on the 22rd day of March 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

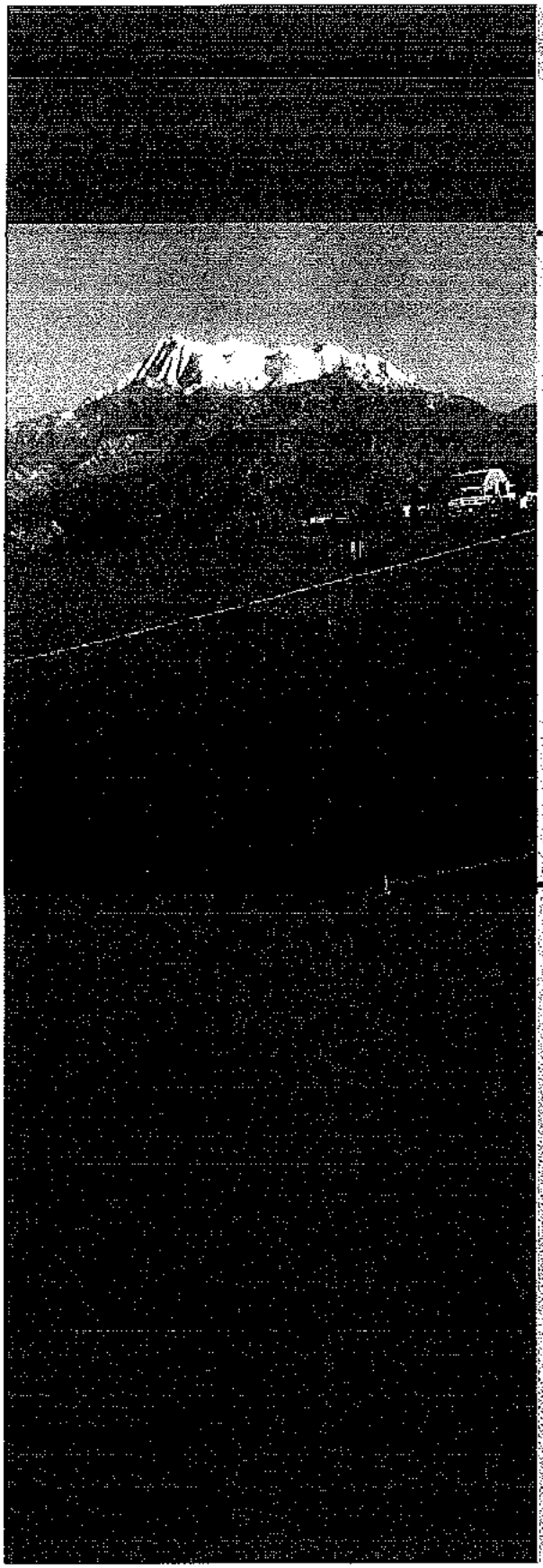
ABSTAIN:

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

ATTACHMENT 2

(General Plan Annual Progress Report for Calendar Year 2015)

THIS PAGE LEFT BLANK INTENTIONALLY



City of Banning

Community Development Department

General Plan

Annual Progress Report

2015

Table of Contents

Introduction ..... - 2 -

Chapter 1 Community Development ..... - 3 -

Land Use Element ..... - 3 -

Economic Development Element ..... - 11 -

Circulation Element ..... - 17 -

Parks and Recreation Element ..... - 28 -

Housing Element ..... - 35 -

Chapter 2 Environmental Resources ..... - 46 -

Water Resources Element ..... - 46 -

Open Space and Conservation Element ..... - 50 -

Biological Resources Element ..... - 53 -

Archaeological and Historic Resources Element ..... - 56 -

Air Quality Element ..... - 60 -

Energy and Mineral Resources Element ..... - 65 -

Chapter 3 Environmental Hazards ..... - 68 -

Geotechnical Element ..... - 68 -

Flooding and Hydrology Element ..... - 71 -

Noise Element ..... - 75 -

Wildland Fire Hazards Element ..... - 78 -

Hazardous and Toxic Materials Element ..... - 83 -

Chapter 4 Public Services and Facilities ..... - 86 -

Water, Wastewater and Utilities Element ..... - 86 -

Public Building and Facilities Element ..... - 90 -

Police and Fire Protection Element ..... - 92 -

Emergency Preparedness Element ..... - 96 -

Attachments ..... - 100 -

Annual Element Progress Report – Housing Element Implementation ..... - 101 -

Housing Successor of the City of Banning – Financial Statements ..... - 102 -

Introduction

Government Code Section 65400(b) requires planning agencies to provide an annual report to their legislative body, the Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) on the status of their General Plan and their progress in its implementation. The report must detail the progress in meeting the jurisdiction's share of regional housing needs and addresses efforts by the local agency to removing governmental constraints to the maintenance, improvement, and development of housing.

The purpose for the Annual Progress Report is to assess how the General Plan is being implemented in accordance with adopted goals, policies and implementation measures; identify any necessary adjustments or modifications to the General Plan as a means to improve local implementation; provide a clear correlation between land use decisions that have been made during the 12-month reporting period and the goals, policies and implementation measures contained in the General Plan; and, to provide information regarding local agency progress in meeting its share of regional housing needs.

The current Banning General Plan was adopted by the Banning City Council on January 31, 2006. The following discussion will provide a summary of the progress in achieving the Goals, Policies and Implementation Programs for each of the twenty-one General Plan elements for the 2015 calendar year. Each General Plan Element contains implementation programs that identify each department(s) responsible for implementation of the programs and outlines the timing/schedule to complete the programs. In order to reflect the General Plan 2006 format, the elements are organized into four major sections: Community Development, Environmental Resources, Environmental Hazards, and Public Services and Facilities.

The programs that have been completed and/or active and ongoing are highlighted in **bold** and the programs that have not been completed are highlighted in *italics*.

Chapter 1 Community Development

Land Use Element

GOAL 1
A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents.

Policy 1
The City maintain a land use map which assures a balance of residential, commercial, industrial open space and public lands.

Program 1.A
The city shall annually monitor the remaining capacity of all General Plan land use categories and recommend changes to the City Council as needed.
Responsible Agency: Planning Division, Planning Commission
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.
Program 1.B
The City's Zoning Ordinance shall directly correspond to General Plan land use designations, and shall be kept consistent with the General Plan.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 2
The Planning, Public Works and Economic Development staffs shall be closely coordinated, to assure efficient and cost effective processing of applications.

Program 2.A
The City shall develop a Fast Track application process for projects which enhance the City's economic development. Procedures and timelines shall be provided to qualifying project applicants in writing.
Responsible Agency: Planning Division, Public Works, City Manager's Office
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and complies with Permit Streamlining Act.

Policy 3
Development in all land use categories shall be of the highest quality.

Program 3.A
The Zoning Ordinance shall include design standards and guidelines which assist the development community in developing high quality projects.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Completed. The current Zoning Ordinance provides design standards and guidelines for residential and commercial development.

Policy 4
Specific Plans shall be required for projects proposing one or more of the following:

a. More than one residential land use designation;
b. A combination of residential, recreational, commercial and/or industrial land use designation; or
c. Extension of infrastructure (water, sewer and roadways) into an area where these do not exist.

Policy 5
All land use proposals shall be consistent with the goals, policies and programs of this General Plan, and with the Zoning Ordinance.

Policy 6
The City shall implement a program for Art in Public Places.

Program 6.A
An Art in Public Places Ordinance shall be prepared and incorporated into the Municipal Code.
Responsible Agency: Community Services Department, Planning Division, Planning Commission, City Council.
Schedule: Continuous; Ongoing
Implementation Status – Art in Public Places is currently required as part of new development in Downtown Commercial zoning district. Due to lack of funding and staffing the detail of what the Art in Public Places entails is still to be developed.

Residential Goals, Policies and Programs:

GOAL 1
Preserve and enhance the City's neighborhoods.

GOAL 2
A broad range of housing types to fill the needs of the City's current and future residents.

Policy 1
The land use map shall provide a range of housing densities while considering land use compatibility with non-residential land uses.

Policy 2
Projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected.

Policy 3
Density transfers resulting in a 50% increase in density shall be permitted in the Residential/Agriculture-Hillside and Rural Residential-Hillside land use designations.

Policy 4
The City's Zoning Ordinance shall include design standards and guidelines which encourage high quality residential development.

Program 4.A
Design standards and guidelines shall be included in all residential zoning categories.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Design standards and guidelines are contained in current zoning ordinance.

Policy 5
The City shall complete Specific Neighborhood Plans when requested by the neighborhood.

Program 5.A
Develop and implement an outreach program and outline of parameters for Neighborhood Plans.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Pending
Implementation Status – ***Not implemented due to lack of funding.***

Policy 6
The Zoning Ordinance shall include principles, standards and guidelines which allow for creative and flexible design of residential projects, including clustered housing, narrowed local streets, trails, parks and plazas.

Policy 7
The Zoning Ordinance shall include principles, standards and guidelines which provide for high quality, high density mixed use residential development, in the Downtown Commercial zoning designation.

Policy 8
The City will participate in a Community Plan for the Banning Bench with Riverside County and the Banning Bench Community of Interest. Specific development proposals will continue to be processed during its preparation.

Program 8.A
Negotiate with the Banning Bench Community of Interest as part of the Master Plan for either inclusion in the City's Sphere of Influence or annexation.
Responsible Agency: City Council, Community of Interest
Schedule: Pending
Implementation Status – *Not implemented.*

Commercial Goals, Policies and Programs:

GOAL 1 - Commercial
Complementary commercial uses which meet the needs of the City's residents, increase the City's revenues, and provide a range of employment opportunities.

GOAL 2 - Industrial
A balanced mix of non-polluting industrial land uses which provide local jobs for the City's residents.

Policy 1
The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region, while carefully considering compatibility with adjacent residential lands.

Policy 2
In coordination with the Economic Development Element, the City shall maintain market information, including information on the City's identified service needs, potential sites, Fast Track System and provide information on those sites to the development community.

Program 2.A
Develop and maintain an inventory of potential commercial sites, including lands which may require consolidation, and demographic information for use by the Economic Development staff in attracting new businesses to the City.
Responsible Agency: Planning Division, City Manager's Office
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 3
The Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality commercial projects.

Policy 4
The Zoning Ordinance shall include principles, design standards and guidelines, based on the Downtown Design Charrette, which provide for high quality, pedestrian oriented retail development in the Downtown Commercial zoning designation.

Policy 5
The City shall coordinate with the Banning Unified, the Beaumont Unified School Districts and the Mount San Jacinto Community College to provide vocational education to support commercial and industrial businesses in the City and surrounding areas.

Policy 6
The City shall develop and implement a community identification program, including monument signage, directional signs, etc. which provide attractive entry statements for the City, and which direct visitors to local points of interest.

Policy 7
The land use map shall include sufficient industrial lands for manufacturing, warehousing and distribution, while carefully considering compatibility with adjacent lands.

Policy 8
Industrial lands shall be located on major roadways with good access to Interstate 10, to assure that potential traffic impacts associated with tractor-trailers are minimized.

Policy 9
N/A

Policy 10
The Zoning Ordinance shall include principles, design standards and guidelines which encourage the development of high quality industrial projects.

Policy 11
Industrial campuses and master planned projects are encouraged.

Policy 12
The City shall coordinate with developers and the Railroad to secure railroad spurs.

Policy 13
The City shall adequately regulate sand and gravel operations to assure that their impacts to surrounding development is minimized.

Program 13.A
The City shall establish a formal relationship with the County Geologist or other qualified agency to monitor mineral resource operations under the State Mining and Reclamation Act (SMARA).
Responsible Agency: Planning Division, Riverside County Geologist
Schedule: Continuous; Ongoing
Implementation Status – The County no longer monitors or performs annual inspections for the mines in Banning for compliance with SMARA. The City contracted with Aragon Geotechnical, Inc. to perform annual inspection. The annual inspection report identifies the mine's compliance and non-compliance items. Non-compliance items must be fixed by the mine.

Public Facilities Goals, Policies and Programs:

GOAL 1
Sufficient and appropriately located public facilities to serve the needs of the City's residents, businesses and visitors.

Policy 1
The City shall take a leadership role with all providers of public services in the community to assure they provide adequate and quality levels of service based on future demands.

Program 1.A
The City shall take a leadership role with the various public and private providers responsible for schools, fire, health and other providers.
Responsible Agency: Planning Division, City Manager's Office, City Council, Fire Department, Banning and Beaumont Unified School Districts, County of Riverside, San Gorgonio Memorial Hospital
Schedule: Continuous; Ongoing
Implementation Status - The Fire Department master plan for expansion based on community growth was approved by the City Council and is continually re-evaluated. The Fire Department has been working with the Finance Department to develop a plan for Fire and Police Community Funding districts in new developments.

Policy 2

The City shall review projects, particularly those which propose master planned communities, to assure that public facilities are provided to meet the needs of the project and the surrounding area.

Program 2.A
The City shall, where appropriate, regulate the location of public facilities through conditions of approval.
Responsible Agency: Planning Division, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through development review and conditions of approval.

Open Space Goals, policies and Programs:

GOAL 1
The conservation and management of open space areas to provide recreational opportunities and protect important resources in perpetuity.

Policy 1
Lands preserved through conservation easements, acquired by private or public agencies, or dedicated for open space shall be designated for the appropriate Open Space land use category on the land use map as they are preserved.

Program 1 A
Review development proposals adjacent to designated open space lands and assure that land uses are compatible, and buffers provided when necessary.
Responsible Agency: Planning Division, Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as part of land development review process.

Policy 2
The City shall proactively coordinate with private and public agencies so that lands available for conservation are dedicated appropriately to assure their management in perpetuity.

Program 2.A
The City shall coordinate with land owners and private and public agencies to the greatest extent possible to assure that lands proposed for open space either through donation or purchase are conveyed to the appropriate management agency.
Responsible Agency: Planning Division, City Manager's Office, County of Riverside, State and Federal Agencies, Land Conservation Agencies
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as part of development review process.

Policy 3
The City of Banning shall protect the peaks and ridgelines within the City, and encourage coordination with adjacent jurisdictions to protect the peaks and ridgelines within the City's area of influence, to protect the historic visual quality of the hillside areas and natural features of the Pass area.

Program 3.A
The City shall investigate and implement actions and regulations that facilitate hillside development that is compatible with the natural characteristics of the terrain while protecting the significant view sheds, and natural hillside features such as topography, natural drainage, vegetation, wildlife habitats, movement corridors etc.
Responsible Agency: City Council, City Manager's Office, Planning Division, Public Works Department, City of Beaumont, County of Riverside, Morongo Band of Mission Indians
Schedule: Continuous; Ongoing
Implementation Status – Grading ordinance adopted. Implementation is ongoing.

Economic Development Element

GOAL 1
A balanced, broadly-based economy that provides a full range of economic and employment opportunities, including sales tax and property tax generation while maintaining high standards of development and environmental protection.

Policy 1
General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

Program 1.A
The city shall annually monitor the remaining capacity of all General Plan land use categories to assure that a variety of economic development opportunities are available.
Responsible Agency: Community Development Department
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.
Program 1.B
All proposals for new development or redevelopment shall be evaluated to assure that these uses complement, support and are compatible with the City's core economic assets.
Responsible Agency: Community Development Department, Finance Department, Public Works Department, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 2
The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, generate sales tax and property tax, increase discretionary incomes, and contribute to City General Fund revenues.

Program 2.A
Work closely with Mount San Jacinto College throughout their planning process to assist in its efficient and timely development, implement educational programs geared to job creation and retention, and to coordinate synergistic development opportunities.
Responsible Agency: Community Development Department, Mount San Jacinto College
Schedule: Continuous; Ongoing
Implementation Status – Phase I of the Mt. San Jacinto Community College development was completed in December 2010. Additional phases are being discussed by the College.
Program 2.B
Aggressively pursue retail commercial developments which reduce the current retail sales leakage.
Responsible Agency: Community Development Department

Schedule: Continuous; Ongoing
Implementation Status –The City secured a Design Review for a development project to accommodate Hobby Lobby, Marshall's, Party City, and Big 5 Sporting Goods.
Program 2.C
Continue to maximize the role of the Chamber of Commerce, City web site and other mechanisms that promote and enhance the City's business climate.
Responsible Agency: Community Development Department, Chamber of Commerce
Schedule: Continuous; Ongoing
Implementation Status - Active and ongoing. The City's website was recently updated.

Policy 3

Encourage and promote infill development in orderly and logical development patterns that decrease the costs, and increase the efficiency of new utilities, infrastructure, and public services.

Program 3.A
The City shall maintain a package of economic incentive programs that benefit developers of infill projects.
Responsible Agency: Community Development Department, Electric Utility Department, Finance Department
Schedule: Continuous; Ongoing
Implementation Status – The City Council adopted the Electric Utility Incentive Program for existing business expansion and business attraction. The Electric Utility Incentive Program was enhanced in 2012 to lower the minimum requirement threshold in an effort to reach a broader business base. The City provides a one-stop shop program where developers can meet with City staff at no cost in advance of their formal application to the City. The City also provides a single point of contact from start to the completion of a construction project.
Program 3.B
The City shall contribute to the financing of tertiary treatment facilities as an economic development tool.
Responsible Agency: Community Development Department, Public Works Department
Schedule: Pending
Implementation Status – Ongoing.
Program 3.C
Use the Downtown Charrette as a guideline for the Downtown Commercial area, for the development of high quality, pedestrian oriented retail locations.
Responsible Agency: Community Development Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.

Policy 4

Attract a greater number of commercial retail businesses to the Downtown Core area to develop a safe, vital and consumer-friendly downtown shopping area.

Program 4.A
Provisions for the Downtown Commercial Zoning District shall encourage specialty retail uses, live-work uses, and other uses which support and expand the pedestrian and tourist-related shopping experience.
Responsible Agency: Planning Department, Planning Commission, City Council
Schedule: Continuous: Ongoing
Implementation Status - Ongoing.
Program 4.B
The City shall coordinate with public, private and business organizations to explore grant funding to provide funds for rehabilitation and increased code enforcement in the Downtown Core area.
Responsible Agency: Community Development Department, Chamber of Commerce, City Council
Schedule: Ongoing
Implementation Status – Ongoing, but limited due to lack of funding.

Program 4.C
The City shall work with local non-profits, downtown property owners, and other citizen groups with an interest in development of the Downtown core area, to identify grant monies, private development interests and business synergies to build on existing revitalization activities in this area.
Responsible Agency: Community Development Department
Schedule: Continuous; Ongoing
Implementation Status - Ongoing, but limited due to lack of funding and lack of interest.

Policy 5
Explore opportunities with private entities to fund Smith Creek Park as a viable recreation area.

Program 5.A
Update the Smith Creek Park master plan and actively market this development opportunity among private entities that could fund development and provide for future maintenance of the park and improvements.
Responsible Agency: Community Services Department, Community Development Department, City Council, development community
Schedule: Pending
Implementation Status – *Not implemented.*

Policy 6
Encourage and facilitate highway-serving commercial development at appropriate Interstate-10 interchanges within the City limits.

Program 6.A
Proactively work with CalTrans to improve on- and off-ramp landscaping and improvements to provide more attractive gateways to the City.
Responsible Agency: Community Development Department, Public Works Department, CalTrans
Schedule: Continuous; Ongoing
Implementation Status – Ongoing
Program 6.B
Preserve highway commercial land use designations at interchange locations, and encourage the location of high quality freeway-serving businesses.
Responsible Agency: Community Development Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.
Implementation Status - Implemented through Zoning and land development review process.
Program 6.C
Code compliance on gateway streets and properties adjacent to Interstate 10 shall be strictly enforced.
Responsible Agency: Code Enforcement
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.

Policy 7
Explore joint funding opportunities for the improvement of existing at-grade rail crossings, and investigate necessary infrastructure and funding to extend rail access to lands designated for industrial development.

Program 7.A
Consult with representatives of the Railroad, state and federal legislators, and appropriate state agencies to apply for available funding for these improvements.
Responsible Agency: Public Works Department, Railroad, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing

Policy 8
In order to maintain existing economic activities and attract new commercial and industrial development, the City shall assure the provision of adequate utilities, infrastructure, and other capital facilities.

Policy 9
All development interests, including residential, commercial and industrial project proponents, shall be responsible for their fair share of on-site and off-site improvements required to support their development proposals. Such improvements may include, but are not limited to, street construction and signalization, grade separation, utility extension, drainage facilities, and parks.

Program 9.A
The City shall consider requests for assistance from project developers for the development of infrastructure and compare them to the economic benefit of the proposed project.
Responsible Agency: Public Works Department, Community Development Department
Schedule: Continuous; Ongoing
Implementation Status - As part of land development, the projects are required to provide infrastructure to serve the development.
Program 9.B
Proactively work with the Riverside County Transportation Commission in putting Banning projects on the highest priority within the Transportation Uniform Mitigation Fee (TUMF) program.
Responsible Agency: City Manager's Office, City Engineer, City Council
Schedule: Continuous; Ongoing
Implementation Status - Ongoing. Attend and participate at monthly meetings with Riverside County Transportation Commission.

Policy 10

Continue to encourage and cultivate cooperative relationships with the Morongo Band of Mission Indians and Bureau of Indian Affairs, particularly regarding development opportunities, joint venture or otherwise, of Indian lands within and adjacent to the planning and development and enhancement of community facilities that provide joint benefit, and development projects that produce sales tax/property tax/job generation, to the Tribe and the City.

Program 10.A
Continue to pursue development opportunities that benefit the long-term financial sustainability of the City. Pursue larger facilities to attract national tenants that will enhance the City's financial position via sales tax generation, property tax generation, and who offer employment opportunities. Consult with representative of the Railroad, state and federal legislators, and appropriate state agencies to apply for available funding for these improvements.
Responsible Agency: Community Development Department, Public Works Department, Railroad, City Council, City Administrative Office.
Schedule: Continuous; Ongoing
Implementation Status: Active and On-going

Policy 11

Promote development activities and programs that establish the City as a destination venue and encourages tourism.

Program 11.A
Encourage and promote development activities, special events and activities which strengthen the City's image and attractiveness to residents, visitors, and businesses. Create development and program opportunities that promote educational potential for youth, highlight the history and culture of the City/region, and that offers visitors a unique experience.
Responsible Agency: City Council, Chamber of Commerce, Morongo Band of Mission Indians, Inland Empire Tourism Council, Banning and Beaumont Unified School Districts.
Schedule: Continuous; Ongoing
Implementation Status – Ongoing. Special Events are conducted by the Banning Cultural Alliance such as Phineas Festival, Art Hop, and Play House Bowl and many other downtown activities.
Program 11.B
The City shall conduct market research on tourism approaches, target the tourism markets of interest, and create tourism plan goals and an implementation strategy.
Responsible Agency: Community Development Department, Chamber of Commerce, Local Non-Profits
Schedule: Ongoing
Implementation Status - Ongoing efforts to accomplish tourism plan.

Circulation Element

GOAL 1
A safe and efficient transportation system.

Policy 1
The City's Recommended General Plan Street System shall be strictly implemented.

Program 1.A
Street rights of way shall be 134 feet for Urban Arterial Highways, 110 feet for Arterial Highways, 100 feet for Major Highways, 88 feet for Secondary Highways, 78 feet for Divided Collectors, 66 feet for Collectors, and 60 feet for Local Streets. Local street standards can be amended as described in Policy 2.
Responsible Agency: Community Development Department, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Implemented through the City's development process.
Program 1.B
The City's Public Works roadway standards shall be amended to match the standards contained in this General Plan.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Completed
Program 1.C
Minimum lane width for all City streets shall be designed at 12 feet.
Responsible Agency: Planning Division, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing standard requirement for all development projects. Currently the minimum roadway for two way traffic is 44' from curb to curb per the General Plan.

Policy 2

Local streets shall be scaled to encourage neighborhood interaction, pedestrian safety and reduced speeds.

Program 2.A
The design of new local streets can vary from the City's standard of 60 foot right-of-way, 40 foot paved width, under the following conditions: 1. The minimum travel lane width shall be 12 feet. 2. Parking shall be provided on at least one side of any public street. Parking lanes shall be a minimum of 8 feet in width. 3. Parking may be eliminated on private streets, if provisions are made in Conditions, Covenants and Restrictions (CC&R's) for enforcement by the Homeowners' Association. 4. Landscaped traffic circles, chokers, and center islands are encouraged, but must meet the requirements of the Fire Department. 5. The minimum parkway width shall be 10 feet. 6. Linear sidewalks are discouraged. Meandering sidewalks, which provide landscaping and street trees adjacent to the curb, shall be included in local street design. The design of local streets varying from the City's standard, shall be included in the Tentative Tract Map application, and shall be reviewed by the Planning Commission and approved by the City Council.
Responsible Agency: Community Development Department, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing review as part of development process.
Program 2.B
Existing local streets will be inventoried, and a master plan of potential improvements designed to improve their aesthetic and safety, including landscaped medians, sidewalks and traffic calming devices, shall be developed, cost engineered, and implemented.
Responsible Agencies: Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, Capital Improvement Program (CIP) adopted and being implemented as funding is available. In 2013 the City had all the City streets inventoried and inspected for specific conditions which resulted in a condition rating for each street which will be utilized to efficiently maintain the City's street network.

Policy 3
The City shall establish and maintain a 5-Year Capital Improvement Program for streets.

Program 3.A
The Public Works Department shall establish a Capital Improvement Program for 5 years, and update it annually.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – The 5 Year Capital Improvement Program is updated and approved annually.

Policy 4
Proactively participate in regional transportation planning.

Program 4.A
Maintain active relationships with the City of Beaumont, the County of Riverside, the Western Riverside County Council of Governments, the California Department of Transportation and the Morongo Band of Mission Indians to share information and promote comprehensive transportation planning in the region.
Responsible Agency: Public Works Department, City Manager's Office, City Council, City of Beaumont, County of Riverside, WRCOG, CalTrans, Tribe
Schedule: Continuous; Ongoing
Implementation Status – The city has provided comments to SCAG regarding the-2012-2035 RTP.
Program 4.B
Aggressively pursue Banning projects in the Transportation Uniform Mitigation Fee (TUMF) program, particularly the addition of projects to the TUMF project list, including grade separated road crossings.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing. TUMF funds were secured and currently utilized to partially fund the Sunset Grade Separation project.
Program 4.C
Aggressively pursue the design and development of interchanges at Cottonwood Road (North - South), including all sources of funding, and the coordination of I-10 widening with their installation.
Responsible Agency: Public Works Department, City Manager's Office, City Council, CalTrans, Railroad
Schedule: Continuous; Ongoing
Implementation Status – Currently there are not discussions on the development of interchanges at Cottonwood Road. The County of Riverside is also planning an I-10 Bypass Project.

Policy 5
Consider amendments to the Highland Home/Highland Springs/18th Street/Brookside street configurations based on public safety, design feasibility and area needs.

Policy 6
The City shall maintain peak hour Level of Service C or better on all local intersections, except those on Ramsey Street and at I-10 interchanges, where Level of Service D or better shall be maintained.

Program 6.A
Periodically review current traffic volumes and the actual pattern of development to coordinate, program and, as necessary, revise road improvements.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status - Ongoing & Active. In 2013 a General Plan Amendment was approved by City Council which changed the citywide policy for Level of Service (LOS) from C to D.

Policy 7
New development proposals shall pay their fair share for the improvement of streets within and surrounding their projects on which they have an impact, including roadways, bridges, grade separations and traffic signals.

Policy 8
Traffic calming devices shall be integrated into all City streets to the greatest extent possible and all new streets shall be designed to achieve desired speeds.

Policy 9
Street trees within the City right of way shall be preserved, unless a danger to the public health and safety or if the tree is diseased.

Program 9.A
Sidewalks in areas with street trees shall be designed to "wrap around" the tree if they are added to an existing neighborhood.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 10

Sidewalks shall be provided on all roadways 66 feet wide or wider. In Rural Residential land use designation pathways shall be provided.

Program 10.A
The Public Works Department shall prepare an inventory of discontinuous sidewalks on all qualifying roadways, and fund individual projects through the Capital Improvement Program annually.
Responsible Agency: Public Works Department, City Council
Schedule: Continuous; Ongoing
Implementation Status – In progress and is implemented annually through CIP. New inventory of sidewalks and curb and gutters were made a part of the project mentioned in section 2.B.
Program 10.B
All new development proposals located adjacent to qualifying roadways shall be required to install curb, gutter and sidewalk concurrent with construction.
Responsible Agency: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review.
Program 10.C
The City shall develop procedures to address neighborhood sidewalk needs as they are requested by that neighborhood.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as needed.
Program 10.D
Work with the School District to develop safe routes to school.
Responsible Agency: Public Works Department
Schedule: Pending
Implementation Status - *Not implemented due to lack of funding.*

Policy 11
Sidewalks or other pedestrian walkways shall be required on all streets within all new subdivisions.

Policy 12
In the absence of a vehicular grade separation, the City shall aggressively pursue a grade separated pedestrian access across San Gorgonio, to assure that high school students do not have to cross the railroad tracks on their way to and from school.

Policy 13
Pedestrian access in the Downtown Commercial designation shall be preserved and enhanced.

Program 13.A
All development and redevelopment proposals for the Downtown area shall include enhanced sidewalk, pedestrian walkway, lighting and landscaping designs and assure connections to existing and planned sidewalks.
Responsible Agency: Public Works Department, Planning Division, Electric Department
Schedule: Continuous; Ongoing
Implementation Status – New development is being reviewed on a case-by-case basis to include enhanced sidewalks, walkways, lighting, and landscaping designs and to ensure that there are connections between existing and new development.

Policy 14
The City shall aggressively pursue the construction of all-weather crossings over General Plan roadways.

Program 14.A
The Public Works Department shall prioritize the need for bridges listed in this Element, develop preliminary cost estimates, identify and pursue sources of funding, including developer funding, for each facility.
Responsible Agency: Public Works Department, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing Capital Improvement Project (CIP) and through private development funding. Sunset Avenue grade separation is currently a priority project.
Program 14.B
All new development proposals shall pay their fair share of bridge construction needed to serve their project.
Responsible Agency: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status - Implemented through the land development review process.

Policy 15
The City shall develop a Golf Cart Plan compliant with state requirements.

Program 15.A
The City shall develop a golf cart plan and associated ordinances and other required implementation programs.
Responsible Agency: Public Works Department, City Council
Schedule: Pending
Implementation Status – A citywide golf cart plan is not implemented due to lack of funding. However, future golf courses that are to be developed as part of development will require a golf cart plan that connects homes to commercial development within the project or beyond based on future opportunities.

Policy 16
Golf cart paths and facilities shall be funded, to the greatest extent possible, by new development.

Program 16.A
The routing and facilities required in the Golf Cart Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.
Responsible Agency: Public Works Department
Schedule: Pending
Implementation Status – *Not implemented since there is no Citywide golf cart plan.*
Program 16.B
Golf cart facilities shall be incorporated into new project plans located on golf cart routes.
Responsible Agency: Planning Division, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status - Implemented case-by-case based on future development. The proposed Butterfield Specific Plan (Pardee Homes) includes golf cart routes connecting homes to the commercial area in the development.

Policy 17
Encourage the expansion of an integrated Pass transit system.

Program 17.A
The City will explore the potential for either bus or rail connection to the Metrolink transit system.
Responsible Agency: City Manager's Office, Community Services Department
Schedule: Continuous; Ongoing
Implementation Status - Ongoing and is actively pursued at the Riverside County Transportation Commission level.

Policy 18
The City shall review its transit service to major regional attractions, and intra-City recreational locations in future planning efforts, based on need.

Policy 19
Bus pullouts shall be designed into all new projects on arterial roadways, to allow buses to leave the flow of traffic and reduce congestion.

Program 19.A
Bus pullouts will be retrofitted on built-out streets, wherever possible.
Responsible Agency: Public Works Department, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, as funding permits

Policy 20
Promote the location of a passenger rail station for long distance and commuter rail service.

Policy 21
Update the Airport Master Plan every five years to meet the needs of the general aviation, business and tourism segments of the community.

Program 21.A
Land use designation decisions within the area of influence of the airport shall be specifically reviewed to assure compatibility.
Responsible Agency: Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review process.
Program 21.B
Work with the Chamber of Commerce, the Morongo Band of Mission Indians, and other interested parties to provide services which meet the needs of passenger and freight transport.
Responsible Agency: Airport Management, Economic Development staff, Chamber of Commerce, Morongo Band of Mission Indians, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, implemented through the Public Works committee.

Policy 22
Maintain an accurate mapping of all utility corridors.

Program 22.A
The Building Department shall inventory and map transmission utility easements on the Land Use Map (including electric, fiber optics, natural gas and petroleum).
Responsible Agency: Building Department, Planning Division
Schedule: Pending
Implementation Status – The State of California requires these maps to be maintained through the Service Alert System. There has been no comprehensive inventory conducted by the City. The Electric Utility Department maintains its own inventory of electric utility lines.

Policy 23
The City shall purchase and/or replace its fleet of vehicles with alternate fuel vehicles when available to the greatest extent possible, and shall encourage other agencies to do the same.

Policy 24
Public alleys throughout the City shall be maintained to be useful and safe at all times.

Program 24.A
The City shall create a downtown alley master plan and where appropriate pave, light and otherwise improve alleys.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as funding permits
Program 24.B
The Public Works Department shall inventory all public alleys, determine which are necessary, and vacate those that are not.
Responsible Agency: Public Works Department, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as funding permits.

Policy 25
The City shall develop and implement plans for a coordinated and connected bicycle lane network in the community that allows for safe use of bicycles on City streets.

Program 25.A
The City shall inventory all streets for potential Class I, Class II and Class III bikeways, and shall program their installation in its Capital Improvement Program.
Responsible Agency: Planning Division; Engineering Division; Public Works Department; Planning Commission; City Council
Schedule: Ongoing

Implementation Status – Ongoing as funding permits. The City has been chose to receive an ATP grant to construct bile lanes along Wilson Street and Ramsey Street. Once formal confirmation is obtained, staff will work with Caltrans Office of Local Assistance to plan, design and construct the project.
Program 25.B
Class I bikeways and sidewalks should be installed on both sides of Wilson Street, Ramsey Street, and Lincoln Street, and other major streets where sufficient right-of-way is available.
Responsible Agency: Engineering Division; Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, as funding permits.
Program 25.C
Class II bikeways and sidewalks should be designated on all existing arterial streets that have sufficient width to safely accommodate bicycle travel lanes.
Responsible Agency: Planning Division; Engineering Division; Public Works Department
Schedule: Pending
Implementation Status –*Not yet completed.*
Program 25.D
The City should designate Class III bikeways only where Class I and Class II facilities are not feasible.
Responsible Agency: Planning Division; Public Works Department
Schedule: Pending
Implementation Status – *Not yet completed.*

Policy 26
The City should continue to work with the Morongo Band of Mission Indians and neighboring cities and communities to create a regional bicycle and trail network.

Policy 27
The City shall provide for a comprehensive, interconnected recreational trails system suitable for bicycles, equestrians and/or pedestrians.

Program 27.A
Evaluate the practicality of utilizing flood control channels for multi-use trails, where flooding and safety issues can be accommodated, and negotiate inter-agency agreements for this purpose.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing

Implementation Status – Ongoing through land development review process.
Program 27.B
Evaluate the practicality of developing a multi-use trails system along the Banning Bench adjacent to and extending into San Bernardino National Forest lands, where environmental and safety issues can be accommodated, and negotiate inter-agency agreements with the U.S. Forest Service for this purpose.
Responsible Agency: Planning Division, U.S. Forest Service/San Bernardino National Forest
Schedule: Pending
Implementation Status – *Not yet completed.*
Program 27.C
Establish a multi-purpose trail between Dysart Park and Smith Creek Park, suitable for equestrian, bicycle and pedestrian use.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Pending
Implementation Status – *Not yet completed.*

Policy 28
Motorized vehicles shall be prohibited on City trails.

Program 28.A
The City shall develop a non-motorized trail system and associated ordinances and other required implementation programs.
Responsible Agency: Public Works Department, Planning Commission, City Council
Schedule: Pending
Implementation Status – *Not completed.*
Program 28.B
The non-motorized trail system shall be funded, to the greatest extent possible, by new development.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review process. Butterfield Specific Plan (Pardee Homes) will include non-motorized trail system within the community and for future connection to its surrounding areas.
Program 28.C
The routing and facilities required in the non-motorized trail system Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.
Responsible Agency: Public Works Department
Schedule: Pending
Implementation Status – *Not yet completed.*

Parks and Recreation Element

GOAL 1
A high quality public park system with adequate land and facilities to provide recreational facilities and activities for the City's residents.

GOAL 2
A comprehensive bikeway, trail and walking path system that connects homes to work places, commercial venues and recreational facilities, and which enhances the safety and enjoyment of cyclists, equestrians and pedestrians.

Policy 1
Update the Master Parks and Recreation Plan so as to assure adequate parklands and facilities that meet the immediate and future needs of the community, and is complementary to the natural environment.

Program 1.A
Update the City's parks master plan to address the proposed and anticipated parks and recreational facilities to be developed within the City.
Responsible Agency: Community Services Department, Public Works Department, Parks and Recreation Advisory Committee, Planning Commission
Schedule: Continuous; Ongoing
Implementation Status – Park Master Plan was adopted by the City Council on February 22, 2011.
Program 1.B
The parks master plan shall maintain a standard of 5 acres of parkland per 1,000 residents.
Responsible Agency: Community Services Department, Parks and Recreation Advisory Committee
Schedule: Continuous; Ongoing
Implementation Status – Standard established in the General Plan and the Parks Master Plan and is implemented as part of land development review process.
Program 1.C
Include dog parks, tennis courts and golf facilities in Parks Master Planning updates.
Responsible Agency: Community Services Department, Parks and Recreation Advisory Committee
Schedule: Continuous; Ongoing
Implementation Status – Addressed in the Parks Master Plan.

Policy 2

The City will distribute parks and recreation facilities in a manner that is convenient to City neighborhoods and balanced within population concentrations.

Program 2.A
The location and design of neighborhood parks shall consider neighborhood suggestions and input regarding facility needs, vehicular and pedestrian access, noise and lighting impacts, and public safety.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee.
Schedule: Ongoing.
Implementation Status – Active policy, ongoing as developments occur.
Program 2.B
City staff shall identify and prioritize park development projects based upon need, land availability, neighborhood suggestions and funding, and shall encourage the planting of trees as in parks and open spaces.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Ongoing.
Implementation Status- Ongoing. Park projects are reviewed as part of land development review process.
Program 2.C
Investigate and identify the broad range of sources of financing and operating revenue, including Development Impact Fees, Mello Roos special districts, public/private ventures, state and federal grant opportunities, developer fees and inter-agency joint use agreements to supplement revenues collected for parks and recreation purposes.
Responsible Agency: City Manager's Office; Parks and Recreation Division; Community Services Department; Banning and Beaumont Unified School Districts
Schedule: Ongoing
Implementation Status – Under discussion internally.
Program 2.D
Investigate and identify sources of development financing and revenue, including charitable organizations, state and federal grant opportunities to supplement revenues collected for development of parks and recreation facilities and programs.
Responsible Agency: City Manager's Office; Parks and Recreation Division; Community Services Department
Schedule: Ongoing
Implementation Status – Ongoing.

Program 2.E
The City will consider the implementation of a Quimby Ordinance for the purchase of park lands for new developments as they occur.
Responsible Agency: Parks and Recreation Division; Community Services Department, City Council
Schedule: Ongoing
Implementation Status – Park land dedication is implemented as part of new development through Specific Plan and Development Agreement.

Policy 3

Require developers of new residential projects to provide on-site recreational and/or open space facilities in addition to City-wide park requirements.

Program 3.A
Encourage the planting of trees in parks and open spaces.
Responsible Agency: Community Services Department
Schedule: Ongoing
Implementation Status – Ongoing.
Program 3.B
Recreation facilities within projects will be maintained by the residents within the project either through a homeowners' association, assessment district or community facilities district.
Responsible Agency: Community Services Department
Schedule: Ongoing
Implementation Status – Ongoing.

Policy 4

Encourage the development of recreational programs and activities that serve all population segments, including children, the elderly and the disabled.

Program 4.A
Develop a community education program for the City's parks and recreation facilities which focuses on the sense of community which parks and recreation facilities can foster.
Responsible Agency: Parks and Recreation Division; Community Services Department
Schedule: Annually
Implementation Status – Ongoing.
Program 4.B
Develop advertising and publicity programs for recreational programs and events to encourage participation.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Annually
Implementation Status – Ongoing.

Program 4.C
Develop and distribute educational materials relating to the planting and maintenance of drought tolerant landscaping on private property.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and active and is part of the City's Landscape Design Guidelines.

Policy 5

The City shall consider alternative methods of providing park and recreational amenities to meet future population demands.

Program 5.A
Support the development of private recreational ventures that will serve the general population.
Responsible Agency: Planning Department; Community Services Department; Economic Development Department
Schedule: Ongoing
Implementation Status – Addressed in the Parks Master Plan.
Program 5.B
Develop a program by which the City can accept parkland gifts and dedications that would be beneficial to the community.
Responsible Agency: City Attorney; Planning Department; City Council
Schedule: Continuous; Ongoing
Implementation Status – Addressed in the Parks Master Plan and on a case-by-case basis.
Program 5.C
Develop a program that establishes public participation in tree or landscaping planting efforts to commemorate special civic occasions.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Continuous; Ongoing
Implementation Status –Ongoing and on a case-by-case basis; Sun Lakes public tree planting.

Policy 6

The City shall develop and implement plans for a coordinated and connected bicycle lane network in the community that allows for safe use of bicycles on City streets.

Program 6.A
The City shall inventory all streets for potential Class I, Class II and Class III bikeways, and shall program their installation in its Capital Improvement Program.
Responsible Agency: Planning Department; Engineering Division; Public Works Department; Planning Commission; City Council
Schedule: 2015-2016.
Implementation Status - *Not completed and addressed in the Parks Master Plan.*
Program 6.B
Class I bikeways and sidewalks should be installed on both sides of Wilson Street, Ramsey Street, and Lincoln Street, and other major streets where sufficient right-of-way is available.
Responsible Agency: Engineering Division; Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – *Not completed and addressed in the Parks Master Plan.*
Program 6.C
Class II bikeways and sidewalks should be designated on all existing arterial streets that have sufficient width to safely accommodate bicycle travel lanes.
Responsible Agency: Planning Department; Engineering Division; Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – *Not completed and addressed in the Parks Master Plan.*
Program 6.D
The City should designate Class III bikeways only where Class I and Class II facilities are not feasible.
Responsible Agency: Planning Department; Public Works Department
Schedule: Continuous.
Implementation Status – *Not completed and addressed in the Parks Master Plan.*

Policy 7

The City should continue to work with the Morongo Band of Mission Indians and neighboring cities and communities to create a regional bicycle and trail network.

Policy 8
The City shall provide for a comprehensive, interconnected recreational trails system suitable for bicycles, equestrians and/or pedestrians.

Program 8.A
Evaluate the practicality of utilizing flood control channels for multi-use trails, where flooding and safety issues can be accommodated, and negotiate inter-agency agreements for this purpose.
Responsible Agency: Planning Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, requirement.
Program 8.B
Evaluate the practicality of developing a multi-use trails system along the Banning Bench adjacent to and extending into San Bernardino National Forest lands, where environmental and safety issues can be accommodated, and negotiate inter-agency agreements with the U.S. Forest Service for this purpose.
Responsible Agency: Planning Department, U.S. Forest Service/San Bernardino National Forest
Schedule: Continuous; Ongoing
Implementation Status - Included in the adopted Parks Master Plan.
Program 8.C
Establish a multi-purpose trail between Dysart Park and Smith Creek Park, suitable for equestrian, bicycle and pedestrian use.
Responsible Agency: Community Services Department; Public Works Department; Parks and Recreation Advisory Committee
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 9
Motorized vehicles shall be prohibited on City trails.

Program 9.A
The City shall develop a non-motorized trail system and associated ordinances and other required implementation programs.
Responsible Agency: Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Included in the adopted Parks Master Plan.
Program 9.B
The non-motorized trail system shall be funded, to the greatest extent possible, by new development.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as part of land development review process.

Program 9.C
The routing and facilities required in the non-motorized trail system Plan shall be incorporated into the Development Impact Fee when the Plan is adopted.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – *Not yet completed.*

Housing Element

The City of Banning 5th Cycle (2013-2021), adopted by Resolution No. 2014-05 is in full compliance with State housing element law as of March 19, 2015.

The Annual Housing Element Report for calendar year 2015 will also be transmitted to HCD as part of the General Plan Annual Progress Report submittal.

Listed in this section are the housing goals, policies, and programs as listed in the adopted Housing Element.

HOUSING GOAL 1
Conserve, improve, and rehabilitate existing housing.

Policy 1.1
Development and foster activities to increase the health, safety, and property values of the city's existing housing stock.

Policy 1.2
Preserve existing single-family neighborhoods.

Policy 1.3
Encourage continued and new investment in established communities.

Policy 1.4
Monitor the status of at-risk multifamily rental housing units, work with potential nonprofit purchaser/managers as appropriate, and explore funding sources available to preserve the at-risk units.

HOUSING GOAL 2
Provide adequate sites for new residential construction to meet the needs of all segments of the community without compromising the character of the City.

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

HOUSING GOAL 3
Assist in the development of housing that is affordable to all segments of the community.

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

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

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

HOUSING GOAL 4
Remove governmental constraints to the provision of housing to the greatest extent feasible and legally permissible.

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

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

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

HOUSING GOAL 5
Promote equal opportunity for housing throughout the City of Banning.

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

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

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

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

HOUSING GOAL 6
Promote residential energy conservation and sustainable development.

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

HOUSING PROGRAMS

The Housing Element includes programs which define the specific actions the City will undertake in order to achieve the goals for the current planning period.

1. Code Enforcement

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

Program Objectives: Decrease the number of unresolved code violations within the City and increase the number of improved properties.

Responsible Agency: Community Development Department.

Funding Source: Community Development Department budget.

Schedule: Continuous throughout the planning period.

Implementation Status: **An additional Code Enforcement Officer was recently hired; furthermore, the Code Enforcement Division has been moved to the City of Banning Police Department to better organize the program.**

2. Housing Rehabilitation Program

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

Program Objectives: Reduced number of substandard properties.

Responsible Agency: Community Development Department

Funding Source: Grant funds.

Schedule Continuous throughout the planning period.

Implementation Status: **No progress due to lack of funding.**

3. Conservation of Existing and Future Affordable Units

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

Program Objectives: Monitor the status of assisted projects.

Responsibility Agency: Community Development Department, U.S. Department of Housing and Urban Development (HUD), the California Department of Housing and Community Development (HCD), and the Housing Authority of Riverside County (HARIVCO).

Funding Source: HUD Section 8 vouchers, other funding sources as available.

Schedule: Throughout the planning period.

Implementation Status: **Ongoing.**

4. Section 8 Rental Assistance

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

Program Objectives: Continue to support the HARIVCO's applications for additional Section 8 allocations and efforts to provide vouchers for lower-income residents.

Responsible Agency: Housing Authority of Riverside County

Funding Source: Federal HUD Section 8 program.

Schedule: Throughout the planning period.

Implementation Status: **Ongoing.**

5. Adequate Sites for Residential Development

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

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

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

Program Objectives:

- The City will continue to annually update an inventory that details the amount, type, and size of vacant and underutilized parcels sufficient to accommodate the City's remaining need, by income, to assist developers in identifying land suitable for residential development. As part of the City's Annual Progress Report (APR), required pursuant to GC6400, the City must report on the number of extremely low-, very low-, and moderate-income units constructed annually.

- To ensure sufficient residential capacity for units affordable to lower-income households is maintained within the planning period to accommodate the identified regional need for lower-income households, the city will develop and implement a formal ongoing (project by project) monitoring procedure, pursuant to government code Section 65869 by September 2014.

- Should an approval of development (residential, commercial or mixed-use) result in a reduction of capacity below the residential capacity assumed on sites needed to accommodate the remaining need for lower-income households, as assumed in Tables B-2, B-4 and B-5, the City will immediately identify and zone sufficient sites to accommodate the shortfall.

- The City will offer the following incentives for the development of affordable housing including but not limited to priority processing of subdivision maps and specific plans that include affordable housing units, expedited review for the subdivision of larger sites into buildable lots, financial assistance (based on availability of federal, state, local foundations, and private housing funds) and modification of development requirements, such as reduced parking standards for seniors, assisted care, and special needs housing on a case-by-case basis.

- Affordable Housing Opportunity (AHO) Overlay Zone

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

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

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

c. Multi-family uses within the densities established under the AHO will be allowed by-right, without a conditional use permit or other discreti8onay permit, provided, however, that multi-family development proposal will be subject to design review.

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

Responsible Agency: Community Development Department.

Funding Source: Community Development Department budget.

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

Implementation Status: **The City has met the requirement for the 5th Cycle (2013-2021 adopted Housing Element.**

6. Facilitate Development of Affordable and Special Needs Housing

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

- Provide administrative assistance to developers seeking available state and federal funding and/or tax credits for the construction of low-and moderate-income housing.

- Facilitate projects that incorporate affordable units and accessible units by granting modifications to development standards, expedited processing, or financial incentives consistent with state law.

- Affordable housing developers will be contacted each year to solicit interest and apprise them of available assistance programs.

- Targeted assistance will be prioritized for special needs housing and extremely-lo-income (ELI) units through density bonuses and/or regulatory incentives, modified development standards and fee deferrals, when feasible.

- Coordinate with the Inland Regional Center regarding the needs and assistance programs targeted for persons with developmental disabilities, and make information available on the City website.

- Clarify development standards in the VHDR zone as necessary to facilitate affordable housing development.

- Continue to monitor residential development to evaluate whether the required design amenities are acting as an unreasonable constraint on development. If the requirements are found to be unreasonable constraint, a Code amendment will be initiated to modify the design requirements.

Program Objectives: Facilitate affordable housing development commensurate with the RHNA and the production of accessible and supportive housing for person with disabilities.

Responsible Agency: Community Development Department

Funding Source: Community Development Department budget.

Schedule: Contact affordable housing developers and the Inland Regional Center annually; assist developers with application for funding assistance upon request; initiate a Zoning code amendment in 2014 to clarify development standards in the VHDR zone.

Implementation Status: **Ongoing.**

7. Infill and Mixed – Use Housing Development

Infill housing and mixed-use development helps to promote investment in older neighborhoods while also contributing to meet the community's housing needs. The City has targeted the downtown Commercial (DC) area for special incentives for multi-family, SRO and mixed-use development to stimulate revitalization. The downtown area is particularly well-suited to affordable and special needs housing due to the availability of employment, services and transit.

Since many parcels in the downtown are relatively small, the City will encourage consolidation of adjacent parcels to enhance development feasibility by providing a lot consolidation density incentive 5% when two or more parcels totaling at least 1.0 acre are consolidated. This density incentive will be in addition to the density bonus currently allowed. City incentives will also include consolidated permit processing, reduced fees for parcel mergers or lot line adjustment, density bonus and modified development standards.

The DC district zoning regulations will also be amended to increase allowable base densities to24 units/acre for any project that meets the minimum affordability standards under state Density Bonus law (e.g., 5% very-low- or 10% low-income units). The city will also provide administrative and technical assistance with grant applications for affordable or special needs housing development in the downtown area.

In recent years the City has facilitated infrastructure upgrades such as water lines and electrical service in the downtown. In order to incentivize development in the downtown area, the city will prioritize future Capital Improvement Program funds for downtown infrastructure improvements, if feasible.

The city will also review development standards for the General Commercial (GC) zone and consider appropriate revisions to facilitate revitalization and mixed-use development in this area. The GC zone is located to the west of downtown along Ramsey Street in the area known as "The Midway" and also along the south side of the I-10 freeway.

Program Objectives: Facilitate development of multi-family and mixed-use development in the downtown and nearby areas, with special emphasis on housing affordable to low- and moderate-income households or persons with special needs.

Responsible Agency: Community Development Department.

Funding Source: Grant funds; CIP Budget.

Schedule: Zoning amendment by June 2014.
Publicize development opportunities by contacting affordable housing developers annually.

Implementation Status: **Ongoing.**

10. Mortgage Credit Certificate Program

A Mortgage Credit Certificate (MCC) entitles qualified home buyers to reduce the amount of their federal income tax liability by an amount equal to a portion of the interest paid during the year on a home mortgage. This tax credit allows the buyer to qualify more easily for a loan by increasing the effective income of the buyer. The Riverside County MCC program provides for a 15% rate which can be applied to the interest paid on the mortgage loan the borrower can claim

a tax credit equal to 15% of the interest paid during the year. Since the borrowers taxes are being reduced by the amount of the credit, this increases the take-home pay by the amount of the credit.

The buyer takes the remaining 85% interest as a deduction. When underwriting the loan, a lender takes this into consideration and the borrower is able to qualify for a larger loan than would otherwise be possible. The city will provide referral information regarding the MCC program. On the city website, at City Hall and other public locations.

Program Objectives: Provide information regarding the MCC Program to eligible home buyers.

Responsible Agency: Riverside County Economic Development Agency (EDA) and participating lenders.

Funding Source: Federal tax credits and EDA.

Schedule: Throughout the planning period.

Implementation Status: **On December 8, 2015 the City Council adopted Resolution No. 2015-103, to continue participating with the County of Riverside Mortgage Credit Certificate (MCC) Program.**

11. Fair Housing Services

Banning is not an "entitlement city" and works cooperatively with the County of Riverside, which provides fair housing services to all unincorporated areas of the county and non-entitlement cities. Fair housing services offered through the county include consoling and information on potential discrimination and landlord/tenant problems; special assistance for ethnic minorities and single-parent household; and bilingual housing literature. Information regarding available services from the county will be provided at City Hall, on the City website, and at other governmental offices within the city. In addition, the City will work cooperatively with the County of Riverside to distribute fair housing information annually.

Program Objectives: Continue to work with the County of Riverside to provide fair housing services to residents of Banning.

Responsible Agency: Riverside County

Funding Source: Riverside County; Community Development Department budget.

Schedule: Throughout the planning period.

Implementation Status: **Ongoing.**

12. Reasonable Accommodation in Housing for Persons with Disabilities.

Both the Federal Fair Housing Act and the California Fair Employment and Housing Act require local governments to make reasonable accommodations (i.e. modifications or exceptions) in their zoning laws and other land use regulations to allow disabled persons an equal opportunity to use and enjoy a dwelling. The Zoning code establishes administrative procedures for reviewing and approving such request in conformance with state law. The City will continue to implement this ordinance.

Program Objectives: Continue to process requests for reasonable accommodation in conformance with state law and the Development Code.

Responsible Agency: Community Development Department.

Funding Source: Community Development Department budget.

Schedule: Throughout the planning period.

Implementation Status: **The City Council adopted Ordinance 1490, to expedite the permitting procedures of small residential rooftop solar systems; therefore, lowering the cost of solar installation and further expand the accessibility of solar, to meet the requirement of this program.**

13. Residential Energy Conservation

With the adoption of AB 32, California's greenhouse gas legislation, energy conservation is growing concern. In addition to helping to mitigate greenhouse gas emissions, residential energy efficiency can reduce home heating and cooling costs.

a. Support the use of innovative building techniques and construction materials for residential development, such as energy efficient building that utilized solar panels and sustainable building materials that are recyclable.
b. Encourage maximum utilization of Federal, State, and local government programs, such as the County of Riverside Home Weatherization Program and the Western Riverside council of Governments (WRCOG) HERO program, that assist homeowners in providing energy conservation measures.
c. Maintain and distribute literature on energy conservation, including solar power, additional insulation, and subsidies available from utility companies, and encourage homeowners and landlords to incorporate these features into construction and remodeling projects.
d. Encourage energy conservation devices including but not limited to lighting, water heater treatments, solar energy systems for all residential projects.

Program Objectives: Work cooperatively with property owners, utility companies and other government agencies to reduce energy use in residential developments.

Responsible Agency: Community Development Department

Funding Source: Community Development Department budget; grant programs, as available.

Timeline: Throughout the planning period.

Implementation Status: **Ongoing.**

Chapter 2 Environmental Resources

Water Resources Element

GOAL 1

A balance of development which assures the maintenance of the water supply and its continued high quality.

Policy 1

New development projects proposing 50 units on property whose General Plan Land Use designation would allow 50 units, and/or 10 acres of commercial/industrial/other development, or more, whether through a tract map, Specific Plan or other planning application, shall be required to fund the provision of its entire water supply, either through SWP, recycled water or other means, as a condition of approval.

Program 1.A
In accordance with the 2003 Determination of Maximum Perennial Yield for the City of Banning, the City shall implement an annual ground water audit. This process involves evaluating groundwater level trends, production rates, ground water quality or other aquifer/well/pump considerations from the previous year (the water audit should be performed six months prior to the start of the water accounting year) and using this information to make recommendations for pumping in the following year.
Responsible Agency: Public Utilities Department
Schedule: Continuous; Ongoing
Implementation Status – The Maximum Perennial Yield was updated on March 29, 2011 as part of the Urban Water Management Plan that was adopted by the City Council on June 28, 2011.
Program 1.B
The City shall develop construction plans and cost estimates for the construction of recycled water facilities for both Phase I and II, and make them available to the development community.
Responsible Agency: Public Utilities Department
Schedule: Continuous; Ongoing
Implementation Status – Plans are complete and are awaiting funding.
Program 1.C
The City shall coordinate with the San Gorgonio Pass Water Agency and other appropriate agencies to assure that the City's SWP water can be delivered.
Responsible Agency: Planning Department, Public Utilities Department
Schedule: Continuous; Ongoing
Implementation Status – Active and ongoing. In 2015 the City received 686 acre feet per year.

Policy 2
The City shall require the use of drought-tolerant, low water consuming landscaping as a means of reducing water demand for new development.

Program 2.A
Continue to implement the City's Water Efficient Landscape Ordinance by requiring the use of native and drought-tolerant planting materials and efficient irrigation systems.
Responsible Agency: Public Utilities Department, Planning Department
Schedule: Continuous; Ongoing
Implementation Status – Ordinance adopted and being implemented.
Program 2.B
The City shall coordinate and cooperate with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District to expand and strengthen educational/public relations programs regarding the importance of water conservation and water-efficient landscaping.
Responsible Agency: Public Works Department, Planning Department, Banning Heights Mutual Water Company, Beaumont-Cherry Valley Water District
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 3
The City shall require the use of recycled wastewater for new development, or where it is unavailable, the infrastructure for recycled water when it becomes available, as a means of reducing demand for groundwater resources.

Program 3.A
Coordinate with the Banning Heights Mutual Water Company regarding the future expansion of recycled wastewater treatment facilities to serve existing and new development projects in the City.
Responsible Agency: Planning Department, Public Works Department, Banning Heights Mutual Water Company
Schedule: Continuous; Ongoing
Implementation Status – No projects identified – will be available for future coordination; expansion is coordinated and conditioned for appropriate projects.
Program 3.B
Aggressively pursue all sources of funding to allow for the installation of a comprehensive recycled water distribution system throughout the City.
Responsible Agency: Public Works Department, City Manager's Office
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.
Program 3.C
The City shall study the potential of providing incentives to developers and property owners for the installation of on-site recycled water reclamation systems. Recycled water systems include the reuse of water from sources such as sink drains, dishwashers and washing machines for irrigation purposes.

Responsible Agency: Public Utilities Department, City Manager's Office
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 4
Require that all new development be connected to the sewage treatment system, or install dry sewers until such time as that connection is possible.

Policy 5
The City shall provide guidelines for the development of on-site storm water retention facilities consistent with local and regional drainage plans and community design standards.

Program 5.A
Enforce regulations and guidelines for the development and maintenance of project-specific on-site retention/detention basins which implement the NPDES program, enhance groundwater recharge, complement regional flood control facilities, and address applicable community design policies.
Responsible Agency: Public Utilities Department, Planning Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and required as conditions for all projects.

Policy 6
Coordinate with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, the California Regional Water Quality Control Board and other appropriate agencies to share information on potential groundwater contaminating sources.

Program 6.A
Develop and maintain a system to share records and technical information with the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, CRWQCB and other appropriate agencies regarding all sites that have the potential to contaminate groundwater resources serving the City.
Responsible Agency: Public Works Department, the San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and the Beaumont-Cherry Valley Water District, California Regional Water Quality Control Board
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and active.

Policy 7
The City shall ensure that no development proceeds that has potential to create groundwater hazards from point and non-point sources, and shall confer with other appropriate agencies, as necessary, to assure adequate review and mitigation.

Policy 8
Encourage water conservation in existing development.

Program 8.A
Establish incentive programs for conversion of existing buildings to water conserving fixtures and

landscaping.
Responsible Agency: Public Utilities – Water Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Open Space and Conservation Element

GOAL 1
Open space and conservation lands that are preserved and managed in perpetuity for the protection of environmental resources or hazards, and the provision of enhanced recreational opportunities and scenic qualities in the City.

GOAL 2
A balance between the City's built and open space environment and local and regional protection and preservation of its unique environment.

Policy 1
Identify and assess lands in the City, its sphere-of-influence and planning area, that are suitable for preservation as public or private, passive or active open space.

Program 1.A
The City shall maintain and use Open Space land use designations on the General Plan Land Use Map.
Responsible Agency: Planning Division, Community Services Department.
Schedule: Continuous; Ongoing
Implementation Status –Ongoing, private open space & public parks have been set aside through the Specific Plan process that requires minimum public land set aside.
Program 1.B
Environmental hazard zones, including earthquake fault lines, floodways and floodplains, steep or unstable slopes, shall be designated as open space on the land use map.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status –These have been identified in the General Plan and no development is permitted in these areas of concern.
Program 1.C
Lands on which cultural resources are identified may be preserved as Open Space
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as part of land development review and Specific Plan process.
Program 1.D
Inventory the costs of land acquisition, maintenance and other administrative functions, and encourage the transfer of public open space and conservation properties to existing land trusts for local property management.
Responsible Agency: Planning Division, City Council.
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*

Policy 2
The City shall protect natural hillsides above the toe of slope in perpetuity as undeveloped open space, and shall provide specific parameters under which development can occur within the Rural Residential – Hillside and Ranch/Agriculture Residential – Hillside land use designations. For purposes of this General Plan, the toe of slope is defined as the dividing line between rock formations where there is a noticeable break in the angle of slope from steep to shallow.

Program 2.A
The Zoning Ordinance shall be amended to include detailed provisions for the preservation of natural hillsides above the toe of slope. These provisions shall include, but not be limited to, density transfers from hillside areas to developable areas within the same parcel, building prohibitions for lands with grades exceeding 25%, permitted uses and building standards for developable areas in these hillsides, and grading parameters in these hillsides.
Responsible Agency: Planning Division, City Engineer, Planning Commission, City Council.
Schedule: Continuous; Ongoing
Implementation Status – Active and ongoing to comply with the Grading Ordinance that was adopted by the City Council on July 14, 2009.
Program 2.B
The City shall seek recreational usage of desirable hillside lands currently owned by public agencies, such as the Bureau of Land Management, the United States Forest Service or the County of Riverside; and shall secure open space lands from private entities by negotiating public access provisions and/or establishing a density transfer program.
Responsible Agency: City Manager's Office, Planning Division, City Council
Schedule: Continuous; Ongoing
Implementation Status – Open Space lands from private entities are secured through a Specific Plan process and development Agreement from private entities.

Policy 3
Ridgelines shall be preserved as permanent open space.

Policy 4
The City shall preserve all watercourses and washes necessary for regional flood control, ground water recharge areas and drainage for open space and recreational purposes.

Policy 5
The City shall preserve permanent open space edges or greenbelts that define the physical limits of the City and provide physical separation between adjoining neighborhoods.

Program 5.A
The Land Use Map and Zoning Ordinance shall regulate development at the boundaries of the planning area to assure the preservation of a well-defined, functional or visual edge.
Responsible Agency: Planning Division.
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as part of land development review process.

Policy 6
Where practical, new development shall integrate pipeline, above- and under-ground utility corridors and other easements (including electric, cable and telephone distribution lines) into a functional open space network.

Policy 7
Drought tolerant landscaping materials and design features shall be incorporated into parks, roadway medians, common area landscaping, public facilities and other appropriate open space lands to retain and preserve the natural environment.

Biological Resources Element

GOAL 1
A pattern of community development that supports a functional, productive, harmonious and balanced relationship between the built and natural environment.

Policy 1
The City shall continue to participate in the preservation of habitat for endangered, threatened and sensitive species.

Program 1.A
Through the Western Riverside MSHCP, maintain an accurate and regularly updated map of sensitive plant and animal species and habitat in Banning and its planning area.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Implemented as required by the Multi-Species Habitat Conservation Plan (MHSCP).
Program 1.B
The City shall participate in the Western Riverside County Multiple Species Habitat Conservation Plan.
Responsible Agency: Planning Division, Riverside County
Schedule: Continuous; Ongoing
Implementation Status – Implemented as required by the MSHCP.
Program 1.C
City staff shall continue to request biological resource surveys for new development.
Responsible Agency: Planning Division, Riverside County
Schedule: Continuous; Ongoing
Implementation Status - Implemented as required by the MHSCP and through the CEQA review process.

Policy 2
As part of the development review process, the City shall evaluate projects based on their impact on existing habitat and wildlife, and for the land's value as viable open space.

Program 2.A
The City shall encourage developers to recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for local species.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing part of land development review process.
Program 2.B
The City shall make available at City Hall a listing of planting materials that emphasizes native vegetation, but may also include non-native, plants that are compatible with the local environment.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – The City's Landscape Guidelines contain the list and are available to the public.

Policy 3
The City shall encourage and cooperate with other agencies in establishing multiple use corridors that take advantage of drainage channels and utility easements as wildlife corridors, public access and links between open space areas and the built environment.

Program 3.A
The City shall consult and coordinate with the Riverside County Flood Control District to encourage the establishment of a system of multiple use corridors for movement of people and wildlife between open space areas.
Responsible Agency: Planning Division, Riverside County Flood Control District
Schedule: Continuous; Ongoing
Implementation Status – Future trail plans that are proposed to be constructed adjacent to flood control facilities will be coordinated with the Riverside County Flood Control District.

Policy 4
Drainage channels, utility corridors and pipeline easements shall be preserved in natural open space to the greatest extent possible.

Policy 5
The City shall promote the protection of biodiversity and encourage an appreciation of the natural environment and biological resources.

Program 5.A
The City shall coordinate with the Banning and Beaumont Unified School Districts, the County and other agencies as identified, to provide educational programs that offer an understanding of the region's natural environment and make the public aware of biological resource issues.
Responsible Agency: Planning Division, Banning and Beaumont Unified School Districts, Riverside County, and others as identified
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*

Archaeological and Historic Resources Element

GOAL 1
Documentation, maintenance, preservation, conservation and enhancement of archaeological and historic sites, artifacts, traditions and other elements of the City's cultural heritage.

Policy 1
The City shall exercise its responsibility to identify, document and evaluate archaeological, historical and cultural resources that may be affected by proposed development projects and other activities.

Program 1.A
All new development proposals, except single family dwelling on existing lots of record, shall submit a records search for historic and cultural resources as part of the planning process.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and is implemented through the California Environmental Quality Act (CEQA) process during land development review.
Program 1.B
Development or land use proposals which have the potential to disturb or destroy sensitive cultural resources shall be evaluated by a qualified professional and, if necessary, comprehensive Phase I studies and appropriate mitigation measures shall be incorporated into project approvals.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Standard conditions for grading.
Program 1.C
The City shall implement the requirements of state law relating to cultural resources, including Government Code 65352.3, and any subsequent amendments or additions.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status –City consults with tribal representatives on all land development projects.

Policy 2
The City shall expand and enhance its historic preservation efforts.

Program 2.A
Prepare a historic preservation plan, which outlines the goals and objectives of the City's preservation programs and serves as an official historic context statement for the evaluation of cultural resources within the City boundaries.
Responsible Agency: Planning Division
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*
Program 2.B
The City shall consider participating in the Certified Local Government program so that it may benefit from historic preservation expertise, technical assistance, special grants, information exchange, and statewide preservation programs coordinated by the State Office of Historic Preservation. The evaluation of participation in the program shall be part of the historic preservation plan.
Responsible Agency: Planning Division, Historical Society, City Council
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*
Program 2.C
Encourage property owners and residents to nominate qualified properties to the City's inventory system and/or any federal and state registers.
Responsible Agency: Planning Division, Morongo Band of Cahuilla Indians
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*
Program 2.D
Should the Saint Boniface School site be proposed for development, extensive analysis of the site shall be conducted, and mitigation proposed, to document its historic significance.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Tract map approved but a project is not yet developed.

Policy 3
Establish and maintain a confidential inventory of archaeological and historical resources within the City, including those identified by the Eastern Information Center (EIC) at the University of California, Riverside and in focused cultural resources studies.

Policy 4
Sensitive archaeological and historic resources shall be protected from vandalism and illegal collection, to the greatest extent possible.

Program 4.A
Mapping and similar information, which identifies specific locations of sensitive cultural resources, shall be maintained in a confidential manner, and access to such information shall be provided only to those with appropriate professional or organizational ties.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Records of sensitive Cultural Resources are maintained by curator at the University of California Riverside.

Policy 5
Encourage public participation in and appreciation of the City's cultural heritage.

Program 5.A
Implement a systematic program to enhance public awareness of the City's heritage, generate broad support for its preservation, and enhance community pride.
Responsible Agency: Planning Division, Historical Society, City Council, Morongo Band of Mission Indians
Schedule: Continuous; Ongoing
Implementation Status –Limited due to lack of funding and staffing
Program 5.B
Support the efforts of local cultural associations to acquire historical materials and artifacts, and to educate the public about the City's and region's cultural heritage.
Responsible Agency: Planning Division, Historical Society, Morongo Band of Mission Indians
Schedule: Pending
Implementation Status –*Not implemented due to lack of funding and staffing.*

Policy 6
Support the listing of eligible structures or sites as potential historic landmarks and their inclusion in the National Register of Historic Places.

Program 6.A
Develop procedures for the designation of local landmarks and historic districts.
Responsible Agency: Planning Division, Historical Society, Morongo Band of Mission Indians
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*

Policy 7

The City shall consider offering economic or other incentives, such as direct subsidies or application/permitting fee reductions or waivers, to property owners to encourage the maintenance and enhancement of significant cultural buildings and sites.

Program 7.A
Develop an application process for City-sponsored incentives to maintain and enhance significant buildings and sites, and provide property owners with information and guidance on eligibility requirements.
Responsible Agency: Planning Division
Schedule: Pending
Implementation Status – *Not implemented due to lack of funding and staffing.*

Air Quality Element

GOAL 1
To preserve and enhance local and regional air quality for the protection of the health and welfare of the community.

Policy 1
The City shall be proactive in regulating local pollutant emitters and shall cooperate with the Southern California Association of Governments and the South Coast Air Quality Management District to assure compliance with air quality standards.

Policy 2
The City shall continue to coordinate and cooperate with local, regional and federal efforts to monitor, manage and reduce the levels of major pollutants affecting the City and region, with particular emphasis on PM_{10} and ozone emissions, as well as other emissions associated with diesel-fueled equipment and motor vehicles.

Program 2.A

On an ongoing basis, the City shall continue to participate in efforts to monitor and control PM_{10} emissions from construction and other sources, and all other air pollutants of regional concern. The City shall coordinate with SCAQMD to provide all reporting data for the SCAQMD annual report.
Responsible Agency: Community Development Department (Planning Division and Building & Safety Division, Public Works Department (Engineering Division) and SCAQMD
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review and environmental documentation process that is required and standard conditions of approval monitored by the Public Works Department. The City consults with the SCAQMD with regard to air quality impacts from land development projects. The City Public Works inspector also monitors grading activities and enforces dust control.

Policy 3
City land use planning efforts shall assure that sensitive receptors are separated from polluting point sources.

Program 3.A
The General Plan Land Use Map and Element shall be developed and maintained to locate air pollution point sources, such as manufacturing operations and highways, at an appropriate distance from sensitive receptors, including hospitals, schools, hotels/motels and residential neighborhoods.
Responsible Agency: Planning Division, SCAQMD
Schedule: Continuous; Ongoing
Implementation Status – This is implemented through the Zoning Ordinance where zoning districts are established to ensure that conflict between land uses - residential, commercial, industrial, and public facilities are minimized. As part of land development review process, City staff consults with the SCAQMD through the environmental review process as required by the California Environmental Quality Act (CEQA) to ensure that land development projects do not have the potential to impact sensitive receptors.

Policy 4

Development proposals brought before the City shall be reviewed for their potential to adversely impact local and regional air quality and shall be required to mitigate any significant impacts.

Program 4.A
Projects that may generate significant levels of air pollution shall be required to conduct detailed impact analyses and incorporate mitigation measures into their designs using the most advanced technological methods feasible. All proposed mitigation measures shall be reviewed and approved by the City prior to the issuance of grading or demolition permits.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status - Implemented through the California Environmental Quality Act (CEQA) and land development review process. Environmental documents are prepared for each of the land development projects that are not exempt under CEQA and mitigation measures are made apart of the Conditions of Approval. Additionally, mitigation measures are implemented and monitored during construction of the project.
Program 4.B
Provide consistent and effective code enforcement of construction and grading activities and off-road vehicle use to assure that the impacts of blowing sand and fugitive dust emissions are minimized.
Responsible Agency: Building Department, Code Compliance, SCAQMD
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through standard approval process and also monitoring during construction.
Program 4.C
The City shall encourage immediately, and investigate legislation regarding the reduction of TDM requirements to a level of 50 employees or more.
Responsible Agency: Public Works Department/Planning Division
Schedule: Pending
Implementation Status - *Not Implemented due to budget cuts and staff reduction.*

Policy 5

The City shall promote the use of clean and/or renewable alternative energy sources for transportation, heating and cooling.

Program 5.A
Vehicles that use alternative fuel sources, such as compressed natural gas and electricity, shall be purchased and maintained for use in the City's vehicle fleet when new vehicles are purchased.
Responsible Agency: City Manager's Office
Schedule: Continuous; Ongoing
Implementation Status – New city vehicles that are purchased use compressed natural gas and the implementation is ongoing.
Program 5.B
The City's Compressed Natural Gas fueling station shall continue to be open to public use.
Responsible Agency: Public Works Department
Schedule: Continuous; Ongoing
Implementation Status - Active and Ongoing. The CNG Fuel Station is currently open and available to the public 24 hours a day.

Policy 6

The City shall support the development of facilities and projects that facilitate and enhance the use of alternative modes of transportation, including pedestrian-oriented retail and activity centers, dedicated bicycle paths and lanes, and community-wide multi-use trails.

Program 6.A
The City shall pursue a balance of employment and housing opportunities that encourage pedestrian and other non-motorized transportation and minimize vehicle miles traveled.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing as new development is proposed. The Butterfield Specific Plan (Pardee) will incorporate commercial development with active walking/jogging trails, bike paths, and neighborhood electric vehicles. The Village at Paseo San Gorgonio is a Downtown redevelopment project that encourages people to walk and enjoy the outdoor environment.
Program 6.B
The City shall promote the expanded availability of mass transit services, coordinating with all agencies to link residential and commercial business and employment centers with the City's residential neighborhoods and nearby communities.
Responsible Agency: Community Services Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – The City coordinates with other regional transit agencies such as the Riverside Transit Agency and attends regional transit meetings. Expansion will occur when population increases demand for expanded service. The City Manager is pursuing opportunities for a regional rail/transit station.

Program 6.C
The City shall promote and support the development of ridesharing, carpooling, flexible work scheduling, telecommuting and Park and Ride programs among public and private employers.
Responsible Agency: Planning Division, Public Works Department, Community Services Department, Transit Agencies, Major Employers
Schedule: Continuous; Ongoing
Implementation Status - Ongoing as the City currently has a four day work week (flexible work schedule). This program is codified in Chapter 8.60 of the Municipal Code.
Program 6.D
The City shall require shade trees with non-damaging root systems to be planted in all medians on all streets, to cool the asphalt and reduce the Reactive Organic Compounds (ROC) and Volatile Organic Compounds (VOC) generated by asphalt streets and parking lots. A list of permitted trees with non-damaging root systems shall be developed.
Responsible Agency: Planning Division, Public Works Department
Schedule: Continuous; Ongoing
Implementation Status - Ordinance in place, active and ongoing. Public Works reviews street tree plans for acceptable species; Public Works maintains trees in medians and replants when required. Planning requires one tree for every seven (7) parking spaces in the parking lot.

Energy and Mineral Resources Element

GOAL 1
Efficient, sustainable and environmentally appropriate use and management of energy and mineral resources, assuring their long-term availability and affordability.

Policy 1
Promote energy conservation throughout all areas of the community and sectors of the local economy, including the planning and construction of urban uses and in City and regional transportation systems.

Program 1.A
The City shall strictly and consistently enforce all state mandated energy-conserving development and building codes/regulations, and shall investigate and report on the appropriateness of developing more stringent local energy performance standards.
Responsible Agencies: Building Department, Planning Division, Public Utilities
Schedule: Continuous; Ongoing
Implementation Status –Active and ongoing part of development process.
Program 1.B
The City shall continue to participate in transportation planning efforts and shall encourage the expanded use of public transit, vehicles fueled by compressed natural gas and hydrogen, buses with bike racks and other improvements that enhance overall operations and energy conservation.
Responsible Agency: City Manager's Office, Community Services Department, Public Utilities Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing and Active.
Program 1.C
The City shall strive for efficient community land use and transportation planning and design, and shall assure the provision of convenient neighborhood shopping, medical and other services located to minimize travel and facilitate the use of alternative means of transportation.
Responsible Agency: Public Works Department, Planning Division, Community Services Department
Schedule: Continuous; Ongoing
Implementation Status - Through Development Review Process; bikeways, golf cart paths & pedestrian trails have been planned for new projects.
Program 1.D
The City shall encourage the use of, and programs for, electric vehicles, hybrids, bicycles and pedestrian facilities.
Responsible Agency: Public Utilities, Department, City Council
Schedule: Continuous; Ongoing
Implementation Status - Active and ongoing. The City Electric Utility is currently in the

bid process for a new public charging station at 2140 W. Ramsey Street (McDonald's).

Policy 2
Promote the integration of alternative energy systems, including but not limited to solar thermal, photovoltaic and other clean energy systems, directly into building design and construction.

Program 2.A
The City shall make available to residents, businesses, and the building industry information on commercially available conservation technologies, solar thermal and photovoltaic energy systems, fuel cell and other alternative energy technology. Building regulations and guidelines that provide for the safe and efficient installation of these systems shall also be provided.
Responsible Agency: Building Department, Community Development Department, Electric Department
Schedule: Continuous; Ongoing
Implementation Status - Active and ongoing. Interconnection programs are still available for customers wishing to install "behind the meter" generation. However rebate funds have been exhausted. The City also adopted an ordinance to address AB 2188

Policy 3
Proactively support long-term strategies, as well as state and federal legislation and regulations that assure affordable and reliable production and delivery of electrical power to the community.

Policy 4
Support public and private efforts to develop and operate alternative systems of wind, solar and other electrical production, which take advantage of local renewable resources.

Program 4.A
Support and facilitate the integration of co-generation and other on-site energy production and management systems into larger industrial, commercial and institutional operations in the City to enhance operational efficiencies, reliability, and to provide additional opportunities for local power production.
Responsible Agency: Electric Department; Planning Division; Building Department
Schedule: Continuous; Ongoing
Implementation Status - Active and Ongoing.

Policy 5

Assure a balance between the availability of mineral resources and the compatibility of land uses in areas where mineral resources are mined.

Program 5.A
The City shall monitor and regulate the safe and environmentally responsible extraction and recycling of significant mineral resources located within the planning area.
Responsible Agency: Community Development Department, Public Utilities Department
Schedule: Continuous; Ongoing.
Implementation Status – This is done through the annual inspection report since the City has no funding to hire a geologist who is solely responsible for the daily/weekly monitoring of the mines activities.
Program 5.B
The City shall establish a formal relationship with the County Geologist or other qualified agency to monitor mineral resource operations under SMARA.
Responsible Agency: Planning Division, Riverside County Geologist.
Schedule: Continuous; Ongoing
Implementation Status – This is done through a contract with Aragon Geotechnical, Inc. who performs annual inspection for compliance with the State Mining and Reclamation Act (SMARA).
Program 5.C
The City shall strictly enforce the provisions of the existing mining permit within City limits.
Responsible Agency: Code Compliance, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – The monitoring is being done based on complaints from residents and through the Annual Inspection.

Chapter 3 Environmental Hazards

Geotechnical Element

GOAL 1
Increased protection and safety of human life, land, and property from the effects of seismic and geotechnical hazards.

Policy 1
The City shall establish and maintain an information database containing maps and other information which describe seismic and other geotechnical hazards occurring within the City boundaries, sphere-of-influence and planning area.

Program 1.A
Consult and coordinate with surrounding communities, the California Division of Mines and Geology, Riverside County, other applicable state and federal agencies, and professional engineering geologists to establish, improve and routinely update the database.
Responsible Agency: Planning Division, California Division of Mines and Geology, Riverside County, Consulting Geologists
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 2
In accordance with state law, all development proposals within designated Alquist-Priolo Earthquake Fault Zones shall be accompanied by appropriate geotechnical analysis.

Program 2.A
Establish a cooperative agreement with the County Geologist, State Geologist, contract state-certified geologist, or contract geological engineer to review and determine the adequacy of geotechnical and fault hazard studies prepared within the City.
Responsible Agency: City Engineer/Consulting Engineering Geologist
Schedule: Continuous; Ongoing
Implementation Status – Completed. In addition, each land development project is required to provide soils and geotechnical report as part of the project.

Policy 3
Development in areas identified as being susceptible to slope instability shall be avoided unless adequately engineered to eliminate geotechnical hazards.

Program 3.A
The City shall make available copies of the General Plan Slope Instability Susceptibility Map and discourage development within areas so designated, or require detailed geotechnical analysis and mitigation measures that reduce potential hazards to insignificant levels.
Responsible Agency: Planning Division, City Engineer/Consulting Engineering Geologist
Schedule: Continuous; Ongoing

Implementation Status – Ongoing, implemented through new grading ordinance.

Policy 4

To minimize the potential impacts of subsidence due to extraction of groundwater, the City shall actively support and participate in local and regional efforts at groundwater conservation and recharge.

Program 4.A
Consult and coordinate with the City of Banning Public Utilities – Water Department, U.S. Geological Survey, and other appropriate agencies to routinely monitor groundwater levels and surface elevations in the City.
Responsible Agency: City of Banning Public Utilities – Water Department, U.S. Geological Survey
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.
Program 4.B
The City shall encourage the preparation of, support and participate in, the study of the temporary surplus of the Beaumont Water Basin and its impact on subsidence.
Responsible Agency: Water Department, Beaumont/Cherry Valley Water District, San Gorgonio Pass Water Agency
Schedule: Ongoing
Implementation Status – Ongoing.

Policy 5

The City shall coordinate and cooperate with public and quasi-public agencies to assure the continued functionality of major utility systems in the event of a major earthquake.

Program 5.A
Maintain working relationships and strategies between the Public Works Department (wastewater and electric), utilities, and other appropriate agencies to strengthen or relocate utility facilities, and take other appropriate measures to safeguard major utility distribution systems.
Responsible Agency: Planning Division, Public Works Department, City Engineer, Public and Quasi-Public Utilities
Schedule: Continuous; Ongoing
Implementation Status –Ongoing, through pre applications and development meetings.

Policy 6

New septic tank leach fields, seepage pits, drainage facilities, and heavily irrigated areas shall be located away from structural foundations and supports to minimize the potential for localized collapse of soils.

Program 6.A
The City shall require that development applications include plans indicating the location of leach fields, seepage pits, drainage facilities, and water-dependent landscaping so that City staff may evaluate the potential for ground saturation.
Responsible Agency: Planning Division, Building Department, City Engineer
Schedule: Continuous; Ongoing
Implementation Status – Through grading review, part of development review process.

Flooding and Hydrology Element

GOAL 1
A comprehensive system of flood control facilities and services effectively protecting lives and property.

Policy 1
Proactively plan and coordinate with other responsible agencies to upgrade the City's local and regional drainage system.

Program 1.A
Continued implementation of the recommendations of the 1994 RCFC Master Drainage Plan study.
Responsible Agency: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing. The Riverside County Flood Control District (RCFCD) has completed the design of a storm drain system along Hargrave Street and plans to construct the project in 2016. **The RCFCD completed upgrades to the Gilman Home Channel during June, 2015. The project, which had a final cost of $4,095,564, increased the flow capacity in Lateral A (Wilson Street to 4th Street via George Street, Cottonwood Street, Nicolet Street, 12th, 10th and 8th Street) to 1,820 cfs and increased the flow capacity of the primary storm drain on 4th Street to 3,100 cfs. The RCFC&WCD is currently working on a Letter of Map Revision (LOMR) which is anticipated to be submitted to FEMA during the first half of 2016.**
Program1.B
Capital Improvement Plans for drainage management and control shall be developed, updated and maintained and shall be based upon the Master Drainage Plan project descriptions.
Responsible Agencies: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.
Program 1.C
Monitor and update the Master Plan of Drainage every five years to reflect changes in local and regional drainage and flood conditions.
Responsible Agencies: Public Works Department, Planning Division, Riverside County Flood Control District
Schedule: Continuous; Ongoing
Implementation Status – Ongoing. The County Flood District has prepared a master plan and is responsible for updates.
Program 1.D
Require all new development to complete on site drainage analysis and improvements, at their expense, as part of project development.

Responsible Agencies: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing, part of development process.

Policy 2

Major drainage facilities, including debris basins and flood control channels, shall be designed to maximize their use as multi-purpose recreational or open space sites, consistent with the functional requirements of these facilities.

Program 2.A
Coordinate and cooperate with RCFC in achieving multi-use agreements within flood control channels and designing safe, attractive recreational facilities that maintain the functional requirements of the drainage facilities.
Responsible Agencies: Public Works Department, Planning Division, RCFC
Schedule: Continuous; Ongoing
Implementation Status – Ongoing; through SP's and other projects adjacent to Flood Control.
Program 2.B
Work with RCFC to design drainage and flood control facilities that minimize negative aesthetic impacts and retain natural groundcover and vegetation to the greatest extent possible.
Responsible Agencies: Public Works Department, Planning Division, RCFC, US Army Corps of Engineers
Schedule: Continuous; Ongoing
Implementation Status – Ongoing; through entitlement process when designs are submitted for approval.

Policy 3

The City Engineer shall continue to actively participate in regional flood control and drainage improvement efforts and to develop and implement mutually beneficial drainage plans.

Policy 4

The City shall cooperate in securing FEMA map amendments, recognizing the importance of redesignation of the 100-year flood plains within the City boundaries and sphere-of-influence as improvements are completed.

Program 4.A
In conjunction with the RCFC, the City shall coordinate and cooperate in the filing of appropriate FEMA application materials to incrementally secure amendments to the Flood Insurance Rate Maps for the City, consistent with existing and proposed improvements.
Responsible Agencies: Public Works Department, Planning Division, RCFC
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.

Policy 5
Pursue all credible sources of funding for local and regional drainage improvements needed for adequate flood control protection.

Program 5.A
Consider the establishment of Area Drainage Plans or Assessment Districts for purposes of funding necessary drainage improvements in particular geographic areas of the City.
Responsible Agencies: Public Works Department, Planning Division, Developers
Schedule: Pending
Implementation Status –*Not yet completed.*
Program 5.B
Explore County funding, state funding under the Cobey-Alquist Flood Plain Management Act, other State programs, and federal funding options for local and area-wide flood control projects.
Responsible Agencies: Public Works Department, Planning Division, State; County
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 6
All new development shall be required to incorporate adequate flood mitigation measures, such as grading that prevents adverse drainage impacts to adjacent properties, on-site retention of runoff, and the adequate siting of structures located within flood plains.

Program 6.A
Stormwater retention shall be enforced through the development review process and routine site inspection.
Responsible Agencies: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing; through grading approval process.

Policy 7
Assure that adequate, safe, all-weather crossing over drainage facilities and flood control channels are provided where necessary, and are maintained for passage during major storm events.

Program 7.A
Bridging of roadways within new development projects shall be the responsibility of the developer on whose project the bridge occurs, and shall be included as a condition of approval.
Responsible Agency: Planning Division, Public Works Department, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status – Ongoing; through land development approval process.
Program 7.B

All new development proposals shall pay their fair share of bridge construction needed to serve their project.
Responsible Agency: Public Works Department, Planning Division
Schedule: Continuous; Ongoing
Implementation Status - Ongoing; through land development approval process

Noise Element

GOAL 1

A noise environment that complements the community's residential character and its land uses.

Policy 1
The City shall protect noise sensitive land uses, including residential neighborhoods, schools, hospitals, libraries, churches, resorts and community open space, from potentially significant sources of community noise.

Program 1.A
The City shall require building setbacks, the installation of wall and window insulation, soundwalls, earthen berms, and/or other mitigation measures in areas exceeding the City's noise limit standards for private development projects as they occur.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review process.
Program 1.B
The City shall maintain and enforce its Noise Control Ordinances that establish community-wide noise standards and identify measures designed to resolve noise complaints.
Responsible Agency: Planning Division, Code Enforcement, Police Department
Schedule: Continuous; Ongoing
Implementation Status - Ongoing through land development review process.
Program 1.C
The City shall use the development review process to assure the use of buffers between sensitive receptors and incompatible land uses.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status - Ongoing through land development review process.
Program 1.D
The City shall require that commercial compactors, loading zones, and large trash bins be located at a sufficient distance from residential properties to reduce noise impacts to its acceptable standard.
Responsible Agency: Planning Division
Schedule: Continuous; Ongoing
Implementation Status - Ongoing through land development review process.
Program 1.E
The City shall purchase, maintain and operate its own noise monitoring equipment.
Responsible Agency: Code Enforcement
Schedule: Continuous; Ongoing

Implementation Status – Equipment is older prior to 2006 and needs to be updated. There is no funding for this item.

Policy 2

The relationship between land use designations in the Land Use Element and changes in the circulation pattern of the City, as well as individual developments, shall be monitored and mitigated.

Program 2.A
The City shall develop guidelines and minimal criteria requirements for noise analyses for proposed development projects. Studies shall evaluate project impacts and the effectiveness of proposed mitigation measures.
Responsible Agency: Planning Division, Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing through land development review process and through the building code standards.
Program 2.B
The City shall periodically review and amend the Land Use Map to assure reasonable land use/noise level compatibility.
Responsible Agency: Planning Division
Schedule: Annually
Implementation Status – Ongoing and is implemented as part of land development review process.

Policy 3

Private sector project proposals shall include measures that assure that noise exposures levels comply with State of California noise insulation standards as defined in Title 25 (California Noise Insulation Standards) and/or Banning Ordinances 1138 and 1234, whichever is more restrictive.

Policy 4

The City shall maintain a General Plan Circulation Map and assure low levels of traffic within neighborhoods by assigning truck routes to major roadways only.

Program 4.A
The City shall review designated primary truck routes and ensure they are clearly marked throughout the community. Except for traffic providing location-specific services and deliveries, construction trucks and delivery trucks shall be limited to designate truck routes, including: Ramsey Street, and those portions of Lincoln Street, Highland Springs Avenue, Hathaway Street, Sunset Avenue, Eighth Street, San Gorgonio Avenue and Hargrave Street so designated.
Responsible Agency: Public Works Department, City Engineer
Schedule: Annually
Implementation Status – Ongoing

Program 4.B
The City shall discourage development projects that result in through-traffic in residential neighborhoods.
Responsible Agency: Planning Division, Planning Commission, City Council
Schedule: Continuous; Ongoing
Implementation Status - Ongoing through land development review process.

Policy 5
The City shall ensure that flight paths and airport improvements adhere to all local, state and federal noise regulations.

Policy 6
All development proposals within the noise impact area of the Interstate and the railroad shall mitigate both noise levels and vibration to acceptable levels through the preparation of focused studies and analysis in the development review and environmental review process.

Policy 7
The City shall coordinate with adjoining jurisdictions to assure noise-compatible land uses across jurisdictional boundaries.

Policy 8
The City shall impose and integrate special design features into proposed development that minimize impacts associated with the operation of air conditioning and heating equipment, on-site traffic, and use of parking, loading and trash storage facilities.

Policy 9
The City shall support development that results in grade separated railroad tracks.

Program 9.A
The City shall assure that new development and project expansions pay their fair share toward grade separations based on their impacts.
Responsible Agency: Planning Division, City Engineer
Schedule: Continuous; Ongoing
Implementation Status - Ongoing through land development review process.

Wildland Fire Hazards Element

GOAL 1

Protect human life, land, and property from the effects of wildland fire hazards.

Policy 1
The City shall establish and maintain an information database containing maps and other information which describe fire hazard severity zones, fire threat zone, and other wildfire hazards occurring within the City boundaries, sphere-of-influence and planning area.

Program 1.A
Consult and coordinate with surrounding communities, the State Board of Forestry and Fire Protection, California Department of Forestry and Fire Protection, Riverside County Fire Department, other applicable state and federal agencies to establish, improve and routinely update the database
Responsible Agency: Planning Department, Banning Fire Department, Beaumont Fire Department, State Board of Forestry and Fire Protection, California Department of Forestry and Fire Protection, Riverside County Fire Department, Morongo Band of Mission Indians.
Schedule: Continuous; Ongoing
Implementation Status - A new severity zone map has been developed by the California Department of Forestry and Fire Protection (CalFire) and was adopted by the City Council on 10/28/08. The revised map went into effect July 1, 2008. Revisions to the Map will be ongoing as development occurs but at a minimum of every 5 years.
Program 1.B
The City shall make available copies of the Fire Severity Map and discourage development within areas so designated, or require detailed mitigation measures that reduce potential hazards to insignificant levels.
Schedule: Immediately; Ongoing
Implementation Status - The current map, produced by the State, is currently available to view at the fire department at City Hall. The City Council approved fire severity map will also be a public document. The City adopted the State Code in early 2011 for building standards within the fire hazard areas. The current handout will be revised to reflect the new code. With the new CFC and residential sprinkler codes this issue has been updated in 2011 along with the Fire Hazard Severity map being available.
Program 1.C
Prepare an informational handout to be distributed to developers, property owners, and other
Appropriate parties, which describes the need for and design of fire safe developments.
Responsible Agency: Planning, City Engineer, Fire Department
Schedule: Continuous; Ongoing
Implementation Status - The Fire Department has developed a one-page handout briefly describing the requirements. The handout will be revised to match the new building code requirements.

Program 1.D
Establish and maintain a program by which all potentially hazardous structures, which pose a threat due to inadequate fire hazard construction are identified, inventoried, and retrofitted with fire retardant materials. Program shall include informational handouts describing appropriate methods of retrofitting and possible sources of funding to facilitate the rehabilitation of such structures.
Responsible Agency: Building and Safety Department, City Engineer, Fire Department
Schedule: 2015-2016
Implementation Status – *Nothing done at this time.*

Policy 2

Ongoing coordination between the Banning Fire Department, Beaumont Fire Department, the Riverside County Fire Department, the California Department of Forestry, the Morongo Band of Mission Indians and the US Forest Service in fire prevention programs.

Program 2.A
Cooperate with all neighboring agencies in order to identify opportunities for fuel breaks in very high hazard severity zones and to ensure that fire breaks are provided where necessary and appropriate.
Responsible Agency: Fire Marshall, City of Beaumont, County of Riverside, Morongo Band
Schedule: Continuous; Ongoing
Implementation Status – Maintaining the current Truck Trail and Fuelbreak system, including the Cherry Canyon Fuelbreak, International Fuelbreak and the Oak Glen-Banning Canyon Road are ongoing and cut and pile operations go on each year to limit fuel loading on either side of these Truck Trails. Opportunities for new fuel breaks are currently being sought, but given environmental constraints and property ownership issues, none are currently in progress.
Program 2.B
Development proposals shall be transmitted to the Police Department and the City Fire Marshal, and input shall be incorporated into project design or conditions of approval, as appropriate.
Responsible Agency: Building and Safety Department, Planning Department, Police Department, Fire Department
Schedule: Ongoing
Implementation Status – All development proposals are routed to the Fire Department for comments.

Program 2.C
The Police and Fire Departments shall closely coordinate and cooperate with the City and County emergency preparedness teams and shall assure the most effective disaster response practical.
Responsible Agency: City Manager's office, Fire Department, Police Department, County of Riverside, PASSCOM
Schedule: Immediately; Ongoing
Implementation Status – The Fire Department's Disaster Preparedness Bureau has completed the City's Emergency Operations Plan. The Department has an ongoing training program for City Employees and City residents. Coordination with local disaster preparedness organizations and County OES is ongoing. The Fire Department evaluates all projects to ensure adequate egress in emergency situations. The City's Emergency Operations Plan (EOP) was updated November 2011.
Program 2.D
Contact and establish working relationships and strategies with Banning Heights Mutual Water Company, High Valley Water District, public utilities, and other appropriate agencies to strengthen or relocate utility facilities, and take other appropriate measures to safeguard major utility distribution systems to the greatest extent practical.
Responsible Agency: Planning Department, Public Works Department, City Engineer, Public and Quasi-Public Utilities
Schedule: Continuous; Ongoing
Implementation Status – Active and ongoing.
Program 2.E
Encourage and cooperate with CalTrans and the railroad to reduce hazardous fuel loads (vegetation) near bridges, roadways, rail lines and state highways, which may be subject to closure during major wildland fire events.
Responsible Agency: Public Works Department, Fire Department, City Engineer, CalTrans, railroad
Schedule: Continuous
Implementation Status – Active and ongoing.
Program 2.F
The public will be educated regarding disaster prevention and emergency responses including evacuation procedures.
Responsible Agency: Police and Fire Departments, School Districts, PassCom

Schedule: Immediately; Ongoing
Implementation Status – Active and ongoing.

Policy 3
Continue to identify wildfire hazard areas, and to enforce special standards for construction in wildland fire hazard areas.

Program 3.A
New and substantially remodeled structures or developments shall incorporate wildfire prevention design techniques, such as the use of "defensible space," fire retardant sidings, optimal site planning and building orientation, landscaping orientation, and other design approaches to reduce wildfire hazards.
Responsible Agency: Building and Safety Department, Planning Department, Police Department, Fire Department
Schedule: Ongoing
Implementation Status – Active and ongoing with land development review.
Program 3.B
Require that adequate emergency vehicle access and evacuation routes be available with approval of any new development.
Responsible Agency: Building and Safety Department, Planning Department, Police Department, Fire Department
Schedule: Ongoing
Implementation Status– Active and ongoing.
Program 3.C
The City shall adopt standard requirements for all development proposals in High Fire Hazard Areas, including requirements for the preparation of Fire Protection Plans prior to the approval of Tentative Tract Maps, Tentative Parcel Maps, or other land use permits.
Responsible Agency: Fire Marshal
Schedule: 2015-2016
Implementation Status – Active and ongoing.

Policy 4

The City shall make every attempt to assure that adequate water supplies and pressures are available during a fire, earthquake or both.

Program 4.A
Coordinate with Banning Heights Mutual Water Company, High Valley Water District and other agencies responsible for supplying water to the region to assure sufficient water supplies and pressures are available to provide adequate fire flows for all existing and proposed development.
Responsible Agency: Public Works Department, Building and Safety Department, Planning Department, Fire Department, Banning Heights Mutual Water Company, High Valley Water District
Schedule: Ongoing
Implementation Status– Active and ongoing. As part of the development process, larger developments are required to prepare Water Supply Assessment studies and to analyze required fire flow demands and pressures for the development project.
Program 4.B
Special on-site fire protection measures may be required on well vegetated, hilly areas with slopes of 10 percent or greater, with possible access problems, and/or a lack of sufficient water and/or water pressure. Such measures shall be specified during project review.
Responsible Agency: Building and Safety Department, Planning Department, Fire Department, Banning Heights Mutual Water Company, High Valley Water District
Schedule: Ongoing
Implementation Status – Active and ongoing with development project.

Hazardous and Toxic Materials Element

GOAL 1
Maintain and promote measures to protect life and property from hazards resulting from human activities and development.

Policy 1
The City shall continue to encourage research on potential and known hazards to public health and safety and make this information available to the general public, commercial interests, and governmental organizations.

Policy 2
The City shall continue to conduct and participate in studies with other agencies to identify existing and potential hazards to public health and safety.

Program 2.A
Maintain, coordinate, and update the location of hazardous spills as a result of accident or intentional action, and community evacuation plans.
Responsible Agencies: Fire Department, Planning Division, County Health Department
Schedule: Continuous; Ongoing
Implementation Status Ongoing.
Program 2.B
The Fire Department shall maintain a citywide Emergency Response Program, which provides for emergency services in the event of a hazardous spill or airborne release.
Responsible Agencies: Fire Department, City Manager's Office, County Health Department
Schedule: Continuous; Ongoing
Implementation Status – SIMS & NEMS ongoing training.
Program 2.C
Coordinate with responsible agencies to assure enforcement of state and federal regulations for the testing and monitoring of underground fuel storage tanks for leakage.
Responsible Agencies: Fire Department, state and federal EPA, County Health Department
Schedule: Continuous; Ongoing
Implementation Status – City is no longer a Certified Unified Program Agency (CUPA) and County inspects all hazardous businesses within the City for compliance.

Policy 3

The City shall thoroughly evaluate development proposals for lands directly adjacent to sites known to be contaminated with hazardous or toxic materials, traversed by natural gas transmission lines or fuel lines, or sites that use potentially hazardous or toxic materials.

Program 3.A
Consult with the County of Riverside Department of Health on a quarterly basis to identify existing and new hazardous waste sites within the General Plan study area.
Responsible Agencies: Planning Division, Fire Department, County Health Department
Schedule: Continuous; Ongoing
Implementation Status Ongoing.
Program 3.B
A Conditional Use Permit shall be required for all new development that generates, transports, uses or stores significant amounts of hazardous materials.
Responsible Agencies: Planning Division
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Policy 4

Require and facilitate the adequate and timely cleanup of contaminated sites identified within the City of Banning and its sphere-of-influence.

Program 4.A
Coordinate with responsible county, state and federal agencies to activate cleanup procedures, and monitor the status of cleanup efforts on an ongoing basis.
Responsible Agencies: Planning Division, Fire Department, State and federal EPA, County Health Department, California Regional Water Quality Control Board
Schedule: Continuous; Ongoing
Implementation Status – Ongoing

Policy 5

The City shall designate appropriate access routes to facilitate the transport of hazardous and toxic materials.

Program 5.A
Coordinate with the Fire Department, Police Department, neighboring jurisdictions, and other appropriate agencies to identify segments of highway or local roads that shall be restricted from transporting hazardous and toxic materials in order to preserve public safety.
Responsible Agencies: Planning Division, Fire Department, Police Department
Schedule: 2015-2016
Implementation - *Not yet completed.*
Program 5.B
Enforce roadway access restrictions and consider the implementation of fines or penalties for violations.

Responsible Agencies: Fire Department, Police Department
Schedule: 2015-2016
Implementation Status - *Not yet completed*

Policy 6

Continue to promote programs that encourage or educate the public in the proper handling and disposal of household hazardous waste or dangerous materials.

Program 6.A
Establish a Household Hazardous Waste program through the City's solid waste contractor.
Responsible Agencies: City Manager's office, solid waste contractor
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.

Policy 7

The City shall actively oppose plans to establish hazardous or toxic waste dumps, landfills, or industrial processes that may potentially adversely affect the City and its Sphere-of-Influence.

Policy 8

Maintain an inventory and information database, including mapping, of all major natural gas transmission lines and liquid fuel lines within the City limits and Sphere of Influence.

Program 8.A
The City shall insure that location of all major natural gas transmission lines and liquid fuel lines that run though the City are clearly identified, that right-of-way and maintenance easements are maintained, and that all existing and proposed development are located a safe distance from these lines.
Responsible Agencies: Building and Safety, Planning Division, Fire Department
Schedule: Continuous; Ongoing
Implementation Status – Ongoing.

Chapter 4 Public Services and Facilities

Water, Wastewater and Utilities Element

GOAL 1
A comprehensive range of water, Wastewater and utility services and facilities that adequately, cost-effectively and safely meet the immediate and long-term needs of the City.

Policy 1
The City shall coordinate between the City Utility Department-Water Division, Banning Heights Mutual Water Company, Beaumont/Cherry Valley Water Agency, San Gorgonio Pass Water Agency, California Regional Water Quality Control Board and Riverside County Environmental Health to protect and preserve local and regional water resources against overexploitation and contamination.

Program 1.A
Support the efforts of the City Utility Department-Water Division, San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and Beaumont/Cherry Valley Water Agency to develop alternative resources for groundwater recharge, and to expand and construct facilities for the treatment and distribution of reclaimed and/or recycled water.
Responsible Agency: Utility Department-Water Division, Banning Heights Mutual Water Company, Public Works Department, San Gorgonio Pass Water Agency
Schedule: Ongoing
Implementation Status – Ongoing. Temporarily on hold until the tertiary plant expansion is completed.
Program 1.B
The City, it's Utility Department-Water Division, San Gorgonio Pass Water Agency, and Banning Heights Mutual Water Company shall continue and extend their efforts to increase domestic water conservation by expanding efforts to promote the use of water efficient landscaping in all development, and the installation of efficient water-using technologies in new and substantially remodeled structures.
Responsible Agency: Utility Department-Water Division, San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company, Public Works Department
Schedule: Ongoing
Implementation Status - Ongoing and active.
Program 1.C
The City, it's Utility Department-Water Division and Banning Heights Mutual Water Company shall evaluate and, as appropriate, implement actions and regulations that facilitate residential and business retrofits of landscaping/irrigation and water-using appliances/processes that significantly increase water use efficiencies.
Responsible Agencies: Utility Department-Water Division, Banning Heights Mutual Water Company, Public Works Department
Schedule: Continuous; Ongoing

Implementation Status - Ongoing.
Program 1.D
The City shall provide water customers with incentives for the conservation of water.
Responsible Agency: Utility/Department-Water Division
Schedule: Continuous; Ongoing
Implementation Status - Ongoing and active.

Policy 2
Sewer connection shall be required at the time a lot is developed when service is available.

Program 2.A
To the greatest extent practical, the City and its Utility Department-Sewer Division shall require new development to extend and connect to sewer lines rather than permitting the installation of on-lot septic tanks. In the event on-lot septic systems are required, development shall be required to install "dry sewers" and pay connection fee in anticipation of future sewer main extensions.
Responsible Agencies: Utility Department-Sewer Division, Public Works Department, Riverside County Environmental Health Department
Schedule: Ongoing
Implementation Status - Ongoing and active.

Policy 3
In the event a sewer line exists in the right-of-way where a for-sale residential unit is served by a septic system, the septic system shall be properly abandoned prior to a sale and/or close of escrow, and the unit shall be connected to the sewer system.

Program 3.A
The Building and Public Works Departments shall establish procedures for identifying home sales, and shall publicize the requirement for connection of sewers with the mortgage companies and escrow companies of the area.
Responsible Agency: Building Department, Public Works Department
Schedule: Continuous; Ongoing
Implementation Status – Not completed.

Policy 4

The City shall make every effort to assure and assist in facilitating the timely and cost-effective extension and expansion of services that support community development and improved quality of life.

Program 4.A
The City shall coordinate its Capital Improvement Program with those of local utility and service providers to assure cost-effective and adequate capacity of services and facilities for future growth and development.
Responsible Agencies: Public Works Department, Utility Department, Banning Heights Mutual Water Company, other utilities and service providers
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.
Program 4.B
The City shall coordinate with appropriate public and quasi-public agencies and utilities in conducting ongoing assessments of infrastructure capacity and evaluating expansion and improvements needed to carry out responsible growth management.
Responsible Agencies: Public Works Department, Utility Department, Banning Heights Mutual Water Company, other utilities and service providers
Schedule: Continuous; Ongoing
Implementation Status - Ongoing.

Policy 5

To ensure the timely expansion of facilities in a manner that minimizes environmental impacts and disturbance of existing improvements, the City shall confer and coordinate with service and utility providers in planning, designing and siting of supporting and distribution facilities.

Program 5.A
The City shall encourage the consolidation of underground utility lines and other subsurface transmission facilities to limit the impacts of these facilities on the disruption of traffic and roadways.
Responsible Agencies: Public Works Department, Utility Department, Banning Heights Mutual Water Company, SCE, SCG, other utilities and service providers
Schedule: Ongoing
Implementation Status - Ongoing and active.

Policy 6
The City shall proactively support the widespread integration of energy resource conserving technologies throughout the community.

Program 6.A
The City shall investigate and, as appropriate, implement actions and regulations that facilitate residential and business conservation strategies and the implementation of technology retrofits that significantly increase efficiencies in energy use.
Responsible Agencies: Planning and Public Works Departments, Utility Department, Banning Heights Mutual Water Company, SCE, SCG, other utilities and service providers
Schedule: Continuous; Ongoing
Implementation Status - Ongoing and active.

Policy 7
The City shall continue to confer and coordinate with its solid waste service franchisee to maintain and, if possible, exceed the provision of AB 939 by expanding recycling programs that divert valuable resources from the waste stream and returning these materials to productive use.

Policy 8
The City shall support, and to the greatest extent practical, shall encourage commercial and industrial businesses to reduce and limit the amount of packaging and potential waste associated with product sale and production.

Policy 9
Utility lines on scenic roadways, major streets and in the downtown shall have primary consideration for undergrounding.

Policy 10
Major utility facilities, including power and other transmission towers, cellular communication towers and other viewshed intrusions shall be designed and sited to ensure minimal environmental and viewsheds impacts and environmental hazards.

Policy 11
The City shall encourage the planning, development and installation of state-of-the art telecommunications and other broadband communications systems as essential infrastructure.

Policy 12

The City shall encourage in others and itself the use of alternative fuel vehicles.

Policy 13

The City shall investigate lower cable rates for ungated neighborhoods.

Policy 14
The City shall encourage alternative energy use for individual property owners and consider developing an incentive program.

Public Building and Facilities Element

GOAL 1
The provision of a full range of dependable, cost-effective, and conveniently located public buildings, services and facilities that meet the functional, social and economic needs of the entire community.

Policy 1
The Land Use Element shall consider the long-term availability of sites for future public and quasi-public buildings, infrastructure, and other facilities.

Program 1.A
The City shall review its official Land Use Map and development patterns every five years to assure the availability of adequate sites for future public and quasi-public buildings, infrastructure, and other facilities. The City shall confer and coordinate with utilities and other public and quasi-public agencies regarding their long-term needs.
Responsible Agency: Community Development Department, Public Works Department, Electric Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner
Schedule: Continuous; Ongoing
Implementation Status – Ongoing. Recommendations of city-approved master plans of facilities such as parks, recreation, sewer, and water will be incorporated into future development as part of land development review process.

Policy 2
Continue to identify and evaluate viable, long-term funding mechanisms that provide for the construction, maintenance and operation of existing and future public buildings and facilities, including assuring that new development funds its fair share of these facilities.

Program 2.A
The City shall explore the possibility of establishing a New Construction tax for the purpose of establishing an ongoing funding source for adequate provision of public buildings and utilities associated with new development.
Responsible Agency: City Council, Finance Department, Public Works Department, Building Department.
Schedule: Continuous; Ongoing
Implementation Status – *Not yet completed.*
Program 2.B
The City shall pursue and encourage joint-use facilities with other local agencies.
Responsible Agency: Community Services Department, Banning and Beaumont Unified School Districts
Schedule: Continuous; Ongoing
Implementation Status – Joint use with Banning Unified School District.

Policy 3
Coordinate with public utility providers and other public/quasi-public agencies to assure that utility buildings and facilities are compatible with the surrounding landscape.

Program 3.A
The City shall establish and maintain close working relationships with utility purveyors and other public and quasi-public agencies serving the City to assure the least intrusive integration of related buildings and facilities into the community.
Responsible Agency: Community Development Department, Public Works Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner
Schedule: Immediate; Continuous
Implementation Status - Ongoing.
Program 3.B
All new maintenance and utility facilities (and their signage) shall be integrated into the surrounding environment using landscape treatments, architectural elements, and/or other appropriate design mechanisms. Whether as a regulatory or advisory function, design plans shall be reviewed by the Community Development Department.
Responsible Agency: Community Development Department, Public Works Department, Banning Heights Mutual Water Company, SCE, SCG, Verizon, Time Warner
Schedule: Immediate; Continuous
Implementation Status – Active as it is implemented.

Policy 4
All public buildings and facilities shall comply with the same development standards as private development.

Policy 5
Encourage the undergrounding of all utility lines and the undergrounding or screening of transformers/facilities.

Policy 6
Critical structures and facilities (including the civic center, hospitals, fire stations, police stations, schools and major communications facilities) shall be restricted from geologically and hydrologically hazardous areas.

Policy 7
The Zoning Ordinance shall be reviewed to facilitate the location of public buildings and offices in a centralized location near the Civic Center.

Police and Fire Protection Element

GOAL 1
The highest possible quality and level of service for fire and police protection to preserve and protect the health, welfare and property of residents, business owners, visitors and property owners.

Policy 1
The City shall work closely with the Fire and Police departments to assure that adequate facilities are constructed and service is provided as development and growth occur to maintain and enhance levels of service and insurance ratings.

Program 1.A
On an annual basis, consult and coordinate long-term planning with the Police and Fire departments regarding the optimal location of future police and fire stations, equipment, paramedic/ambulance service, and to ensure that levels of staffing are adequate.
Responsible Agency: City Manager, Police Department, Fire Department
Schedule: Ongoing
Implementation Status - Ongoing. The new police station has been built and occupied. The Fire Department has developed a long-range master plan that outlines the number and placement of fire stations. The master plan was approved by the City Council. The Fire Department uses the master plan to identify fire station requirements when proposed developments are presented. Recent City budgetary concerns have required that the Fire Department consider lowering the number of Stations originally approved in the master plan thereby lowering what it feels is the appropriate level service for Banning residents and explores regional coordination efforts with other cities and the county.

Policy 2
The City shall review all proposals for new or significant remodeling projects for potential impacts concerning public safety.

Program 2.A
The City shall continue to monitor levels of development in the planning area to assess the need for new fire stations.
Responsible Agency: Planning Department, Fire Department
Schedule: Ongoing
Implementation Status - The Fire Department has developed a long-range master plan that outlines the number and placement of fire stations. The master plan was approved by the City Council. The Fire Department uses the master plan to identify fire station requirements when proposed developments are presented. Recent City budgetary concerns have required that the Fire Department consider lowering the number of stations originally approved in the master plan thereby lowering what it feels is the appropriate level service for Banning residents or explores regional coordination efforts with other cities and the county.
Program 2.B
All development applications shall be routed to the Police and Fire Departments for comment as part of the application review process.
Responsible Agency: Planning Department, Fire Department, Police Department
Schedule: Ongoing
Implementation Status - All development proposals are routed to the Police Department and Fire Department for comments.

Policy 3
The City shall strictly enforce fire standards and regulations in the course of reviewing development and building plans and conducting building inspections of large multiple family projects, community buildings, commercial structures and motel structures.

Policy 4
All proposed development projects shall demonstrate the availability of adequate fire flows prior to approval.

Program 4.A
Coordinate with the City of Banning Utility Department – Water Division and the Banning Heights Mutual Water Company to ensure availability of adequate water supplies and pressures for fire flows for all existing and proposed development.
Responsible Agency: Planning Department, Fire Department, City of Banning Utility Department – Water Division, Banning Heights Mutual Water Company, and Building Department.
Schedule: Ongoing
Implementation Status - All projects are conditioned to meet appropriate fire flow requirements. The Water Department must verify that the required flow can be met.
Program 4.B
Proposed projects in hilly areas with potential access problems, and/or lack of sufficient water and/or water pressure, may require special on-site fire protection measures. Such measures shall be specified during project review.
Responsible Agency: Planning Department, Fire Department
Schedule: Ongoing
Implementation Status – The City Fire Code requires that any building located more than 10 minutes response time from the closest fire station shall have automatic fire sprinkler system installed throughout the building. The Fire Department requires that developers have in place adequate water systems to support fire protection needs. Effective January 1, 2011, an automatic residential fire sprinkler system shall be installed in all new one-and-two family dwellings in accordance with the 2010 California Residential Code (Title 25, Part 2.5)

Policy 5
Crime prevention design techniques, including the use of "defensible space," high security hardware, optimal site planning and building orientation, and other design approaches to enhance security shall be incorporated in new and substantially remodeled development. (All development proposals routed to Police Department for comment.)

Policy 6
The City shall continue to support and promote community-based crime prevention programs as an important augmentation to the provision of professional police protection services. (Ongoing through Neighborhood Watch Program and Banning Police Activities League BPAL)

Policy 7
The City shall periodically review the level, quality, innovation and cost-effectiveness of police and fire protection services, including contract services.

Policy 8
The Police and the Fire Departments shall closely coordinate and cooperate with the City and County emergency preparedness teams and shall assure the most effective emergency response practical. (Ongoing training and coordination with all parties involved.)

Policy 9
The Fire Department shall maintain a 5-minute response time.

Policy 10
The Police Department shall maintain a level of service (LOS) goal of 2.0 sworn officers per 1000 residents. (It is recommended that LOS goal be changed to 1.5.)

Policy 11
The Fire Department Ambulance Services shall maintain a 5-minute response time.

Policy 12
The City shall investigate the requirements for an International Organization for Standardization (ISO) rating specifically for the City.

Policy 13
The City shall continue to pursue grant positions for the Police Department.

Policy 14
The City shall pursue all funding mechanisms to fund the need for police and fire services generated by new development.

Emergency Preparedness Element

GOAL 1
A detailed, integrated and comprehensive emergency preparedness plan for the City, ensuring a high level of readiness and responsiveness to man-made and natural disasters of any scope, and which maximizes response capabilities of the City, County, State and Federal governments.

Policy 1
The City shall maintain and update its Multi-Hazard Functional Planning Guidance document to ensure maximum operational functionality and to incorporate federal mandates by required deadlines.

Program 1A
The City shall maintain close communication and coordination with Riverside County to expedite adaptation of and compliance with the federal NIMS program.
Responsible Agency: City Manager, Disaster Preparedness Coordinator, Riverside County Management Department (EMD).
Schedule: Continuous; Ongoing
Implementation Status - The Emergency Services Coordinator/Fire Marshal has completed "NIMSCAST," the national online National Incident Management System (NIMS) compliance evaluation program developed by Federal Emergency Management Agency (FEMA). Continual updates will be done on "NIMSCAST" to ensure current information about the City's compliance is recorded. The latest update was in November 2011. The Emergency Services Coordinator/Fire Marshal monitors the City's Compliance with State Emergency Management System (SEMS) and NIMS and provides training or training opportunities to ensure SEMS and NIMS compliance. The organizational chart was updated in November/December 2014.

Policy 2
The City shall maintain and update the Banning Emergency Plan to keep it updated with staffing and technical capabilities of the City and cooperating agencies.

Program 2.A
Periodically schedule and direct the review and revision of the Banning Emergency Plan.
Responsible Agency: City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Other City Departments, Sun Lakes EPAP
Schedule: Every two years.
Implementation Status - The City's Emergency Operations Plan was updated and approved by the City Council in August 2007. The plan requires review and updates, as needed, every two years. The latest update was in November 2015.

Policy 3
The City shall identify and establish emergency evacuation and supply routes and plans to preserve or reestablish the use of Highland Springs Avenue, San Gorgonio Avenue, Wilson Street, Ramsey Street, Interstate-10 and other essential transportation routes.

Program 3.A
Through PASSCOM or other appropriate regional organization, the City shall coordinate with adjoining cities, Riverside County, the Morongo Band of Mission Indians and CalTrans to facilitate the designation of emergency evacuation and supply routes, and for the development of a multi-agency emergency response plan that provides expeditious and timely repair to major streets and highways damaged by earthquakes, flooding or other disasters.
Responsible Agency: City Manager, Disaster Preparedness Coordinator, Public Works Department, Cities of Beaumont and Calimesa, Riverside County Emergency Management Department, CalTrans, Morongo Band of Mission Indians
Schedule: Continuous; Ongoing
Implementation Status - The Emergency Services Coordinator/Fire Marshal is working with the Emergency Services Coordinator of the Morongo Band of Mission Indians to establish a Mutual Aid Agreement between the Tribe and the City for mutual assistance during disasters. Work continues to designate and develop an alternate east/west route through the Pass Area should I-10 become impassible. Agreement in principle between County of Riverside, Banning City, and Morongo Band of Mission Indians for a route south of I-10. Currently no funds available to proceed.

Policy 4

The City shall identify and establish emergency appropriate locations for emergency supply stockpiles.

Program 4.A
Through County-provided CERT training or other appropriate community venues, the City shall recruit de-centralized locations where stockpiles of food, water and emergency medical supplies may be stored and maintained.
Responsible Agency: City Manager, Disaster Preparedness Coordinator, Public Works Department, Riverside County Emergency Management Department
Schedule: Continuous; Ongoing
Implementation Status - Nothing accomplished as of December 20, 2007 regarding stockpiling food and water except for supplies for use by Emergency Operations Center (EOC) personnel during a disaster. For medical emergencies the Fire Department has purchased a trailer and equipped it to handle "Mass Casualty" incidents. The trailer is stocked with medical and rescue supplies. The County of Riverside provided money for a conex with fresh contents to be placed on the Banning bench, but the City has not had the funds to provide that within the City. Work continues with local communities to stockpile as a community and also be personally prepared. The City accepted an Emergency Preparedness trailer with 100 cots from the county Office of Emergency Services (OES).

Policy 5

The City shall cooperate and coordinate with Riverside County Emergency Management Department, local utility purveyors and other agencies and utilities in the preparation of public information materials to assist residents, visitors and business owners in responding to local disasters and emergencies.

Program 5.A
The City shall coordinate and cooperate with County Emergency Management Department, Banning Water District, Eastern Municipal Water District, Beaumont/Cherry Valley Water District, Southern California Edison, the Gas Company, and other agencies and utilities in the development and dissemination of information and instructions on appropriate actions in the event of a local disaster or emergency.
Responsible Agency: City Council, City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, SCE, the Gas Company, Banning Water District , EMWD, and Beaumont/Cherry Valley Water District.
Schedule: Continuous; Ongoing
Implementation Status - The Fire Department Emergency Services Bureau continually communicates with County OES and local agencies to dispense pertinent disaster preparedness Information through public events and organization meetings.
Program 5.B
Coordinate with the County to facilitate with appropriate public and quasi-public agencies and private organizations to assure that CERT training incorporates a public information program to advise the community on how to prepare for and cope in a local disaster or emergency.
Responsible Agency: City Council, City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Banning Unified School District, Sun Lakes EPAP, private schools, nursing homes, and various local business organizations
Schedule: Continuous; Ongoing
Implementation Status - Ongoing Implementation.
Program 5.C
Encourage and train community volunteers to assist police and fire personnel during and after a major emergency.
Responsible Agency: City Manager, Disaster Preparedness Coordinator, Riverside County Emergency Management Department, Sun Lakes EPAP
Schedule: Continuous; Ongoing
Implementation Status - The Fire Department has an active volunteer program. Emergency Services Coordinator, along with one Council member and a citizen volunteer, have provided numerous training programs related to neighborhoods preparing for disasters. PASSCOMM (Pass Communities), County OES, and local groups have provided local training and preparedness.

Policy 6

The City shall thoroughly consider and assess vulnerability to natural and manmade disasters or emergencies when reviewing proposals for the siting and development of critical and essential public/quasi-public facilities.

Program 6.A
In order to assure the maximum possible protection from environmental and manmade hazards, including earthquakes and flooding, the City shall consider their vulnerability to natural and manmade disasters and emergencies when reviewing proposals for critical and essential facilities, as well as sensitive land uses.
Responsible Agency: Planning Department, Public Works Department, Fire Department
Schedule: Continuous; Ongoing
Implementation Status - This is being accomplished by the cooperative efforts between Fire and Public Works to mitigate flooding and mudslides after fires. The City's Grading Standards and Storm Water Code assist in deterring increases in flood levels by new development.

Attachments

Annual Element Progress Report – Housing Element Implementation

Housing Successor of the City of Banning – Financial Statements

Annual Element Progress Report – Housing Element Implementation

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

Table A

Annual Building Activity Report Summary - New Construction
Very Low-, Low-, and Mixed-Income Multifamily Projects

Housing Development Information								Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions
1	2	3	4				5	5a	6	7	8
Project Identifier (may be APN No., project name or address)	Unit Category	Tenure R=Renter O=Owner	Affordability by Household Incomes - Very Low-Income	Affordability by Household Incomes - Low-Income	Affordability by Household Incomes - Moderate-Income	Affordability by Household Incomes - Above Moderate-Income	Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development	Deed Restricted Units	Note below the number of units determined to be affordable without financial or deed restrictions and attach an explanation how the jurisdiction determined the units were affordable. Refer to instructions.
									See Instructions	See Instructions	
(9) Total of Moderate and Above Moderate from Table A3 ► ►					0	0	0				
(10) Total by income Table A/A3 ► ►			0	0	0	0	0	0			
(11) Total Extremely Low-Income Units*											

* Note: These fields are voluntary

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning
Reporting Period 1/1/2015 - 12/31/2015

Table A2
Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)

Please note: Units may only be credited to the table below when a jurisdiction has included a program it its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA whichmeet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low Income	Very Low Income	Low Income	TOTAL UNITS	
(1) Rehabilitation Activity				0	
(2) Preservation of Units At-Risk				0	
(3) Acquisition of Units				0	
(5) Total Units by Income	0	0	0	0	

* Note: This field is voluntary

Table A3
Annual building Activity Report Summary for Above Moderate-Income Units (not including those units reported on Table A)

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate						0	
No. of Units Permitted for Above Moderate						0	

* Note: This field is voluntary

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

Table B

Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.												Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level		RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9		
Very Low	Deed Restricted	436											436
	Non-deed restricted												
Low	Deed Restricted	593											593
	Non-deed restricted												
Moderate	Deed Restricted	685											685
	Non-deed restricted												
Above Moderate		1,642											1,642
Total RHNA by COG. Enter allocation number:		3,356											3,356
Total Units ▶ ▶ ▶													
Remaining Need for RHNA Period ▶ ▶ ▶ ▶ ▶													

Note: units serving extremly low-income households are included in the very low-income permitted units totals.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

Table C

Program Implementation Status

Program Description (By Housing Element Program Names)	Housing Programs Progress Report - Government Code Section 65583. Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.		
Name of Program	**Objective**	**Timeframe in H.E.**	**Status of Program Implementation**
Code Enforcement	Decrease the number of unresolved code violations within the city and increase the number of improved properties.	Continuous throughout the planning period.	An additional Code Enforcement Officer was recently hired; furthermore, the Code Enforcement Division has been moved to the City of Banning Police Department to better enforce the program.
Housing Rehabilitation Program	Reduced number of substandard properties	Continous throughout the planning period.	No progress due to lack of funding.
Conservation of Existing and Future Affordable Units	Monitor the status of assisted projects.	Throughout the planning period.	Ongoing.
Section 8 Rental Assistance	Continue to support the HARIVCO's applications for additional Section 8 allocation and efforts to provide vouchers for lower-income residents.	Throughout the planning period.	Ongoing.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

Adequate Sites for Residential Development	A complete list of program objectives is included in the Housing Element section of the General Plan Annual Progress Report for the year 2015.	Throughout the planning period; No Net Loss monitoring procedure September 2014; AHO amendment within one year of Housing Element adoption.	The City has met the requirement for the 5th Cycle (2013-2021) adopted Housing Element.
Facilitate Development of Affordable and Special Needs Housing	Facilitate affordable housing development commensurate with the RHNA and the production of accessible and supportive housing for persons with disbilities.	Contact affordable housing developers and the Inland Regional Center annually; assist developers with applications for funding assistance upon request; initiate a Zonin Code amendment in 2014 to clarify development in the VHDR zone.	Ongoing.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

Infill and Mixed - Use Housing Development	Facilitate development of multi-family and mixed-use development in the downtown and nearby areas, with special emphasis on housing affordable to low-and moderate-income households or persons with special needs.	Zoning amendment by June 2014. Publicize development opportunities by contacting affordable housing developers annually.	Ongoing.
Mortage Credit Certificate Program	Provide information regarding the MCC Program to eligible home buyers.	Throughout the planning period.	On December 8, 2015 the City Council adopted Resolution No. 2015-103, to continue participating with the County of Riverside Mortgage Credit Certificate (MCC) Program.
Fair Housing Services	Continue to work with the County of Riverside to provide fair housing services to residents of Banning.	Throughout the planning period.	Ongoing.
Reasonable Accommodation in Housing for Persons with Disabilities	Continue to process requests for reasonable accommodation in conformance with state law and the Development Code.	Throughout the planning period.	Ongoing.
Residential Energy Conservation	Work cooperatively with property owners, utility companies and other government agencies to reduce energy use in residential developments.	Throughout the planning period.	The City Council adopted Ordinance 1490, to expedite the permitting procedures of small residential rooftop solar systems; therefore, lowering the cost of solar installation and further expand the accessibility of solar, to meet the requirement of this program.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Banning

Reporting Period 1/1/2015 - 12/31/2015

General Comments:

No Comments

Housing Successor of the City of Banning – Financial Statements

BANNING HOUSING AUTHORITY

HOUSING SUCCESSOR OF THE

CITY OF BANNING, CALIFORNIA

FINANCIAL STATEMENTS

JUNE 30, 2015

BANNING HOUSING AUTHORITY
HOUSING SUCCESSOR OF THE
CITY OF BANNING, CALIFORNIA

FINANCIAL STATEMENTS

JUNE 30, 2015

BANNING HOUSING AUTHORITY

JUNE 30, 2015

TABLE OF CONTENTS

	Page Number
FINANCIAL SECTION	
Independent Auditors' Report	1
BASIC FINANCIAL STATEMENTS	
Statement of Net Position and Governmental Fund Balance Sheet	4
Statement of Activities and Governmental Statement of Revenues, Expenditure and Changes in Fund Balances	5
Notes to Financial Statements	6
REQUIRED SUPPLEMENTAL INFORMATION	
Budgetary Comparison Schedule	9
Notes to the Required Supplemental Information	10
SUPPLEMENTAL INFORMATION	
Computation of Housing Successor Excess/Surplus	11
Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and other Matters Based on an audit of Financial Statements Performed in Accordance with *Government Auditing Standards*	12
Independent Auditors' Report on Compliance with Applicable Requirement and on Internal Control Over Compliance	14

INDEPENDENT AUDITORS' REPORT

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

Report on Financial Statements

We have audited the accompanying financial statements of the governmental activities of the Banning Housing Authority, (the Housing Successor), a Special Revenue Fund of the City of Banning, California, as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Housing Successor's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

LSL
CERTIFIED PUBLIC ACCOUNTANTS

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities of the Banning Housing Authority, as of June 30, 2015, and the respective changes in financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matters

As discussed in Note 1, the financial statements present on the Banning Housing Authority, a special revenue fund of the City of Banning, and do not purport to, and do not, present fairly the financial position of the City of Banning, California, as of June 30, 2015, the changes in its financial position, for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the budgetary comparison information as listed in the table of contents be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Other Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying report on excess/surplus calculation is presented for purposes of additional analysis only and is not a required part of the financial statements. Such information is the responsibility of management and was derived from the financial statements. The report on excess/surplus calculation has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance.

LSL
CERTIFIED PUBLIC ACCOUNTANTS

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated December 30, 2015 on our consideration of the Housing Successor's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Housing Successor's internal control over financial reporting and compliance.

Lance, Soll & Lunghard, LLP

Brea, California
December 30, 2015

BANNING HOUSING AUTHORITY

STATEMENT OF NET POSITION AND GOVERNMENTAL FUND BALANCE SHEET
JUNE 30, 2015

	Governmental Fund	Reclassifications	Statement of Net Position
Assets:			
Pooled cash and investments	$ 565,895	$ -	$ 565,895
Receivables:			
Notes and loans	906,205	-	906,205
Accrued interest	638	-	638
Due from other governments	2,298,433	-	2,298,433
Total Assets	$ 3,771,171	$ -	$ 3,771,171
Deferred Inflows of Resources, and Fund Balances/Net Position:			
Deferred Inflows of Resources:			
Unavailable revenues	$ 906,205	$ (906,205)	$ -
Total Deferred Inflows of Resources	906,205	(906,205)	-
Fund Balances/Net Position:			
Restricted for:			
Community development projects	2,864,966	-	3,771,171
Total Fund Balances/Net Position	2,864,966	-	3,771,171
Total Deferred Inflows of Resources, and Fund Balances/Net Position	$ 3,771,171	$ (906,205)	$ 3,771,171

See Notes to Financial Statements

BANNING HOUSING AUTHORITY

STATEMENT OF ACTIVITIES AND GOVERNMENTAL STATEMENT OF
REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
YEAR ENDED JUNE 30, 2015

	Governmental Fund	Reclassifications	Statement of Activities
Revenues:			
Use of money and property	$ 1,452	$ -	$ 1,452
Miscellaneous	60,250	-	60,250
Total Revenues	61,702	-	61,702
Expenditures:			
Current:			
Community development	4,904	60,000	64,904
Total Expenditures	4,904	60,000	64,904
Net Change in Fund Balances	56,798	(60,000)	(3,202)
Fund Balance/ Net Position, Beginning of Year	2,808,168	966,205	3,774,373
Fund Balance/Net Position, End of Year	$ 2,864,966	$ 906,205	$ 3,771,171

See Notes to Financial Statements

I. SIGNIFICANT ACCOUNTING POLICIES

Note 1: Organization and Summary of Significant Accounting Policies

a. Description of the Reporting Entity

The accompanying financial statements present only the Banning Housing Authority, a Special Revenue Fund of the City of Banning, California (the City) and do not include any other funds of the City. The City's basic financial statements are available at City Hall.

On December 29, 2011, the California Supreme Court upheld Assembly Bill 1X 26 ("the Bill") that provides for the dissolution of all redevelopment agencies in the State of California. The Bill impacted the reporting entity of the City of Banning that previously had reported a redevelopment agency within the report entity of the City as a blended component unit.

On January 10, 2012, and in accordance with California Health and Safety Code Section 34176, with resolution 2012-01 HA the Housing Authority, a blended component unit of the City of Banning, California elected to retain the housing assets and function of the former redevelopment agency. The Housing Authority continues to report the housing assets and functions in the government special revenue fund designated City Housing Successor.

The attached basic financial statements contain information relative only to the Banning Housing Authority Fund (the Housing Successor).

b. Government-Wide and Fund Financial Statements

The government-wide financial statements (Statement of Net Position and Statement of Activities) report information on all activities of the Housing Successor. The Statement of Activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include: 1) charges to customers or applicants who purchase, use or directly benefit from goods, services or privileges provided by a given function or segment, and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

c. Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting.

Note 1: Organization and Summary of Significant Accounting Policies (Continued)

When both restricted and unrestricted resources are available for use, it is the Housing Successor's policy to use restricted resources first, and then unrestricted resources as they are needed.

d. Fund Balance and Net Position

Fund Balance

The Housing Successor's fund balances are classified on the governmental fund balance sheet among the following categories:

Nonspendable Fund Balance - This includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact.

Restricted Fund Balance - This includes amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation.

Committed Fund Balance - This includes amounts that can be used only for the specific purposes determined by a formal action of the city council.

Assigned Fund Balance - This includes amounts that are designated by the city council for specific purposes.

Unassigned Fund Balance - This is the residual classification that includes all spendable amounts not contained in the other classifications.

When expenditure is incurred for purposes for which both restricted and unrestricted fund balances are available, the Housing Successor's policy is to apply restricted fund balance first.

When expenditure is incurred for purposes for which committed, assigned or unassigned fund balances are available, the Housing Successor's policy is to apply committed fund balance first, and then assigned fund balance, and finally unassigned fund balance.

Net Position

The net position reported on the Statement of Net Position in the government-wide financial statements consists of the following three categories:

Investment in capital assets - This amount consists of capital assets, net of accumulated depreciation.

Restricted Net Position - This amount is restricted by external creditors, grantors, contributors, or laws or regulations of other governments.

Note 1: Organization and Summary of Significant Accounting Policies (Continued)

Unrestricted Net Position - This amount is all net position that do not meet the definition of "investment in capital assets" or "restricted net position".

II. DETAILED NOTES ON ACCOUNT BALANCES

Note 2: Cash and Investments

The City of Banning maintains a cash and investment pool that is available for use for all funds. Each fund type's position in the pool is reported on the combined balance sheet as cash and investments. The Housing Successor pooled cash and investment position as of June 30, 2015, was $565,895.

Note 3: Notes and Loans Receivable

The Housing Successor has entered into various loan agreements relating to owners' participation agreements. The owners' participation agreements have repayment terms between 6 and 55 years. The following summarizes the loans outstanding at June 30, 2015:

Description	Balance at June 30, 2015
First-time Home Buyer Down Payment Assistance	$ 406,205
OPA - Westview Terrace 2011	500,000
Total loans receivable at June 30, 2015	$ 906,205

Three loans we paid back by grantees, totaling $60,000, due to the grantees no longer meeting the requirements to have the loans forgiven.

Note 4: Due From Other Governments

The Housing Successor Low/Mod Fund made an advance of $2,298,433 to the Former Redevelopment Agency Debt Service Fund to fund the mandated payment for the "Supplemental" Educational Revenue Augmentation Fund. This amount continues to be outstanding as of June 30, 2015.

BANNING HOUSING AUTHORITY

BUDGETARY COMPARISON SCHEDULE
YEAR ENDED JUNE 30, 2015

	Budget Amounts		Actual	Variance with Final Budget Positive
	Original	Final	Amounts	(Negative)
Budgetary Fund Balance, July 1	$ 2,808,168	$ 2,808,168	$ 2,808,168	$ -
Resources (Inflows):				
Use of money and property	950	950	1,452	502
Miscellaneous	-	-	60,250	60,250
Amounts Available for Appropriations	2,809,118	2,809,118	2,869,870	60,752
Charges to Appropriations (Outflow):				
Community development	-	-	4,904	(4,904)
Total Charges to Appropriations	-	-	4,904	(4,904)
Budgetary Fund Balance, June 30	$ 2,809,118	$ 2,809,118	$ 2,864,966	$ 55,848

See Notes to Financial Statements

STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

a. **Budgets and Budgetary Accounting**

Budget for the Housing Authority Fund is adopted on a basis substantially consistent with accounting principles generally accepted in the United States of America. Accordingly, actual revenues and expenditures can be compared with related budget amounts without any significant reconciling items.

b. **Excess Appropriations:**

	Budget	Actual	Excess
Community Development	$ -	$ 4,904	$ (4,904)

BANNING HOUSING AUTHORITY

COMPUTATION OF HOUSING SUCCESSOR
EXCESS/SURPLUS (HSC 34176.1)

	Low and Moderate Housing Funds Housing Successor July 1, 2014		Projected Low and Moderate Housing Funds Housing Successor July 1, 2015	
Opening Fund Balance		$ 2,808,168		$ 2,864,966
Less Unavailable Amounts:				
SERAF loans	$ (2,298,433)	(2,298,433)	$ (2,298,433)	(2,298,433)
Available Housing Successor Funds		509,735		566,533
Limitation (greater of $1,000,000 or four years deposits)				
Aggregate amount deposited for last four years:*				
2014 - 2015	-		61,702	
2013 - 2014	22,506		22,506	
2012 - 2013	1,959,222		1,959,222	
Total	**$ 1,981,728**		$ 2,043,430	
Base Limitation	**$ 1,000,000**		**$ 1,000,000**	
Greater amount		$ 1,981,728		$ 2,043,430
Computed Excess/Surplus		None		None

LSL
CERTIFIED PUBLIC ACCOUNTANTS

• David E. Hale, CPA, CFP • Deborah A. Harper, CPA
• Donald G. Slater, CPA • Gary A. Cates, CPA
• Richard K. Kikuchi, CPA • Michael D. Mangold, CPA
• Susan F. Maiz, CPA • David S. Myers, CPA
• Bryan S. Gruber, CPA

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities of the Banning Housing Authority, (the Housing Successor), a Special Revenue Fund of the City of Banning, California, (the City) as of and for the year ended June 30, 2015, and the related notes to the financial statements, which collectively comprise the Housing Successor's basic financial statements, and have issued our report thereon dated December 30, 2015.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Housing Successor's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Housing Successor's internal control. Accordingly, we do not express an opinion on the effectiveness of the Housing Successor's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Housing Successor's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Housing Successor's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an

opinion. The results of our tests disclosed one instance of noncompliance that are required to be reported under *Government Auditing Standards:*

Annual Housing Report Submission

The Housing Successor's annual report was due to The Department of Housing and Community Development (HCD) by April 1, 2015. The annual report was passed, approved, and adopted by the Banning City Council on April 14, 2015. The report was dated and submitted to HCD on May 4, 2015.

Recommendation

We recommend that the Housing Successor establish specific deadlines internally in order to submit the required annual report in a timely manner to avoid late submission.

Management's Response:
The Community Development Department has implemented policies and practices that should prevent the delay in submittal of the annual housing report to HCD.

Management's Response to Finding

Management of the Housing Successor response to the findings identified in our audit was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Authority's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Authority's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Lance, Soll & Lunghard, LLP

Brea, California
December 30, 2015

LSL CPAs
CERTIFIED PUBLIC ACCOUNTANTS

• David E. Hale, CPA, CFP • Deborah A. Harper, CPA
• Donald G. Slater, CPA • Gary A. Cates, CPA
• Richard K. Kikuchi, CPA • Michael D. Mangold, CPA
• Susan F. Matz, CPA • David S. Myers, CPA
• Bryan S. Gruber, CPA

INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH APPLICABLE REQUIREMENT AND ON INTERNAL CONTROL OVER COMPLIANCE

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

Report on Compliance for the Housing Successor

We have audited the Banning Housing Successor's (the Housing Successor) compliance with the type of compliance requirements described in the California Health and Safety Code sections applicable to California Housing Successor Agencies for the year ending June 30, 2015.

Management's Responsibility

Management is responsible for compliance with the California Health and Safety Code sections applicable to California Housing Successor Agencies.

Auditor's Responsibility

Our responsibility is to express an opinion on the Housing Successor's compliance with the California Health and Safety Code sections applicable to California Housing Successor Agencies. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred above that could have a direct and material effect on Housing Successor occurred. An audit includes examining, on a test basis, evidence about the Housing Successor's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for the Housing Successor. However, our audit does not provide a legal determination of the Housing Successor's compliance with those requirements.

Opinion

In our opinion, the Housing Successor complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on its Housing Successor for the year ending June 30, 2015.

Report on Internal Control over Compliance

Management of the Housing Successor is responsible for establishing and maintaining effective internal control over compliance with the type of compliance requirements referred to above. In planning and performing our audit of compliance, we considered the Housing Successor's internal control over compliance with the types of requirements that could have a direct and material effect on the Housing Successor to determine the auditing procedures that are appropriate in the circumstances for the

purpose of expressing an opinion on compliance and to test and report on internal controls over compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Housing Successor's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance of California Health and Safety Code sections applicable to California Housing Successor Agencies on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that a material noncompliance with a type of compliance requirement of California Health and Safety Code sections applicable to California Housing Successor Agencies will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We identified the following deficiency that we consider to be a significant deficiency:

Annual Housing Report Submission

The Housing Successor's annual report was due to The Department of Housing and Community Development (HCD) by April 1, 2015. The annual report was passed, approved, and adopted by the Banning City Council on April 14, 2015. The report was dated and submitted to HCD on May 4, 2015.

Management's Response:
The Community Development Department has implemented policies and practices that should prevent the delay in submittal of the annual housing report to HCD.

Management's Response to Finding

Management of the Housing Successor response to the findings identified in our audit was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

LSL
CERTIFIED PUBLIC ACCOUNTANTS

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

Purpose of this Report

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of California Health and Safety Code sections applicable to California Housing Successor Agencies. Accordingly, this communication is not suitable for any other purpose.

Lance, Soll & Lunghard, LLP

Brea, California
December 30, 2015

THIS PAGE LEFT BLANK INTENTIONALLY

ATTACHMENT 3

(PC Resolution No. 2015-03)

THIS PAGE LEFT BLANK INTENTIONALLY

RESOLUTION NO. 2016-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2015

WHEREAS, the California state law requires that each city and county adopt a general plan to guide development in their city and land outside its boundaries that has relation to its city planning (Govt. Code §65300); and

WHEREAS, the California State law requires that the General Plan include seven (7) mandated elements: land use, housing, traffic circulation, safety, parks and recreation, conservation, and noise; and

WHEREAS, the City undertook a comprehensive update to the General Plan and Zoning Ordinance which were adopted by the City Council on January 31, 2006 by Resolution No. 2006-12; and

WHEREAS, the City of Banning General Plan has 21 elements (seven [7] of which are mandated by the State); and

WHEREAS, Government Code §65400 mandates that cities and counties in California submit an annual report on the status of the General Plan and progress in its implementation to their decision makers (City Council or Board of Supervisors), the Governor's Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD) by April 1st of each year; and

WHEREAS, the purpose of the General Plan annual report is to provide enough information to identify the necessary "course adjustments" or modifications to the General Plan and means to improve local implementation; and

WHEREAS, the City is also required to report progress in implementing its housing element and the Regional Housing Needs Assessment as part of the annual report; and

WHEREAS, the economic recession has hampered development in the community, including housing construction because financial institutions have tighter regulations and are not lending any construction loans; and

WHEREAS, on December 29, 2011, the California Supreme Court upheld the validity of the Assembly Bill (AB) 1X 26 and invalidated AB 1X 27 which resulted in dissolution of redevelopment agencies in California including the City of Banning Community Redevelopment Agency which completely cut-off sources of funding for construction of infrastructure, elimination of blight, and construction and maintenance of affordable housing; and

WHEREAS, the City continues to take proactive steps in implementing the goals, policies and action programs of the General Plan; and

WHEREAS, over the course of the past ten (10) years, the City has continued to take proactive steps in implementing the goals, policies and action programs of the General Plan. While the City has been implementing the General Plan, the primary reasons why some of the action programs have not been completed or initiated is due to budget constraints, available staff resources, and work program priority for each of the City departments; and

WHEREAS, the General Plan Annual Progress Report for Calendar Year 2015 contains the reporting forms on progress for implementing the Housing Element and details the implementation action programs and status; and

WHEREAS, on March 2, 2016, the Planning Commission held the noticed consent calendar item at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered the General Plan Annual Progress Report for Calendar Year 2015.

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

SECTION 1: Compliance with Government Code Section 65400.

The Planning Commission determined that this General Plan Annual Progress Report was prepared for compliance with Government Code Section 65400.

SECTION 2: Recommendation to the City Council.

The Planning Commission has reviewed and recommended approval of the General Plan Annual Progress Report to the City Council; and, to direct staff to file the report with the State of California Office of Planning and Research and the State Department of Housing and Community Development.

PASSED, APPROVED AND ADOPTED this 2nd day of March 2016.

David Ellis, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu, Assistant City Attorney
Aleshire & Wynder, LLP

ATTEST:

Sandra Calderon, Recording Secretary
City of Banning, California

CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-03, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of March 2016, by the following vote, to wit:

AYES: Ellis, Shaw, Krick, Briant

NOES: None

ABSENT: Price

ABSTAIN: None

Sandra Calderon

Sandra Calderon, Recording Secretary
City of Banning, California

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Julie Hayward Biggs, Special Counsel

MEETING DATE: March 22, 2016

SUBJECT: **Approve Consultant Contract, not to Exceed $8,000, with National Demographics, Inc. to Conduct Studies and Recommend Action Relating to Legal Challenge to an At-Large Electoral System.**

RECOMMENDATION:

A) Review and approve a not to exceed Consultant Contract for $8,000 with National Demographics, Inc. to conduct studies and recommend action relating to legal challenge to an at-large electoral system.

B) Direct work to begin immediately to evaluate legal options and risks associated with threat of litigation regarding the City's at-large electoral system.

BACKGROUND:

The City received a letter from the Law Offices of Matt Morris on January 22, 2016 demanding that the City take steps to move to a by-district electoral system in order to promote the interests of the California Voting Rights Act. Accordingly, the City Manager looked into available companies that might be qualified to assist the City in responding.

Making a change in electoral systems will require either submission of an ordinance to the electorate or adoption of an ordinance by the City Council. In order to know how to proceed, the City needs to understand existing demographics in the community and if the Council decides to move forward with a by district proposal, the City needs to carefully develop electoral districts that accurately reflect its demographics and enhances opportunities for minority participation in local government.

The City does not have staff trained in demographic research or knowledgeable about drawing of district lines. Accordingly, the City Council after considering this threat of litigation at its meeting on February 9, 2016, determined that in order to evaluate the

be retained to perform an analysis of the current demographic make-up of the City and to assist in the necessary actions to either defend against legal challenge to the current system or to establish electoral districts.

National Demographics, Inc. (NDC) is known statewide for its expertise in assisting local governments with legal challenges to at large voting systems and establishing a sound demographic basis for any electoral district system that may be deemed appropriate where a change needs to be made. While NDC can provide a full panoply of services with regard to electoral district decision making, the extent of its efforts may be carefully controlled by the City.

Initially, staff has requested that the consultant contract be limited to a demographic analysis to be reviewed in closed session as part of the decision making process with regard to the threat of litigation that has been received. This first phase would be limited in cost to a maximum of $8,000. Any work beyond the initial analysis will be presented to the Council for approval prior to commencement of additional work.

Should the City proceed with adoption of electoral districts, additional services may be requested including additional demographic information, potential district maps prepared and presented to the Council in public meetings and citizens meetings held to encourage public participation in proposing district boundaries and options.

If the City determines that electoral districts in Banning will further the interests of the California Voting Rights Act, the City may elect to proceed to adopt an ordinance establishing such districts or it may submit that issue to the voters for approval.

A number of cities in California have chosen to fight legal challenges to at large elections only to find that they are on the losing end of court rulings and obligated to pay not only the legal costs incurred by the City but the legal costs incurred by those who challenge at large electoral systems. Since those costs can amount to millions of dollars, many cities simply adopt district system to avoid the cost of defense.

OPTIONS:

A) Approve the contract with National Demographics, Inc. to conduct the study and receive recommendation on the best course of action to take regarding moving to a by-district electoral system or staying with an at-large voting system.

B) Not approve the contract and expose the city to the threatened litigation.

FISCAL IMPACT:

Initial cost of this contract will not exceed $8,000. Subsequent studies, public meetings, and drawing of district boundaries may increase the cost to $50,000 or more depending on the City's authorization of additional work, at which time staff will bring this item back to Council for direction.

ATTACHMENTS:

A. Proposal from National Demographics, Inc.

B. Consultant Agreement between the City of Banning and National Demographics, Inc

RECOMMENDED BY:

Anthony Taylor, City Attorney

REVIEWED BY:

Rochelle Clayton, Deputy City Manager

APPROVED BY:

Michael Rock, City Manager

THIS PAGE LEFT BLANK INTENTIONALLY



National Demographics Corporation

A Proposal to the City of Banning for Demographic Services

By National Demographics Corporation

Douglas Johnson, President

February 11, 2015

Phone: (909) 624-1442
FAX (818) 254-1221

P.O. Box 5271
Glendale, CA 91221

info@NDCresearch.com
www.NDCresearch.com

February 11, 2015

Ms. Julie Hayward Biggs
City of Banning, c/o Aleshire & Wynder, LLP
3880 Lemon St., Ste. 520
Riverside, CA 92501

Dear Ms. Biggs,

Thank you for the opportunity to provide this proposal to the City of Banning. NDC has 36 years of experience districting and redistricting local jurisdictions, together with unmatched experience working with jurisdictions facing California Voting Rights Act concerns. And thanks to our history with the Rose Institute of State and Local Government at Claremont McKenna College, we are already very familiar with the City of Banning. We welcome the opportunity to bring the firm's expertise and skills to assist Banning.

For each project, there are certain required basic elements, and there are a number of options that the City can include or leave out at its option. NDC carefully tailors each project to the needs and goals of the individual client partner. Should the City decide to draw Council election districts, NDC welcomes the opportunity to work with the City to encourage public participation in this process, and NDC offers a number of tools developed specifically for public engagement in this effort.

The attached proposal consists of a brief introduction; specific proposed project elements and options; timeline and cost information; conclusion; and signature section. An appendix provides additional information on NDC, including company history; methodology; technical approach; and references.

NDC looks forward to working with you on this effort. Please call or email if you have any questions, concerns, or requests regarding this proposal.

Sincerely,

Douglas Johnson
President

Table of Contents

About National Demographics Corporation: 3
Brief Company History 3
NDC and the California Voting Rights Act 3
Challenges of Demographic and Election History Analysis and CVRA 4
NDC's CVRA Analysis Process 5
NDC's Districting Process 6
Technical Expertise 6
Public Involvement 6
Minority Group Outreach/Partnerships 6
Openness 6
Media Outreach 7
Local Leadership 7
Impeccable References 7
Proposed Scope of Work 10
Level 1 – analysis of demographics, elections and test maps 10
Task A: Create the demographic database 10
Task B: Elections Database 10
Task C: Test Map(s) 10
Level II—Racially Polarized Voting Analysis of Local and/or Statewide Elections 11
Level III - Creating District Maps 12
Basic Districting Project Elements 12
Optional Districting Project Elements 12
Other Potential Project-Related Expenses: 13
Additional Analysis 13
Requested Payment terms: 13
References List 13
Conclusion 14
Proposal Acceptance 15

Appendix

Resume of President Dr. Douglas Johnson 16
Resume of Vice President Justin Levitt 18

About National Demographics Corporation:

Unmatched Districting, Redistricting, and California Voting Rights Act Experience

Brief Company History

NDC has served hundreds of local governments over the past 35 years. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, and the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise. In the Central Valley, NDC has worked with clients in and around Hanford, Dinuba, Tulare, Kings County, Coalinga, Corcoran, Reedley, Lemoore, and Fresno, among others.

The company is especially well known for its work in local and state government. Since 2002, NDC has established a reputation as the state's leading demographic expert on the California Voting Rights Act (CVRA), having performed demographic assessments of potential CVRA liability for over 250 jurisdictions.

No company has been responsible for addressing the electoral demographic needs of more local governments, as NDC has districted and/or redistricted well over 150 local school districts, cities, water districts, county boards, and other local districts. Nationally recognized as a pioneer in good government districting and redistricting, NDC is especially experienced in working with local jurisdictions in California, Arizona and Nevada.

This background gives us unmatched expertise in the issues, questions, and decisions jurisdictions face in any discussion regarding the California and Federal Voting Rights Act and related election system choices.

NDC and the California Voting Rights Act

NDC has performed analysis of potential demographic liability under the California Voting Rights Act (CVRA) for over 200 jurisdictions in California. For those jurisdictions actually sued under CVRA (none of which were NDC clients prior to the filing of the lawsuit), all but one hired NDC to assist in evaluating their demographics, voting history, legal situation, and options. This includes Madera Unified, Modesto, the City of Madera, Visalia, Compton, the City of Escondido, Palmdale, Santa Clarita Community College District, Glendale Community College District, ABC Unified, and Anaheim. Only Compton Community College faced a lawsuit without the assistance of NDC, as their case was a 'friendly' lawsuit where the settlement was pre-arranged with the plaintiffs prior to the filing of the case.

No other firm even comes close to NDC's experience with this still-new law, and many of the jurisdictions listed above came to NDC after discovering the demographers they initially hired either did not sufficiently understand California and Federal Voting Rights law and the related demographics to help, or the demographers so badly handled the project that their own demographers' work directly resulted in the jurisdiction being sued.

NDC's expertise in both Voting Rights demographics and in the drawing of election districts is widely recognized. NDC's personnel are responsible for numerous books and articles on

the subject, and President Douglas Johnson has been a speaker on the CVRA at conferences of the California School Board Association, the California Latino School Board Member Association, the California League of Cities, and other state and national conferences.

Challenges of Demographic and Election History Analysis and CVRA

While the Federal Voting Rights Act enjoys nearly 50 years of legal precedents, California's version both builds on and directly rejects those precedents. Unfortunately, the law itself and the two court decisions issued so far do not clearly define the terms and potential liability involved.

The Federal Voting Rights Act requires plaintiffs to show that the "protected class" population in question can form an effective majority of an election district, and to show, through the "totality of circumstances," that racial motivations lie either overtly or covertly behind voting behavior in the jurisdiction. The California law explicitly rejects both of those requirements. Instead the question of liability under California's law lies entirely on the presence of absence of "racially polarized voting."

Under Federal law, analysis of polarized voting relies heavily on voting behavior in "homogeneous" voting precincts – precincts where 80 percent or more of the voters are of the same ethnicity. In the southern United States, where housing segregation is common, there are usually many such precincts in a given jurisdiction. In the more diverse neighborhoods of California, however, such precincts are very rare. "Ecological Regression," meaning the statistical analysis of voting patterns and demographics of each precinct in a given jurisdiction, acts as a 'backup' analysis tool in a jurisdiction that has lots of homogeneous precincts, and those homogeneous precincts act as statistical controls to ensure the accuracy of the Ecological Regression results. Since California generally lacks those natural statistical controls, the mathematical details of the ecological regression take on a level of importance in California cases that has never been seen or evaluated in any federal precedent. The demographer you select must understand these issues – both in their statistical and legal context – to accurately work with your counsel to assess potential liability and evaluate the options available to the jurisdiction.

One key unanswered question: "how big is a voting bloc"? Do 70 protected class need to vote for a given candidate before he or she is considered the "preferred candidate" of that protected class? 80 percent? One plaintiff expert claims that a 51 – 49 percent split among protected class voters is all that is required – meaning if the candidate preferred by 49 percent of protected class voters loses, the jurisdiction is in violation of the law. This is likely absurd, but no court has ruled on the question of how big a voting bloc must be before it qualified.

Another unanswered question: who is a "protected class candidate"? The California law set an unprecedented focus on elections where members of a protected class are candidates. But who "counts" as a protected class candidate? In Anaheim, one attorney for the Latino plaintiffs said that a half-Filipino, half-Latino Councilmember who self-described as Latina "didn't count." In the Eastside Elementary School District, the potential plaintiff implied that a School Board trustee with the last name of Johnson but who was 100% Mexican-American (and whose maiden name was "Ortega") did not count because (allegedly) voters did not know she was Latina. In the City of Compton case, plaintiffs said a half-African-American / half-Latina Councilmember 'did not count' because they said she did not receive enough support from

Latino voters. These questions have been raised in the CVRA cases filed or threatened so far, but remain unanswered.

Another unanswered question: how reliable do the Ecological Regression results need to be before the Court will take action based on them? The statistical tools used generate a number of measures of accuracy and relevance. These questions were raised in the Palmdale case but not addressed in the Court's ruling. One common failing of potential plaintiff and jurisdiction demographers is to focus on the "point estimate" generated by the Ecological Regression. It is simple to take that number and be able to say "X percent of Latino voters supported candidate Y." But the mathematics say something different: NDC has often seen situations where the margin of error on those point estimates has been greater than the point estimate itself, such as "25 percent of Latino voters supported candidate Y, with a 95% confidence interval of 0 to 50 percent."

Only demographers experienced in Voting Rights-related analysis and litigation can appropriately advise your counsel and the City on how to interpret all of these factors when evaluating their options. NDC is the demographic firm you need to get the best possible evaluation of potential liability under this extremely unclear law.

NDC's CVRA Analysis Process

While elections for the jurisdiction's own Board carry the most weight under the CVRA, those elections are also the most expensive to analyze because of the need to collect and, in many cases, digitize the precinct maps and precinct by precinct election results from those local elections. Statewide election results by Census Block and by precinct, which are also important in any CVRA election, are available in the California Statewide Database. As a result statewide elections are much less expensive to analyze. Given that polarized voting (as defined by the state and federal laws) is likely to either exist or not exist in a given jurisdiction, and rarely appears in state elections and not local elections (or vice versa), NDC recommends undertaking the lower-cost analysis first. If the results are unclear (which they are with some frequency, given the nature of the statistical methods involved), or if the jurisdiction simply wishes to investigate more after hearing the initial report, NDC then recommends proceeding with analysis of the Governing Board's own elections. This step by step approach provides the in-depth analysis the Governing Board needs to make its decision, while only incurring the minimal costs required to complete the project. In the proposed project scope below you will find the details of this step by step approach.

If, after receiving and considering the demographic analysis and consulting with its counsel, the City decides to move to the CVRA "safe harbor" of by-district elections, NDC is also the state's leading firm in the field of drawing and transitioning to by-district elections. NDC has successfully guided over 170 clients moving from at-large to by-district and from-district election systems, re-drawing existing districts, and in moving back from by-district to at-large systems. No other firm can match NDC's extensive experience in this field.

NDC's Districting Process

Technical Expertise

NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

The technical demands of a districting effort are high, and NDC is the undisputed leader in this area. But far more important than technical expertise are the interpersonal understanding and experience working with all parties in the process, including the public.

Public Involvement

NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. The company invented the "public participation kit" for public participation in districting efforts, which many of the firm's competitors now attempt to duplicate. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

Minority Group Outreach/Partnerships

U.S. Supreme Court decisions are constantly changing the rules regarding districting, "race-based districting," and the establishment of districts focused on the electoral power of "protected classes." It is crucial that the consultant work with the racial, ethnic, and other community groups at the beginning of the process to welcome their ideas and develop the appropriate expectations regarding minority representation prospects. No NDC local districting or redistricting plans has ever been challenged in Court or by the Department of Justice.

Openness

Any change in election systems can have momentous implications for the distribution of political power in a jurisdiction and for access by groups and individuals to the governance process. Not surprisingly, such changes often attract much public attention, sometimes generate intense controversy, and may draw charges of manipulation and abuse of power. Indeed, disputes over the form and substance of the process may often result in stalemate or legal challenge. It is crucial, therefore, that the jurisdiction establish, at the beginning, a process that is not only fair, but that is seen to be fair, to all contending groups and individuals.

Media Outreach

The firm's work has been widely praised in the media, and NDC has worked extensively on background, off the record, and on the record with all types of press including radio, television, newspaper, and new media.

Local Leadership

NDC views its role as an advisor and technical resource. The firm advises its clients, but every project remains the client's project. NDC offers guidance based on its experience and expertise, but ultimately the decisions are made by the jurisdiction itself. NDC welcomes the chance to assist this project under the guidance and direction of the jurisdiction's elected leadership, key staff members, and the entire community.

Impeccable References

All of NDC's former clients – without exception – can be contacted for references. The firm has no embarrassing projects. All NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy. A list of references from districting and redistricting projects is included later in this proposal.

Here is a sample list of NDC's districting and redistricting clients:

States
Arizona Independent Redistricting Commission
Florida State Senate
New Jersey Redistricting Commission

Counties
Kings
Los Angeles
Merced
San Bernardino
San Diego
San Mateo
Yuma

Cities
Alhambra
Anaheim
Bellflower
Buckeye
Buena Park
Ceres
Compton
Corona
Elk Grove
Escondido
Firebaugh
Fowler
Fullerton
Glendale
Hemet
Highland
King City
Los Banos
Madera
Menifee
Merced
Mesa
Modesto
Moreno Valley
Oakland
Palmdale
Parlier
Pasadena
Peoria
Reedley
Riverbank
San Diego
Sanger
Santa Barbara
Stockton
Surprise
Tulare
Turlock
Visalia
Whittier
Wildomar

Community College Districts

Antelope Valley
Central Arizona College
Cuesta
Glendale
Grossmont-Cuyamaca
MiraCosta
Rancho Santiago
San Diego
Santa Clarita
Sierra
Southwestern

Water, Irrigation & Conservation Districts

Alta Irrigation
Fresno Irrigation
Imperial Irrigation District
Mojave Water Agency
Palmdale Water
Rowland Water
San Bernardino Water
Santa Clara Valley Water
Three Valleys Municipal Water
Upper San Gabriel Valley Western Municipal Water
Winton Water

County Offices of Education

Fresno County
San Diego County
San Joaquin County
San Luis Obispo County
Tulare County
Tuolumne County

School Districts

Alpine Union
Alpine Union Elementary
Alta Vista
Bakersfield City Schools
Bonsall Union Elementary
Borrego Springs Unified
Buena Park Elementary
Burton Elementary
Cajon Valley Union
Cajon Valley Union Elementary
Calistoga Joint Unified
Capistrano Unified
Capistrano Unified School District
Cardiff Elementary
Carlsbad Unified
Caruthers
Cayucas
Centinela Valley
Central Unified
Centralia Elementary
Chula Vista Elementary
Chula Vista Elementary
Clay Elementary
Clovis Unified
Coalinga-Huron
Coronado Unified
Dehesa Elementary
Del Mar Union Elementary
Dinuba Unified
Eastern Sierra Unified
Eastside Union Elementary
Elk Grove Unified
Encinitas Union Elementary
Escalon Unified
Escondido Union Elementary
Escondido Union High
Exeter Elementary
Exeter High
Exeter Unified
Fallbrook Union Elementary
Fallbrook Union High
Firebaugh-Las Deltas Unified
Fresno Unified
Fullerton Union High
Glendale Unified
Greenfield
Grossmont Union High
Hughson Unified
Jamul-Dulzura Union Elementary
Julian Union Elementary
Julian Union High
Kerman Unified
Kern High
Keyes Union
Kings Canyon Unified School District
Kings River
Kingsburg Elementary
Kingsburg High
La Mesa-Spring Valley
Lake Elsinore
Lakeside Union Elementary
Lakeside Union School
Lancaster Elementary
Lemon Grove Elementary
Lindsay Unified
Lucia Mar
Madera Unified
Magnolia Elementary

Merced Union High School District
Modesto City Schools
Modoc Unified
Monson Soltana
Morgan Hill Unified
Mountain Empire Unified
Napa Valley Unified
National Elementary
Newhall Elementary
Newman Crows Landing
Oak Grove Elementary School District
Oceanside Unified
Pacific Union
Panama Buena Vista
Pasadena Unified
Pixley Union
Pleasant View
Pomona Unified
Porterville
Poway Unified
Ramona Unified
Rancho Santa Fe Elementary
Richland School District
Riverbank
Riverdale Unified
Salida Union
San Dieguito Union High
San Marcos Unified
San Pasqual Union Elementary
San Ysidro Elementary
Santee Elementary
Selma Unified
Solana Beach Elementary
South Bay Union
Spencer Valley Elementary
Strathmore Elementary
Sundale Union Elementary
Sweetwater Union High
Tulare City Elementary
Tulare City High
Tulelake
Turlock Unified
Twin Rivers Unified
Vallecitos Elementary
Valley Center Pauma Unified
Visalia Unified
Vista Unified
Walnut Valley Water
Warner Unified
Washington Union
Waterford Union
Whittier Union High
Woodlake Union

Other Special Districts
Jurupa Community Service District
Kings River Conservation District
Tulare Health Care District
Westside Community Health Care District

Proposed Scope of Work

Each level of work is a discrete and separate part of this proposal. As each level is complete, NDC will consult with the City on the decision whether to proceed with the next level, skip to a later stage o review, or to decide the review is complete. NDC will only proceed from one level to the next on direction from the City. The City can end the project after any level is complete, or the City can choose to skip levels as it wishes.

Level 1 – analysis of demographics, elections and test maps

Task A: Create the demographic database

This database will include 2010 Census data on total population and voting age population counts by race and ethnicity; California Statewide Database data on 2010 voter registration and turnout by Spanish- and Asian-American surnames; either Statewide Database, or, if that is not available in time, County Registrar current voter registration turnout records processed by NDC to identify Spanish- and Asian-American surnames; American Community Survey data on Citizens of Voting Age by race and ethnicity (also known as "eligible voters") from the latest Census Bureau reports (five-year data from 2009-2013).

In 2011, jurisdictions and demographers could get Citizen Voting Age data (also referred to as "eligible voter" data), broken down by race and ethnicity, from the California Statewide Database (assuming the jurisdiction or its consultant necessary software and expertise). The challenge today is that the Statewide Database data, posted in 2011, were processed using the 2005-2009 data from the American Community Survey. The Statewide Database data is now significantly out of date: the Census Bureau has released two annual updates to the data, and those updates included what the Census Bureau calls a "re-balancing" of the data using statistical controls from the 2010 Census, instead of the 2000 Census statistical controls used for the 2005-2009 data. NDC's research has found that the new data is more significantly more accurate thanks both to being more up to date and to the greatly increased accuracy of the updated statistical controls. The Statewide Database has no known plans to update its American Community Survey data on Citizens of Voting Age by race and ethnicity (used by the 9th Circuit Federal Courts as the best count of "eligible voters") until the 2021 redistricting cycle.

Task B: Elections Database

Task: NDC will compile a list of 2001 - 2012 election results for all City elections; for elections for overlapping school district, county and state elections that involved "protected class" candidates; and for measures placed on the ballot by the City. NDC will work with the City to identify/confirm the ethnicity of the various candidates in these elections.

Timeline: Depends on City's ability to identify ethnicity of candidates, but NDC will deliver the list of elections and candidates for identification within one (1) week.

Task C: Test Map(s)

Task: NDC will analyze whether it is possible to draw one or more majority-minority districts in the City based on each of the following demographic databases:

- 2010 and 2012 general election voter turnout by surname
- 2010 and 2012 general election voter registration by surname
- Citizen Voting Age Population (2009-2013 Department of Justice Special Tabulation)
- Citizen Voting Age Population (2009-2013 American Community Survey)
- Voting Age Population (2010 Census)
- Total Population (2010 Census)

Level 1 Deliverables:

- Spreadsheet of City demographics in electronic and PDF format (NDC)
- Table listing elections, candidates, candidate ethnicity, and total votes (count and percentage) for each election collected. The table will be accompanied by a summary of which "protected class" candidates ran and whether they won or lost each election. The City will receive the report in PDF format.
- Demographic data on test district(s) and PDF map of test district (s).

Level 1 Timeline: Three weeks.

Cost: $4,500, plus $2,000 per in-person meeting day (if any are needed).

Next Steps:

At the completion of the Level I, the City can decide whether or not to proceed with Level II, to jump to a later project level, or to consider the project complete. NDC will not proceed with any additional work beyond Level I without written direction from the City.

Level II—Racially Polarized Voting Analysis of Local and/or Statewide Elections (if necessary)

Task: Analysis of potential racially polarized voting patterns in key statewide elections between 1994 and 2012.

This includes:

- Analysis of Propositions 187, 209, 227 and 54, along with 2003 Governor's election, 2006 Insurance Commissioner, 2010 Lieutenant Governor and 2010 Superintendent of Public Instruction elections. In heavily-Democratic areas with multiple significant "protected class" populations, some Democratic primary elections may be included as well.
- Homogeneous precinct analysis of election results
- Ecological Regression analysis of election results

Deliverables: List of the elections analyzed, scattergram of election data, and tables of regression and homogeneous precinct analysis data.

Cost: $900 per election contest analyzed, plus $2,000 per in-person meeting day (if any).

Timeline: three weeks.

Next Steps:

At the completion of the Level II work, the City can decide whether or not to proceed with Level III, to jump to a later project level, or to consider the project complete. NDC will not proceed with any additional work beyond Level II without written direction from the City.

Level III - Creating District Maps (if necessary)

To provide the flexibility to meet the needs of the City if it decides to move to by-area elections, NDC offers a full menu of districting options:

Basic Districting Project Elements

Includes all of the services listed below: $16,000

- Informal, in-person and/or phone meetings with Board members and key staff *[by conference call included, or in-person for the "per meeting" fee below.]*
- Mapping of current Board member addresses and any other spreadsheet or GIS data provided by the City.
- Creation of 2 or 3 initial "NDC draft for public discussion" plans. This includes providing PDF versions, 8.5x11" maps, and one 3'x4' plot of each plan.
- Online hosting of plan maps allowing interactive review of proposed plans
- Conversion of all maps and reports to web-friendly versions for posting on City website, including Google Earth KML files for all plans
- Implementation of plan minor revisions / emendations
- Presentations at Public Forums and/or Council meetings *[by conference call included, or in-person for the "per meeting" fee below.]*
- Implementation of adopted plan with County Registrar of Voters

Optional Districting Project Elements

Selected at the City's discretion:

- In-person presentation at additional Council meetings and/or facilitation of public forum(s) $2,000
- Preparation and processing of paper, PDF and Excel-based "public participation kits" (paper kits that allow the public to draw and submit their own plans; see www.drawbp.org/draw-a-map/ for an example). $2,500
- Creation, hosting, and updating of an NDC--managed project information website (if the City does not wish to manage a project website as part of its existing website; see www.DrawBP.org for an example). $3,500
- Hosting, managing and processing submitted plans for an online interactive system that allows public to draw and submit proposed district maps through a standard web browser. $11,000
- Spanish translation of project-related materials ..... $125 per page

Stated prices include all travel, printing (except public participation kits and any large-plot maps), and other anticipated expenses.

Timeline: Level IV (Creating District Maps) timeline will be established in consultation with the City.

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

Additional Analysis

NDC is happy to assist with any additional analysis that the City requests at our standard hourly rates:

President (Dr. Douglas Johnson) .....$200 per hour
Vice President (Justin Levitt).....$125 per hour
Senior Analyst.....$75 per hour
Analyst / Clerical.....$50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at $250 per hour.

Requested Payment terms:

NDC requests that one-half payment be made at the start of each project "level" and the remainder at the conclusion of each level. NDC will provide appropriate invoices.

References List

California and Federal Voting Rights Demographic Analysis

Voting Rights Act vulnerability analysis references
(Attorneys are listed and the specific jurisdiction names withheld as these studies are done within the attorney-client privilege.)

Ms. Marguerite Leoni, Counsel, 2009, 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415)634-6840, mleoni@nmgovlaw.com (or ask for Mr. Chris Skinnell)

Mr. Michael E. Smith, Lozano Smith, 7404 North Spalding Ave., Fresno, CA 93720, (559)431-5600, MSmith@lozanosmith.com

Mr. David Soldani, Counsel, 2009, 555 West Shaw Avenue, Suite C-1, Fresno, CA 93704, (559) 225-6700, DSoldani@aalrr.com (or ask for Mr. Warren Kinsler)

Mr. John Ramirez, Rutan and Tucker, 611 Anton Boulevard, Suite 1400, Costa Mesa, CA 92626-1931, (714) 641-5100, jramirez@rutan.com

Mr. Kit Bobko, Richards, Watson and Gershon, 355 South Grand Avenue, 40th Floor, Los Angeles, California 90071, (213) 253-0201, PBobko@rwglaw.com (or ask for Ms. Youstina Aziz)

Districting/Redistricting Projects

Mr. Steve Carrigan, City Manager, City of Los Banos, 520 J Street, Los Banos, CA 93635. Phone: 209-827-7000 Email: steve.carrigan@losbanos.org

Mr. Roy Wasden, City Manager, City of Turlock, 156 S Broadway, Turlock, CA 95380. Phone: (209) 668-5540 ext 1101. Email: RWasden@turlock.ca.us

Mr. Devin Reif, Strategic Planning, City of Oakland, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. Phone: 510-238-3550 Email: DReiff@oaklandnet.com

Mr. David Silberman, Deputy County Counsel, San Mateo County, 400 County Center, 6th Floor, Redwood City, CA 94063-1662. Phone: 650-363-4749 Email: dsilberman@smcgov.org

Ms. Sharon Spivak, Deputy City Attorney, City of San Diego, Civic Center Plaza, 1200 Third Ave., #1620, San Diego, CA 92101. Phone: 619.533.5889. Email: sspivak@sandiego.gov

Judge Hugh Rose (retired), Chairman, City of Modesto Districting Commission. 508 King Richard Lane, Modesto, CA 95350. Phone (209) 522-0719. Email: hhrose@hotmail.com.

Ms. Kathy Bennett, City Clerk, City of Menifee, 29714 Haun Road, Menifee, CA 92586. Phone: (951) 672-6777. Email: kbennet@cityofmenifee.us.

Ms. Kristine Murray, City Councilmember, City of Anaheim, 2401 East Katella Avenue, Suite 300, Anaheim, California 92806. Phone: (714) 940-6347 Email: kmurray@willdan.com

Mr. Michael E. Smith, Partner, Lozano Smith, 7404 North Spalding Ave., Fresno, CA 93720, (559)431-5600, MSmith@lozanosmith.com (or ask for Ms. Laurie Avedisian)

Ms. Marguerite Leoni, Partner, Nielsen, Merksamer, Parrinello, Gross & Leoni, 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415)634-6840, mleoni@nmgovlaw.com (or ask for Mr. Chris Skinnell)

Ms. Lucinda Aja. City Clerk, City of Buckeye, Arizona. 100 N Apache Rd, Suite A, Buckeye, AZ 85326. Phone (623) 349-6007. Fax (623) 349-6098. EMail: laja@buckeyeaz.gov.

Conclusion

Since its founding NDC has been the preeminent company in the nation devoted to local election systems. To summarize:

- NDC, founded in 1979, has a demonstrated record of financial solvency.

- NDC's hardware and software resources were specially designed and acquired for districting and redistricting purposes.
- NDC's highly respected personnel have impeccable credentials in each aspect of the districting and redistricting processes.
- NDC's suggested approach has been tested in many jurisdictions.
- Any NDC client can be contacted for testimonials and reference.
- NDC has more experience in the field of municipal political election systems than any other company of which NDC is aware.
- NDC has demonstrated experience over many years in working with the press and media on local election system issues.
- NDC possesses fully up-to-date and highly effective geographic retrieval systems with applications specifically designed for districting and redistricting.
- Neither the Justice Department nor any Court has ever rejected any local government districting or redistricting plan submitted by NDC.

It should be clear that NDC has all of the resources of experience, technical expertise, and legal/political know-how to assist the City in its current effort. NDC looks forward to the opportunity to work with the City on this project.

Proposal Acceptance

The terms of this proposal are available for 45 calendar days from its delivery to you. In most situations, NDC is open to extending that period of time to meet any particular needs of your jurisdiction.

NDC prides ourselves on tailoring each project to the needs and goals of each individual client. NDC is open to any feedback, concerns, requests, or changes regarding this proposal. If, however, it is acceptable in its current form, then NDC welcomes the opportunity to begin work as soon as possible.

If your jurisdiction has specific contract and/or letter of agreement language you prefer to use, please provide it and ignore the signature block below. If you prefer, simply sign two copies of this proposal in the signature block below and return them to NDC. Once signed by NDC, one copy will be returned to you. Thank you.

For National Demographics Corporation	For the City of Banning
_____	_____
Douglas Johnson, President	
_____	_____
Date	Date

Douglas Mark Johnson

P.O. Box 5271
Glendale, CA 91221
djohnson@NDCresearch.com

mobile: (310) 200-2058
office: (909) 624-1442
fax: (818) 254-1221

Employment

President, National Demographics Corporation, 2006 – present.
Senior Analyst, National Demographics Corporation, 2001 – 2006.
Fellow, Rose Institute of State and Local Government, 2001 – present.
Project Manager and Senior Manager at three internet startup companies, 1999 - 2001.
U.S. Representative Stephen Horn, Legislative Director and System Manager. 1993 – 1997.
Coro Foundation, Fellowship in Public Affairs. 1992 – 1993.
Rose Institute for State and Local Government, Student Manager. 1989 – 1992.

Education

Claremont Graduate University, Ph.D. in Political Science, 2015. Dissertation: "Independent Redistricting Commissions: Hopes and Lessons Learned."
UCLA Anderson Graduate School of Management, MBA, 1999.
Claremont McKenna College, BA in Government (Political Science), 1992.

Academic Honors

Graduated Cum Laude from Claremont McKenna College.
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

Publications and Articles

Christian Science Monitor "Let the public help draw voting districts," October 25, 2013.
New York Times, "The Case for Open Primaries," February 19, 2009.
Los Angeles Times Opinion Articles:
"A neighbor's help on redistricting" June 24, 2007.
"A Trojan horse primary for the GOP" February 25, 2007.
"Where a porn palace stood" (article on redevelopment), July 30, 2006.
Fresno Bee Opinion Article: "The Poison Handshake" June 15, 2004.
Redistricting in America. Rose Institute of State and Local Government, 2010.
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
"Competitive Districts in California" Rose Institute of State and Local Government, 2005.
Latinos and Redistricting: "Californios For Fair Representation" and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.

Speaker or Panelist

California School Board Association Annual Education Conference panelist: "The California Voting Rights Act: What Board Members Must Know." December 4, 2015.
Associated Cities of California – Orange County, Keynote Speaker, Newly Elected Officials' Reception and Dinner, "The California Voting Rights Act," January 29, 2015.
California League of Cities, City Manager Department, 2015 Department Meeting: "Opportunity to Engage Residents: The California Voting Rights Act." January 29, 2015.
California League of Cities, City Clerk Department, 2014 Annual Meeting: "Whose Line Is It Anyway: Making the transition from at-large to by-district elections." September 3, 2014.
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, "The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."

Douglas Mark Johnson

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."

Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.

Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.

Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.

Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010

California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009

Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.

California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.

Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government

Texas Tech University, "A Symposium on Redistricting," May, 2006

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007

Classroom speaker at Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College



National Demographics Corporation

Resume of Justin Levitt

P.O. Box 5271
Glendale, CA 91221
jlevitt@NDCresearch.com

mobile: (480) 390-7480
office: (909) 624-1442
fax: (818) 254-1221

Employment

Vice-President, National Demographics Corporation, 2012 – present.
Senior Analyst, National Demographics Corporation, 2003 – 2011.
Instructor in Political Science, University of California, San Diego, 2012 – present.
Graduate Research Fellow, Center for US-Mexico Studies, 2010 – present.
Graduate Research Fellow, University of California, San Diego, 2008 – 2010 and 2013 - 2014.
Jesse M. Unruh California Assembly Fellow. 2006 – 2007.
Rose Institute for State and Local Government, Student Manager. 2005 – 2006.

Education

University of California, San Diego, Ph.D. candidate in Political Science, ongoing (MA 2010).
Claremont McKenna College, BA in Philosophy, Politics and Economics (PPE), 2006.

Academic Honors

California Studies Fellow, University of California, San Diego, 2007 – 2009
Graduated Cum Laude from Claremont McKenna College.

Publications and Conference Presentations

Settle, Jamie, Robert Bond, and Justin Levitt. 2011. "The Social Origins of Adult Political Behavior." American Politics Research: 39 (2). 239-263

Miller, Kenneth and Justin Levitt. 2007. "The San Joaquin Valley." In The New Political Geography of California. Eds. Frederick Douzet, Thad Kousser, and Kenneth Miller. Berkeley: Institute of Government Studies.

"The Political Geography of Tradeoffs in Redistricting" Paper presented at the State Politics and Policy Conference, Iowa City, IA, 2013

"Getting What You Want: A Bargaining Approach to Fair Division in Redistricting." Paper presented at the "Challenging Urban Borders : the geopolitics of immigration and segregation" workshop, Berkeley, CA, 2013 and the State Politics and Policy Conference, Houston, TX, 2012

"An Atlas of Public Health in Mexico" (with Alberto Diaz Cayeros). Paper presented at the Hewlett Foundation Conference on Public Health, Mexico City, DF. 2012

"Remoteness and the Territoriality of Public Health" (with Alberto Diaz Cayeros). Paper presented at the American Political Science Association conference, Seattle, WA. 2011

"Initiatives as revealed preferences" Paper presented at the American Political Science Association conference, Seattle, WA. 2011

"No Se Puede: Latino Political Incorporation in Phoenix.". Paper Presented at the New Political Geography of California conference, Berkeley, CA., 2009

"Political Change in the Central Valley". Paper Presented at the Western Political Science Association conference, Las Vegas, NV.,2007

THIS PAGE LEFT BLANK INTENTIONALLY

AGREEMENT FOR CONTRACT SERVICES

By and Between

CITY OF BANNING

and

NATIONAL DEMOGRAPHICS CORPORATION, INC.

March ___, 2016

AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF BANNING AND
NATIONAL DEMOGRAPHICS CORPORATION, INC.

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this ____ day of _____, 2016 by and between the City of Banning, a California municipal corporation ("City") and National Demographics Corporation, Inc, a California corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties".

RECITALS

A. City received correspondence alleging that the electoral process whereby the City elects members of the City Council may violate the federal and California Voting Rights Acts ("CVRA").

B. In order to determine whether the concerns expressed require action on the part of the City and to justify necessary findings to permit the proposed change from an at-large electoral system to a district-based electoral system, the City must have evidence that such a change is warranted and that it will promote the interests of the CVRA.

C. Determining compliance or violation of the CVRA requires special expertise and that few consultants have. In California one entity that has addressed virtually all challenges to at-large electoral systems and development of district-based electoral systems that meet the legal requirements of the CVRA is the Consultant, National Demographics Corporation, Inc..

D. The Consultant has negotiated a proposal for the performance of the services that defined and described particularly in Article 1 of this Agreement in a not to exceed sum of $8,000 in costs, and the City Manager has determined that it is in the best interests of the City to retain the Consultant to perform those services as permitted under Section 3.24.090(C) of the Banning Municipal Code for professional services contracts.

E. 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 for Level 1 in the "Scope of Services" which is attached hereto as Attachment A and is incorporated herein by this reference, which 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 both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Services and Estimate of Costs shall include the Consultant's scope of work as set forth in Attachment A and is hereby incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve

work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant'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 Level 1 of the Scope of Services and 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 costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. City Council must approve Contract Sum increases when the proposed amendment will increase cumulative costs to over $25,000. Where Agreement is for less than $25,000, Contract Officer may approve Contract Sum increases. Any extension in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any increase in the Contract Sum must be approved by the City Council. Any extension in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater extension in time, taken either separately or cumulatively, must be approved by the City Council if City Council approval was required to enter into this Agreement. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Level 1 of the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to Level 1 of 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 consultants. 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.

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 Level 1 of the Scope of Services attached hereto as Attachment A and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Eight Thousand Dollars ($8,000) (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 Scope of Services, 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.

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 shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; 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 City for 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 Scope of Services attached hereto as Attachment A and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

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

3.4 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 Scope of Services (Attachment A)

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

Douglas M. Johnson	President
Justin Levitt	Vice President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall 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.

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 the City Manager or 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 AND INDEMNIFICATION

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) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for products and completed operations, bodily injury, personal & advertising 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 worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant 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, hired cars and any automobile.

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 may 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. Moreover, 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 notice to the City in accordance with policy terms and conditions. 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.

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 ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

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

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

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

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

5.4 Sufficiency of Insurer.

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's 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 three (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. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

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. Moreover, Consultant with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

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 the County of Riverside, State of California.

7.2 Disputes; Default.

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

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's

obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

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

7.5 Rights and Remedies are Cumulative.

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

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall 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 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.

7.8 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.

7.9 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 affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)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, gender, sexual orientation, 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 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 (with her/his name and City title), City of Banning, 99 East Ramsey Street, Banning, California 92220 and in the case of the Consultant, to the person(s) 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 Warranty & Representation of 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 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 interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/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 City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

9.7 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.

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

_____

Art Welch, Mayor

ATTEST:

_____

Marie Calderon , City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

_____

Anthony Taylor, City Attorney

CONSULTANT:

NATIONAL DEMOGRAPHICS, INC.

By:_____
Name: Douglas M. Johnson
Title: President

By:_____
Name: Douglas M. Johnson
Title: Secretary

Address: P.O. Box 5271
Glendale, CA 91221

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. 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 ACKNOWLEDGMENT

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

COUNTY OF RIVERSIDE

On _____, 2015 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER

_____
TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
TITLE OR TYPE OF DOCUMENT

_____
NUMBER OF PAGES

_____
DATE OF DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

_____
_____

_____
SIGNER(S) OTHER THAN NAMED ABOVE

ATTACHMENT A

NATIONAL DEMOGRAPHICS CORPORATION

SCOPE OF SERVICES

Proposed Scope of Work

Each level of work is a discrete and separate part of this proposal. As each level is complete, NDC will consult with the City on the decision whether to proceed with the next level, skip to a later stage of review, or to decide the review is complete. NDC will only proceed from one level to the next on direction from the City. The City can end the project after any level is complete, or the City can choose to skip levels as it wishes. NDC understands that initially the City is only committed to do Level 1 for a not to exceed cost of $8,000. Proceeding to any other level will require authorization by the City in accord with Section 1.8 of the Consultant Agreement.

Level I – Analysis of Demographics, Elections and Test Maps

Task A: Create the Demographic Database

This database will include 2010 Census data on total population and voting age population counts by race and ethnicity; California Statewide Database data on 2010 voter registration and turnout by Spanish- and Asian-American surnames; either Statewide Database, or, if that is not available in time, County Registrar current voter registration turnout records processed by NDC to identify Spanish- and Asian-American surnames; American Community Survey data on Citizens of Voting Age by race and ethnicity (also known as "eligible voters") from the latest Census Bureau reports (five-year data from 2009-2013).

In 2011, jurisdictions and demographers could get Citizen Voting Age data (also referred to as "eligible voter" data), broken down by race and ethnicity, from the California Statewide Database (assuming the jurisdiction or its consultant necessary software and expertise). The challenge today is that the Statewide Database data, posted in 2011, were processed using the 2005-2009 data from the American Community Survey. The Statewide Database data is now significantly out of date: the Census Bureau has released two annual updates to the data, and those updates included what the Census Bureau calls a "re-balancing" of the data using statistical controls from the 2010 Census, instead of the 2000 Census statistical controls used for the 2005-2009 data. NDC's research has found that the new data is more significantly more accurate thanks both to being more up to date and to the greatly increased accuracy of the updated statistical controls. The Statewide Database has no known plans to update its American Community Survey data on Citizens of Voting Age by race and ethnicity (used by the 9th Circuit Federal Courts as the best count of "eligible voters") until the 2021 redistricting cycle.

Task B: Elections Database

Task: NDC will compile a list of 2001 - 2012 election results for all City elections; for elections for overlapping school district, county and state elections that involved "protected class" candidates; and for measures placed on the ballot by the City. NDC will work with the City to identify/confirm the ethnicity of the various candidates in these elections.

Timeline: Depends on City's ability to identify ethnicity of candidates, but NDC will deliver the list of elections and candidates for identification within one (1) week.

Task C: Test Map(s)

Task: NDC will analyze whether it is possible to draw one or more majority-minority districts in the City based on each of the following demographic databases:

- 2010 and 2012 general election voter turnout by surname
- 2010 and 2012 general election voter registration by surname
- Citizen Voting Age Population (2009-2013 Department of Justice Special Tabulation)
- Citizen Voting Age Population (2009-2013 American Community Survey)
- Voting Age Population (2010 Census)
- Total Population (2010 Census)

Level 1 Deliverables:

- Spreadsheet of City demographics in electronic and PDF format (NDC)
- Table listing elections, candidates, candidate ethnicity, and total votes (count and percentage) for each election collected. The table will be accompanied by a summary of which "protected class" candidates ran and whether they won or lost each election. The City will receive the report in PDF format.
- Demographic data on test district(s) and PDF map of test district (s).

Level 1 Timeline: Three weeks.

Cost: $4,500, plus $2,000 per in-person meeting day (if any are needed).

Next Steps:

At the completion of the Level I, the City can decide whether or not to proceed with Level II, to jump to a later project level, or to consider the project complete. NDC will not proceed with any additional work beyond Level I without written direction from the City.

Level II—Racially Polarized Voting Analysis of Local and/or Statewide Elections (if necessary)

Task: Analysis of potential racially polarized voting patterns in key statewide elections between 1994 and 2012.

This includes:

- Analysis of Propositions 187, 209, 227 and 54, along with 2003 Governor's election, 2006 Insurance Commissioner, 2010 Lieutenant Governor and 2010 Superintendent of Public Instruction elections. In heavily-Democratic areas with multiple significant "protected class" populations, some Democratic primary elections may be included as well.
- Homogeneous precinct analysis of election results
- Ecological Regression analysis of election results

Deliverables: List of the elections analyzed, scattergram of election data, and tables of regression and homogeneous precinct analysis data.

Cost: $900 per election contest analyzed, plus $2,000 per in-person meeting day (if any).

Timeline: three weeks.

Next Steps:

At the completion of the Level II work, the City can decide whether or not to proceed with Level III, to jump to a later project level, or to consider the project complete. NDC will not proceed with any additional work beyond Level II without written direction from the City.

Level III - Creating District Maps (if necessary)

To provide the flexibility to meet the needs of the City if it decides to move to by-area elections, NDC offers a full menu of districting options:

Basic Districting Project Elements

Includes all of the services listed below: $16,000

- Informal, in-person and/or phone meetings with Board members and key staff *[by conference call included, or in-person for the "per meeting" fee below.]*
- Mapping of current Board member addresses and any other spreadsheet or GIS data provided by the City.

- Creation of 2 or 3 initial "NDC draft for public discussion" plans. This includes providing PDF versions, 8.5x11" maps, and one 3'x4' plot of each plan.
- Online hosting of plan maps allowing interactive review of proposed plans
- Conversion of all maps and reports to web-friendly versions for posting on City website, including Google Earth KML files for all plans
- Implementation of plan minor revisions / emendations
- Presentations at Public Forums and/or Council meetings *[by conference call included, or in-person for the "per meeting" fee below.]*
- Implementation of adopted plan with County Registrar of Voters

Optional Districting Project Elements

Selected at the City's discretion:

- In-person presentation at additional Council meetings and/or facilitation of public forum(s)..... $2,000
- Preparation and processing of paper, PDF and Excel-based "public participation kits" (paper kits that allow the public to draw and submit their own plans; see www.drawbp.org/draw-a-map/ for an example)..... $2,500
- Creation, hosting, and updating of an NDC--managed project information website (if the City does not wish to manage a project website as part of its existing website; see www.DrawBP.org for an example). $3,500
- Hosting, managing and processing submitted plans for an online interactive system that allows public to draw and submit proposed district maps through a standard web browser..... $11,000
- Spanish translation of project-related materials..... $125 per page

Stated prices include all travel, printing (except public participation kits and any large-plot maps), and other anticipated expenses.

Timeline: Level IV (Creating District Maps) ***timeline will be established in consultation with the City.***

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

Additional Analysis

NDC is happy to assist with any additional analysis that the City requests at our standard hourly rates:

President (Dr. Douglas Johnson)..... $200 per hour
Vice President (Justin Levitt)..... $125 per hour
Senior Analyst..... $75 per hour
Analyst / Clerical..... $50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at $250 per hour.

Requested Payment terms:

NDC requests that one-half payment be made at the start of each project "level" and the remainder at the conclusion of each level. NDC will provide appropriate invoices.

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

MEETING DATE: March 22, 2016

SUBJECT: **Consideration of Removal and Replacement of Planning Commissioner David Ellis pursuant to Banning Municipal Code Section 2.28.020(c) and Section 6.4 (c) of the Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings for the City of Banning**

RECOMMENDATION:

At the request of the Mayor this item is being brought to the full City Council for the consideration of removing Planning Commissioner and Chair David Ellis pursuant to the Banning Municipal Code (BMC) Section 2.28.020(c) and under Section 6.4 (c) of the Manual of Procedural Guidelines for the Conduct of City Council and Commission meetings.

JUSTIFICATION:

The BMC Section 2.28.020 (c) reads: *"Members of the Planning Commission shall serve at the pleasure of the council and may be removed at any time by a majority vote of the entire council."* The Code of Conduct for council and commission meetings under Section 6.4 (c) reads in part: *"Absent any other provision to the contrary, members of any non-City organization, or City Committees, boards or commissions may be removed by the Council without cause by a majority vote of the whole Council body. Any member of the City Council may place the question of such removal on the agenda."*

BACKGROUND:

David Ellis was appointed to the Planning Commission on April 23, 2013 and has been serving as the Chair of the Commission since November 4, 2015.

OPTIONS:

1. Retain the services of Mr. Ellis
2. Remove Mr. Ellis with a majority vote of the entire council per the BMC Section 2.28.020

FISCAL IMPACT:

There is no direct fiscal impact.

ATTACHMENTS:

Exhibit A: Banning Municipal Code Section 2.28.020 (c)

Exhibit B: Manual of Procedural Guidelines for the Conduct of City Council and Commission meetings for the City of Banning Section 6.4

Prepared by:

Michael Rock
City Manager

Chapter 2.28

PLANNING COMMISSION

Sections:

2.28.010	Planning commission—Membership requirements.
2.28.020	Term and vacancies.
2.28.030	Compensation.
2.28.040	Rules of procedure.
2.28.050	Duties and responsibilities.
2.28.060	Conflict of interest requirements.
2.28.070	Staff liaison.
2.28.080	Meeting times and places.
2.28.090	Adoption.

2.28.010 Planning commission—Membership requirements.

A. Members of the planning commission shall be residents of the City of Banning who hold no other municipal office in the city. Members may not be employees of the city.

B. Proof of residency shall be submitted at time of application to the commission through voter registration, utility bill at a physical address within the city boundaries. Residency shall be confirmed prior to appointment and maintained throughout the term served. (Code 1965, § 2-5.)

2.28.020 Term and vacancies.

A. The planning commission shall consist of five members.

B. Planning commissioners shall serve four-year terms, which shall be staggered every two years concurrent with the city elections. Appointments shall be made by the city council. Applications shall be made available and the closing date announced at least two months prior to the expiration of the commissioner's term to be filled.

C. Members shall serve at the pleasure of the council and may be removed at any time by a majority vote of the entire council.

D. Any member who is unexcused for two consecutive regular meetings of the commission or six meetings within a twelve-month period, whether the six meetings are excused or not, will be deemed to have resigned their office and the city council may appoint a new member to serve in the resigned commissioner's place for the remainder of their term.

E. To be excused from any such meeting, a member shall notify the planning department, at least forty-eight hours prior to any such meeting. If a member is unable to attend due to illness, injury or family matters, a statement by the member at the next regular meeting of the commission shall constitute an excused absence. (Code 1965, § 2-6.)

2.28.030 Compensation.

A. Members of the planning commission shall not receive compensation; reasonable traveling expenses to and from conferences and/or special field trips and training sessions shall be reimbursed.

B. Upon authorization by the city manager, the planning commission and members of its staff, may attend city planning conferences or meetings, or hearings on city planning legislation, or matters affecting the planning of the city. The reasonable expenses of such attendance shall be charged upon the funds allocated to the commission.

C. All fundings shall be established through the City of Banning budget, which shall be approved by the city council. (Code 1965, § 2-7.)

2.28.040 Rules of procedure.

A. A quorum of the planning commission shall consist of a majority of the members (including any vacancies). A quorum must be present in order for the planning commission to hold a meeting.

B. In the event that only three commissioners are present, any actions recommending amendment to the Municipal Code or general plan must be unanimous; all other actions would require a majority vote of the commission in attendance. A tie vote shall constitute a denial of the matter or request brought before the planning commission.

C. The commission shall adopt rules for the transaction of business and shall keep a record of its transactions, findings, and determinations. The Brown Act and "Robert's Rules in Plain English" by

6.3 Consent Items

Matters of a routine or generally uncontested nature and non-controversial, shall be placed on the agenda as Consent Items and may be approved by the Legislative Body in a single motion by adoption of the Consent Calendar. The approval of the Consent Calendar shall signify the approval of each matter or recommendation included therein. All matters on the Consent Calendar shall be the subject to public comment procedures in Article VII. Upon the request of any member of the Legislative Body or upon the request of a member of the public made through the Presiding Officer, a matter may be removed from the Consent Calendar for separate discussion and/or action. Any such item shall be considered as part of the Excluded Consent Calendar. Each matter proposed for consideration as part of the Consent Items, including any recommended action, shall be described on the notice and agenda posted for the meeting. The following matters are not appropriate for the Consent Calendar:

(a) Ordinances shall not be placed on the Consent Calendar for approval unless the ordinance has first been read or the reading of the ordinance has been waived as required by law.

(b) Any matter where the City Manager believes (i) it unlikely that there would be unanimous approval by the Legislative Body, or (ii) there is likely to be public comment on the matter, or (iii) a public presentation of the matter would be beneficial to the community.

6.4 City Representatives and Advisory Bodies *(City Council Only)*

(a) From time to time the Council may be required to assign a representative of the City to non-City boards, commissions or organizations (e.g., boards or commissions of another agency or joint powers authority). Except as otherwise required by law or by the policies of the non-City organization, the Mayor shall make all such appointments of City representatives on non-City organizations after consultation with the City Council. Council appointments to non-City organizations shall be considered and made with the goal of keeping the appointee in the organization for a long enough period of time that the appointee may gain seniority and/or a position of leadership within the organization. This goal shall be construed to mean that the same appointee should remain within a non-City organization for at least two years where reasonably possible and convenient for said appointee. Nothing herein, however, shall be construed to limit or waive the City Council's power to remove appointees pursuant to subsection (c) below.

(b) The City Council shall have the power to establish advisory committees, commissions, other Legislative Bodies and Non-Governing Bodies. Any committee which is (i) established by ordinance, resolution or other formal action, or (ii) has a fixed regular meeting schedule, or (iii) has continuing subject matter jurisdiction over a non-temporary issue, or (iv) which continues to conduct business in excess of 180 days, or (v) has a majority membership of officials from other Legislative Bodies, shall be subject to the provisions of the Brown Act.

Advisory bodies and committees may take the following form:

i) The Council may, as the need arises, authorize the appointment of "ad hoc" Council committees composed of two members. Except where otherwise specifically provided by law, the Presiding Officer shall appoint the members of the Council committees, subject to the approval of the Council. Any committee so created shall cease to exist upon the accomplishment of the special purpose for which it was created or when abolished by a majority vote of the Council.

ii) The Council may, subject to the Brown Act, create other committees, boards, and commissions, whether Legislative Bodies or Non-Governing Bodies, to assist in the conduct and operation of the City government with such jurisdiction and duties as the Council may specify. Except as otherwise required by law, the Mayor shall make appointments of members to such committees, boards or commissions subject to the approval of the Council. The procedure of filling vacancies and provision of notice thereof shall be subject to the provisions of the Maddy Act (Government Code §§ 54970-54974).

iii) Sub-Legislative Bodies, including Non-Governing Bodies, shall be responsible for reporting the Body's activities to the City Council. The members of a Sub-Legislative Body or Non-Governing Body shall operate within the jurisdiction established by the Council and shall not have authority to make subcommittees unless specifically granted such authority by action of the full City Council. Staff members may be assigned to assist any Council-created committee by the City Manager; staff members so assigned shall not be members of the committee unless specifically appointed as such by action of the full Council.

(c) Absent any other provision to the contrary, members of any non-City organization, or City committees, boards or commissions may be removed by the Council without cause by a majority vote of the whole Council body. Any member of the City Council may place the question of such removal on the agenda. Any committees, boards, or commissions so created may be abolished by a majority vote of the whole Council body by repeal of the enacting ordinance or resolution.

6.5 Budgets

The City Council shall have the power to approve the City budget, and each Legislative Body shall have the power to approve the budget of funds specifically apportioned to control of that Legislative Body (e.g., the Successor Agency Board shall approve the budget of the Agency and the Housing Authority Board shall approve the budget of the Authority). Approval of the budget constitutes approval of a proposed plan of expenditures and revenues. It does not constitute an authorization for expenditures. With respect to any given expenditure the applicable procedure shall be followed. Further adoption of the budget does not, unless otherwise specified by resolution, constitute authorization for any specific employment class or position.

6.6 Items from Members

(a) There is a specific item on the agenda for receiving general comments, announcements, and/or suggestions from members of the Legislative Body. This can be used to inform the public concerning upcoming events, report on members' attendance at conferences

THIS PAGE LEFT BLANK INTENTIONALLY

CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: **BANNING UTILITIY AUTHORITY**

FROM: **Michael Rock, City Manager**

PREPARED BY: **Art Vela, Public Works Director**
Holly Stuart, Management Analyst

MEETING DATE: **March 22, 2016**

SUBJECT: **Adopt Resolution No. 2016-03 UA, "Awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services"**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution No. 2016-03 UA and approve the following actions:

1. Approve a Professional Services Agreement with Stoel Rives, LLP of Sacramento, CA in the amount of $110,000.00 for Legal Counsel Services.

2. Authorize the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Professional Services Agreement for Legal Counsel Services.

3. Authorize the City Manager to execute the Professional Services Agreement with Stoel Rives, LLP for Legal Counsel Services.

JUSTIFICATION:

Legal counsel expertise is necessary in order to assist the City in Federal Land Use, Water Law, Federal/State policies and Land Rights as it relates to the flume project. Legal counsel will advise the City during the process to transition the water rights, interests and responsibilities of the flume to the City and Banning Heights Mutual Water Company ("BHMWC"); secure long-term special use, right-of-way or other applicable permit and authorizations from the US Forest Service ("USFS"); assist the City during the preparation of the applicable California Environmental Quality Act ("CEQA") and National Environmental Policy Act ("NEPA") documents; assist in the compliance with the regulations of several state and federal agencies;

and secure ownership interests, easement and/or right-of-way for the location, replacement, construction, operation and maintenance of the flume.

Legal counsel is also needed to advise the City during negotiations with other water agencies in relation to California's 2014 Sustainable Groundwater Management Act ("SGMA").

BACKGROUND:

The City of Banning continues to work with the Participating Entities (BHMWC, San Gorgonio Pass Water Agency and Southern California Edison), the USFS and Federal Energy Regulatory Commission on the flume project in order to retain and restore the flume to ensure the flume continues to deliver water to the Banning Water Canyon.

Water delivered by the flume is the primary source of water for the BHMWC and a valuable source to the City of Banning for the reason that the water delivered by the flume is also used to recharge the Water Canyon storage unit, which the City produces a third of its water from.

It has been determined that legal representation from a firm specializing in Federal Land Use, Water Law, Federal/State policies and Land Rights is essential in assisting the City to navigate through the legal complications of the project. Specifically, legal counsel will advise the City during the process to transition the water rights, interests and responsibilities of the flume to the City and BHMWC; secure long-term special use, right-of-way or other applicable permit and authorizations from the USFS; assist the City during the preparation of the applicable CEQA and NEPA documents; assist in the compliance with the regulations of several state and federal agencies; and secure ownership interests, easement and/or right-of-way for the location, replacement, construction, operation and maintenance of the flume.

Additionally, legal counsel is needed to advise the City during the negotiations with other water agencies within the San Gorgonio Sub-Basin which extends from the City's westerly city limits to approximately the easterly limits of Cabazon. The negotiations, which relate to California's 2014 SGMA, will include Morongo Band of Mission Indians, Cabazon Water District, Mission Springs Water Agency, Desert Water Agency, and San Gorgonio Pass Water Agency.

SGMA requires the designation of groundwater sustainability agencies ("GSA") and the adoption of groundwater sustainability plans ("GSP"). GSAs will consist of a body made up of multiple basin stakeholders and will have the authority to enforce the SGMA provisions. There are many potential challenges that will be faced during the development of the GSA for the San Gorgonio Sub-Basin.

As a result of these needs related to the flume and SGMA, proposals were solicited from qualified firms. In response, the Public Works Department received three (3) proposals from the following companies:

Companies	Ranking
1) Stoel Rives, LLP Attorneys at Law of Sacramento, CA	871.70
2) Downey Brand of Sacramento, CA	833.30
3) Greshman/Savage Attorneys at Law of San Bernardino, CA	781.70

A committee consisting of three (3) members was assembled to evaluate the proposals based on team qualifications, experience/capabilities, project understanding and responsiveness to the RFP. Based on the rankings, Stoel Rives, LLP received the highest score. In addition to receiving the highest score, it should also be noted that the primary attorney that would be assigned to the City by Stoel Rives, LLP has knowledge of the current project, process and water rights which will be beneficial in cutting costs and would shorten the length of time it will take to obtain a thorough project understanding.

Based on the above, staff recommends the contract be awarded to Stoel Rives, LLP, Attorneys at Law. The budget will be set at $110,000.00 for a twelve month period for services related to the Flume and SGMA. Flume related services will be billed according to $6,500/month ($78,000.00 for 12 months). The remaining budget will be allocated for tasks related to SGMA on an as needed basis.

OPTIONS:

1. The City Council may choose to take no action at this time which would result in the absence of legal representation during negotiations related to the flume and SGMA.
2. The City Council may also choose to select a different firm from the three that have been evaluated.
3. The City Council may choose to direct staff to solicit bids from other firms.

FISCAL IMPACT:

The Professional Services Agreement with Stoel Rives, LLP, Attorneys at Law will be funded by the BUA Water Capital Project Fund (663), Account No. 663-6300-471.96-35 (Flume Restoration Project), which currently holds a balance of $332,254.00.

ATTACHMENTS:

1. Resolution No. 2016-03 UA
2. Professional Services Agreement with Stoel Rives, LLP.

Prepared and Reviewed by:

Art Vela,
Public Works Director

Reviewed by:

Rochelle Clayton,
Administrative Services Director/
Deputy City Manager

Approved by:

Michael Rock,
City Manager

ATTACHMENT 1
Resolution No. 2016-03 UA

RESOLUTION NO. 2016-03 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT TO STOEL RIVES, LLP, ATTORNEYS AT LAW FOR LEGAL COUNSEL SERVICES

WHEREAS, the City of Banning continues to work with the Participating Entities (Banning Heights Mutual Water Company, San Gorgonio Pass Water Agency and Southern California Edison) and the United States Forest Service and Federal Energy Regulatory Commission on the flume project in order to retain and restore the flume to ensure the flume continues to deliver water to the Banning Water Canyon; and

WHEREAS, it has been determined that legal representation from a firm specializing in Federal Land Use, Water Law, Federal/State policies and Land Rights is essential in assisting the City navigate through the legal complications of the project; and

WHEREAS, legal counsel is needed to advise the City during the negotiations with other water agencies within the San Gorgonio Sub-Basin related to California's 2014 Sustainable Groundwater Management Act; and

WHEREAS, Public Works staff solicited proposals from qualified firms on February 2, which resulted in the department receiving three (3) proposals from Stoel Rives, LLP Attorneys at Law of Sacramento; Downey Brand of Sacramento and Greshman/Savage Attorneys at Law of San Bernardino, CA; and

WHEREAS, A committee consisting of three (3) members was assembled to evaluate the proposals based on team qualifications, experience/capabilities, project understanding and responsiveness to the RFP and Stoel Rives, LLP received the highest score; and

WHEREAS, under this resolution staff recommends the contract be awarded to Stoel Rives, LLP, Attorneys at Law for a twelve (12) month term in the amount of $110,000.00 with the option to renew for two (2) additional years upon satisfactory annual review of provided services with future contract renewals being brought forth to City Council for final approval; and

WHEREAS, the Professional Services Agreement with Stoel Rives, LLP, Attorneys at Law will be funded by the BUA Water Capital Project Fund (663), Account No. 663-6300-471.96-35 (Flume Restoration Project).

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

SECTION 1. The Banning Utility Authority adopts Resolution No. 2016-03 UA approving the Professional Services Agreement with Stoel Rives, LLP of Sacramento, CA in the amount of $110,000.00 for the term of 12 months for Legal Counsel Services.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and transfers related to Professional Services Agreement for Legal Counsel Services.

SECTION 3. The City Manager is authorized to execute the Professional Services Agreement with Stoel Rives, LLP for the term of 12 months for Legal Counsel Services.

PASSED, ADOPTED AND APPROVED this 22nd day of March, 2016.

Arthur L. Welch, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, Authority Counsel
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution No. 2016-03 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 22nd day of March, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

ATTACHMENT 2
Proposal from Stoel Rives

Response to Request for Proposals for
Legal Counsel Services Prepared for

City of Banning
Public Works Department

Deadline: February 17, 2016

Submitted by

Wesley A. Miliband
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
(916) 319-4676 direct
(949) 232-9731 mobile
(916) 447-4781 fax

STOEL RIVES LLP
ATTORNEYS AT LAW

500 Capitol Mall, Suite 1600
Sacramento, CA 95814
main 916.447.0700
fax 916.447.4781
www.stoel.com

WESLEY A MILIBAND
Direct (916) 319-4676
wes.miliband@stoel.com

February 12, 2016

City of Banning
City Clerk's Office
99 E. Ramsey Street
P.O. Box 998
Banning, CA 92220

Re: Response to RFP for Legal Services

Dear Proposal Evaluators :

Thank you for the opportunity to provide information about our firm regarding the City of Banning's ("City") Request for Proposals for Legal Counsel Services ("RFP") issued in February 2016. We understand the City is seeking to contract with special legal counsel to advise on the City's flume project, protecting City water rights and negotiations related to the Sustainable Groundwater Management Act ("SGMA").

As the enclosed materials demonstrate, Stoel Rives is uniquely qualified to provide advisory, transactional and litigation services to the City, in part because of Stoel's resourcefulness as a larger law firm with a regional, state and national reach but without the traditional fees and disadvantages common of a large law firm. With our San Diego and Sacramento locations (as well as others), we are accustomed to travelling to clients, and just as I was used to an approximate hour-and-a-half "commute" from my old firm to City Hall, much would be the same now by flying in from Sacramento or driving from San Diego. Also, we have an established statewide presence among elected officials and policymakers, federal and state regulators, and various public and private entities, which as you know provides invaluable inroads on politically charged issues such as those related to the flume.

Stoel is the right choice for the City given Stoel's breadth and depth of talent and creativity for generating excellent results while in the process collaborating with the client for focused attention and superior service – when you speak, we listen.

More specifically, I can attest to the various attributes that make Stoel the right law firm that can maximize the City's water resource needs, having joined Stoel in May 2015 and continuing to seek and undertake services for public agencies. Much of my attraction to Stoel has and continues to be its incredible depth and breadth of highly talented lawyers, paralegals and staff, coupled with Stoel's creative vision and nimble approach for attracting and maintaining long-term relationships with clients. Stoel maintains some of the nation's leading practice groups for clients of various types and sizes, including for the environmental issues at the heart of the City's RFP. For example, former FERC Chairman Jon Wellinghoff is now with Stoel, and we have several lawyers who are well versed in FERC proceedings. Also, many of

the lawyers in our California offices focus on pertinent federal issues involving U.S. Forest Service permits, streambed alterations (some issues of which evolved after a new California case published last year), CEQA, NEPA and ESA. In addition to those positive attributes, Stoel's "personality" is that of a friendly confidence – yet aggressive when needed – to tackle and overcome the steepest of challenges, much like helping to guide a client to the summit of a mountain.

Given my exclusive focus on water resources and related evolving issues, coupled with my knowledge of the City's water portfolio, I can provide superior services efficiently for the City, without having to "get up to speed" on legal and regulatory issues or the fact-specific issues facing the City, or having to learn about issues at the expense and risk to the City.

I am uniquely cross-trained as a trial and water resources lawyer, which allows me to know when to work effectively toward agreements and when to strike with or in response to a lawsuit. Not only am I focused on water rights and supply matters, I am very focused on SGMA, the landmark set of laws creating a statewide mandatory regulatory regime for many groundwater basins in California. Over the past year, I have authored articles about SGMA for two prestigious publications, one on a national level and the other for a statewide publication. Also, in conjunction with an environmental consultant, I have developed a four-part webinar series about SGMA, in which we present information and "tips" related to upcoming SGMA milestones. Members of the press contact me from time to time about California's hottest water issues. I also track trailer and spot legislation as the Legislature continues to refine SGMA, with an additional benefit involving my relationships (and those of other Stoel lawyers) with several professionals within and connected to the Legislature.

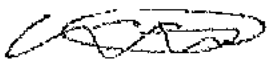
Specific to the City's water needs, and as a reminder, I led the litigation and development of the favorable settlement on behalf of the City in the *Mascaro* lawsuit, in which the Mascaros sought to establish a riparian water right to flume water. I also was instrumental in drafting the Operating and Maintenance Agreement between the City and Banning Heights, and I authored much of the text about the flume that is contained within Section 1.2 of the RFP. I led the City (as well as Banning Heights Mutual Water Company ("Banning Heights") and the San Gorgonio Pass Water Agency ("Pass Agency")) through many "behind the scenes" meetings and public events involving the flume, including the FERC Workshop at City Hall during September 2013 and during the first nine of months of the pending FERC DRD process, illustrating the City's and other agencies' trust in my leadership and judgment as well as my ability to work well with others, be it the City, the City's water partners or the City's adversaries.
All of these things – Stoel's impeccable credentials for pertinent City needs and issues, my focus on water resources and stronghold on litigation skills and my in-depth knowledge of the City's issues and needs – allow Stoel to hit the ground running for success on behalf of the City, with its water needs of today and tomorrow.

In preparation of this response to the RFP, Stoel conducted a complete conflict of interest search, which revealed that no potential or actual conflict of interest exists.

Ultimately, Stoel is thrilled to be considered by the City for services. We hope that the materials contained in this response instill in you the enthusiasm and confidence that we have for being able to serve you efficiently and effectively. We also hope to have the opportunity to work toward a written agreement for our services including for insurance and similar provisions that comply with the firm's insurance carrier requirements.

We are happy to coordinate a time to meet with you and others by phone, by video conference or in person to further discuss how Stoel can serve the City and why Stoel is the right choice for the City and its needs. Please feel free to contact me. Thank you for your consideration of Stoel Rives to serve the City of Banning.

Very truly yours,



Wesley A. Miliband

TABLE OF CONTENTS

Qualifications Statement..... Tab 1

Project Team..... Tab 2

References..... Tab 3

Strategy and Implementation Plan..... Tab 4

Team Biographies..... Tab 5

QUALIFICATIONS STATEMENT

Introduction to Our Firm

Stoel Rives LLP is a U.S. law firm, with a full suite of transactional and litigation solutions for U.S. and international clients. Established in 1907, the firm has nearly 400 attorneys operating out of 11 offices in seven states plus Washington, D.C. Representative clients include financial institutions, public and private utilities, energy and renewable energy companies, developers, manufacturers, retailers, hospitals, universities, agribusinesses, software companies, food and beverage companies, charitable foundations, telecommunications companies and forestry companies, among others. We represent businesses at all stages of growth, from start-ups to Fortune 500 companies.

Stoel Rives is a leader in corporate, energy, environmental, intellectual property, labor and employment, land use and construction, litigation, natural resources and water, real estate, renewable energy and technology law. We achieved 34 prestigious national tier rankings in the *2016 U.S. News – Best Lawyers® "Best Law Firms"* survey. The *2015 Chambers USA: America's Leading Lawyers for Business®* guide ranks 90 of our lawyers among the best in their region. *Best Lawyers In America®* lists 150 of our lawyers in 65 legal practice categories in its 2016 directory, and selected 22 Stoel Rives lawyers as *2016 Lawyers of the Year* in their markets and practice areas.

Our Values

- We will serve leading established and emerging clients, public and private, by providing value-added solutions to their legal needs.
- We will accomplish this goal by providing distinctive client service and forming relationships by combining our specialized expertise, a commitment to excellence, and deep business and industry knowledge.
- We will develop and retain lawyers and staff of the highest caliber.
- We will attain our goals while preserving our culture of commitment to integrity, diversity in all its forms, our communities and each other.

Office and Team Member Locations

Stoel Rives has offices in Anchorage, Alaska; Boise, Idaho; Lake Tahoe, California; Minneapolis, Minnesota; Portland, Oregon; Sacramento, California; Salt Lake City, Utah; San Diego, California; San Francisco, California; Seattle, Washington; and Washington, D.C.

Stoel Rives' **Sacramento office** is the hub of our growing network of statewide legal services, particularly important when serving clients who need readily available access to the legal system, administrative agencies and the legislative network located within the Sacramento area.

Attorneys in Stoel Rives' Sacramento office focus primarily on natural resources, land use and environmental law, corporate transactions and business planning, and litigation services. Areas of emphasis include permitting, compliance, air and water quality, water rights and water resources management, climate change, environmental litigation, labor and employment, finance and myriad aspects of litigation, including product liability, Prop 65 and class actions.

Representative clients include the public sector, businesses involved in thermal and renewable energy, oil and gas exploration and production, mining, timber, agribusiness, retail, manufacturing, hospitality, construction, real estate development, venture capital and emerging growth companies.

Government and private entities doing business in California are also able to draw on a network of services and business contacts provided by our colleagues located in San Francisco, San Diego and Lake Tahoe/Truckee. Our attorneys in those offices offer capabilities in California energy regulatory issues, infrastructure development, real estate leasing and finance, corporate, mergers and acquisitions, finance and taxation.

We are highly capable of collaborating with one another and clients in various ways so that it feels like a singular virtual office of lawyers and staff working together with and for clients.

Our proposed PRIMARY Team is located in our California offices, with SECONDARY specialty Team resources available out of our Portland and Seattle offices, when or if needed for additional support on federal issues that involve the same statutes, regulations and standards, whether in California or another state. Details on each Team member's location can be found in the Team charts at TAB 2.

Curent/Past Public Agency Clients

- **City of Ione** (CA) - Contact: Kim Kerr, former City Manager now with Alliant Insurance, (619) 238-1828
  Stoel Rives previously served as contract City Attorney for the City of Ione; advised all City departments on all legal matters, including compliance with the Brown Act, conflict of interest codes, public contracting requirements, employment and personnel matters, land use and environmental review, code enforcement, public facility operations and charges, and parks and recreation matters; participated in City Council and other public meetings; provided legal advice and assistance for the City's General Plan update and associated EIR, which were not challenged; provided legal advice to and assistance with the City's adoption of a Wastewater Master Plan and associated EIR, which were not challenged; and provided legal advice with respect to securing the necessary permits from the Regional Water Quality Control Board for a wastewater treatment plant expansion and upgrade project.
- **City of Sacramento** (CA) - Contact: Joe Robinson, Senior Deputy City Attorney, (916) 808-2009
  We represent the City of Sacramento in multiple matters, including:

- In defense of a major environmental lawsuit challenging the 2015 adoption of the City's General Plan. (*Citizens for Positive Growth & Preservation v. City of Sacramento, Sacramento County Superior Court*, Case No. 34-2015-80002058.) Should the challenge prevail, planning and future development in the City could be compromised. We have served as CEQA and advice counsel to SHRA and the City of Sacramento with respect to late stage environmental review and all litigation for the Sacramento Railyards. The final two challenges before the Third District Court of Appeal were recently defeated.
- In defense of a peition for writ of mandate by the Natural Resources Defense Council seeking to set aside grant funds for the City's water supply needs. With Wes Miliband serving as the lead, we defeated the petition at the early demurrer stage of the proceedings.
- In currently advising and representing the City, with Wes Miliband as the lead, in the California WaterFix proceedings pending before the State Water Resources Control Board, with these proceedings bearing on the City's water rights and supplies from various surface water sources.

- **County of Colusa** (CA) - Contact: Donald Stanton, County Counsel's Office, (530) 458-8227
  We have represented the County of Colusa on various matters for nearly 20 years, including a joint defense of the County and a private landowner, the Adams Group, in litigation under CEQA, challenging the subdivision of land by Adams. This litigation has resulted in a reported decision upholding all of the County's environmental determinations, save one. (*Rominger v. County of Colusa (2014) 229 Cal.App.4th 690.*) We also continue to represent the County with respect to the proposal for a solid waste landfill on tribal land within the County. The County has long opposed the project due to unmitigated effects on the County. An ancillary challenge is currently under review by the U.S. Department of the Interior, Board of Indian Appeals.

Various lawyers at Stoel Rives have represented public agencies at all levels of governments prior to joining the firm, and the firm represents numerous public agencies located outside of California. Particularly pertinent to the RFP regarding California are agencies that our Team lead, Wes Miliband, has served, including the following:

- **City of Banning** - Contact: Art Vela, Acting Public Works Director, (951) 922-3130
  Wes represented the City of Banning from approximately 2009 through April 2015 on water-related services, including advice on stormwater/NPDES compliance and advice, transactional and litigation services on matters involving the flume such as the *Mascaro* litigation involving water and real property rights (Wes helped secured access rights to the Mascaros' property for anticipated flume maintenance and operational needs) and meetings with SCE, the U.S. Forest Service and other stakeholders for successfully fixing and transferring the flume to Banning Heights and to the City.
- **City of Carson** - Contact: Glen E. Tucker, former Partner of Wes, (310) 625-4565
  Helped defend the City in complex risk-management litigation involving public right-of-away issues involving the death of a train employee. Wes helped try a three-week jury trial in Compton, including

cross-examiniation of the plaintiffs' experts. As a result, the City's liability was limited to 20% – signficantly less than some anticipated.

- **City of Cypress** - Contact: Doug Dancs, P.E., Director of Community Development (includes Public Works), (714) 229-6740
  Advised and assisted the City of Cypress on water-related services involving rate-setting proceedings by the investor-owned and PUC-regulated purveyor Golden State Water Company, and assisted with a recycled water project involving "service duplication" and right-of-way issues between the City, the local water purveyor and a local cemetary. The project proceeded forward with receiving grant funding.

- **City of Hesperia** - Contact: Mike Podegracz, City Manager, (760) 947-1018
  Assisted the City and its water department with water resource planning and a landmark complex water rights transaction involving a $32 million purchase of adjudicated water rights in the Mojave Basin from a bankrupt developer. One year later, the deal proved to be a prudent investment as water supplies became more limited and market costs for purchasing water increased. Wes also revised the water department's rules and regulations.

- **City of Irwindale** - Contact: William Tam, Director of Public Works and City Engineer, (626) 430-2211
  Helped lead litigation efforts involving large mining pits that were being reclaimed by operators for which the City contended were infilling the pits improperly such that end land use could not support the City's desired uses for mixed land-use projects involving commercial and residential developments. Intense litigation ensued for years, with a settlement eventually reached.

- **City of Perris** - Contact: Ron Carr, Assistant City Manager, (951) 943-6100
  Assisted the City and the Perris Public Utility Authority with water-related services from approximately 2010 through April 2015 on matters arising from the City's acquisition of a water system and water rights. Wes led efforts, in consultation with water engineers, to prepare an application to the State Water Resources Control Board for an appropriative permit, which led to contested proceedings and two different lawsuits. After various adversarial efforts in administrative and judicial forums, Wes helped position the matters for favorable settlement discussions, with all protests on the water permit application being resolved and the two lawsuits being resolved on terms favorable to the City and utility authority.

- **City of Rialto** - Contact: Marcus Fuller, Public Works Department, now Assistant City Manager and City Engineer for the City of Palm Springs, (760) 322-8380
  Lead defense counsel for the City of Rialto in a complex water lawsuit involving enforcement of a 1965 decree for the Rialto Basin as well as adjudication of the larger Rialto-Colton Basin. Complicating the matter are water-quality issues arising from VOC and prior PCE contamination for which the federal and state EPAs issued abatement orders. Wes was entrusted by other legal counsel similarly aligned with the City's interests to argue for a preliminary injunction, which involved a four-hour hearing, with the court ultimately granting the motion for a preliminary injunction. Though the lawsuit is ongoing, Wes's work ended during April 2015.

- **Bighorn Desert View Water Agency** - Contact: Marina West, General Manager, (760) 910-3264
  Interim General Counsel during 2011. Assisted the district with general public agency issues, much of which entailed the Brown Act and Public Records Act. Wes helped negotiate the terms and agreement for what is commonly known as the Ames/Reche Groundwater Storage and Recovery Program, which is a collaborative effort among five participating water agencies for replenishing groundwater through a non-traditional project promoting environmental biodiversity and preservation of open space. The project involved connecting the Ames Groundwater Basin to the State Water Project via a 3,650-foot conveyance pipeline to recharge up to 1,500 acre-feet annually on six acres of federally managed land. The project won the prestigious 2015 Clair A. Hill Water Agency Award from ACWA.

- **Jurupa Area Recreation and Park District** - Contact: Dan Rodriguez, General Manager, (951) 361-2090
  Assisted with General Counsel services from approximately 2013 to 2015 (General Counsel Bob Owen, (951) 789-2690)), including attending Board meetings, advising management and the Board on water, land use and public agency issues. Provided training to the Board on AB 1234 (ethics), the Political Reform Act (and "1090" conflict issues), the Brown Act and the Public Records Act. Helped craft a joint use agreement with the adjacent special district for park maintenance responsibilities, and sharing risk.

- **Laguna Beach County Water District** - Contact: Rich Mathis, former Operations Manager, now General Manager of Central District of Golden State Water Company, (714) 293-9522
  Served as General Counsel to this public water purveyor, requiring advice to the Board, Commisison, management and staff on general public agency issues with many projects involving public contracting issues, related risk management issues and CEQA compliance. One such project involved the Sweany pipeline rehabilitation project in which CEQA was triggered and more complex due to the project being located in a coastal zone on State Parks land. Wes helped lead the district through the CEQA and public contracting process, which was successfully completed. Wes also helped lead the district through the Prop 218 water rate increase process, which also was successfully completed.

- **Phelan Pinon Hills Community Services District** - Contact: Don Bartz, General Manager, (760) 868-1212
  Lead trial counsel through three phases of trial over four years in California's largest groundwater adjudication in its history, known as the Antelope Valley Groundwater Cases. Wes represented this public water purveyor, which was challenged by virtually every other party, given the unique legal and factual issues underlying the district's water right and related claims. Wes's efforts led to the court allowing the district to continue to use the high capacity well at issue (rather than force it to shut down).

- **San Luis Rey Municipal Water District** - Contact: Vic Pankey, President, (760) 468-2871
  Served as General Counsel for approximately four years to this district that does not serve water, but instead acts as a groundwater management agency for the benefit of its landowners, who are mostly farmers. Wes provided advice on general public agency issues and led efforts involving deannexation of property and protection of landowner water rights, including advice regarding SGMA. During 2014, when the district was in need of special legislation, Wes rewrote an existing statute relating to the district's

water availability charge, obtained legislative support and attended Assembly and Senate hearings on the bill (he spoke at the Assembly hearing). The bill was signed by the Governor.

Overview: Water Rights and Supplies Practice

The Stoel Rives Water Rights Team helps clients with a broad range of water allocation and management issues. We have a long track record of successfully assisting clients in acquiring and transferring water rights, protecting water rights from forfeiture or other third-party challenges, and providing strategic planning for water resources management, whether based on water rights or water-supply agreements. We provide the unconventional thinking necessary for successful advocacy in today's challenging and evolving water resources regulatory environment, which is further complicated during times of persistent and severe drought.

Our clients include municipalities and utilities, ports, irrigation districts, water control districts and other special districts, a trade association representing irrigation districts and other water delivery entities, real estate developers, commercial and industrial operations, farmers, nurseries, orchards and land trusts.

We frequently represent clients before state water resources agencies, state environmental regulators, the U.S. Bureau of Reclamation, the U.S. Army Corps of Engineers and other governmental agencies at all levels of government. We have established a strong reputation and we bring to the table strong working relationships with state and federal regulators, with some of our lawyers having worked for federal and state agencies.

To effectively navigate the full spectrum of a matter from advisory role through serving as appellate counsel, Stoel Rives has substantial experience in working with consultants and experts in the physical sciences and associated technical fields to understand the consequences of regulatory changes and to respond to, or initiate, administrative or court proceedings. Such individuals include geologists, hydrogeologists, geomorphologists, chemists, toxicologists, biologists, engineers and risk assessors. Stoel Rives is also familiar with the application and construction of Geographical Information Systems and other technical means of understanding and conveying that understanding of physical processes.

Acquiring and Administering Water Rights
Acquiring and protecting water rights and water supplies for clients is a primary focus of our Team. And as our clients expand or change their operations, or circumstances otherwise change, we help to ensure that their water rights and supplies continue to meet their needs. In California, our Team is well versed on the complexities of water rights, which vary in types of rights and regulatory processes for surface water and groundwater supplies, including for the coveted "pre-1914" appropriative water right.

Representative experience includes:

- Acquiring water rights for a major power plant

- Acquiring water rights for new and existing golf courses
- Acquiring water rights for a new underground mine
- Acquiring water right permits through contested proceedings pending before the State Water Resources Control Board for municipal and private landowners
- Defending a major water right transfer to a regional public water supplier
- Evaluating water rights held by major food processors, municipalities and hydroelectric projects
- Transferring water rights for resort development
- Represented golf course developers selling and leasing land and related water rights, including tribal water rights
- Assisted client in obtaining emergency water right for continuance of construction project
- Represented client in sale of water rights to a public utility district
- Advised clients on climate change impacts on water rights acquisition and navigation
- Represented landowner in negotiations with the U.S. Forest Service concerning water rights and point of diversion transfer on National Forest land

Protecting Water Rights When Litigation or Contested Proceedings Arise

Although we emphasize communication and negotiation in resolving conflicts, litigation and water rights adjudication are often the only practical means of protecting our clients' interests. The Stoel Rives Water Rights Team has significant water law litigation experience and has tried some noteworthy cases in this arena. We have also participated in recent basin adjudications and have represented many clients in preparing extraction and diversion statements and water rights claims filings.

Inevitably, conflicts arise between competing water users. We have represented local agencies in groundwater adjudications in California, as well as cities, special districts, developers and industrial clients in contested proceedings before the California State Water Resources Control Board. Outside of California, we have represented cities, developers, industrial operations and farmers in contested case proceedings before the Oregon Water Resources Department and the Washington Pollution Control Hearings Board. These matters involved conflicts between junior and senior water users, conversion of minimum streamflows to instream water rights, regulatory disputes in California regarding the supply source being "percolating groundwater" or "subterranean stream" water, transfers of existing water rights and conflicts between hydroelectric power use and municipal water use.

Representative matters include:

- *Antelope Valley Groundwater Cases*, involving appropriative water and return flow rights for a public water supplier, with unique issues related to an appropriative for public use water right and a native groundwater return flow claim

- *California Farm Bureau Federation v. California State Water Resources Control Board*, involving representation of water right holders in a challenge to newly imposed water right fees by the State Water Resources Control Board
- *Mascaro v. City of Banning*, involving protection of a pre-1914 appropriative right and its superiority to a riparian right claim arising from an artificial, concrete-lined water conveyance system
- *Villages of Avalon Community Association v. City of Perris*, involving determination of overlying rights and protection of appropriative rights
- *City of Rialto v. Fontana Union Water Company*, involving adjudication of surface water and groundwater supplies for long-term water resources management in which significant water quality challenges exist from prior contamination
- *Perris Public Utility Authority*, contested proceedings pending before the State Water Resources Control Board involving competing applications for appropriative water permits
- *Tulalip Tribes v. Pollution Control Hearings Board*, involving the transfer of a large industrial water right to a consortium of public water suppliers
- *R.D. Merrill Company v. Pollution Control Hearings Board*, upholding the transfer of senior domestic and irrigation rights to serve real estate development
- *United States v. Adair*, the federal Indian reserved urban rights case in the Klamath Basin
- Represented municipality in contested proceedings before FERC involving protection of the municipality's water rights conveyed solely by a flume traversing U.S. Forest Service lands
- Represented data center owner acquiring multiple water rights for cooling servers, a follow-on water supply contract with the Bureau of Reclamation, and a municipality for a reuse water supply and wastewater treatment agreement
- Represented multiple parties in administrative litigation seeking certification of water rights in Oregon's Klamath Basin General Stream Adjudication
- Represented landowner before Oregon Water Resources Department and Oregon Water Resources Commission in opposition to agreement affecting client's property
- Represented Central Oregon Irrigation District on various water rights and natural resources permitting issues
- Represented municipal water utility in connection with acquisition and transfer of water rights, obtaining limited licenses and obtaining an exemption from the Oregon Water Resources Commission's Basin Plan
- Represented Hale Farms in securing new water rights from the Columbia River

Strategic Planning

A steady, reliable flow of clean water is essential for public and private water suppliers, many enterprises and individual users. Limited supplies of this natural resource, coupled with high demand, requires legal counsel to thoroughly understand legal and regulatory aspects, as well as operational and technical aspects, of water resources in order to effectively counsel and advocate on behalf of clients. The Stoel Rives Water Rights Team possesses all of these qualities.

We help clients to develop long-range supply and management plans to ensure they have the water supplies necessary to remain viable for their needs of today and tomorrow, which often means years and decades into the future. Depending on the client's needs and desires, we assist with formulating and implementing plans ranging from preparation of comprehensive water rights status reports and Urban Water Management Plans to supply plans for securing water rights or supply agreements to infrastructure project finance and operations agreements. We also assist clients regarding proposed legislative and regulatory amendments affecting the exercise of their water rights, water supply sources and related water facilities such as wastewater treatment plants.

We are well aware of the fact that water quality and water rights play a role in formulating strategies and plans, including cutting-edge issues involving stormwater. While stormwater may be recycled for beneficial use and may be part of conjunctive use projects, whereby stormwater flows are diverted to groundwater aquifers for later use, the use of such stored water invokes complex water rights questions such as: Who "owns" the right to use the diverted flows? How can the stormwater be conveyed to the groundwater basin? Will the recharge interfere with overlying rights to the groundwater supply? These issues are at the forefront of ongoing work we have for current Stoel Rives clients. The firm has a stable of experienced attorneys who are well versed on these water rights issues. Our attorneys can provide the creative, innovative thinking necessary to ensure that any water projects are consistent with water rights and regulatory requirements.

Representative experience includes:

- Negotiating on behalf of clients amongst public and private stakeholders water supply agreements with "physical solutions" and conjunctive use provisions for long-term groundwater basin management, often presenting challenges regarding construction of conveyance systems and related infrastructure projects for water treatment and storage
- Formulating strategies for compliance with and protection of client interests arising from California's Sustainable Groundwater Management Act (2014, known commonly as SGMA, which include basin boundary regulations and formation of Groundwater Sustainability Agencies and Groundwater Sustainability Plans
- Assisting a municipal water district in managing local groundwater supplies on behalf of landowners, most of whom apply the water for irrigation uses
- Negotiating water supply agreements for a large cemetery
- Evaluating a water supply assessment for a large mixed-use development project
- Advising on legal and regulatory requirements, including for rate setting and for sale of recycled water supplies from a wastewater treatment plant
- Advised Irrigation District on CEQA compliance issues related to a groundwater banking project and associated third-party agreements
- Advised clients on federal control of water and water development under the Reclamation Act, Federal Power Act, Clean Water Act, NEPA and ESA
- Advised client on international, transboundary water supply agreement

- Advised energy clients on agreements for use of municipal and tribal water rights and on regulatory requirements governing water supply and water use offset programs
- Advised clients regarding addition of new or replacement wells for industrial water supply
- Forming water improvement districts and strategizing for formation of or joinder of districts
- Advised the Deschutes Basin Board of Control, a governmental entity made up of seven irrigation districts, regarding the recent reintroduction of steelhead into the Upper Deschutes Basin in central Oregon, including securing letters of prosecutorial discretion to avoid ESA enforcement by the National Marine Fisheries Service, support for a draft federal rule designating the reintroduced fish as an experimental population under ESA and assistance in the development of a habitat conservation plan

Overview: Water Quality Practice

The Stoel Rives Water Quality Team thoroughly understands that, with increased competition for water resources, public expectations for water quality controls have risen and resource protection goals have become more prominent. These factors have led to an environment in which existing wastewater permits are constantly under pressure and new permits can be difficult to obtain. Now more than ever, qualified legal advisors and strategic thinkers are critical to the successful outcome of water quality matters that can severely impact business operations.

Our Team has been tackling water quality permitting and related regulatory issues for more than 30 years, including representing clients in obtaining and complying with federal- or state-issued NPDES permits, waste discharge requirements and Section 404 permits, and in understanding how water quality regulations and plans may affect a client's operations. Related to these issues is stormwater regulation, whether to ensure compliance with the federal Clean Water Act and California Porter-Cologne Water Quality Control Act or to advise about preventing state agencies from overstepping stormwater regulations when undertaking Basin Plan Amendments.

Our clients include publicly owned treatment plants, chemical plants, mines, power plants, pulp and paper mills, irrigation districts, farms, ranches, food processors, ports, steel mills and real estate developers.

Overview: Clean Water Act Permitting for NPDES and Section 404

- Successfully challenged agency guidance and settlement agreement provisions related to compliance schedules for water quality-based effluent limits in NPDES permits
- Represented several Los Angeles County cities in a challenge against the Regional Water Quality Control Board and State Water Resources Control Board regarding numeric limit standards known as "TMDLs" for water quality standards
- Successfully proposed guidance on proposed listings of water quality limited waterbodies pursuant to subsection 303(d) of the Clean Water Act

- Represented industrial and municipal facilities, including electric power plants, offshore oil and gas facilities in Alaska, pulp and paper mills, wood products facilities, steel mills, nonferrous metals manufacturing facilities, publicly owned treatment works and municipal stormwater systems in negotiating the terms of NPDES and indirect discharge permits
- Conducted administrative challenge to and negotiation of water quality standards and developed a use attainability analysis for a Colorado stream channel
- Successfully challenged EPA approvals of Oregon temperature and mercury total maximum daily loads
- Represent British Petroleum in challenge to NPDES permit issued to Cherry Point facility before Pollution Control Hearings Board, including appeal now pending in Washington State Court of Appeals, Div. II
- Represented mineral sands developer in acquiring permits under Section 404 of the Clean Water Act and Oregon's wetland fill-removal law, and ESA Section 7 consultation
- Represented destination golf course developer in acquiring permits under Section 404 of the Clean Water Act and Oregon's wetland fill-removal law, ESA Section 7 consultation and related land use approvals
- Represented wind energy developer in obtaining Section 404 of the Clean Water Act permit for wind energy project in Pennsylvania

Overview: Related Water Experience

Water issues often cross over into other substantive areas of the law such as environmental, land use and administrative law, including other regulatory requirements and permitting or licensing needs for projects. Stoel Rives is well equipped with a full bench of highly experienced lawyers to service the diverse areas of law and issues that arise when evaluating and navigating through cross-disciplinary water projects and cases, whether the context is in an advisory role, a transactional project or an administrative or litigation matter.

Representative experience includes:

Environmental Review and Compliance

- Represented City of Ione in development of wastewater master plan and accompanying CEQA review
- Advised Nevada Irrigation District in challenges to ESA Section 7 consultation concerning hydropower and irrigation infrastructure on the Yuba River watershed
- Represented Northwest Pulp and Paper Association in challenges under ESA to EPA's approval of Oregon's compliance schedule rule
- Represented Northwest River Partners in ongoing District Court and Ninth Circuit challenges to ESA Section 7 Biological Opinions issued for the Federal Columbia River Power System

Land Use and Development Projects

- Represented King County, Washington, in planning, administering and developing its billion-dollar Brightwater wastewater treatment project

- Represented real estate entity in suit involving claim against upslope developers in stormwater diversion of the $200 million expansion of Northstar Village Ski Resort
- Represented King County, Washington, in the County's response to a major bid protest and subsequent three-month jury trial at which the County was awarded damages of over $155 million against the original tunneling contractor and its sureties. We also subsequently achieved an award for $14.4 million for the County in attorneys' fees, costs and expert witness fees. The case represented the largest legal dispute in King County history
- Represented a hydroelectric power company seeking damages and natural resources compensation resulting from dam failure that caused fish mortality

Regulatory Permitting and Licensing, Including FERC Proceedings

- Represented City of Oroville in multi-party settlement regarding relicensing of the Oroville Dam
- Negotiated and drafted settlement agreements with key federal, state, tribal and non-governmental parties for relicensing five large hydroelectric projects in Washington, Oregon, Idaho and Montana for up to 50 years
- Represented PacifiCorp in material fact challenges to Federal Power Act Section 18 prescriptions and proposed alternatives under the new Energy Policy Act hydro rules
- Represented utility in preparation of material fact challenges to Federal Power Act Section 18 prescriptions and proposed fishway alternatives under Energy Policy Act of 2005 for multiple developments in Oregon and California

Real Estate and Eminent Domain

The firm has a wide range of experience in real estate transactional matters, from acquisitions to dispositions, leasing and financing. Stoel Rives lawyers also have represented numerous commercial property owners in real estate litigation throughout California, including matters involving public entities.

Stoel Rives attorneys have worked with a number of public entities on eminent domain/condemnation proceedings, including Emeryville Redevelopment Agency (CA), Santa Clara Valley Transportation Authority (CA), the City of Brentwood (CA), the East Contra Costa Irrigation District (CA), the Natomas Central Mutual Water Company (CA), Reclamation District No. 1000 (CA), Reclamation District No. 2068 (CA), Newark (CA), and TriMet (OR).

Additional Services

Though the RFP calls primarily for services involving the flume and negotiations regarding SGMA, specific services that might become necessary for the City are litigation services. Materials contained herein speak to the Team's litigation abilities, and is separately provided for in the Fee Proposal.

Conflicts of Interest

With regard to conflicts of interests, Stoel has never represented the Morongo Band of Mission Indians ("Morongo Band"), so to the extent any concern arises as to a conflict of interest involving Stoel, a formal search reveals that no such conflict exists as to the Morongo Band. And, in preparation for responding to the RFP, Stoel ran a complete search for any potential or actual conflicts of interest involving services to the City. ***No potential or actual conflicts exist.***

PROJECT TEAM

Wes Miliband will serve as Primary Attorney for the City in water project matters. In that capacity, Wes will ensure that appropriate firm resources for a specific matter are available to meet the City's needs in a timely and cost-effective manner, without engaging in inefficient practices. Through this teamwork model, we reduce costs and ensure that each project component receives an appropriate level of resources and guidance. We also conduct periodic client team meetings with our clients (***at no charge to the client***) to collaborate with counsel about the status of the projects on which our attorneys are working. Our clients have praised our team-based approach in the independent legal guide *Chambers USA*, noting in particular our ability to "always find the right person for the job."

The firm approaches matters with a team concept, combining the backgrounds and talents of each of the participating attorneys and paralegals. Our operating maxim is that the collective is always stronger than the individual. Senior attorneys are involved in all aspects of legal strategizing, preferably with members of the client and consultant team. We exist to serve the needs of our clients, so efficiency and cost containment are vital considerations. To this end, junior attorneys and paralegals are often relied upon for labor intensive tasks, such as research and drafting, but always under the guidance and direction of more seasoned counsel.

Stoel Rives lawyers have a rather unique dual practice perspective, gained from years of work on behalf of public agency clients, as well as private interests. Our extreme familiarity with agency practices (including those called for in the RFP and specific to California such as the Brown Act, public contracting, etc.), and their staff and tendencies of decision-makers, have provided us the ability to better anticipate agency concerns, and to adapt and ultimately reach a successful result for our clients.

Our paralegal services are second to none. Ha Nguyen is an expert and experienced environmental and litigation paralegal. Tasks relating to document organization, administrative record preparation, data management and similar items are effectively and cost-efficiently handled. We have the confidence to regularly rely on her expertise. Similarly, Lesley Berger is a Real Estate Transaction specialist with more than 30 years' experience handling real property issues affecting title and surveys, including easements and rights-of-way.

Full biographies, including representative experience of each Team member, can be found at TAB 5.

All PRIMARY Team attorneys are admitted to practice in California and are in good standing with the State Bar of California.

PRIMARY Team Member	*Project Responsibilities and Expertise*
Wesley A. Miliband, Of Counsel, Primary Attorney Sacramento office, 9 mos. (licensed 10 yrs.) (916) 319-4676 and (949) 232-9731 | wes.miliband@stoel.com	Project Team lead; water rights and water supplies (including State Water Resources Control Board and Regional Water Quality Control Board matters and Water Supply Assessments), SGMA compliance and strategies, CEQA, public contracts (including joint powers and other risk sharing agreements), municipal law and litigation
Juliet H. Cho, Associate Sacramento/San Francisco offices, 5 yrs. (licensed 5 yrs.) (415) 500-6556 | juliet.cho@stoel.com	CEQA, NEPA, land use, water and municipal law support
Matthew J. Decker, Associate Sacramento office, 11 mos. (licensed 7 yrs.) (916) 319-4669 | matthew.decker@stoel.com	Real estate support with issues involving title, surveys, rights-of-way, easements, leases and other related agreements
Parissa Ebrahimzadeh Florez, Associate San Diego office, 3 yrs. (licensed 3 yrs.) (858) 794-4106 | parissa.florez@stoel.com	CEQA and municipal law support
Shannon L. Morrissey, Associate Sacramento office, 6 mos. (licensed 2015) (916) 319-467 | shannon.morrissey@stoel.com	Water law support
Ha T. Nguyen, Paralegal Sacramento office, 9 yrs. (paralegal 9 yrs.) (916) 319-4659 | ha.nguyen@stoel.com	Environmental/CEQA and litigation support involving factual research, document organization and preparation of administrative records
Lesley Berger, Real Estate Transaction Specialist Sacramento office, 1 yr. (paralegal and specialist 30+ yrs.) (916) 319-4791 | lesley.berger@stoel.com	Real estate acquisition, disposition and finance transactions, due diligence including title and surveys, negotiating title insurance, experience negotiating with federal Bureau of Land Management

All SECONDARY Team attorneys are in good standing with various state bars; however, not all SECONDARY Team members are licensed in the State of California, but they are nonetheless appropriate for the Team as specialized resources on federal issues involving NEPA, Clean Water Act permits, FERC and U.S. Forest Service permits, proceedings and authority. Notably, non-California licensed Team members can assist California-licensed Team members on federal issues. The SECONDARY Team members are not anticipated to generate significant billing (but are accounted for in the Fee Proposal).

SECONDARY Team Member	*Project Responsibilities and Expertise*
Timothy M. Taylor, Partner Sacramento office, 9 yrs. (licensed in CA 29 yrs.) (916) 319-4754 | tim.taylor@stoel.com	Land use, NEPA, CEQA, Clean Water Act, ESA, municipal law support
Thomas A. Henry, Partner Sacramento office, 7 yrs. (licensed in CA 17 yrs.) (916) 319-4667 | thomas.henry@stoel.com	Land use, CEQA, title and streambed alteration permit and agreement support, Clean Water Act Section 401 certifications
Michael N. Mills, Partner Sacramento office, 7 yrs. (licensed in CA 19 yrs.) (916) 319-4642 | michael.mills@stoel.com	CEQA, water rights, litigation and administrative proceedings with state agencies such as the State Water Resources Control Board and Regional Water Quality Control Board, eminent domain
Aaron C. Courtney, Partner Portland office, 8 yrs. (licensed in OR 23 yrs.) (503) 294-9411 | aaron.courtney@stoel.com	Clean Water Act (Section 404 and Section 10 permitting), ESA, NEPA, Federal Land Policy and Management Act, including right-of-way authorizations
Barbara D. Craig, Partner Portland office, 26 yrs. (licensed in OR 29 yrs.) (503) 294-9166 | barbara.craig@stoel.com	National Forest Management Act (forest authority, processes and permits), NEPA, Clean Water Act, ESA
Cherise Gaffney, Partner Seattle office, 14 yrs. (licensed WA 18 yrs.) (206) 386-7622 | cherise.gaffney@stoel.com	Federal Power Act, FERC licensing and proceedings, Administrative Procedure Act, California hydropower experience
POTENTIAL LITIGATION Team Member	*Project Responsibilities and Expertise*
Wesley A. Miliband, Of Counsel, Primary Attorney Sacramento office, 9 mos. (licensed in CA 10 yrs.) (916) 319-4676 and (949) 232-9731 | wes.miliband@stoel.com	25 trials as lead trial counsel, including approximately 15 jury trials in which he selected the jury; has also prepared appellate pleadings
Bao M. Vu, Associate Sacramento office, 3 yrs. (licensed in CA 4 yrs.) (916) 319-4658 | bao.vu@stoel.com	Litigation support for research, discovery and drafting pleadings
Connor W. Olson, Associate Sacramento office, 5 mos. (licensed in CA 2 yrs.) (916) 319-4672 | connor.olson@stoel.com	Litigation support for research, discovery and drafting pleadings
Ha T. Nguyen, Paralegal Sacramento office, 9 yrs. (paralegal 9 yrs.) (916) 319-4659 | ha.nguyen@stoel.com	Litigation support involving factual research, document organization and preparation of administrative records

While we are open to discussing changes to the proposed Teams, whether before undertaking services or after services commence, the Teams proposed above reflect the breadth and depth of issues and experience levels anticipated to be needed and that we believe can deliver superior services.

REFERENCES

The references provided below are those of the primary lead attorney, Wes Miliband, given the instructions in Section 3.3 of the RFP stating that only references of the primary attorney shall be considered if the project team has not completed at least three projects together for special districts, water districts or municipalities. Due to the PRIMARY Team having not completed three such projects together, references for Wes are provided; however, we would be happy to provide additional references for other Team members, if desired.

Don Bartz, General Manager
Phelan Pinon Hills Community Services District
(760) 868-1212; dbartz@pphcsd.org

Lead trial counsel through three phases of trial over four years in California's largest groundwater adjudication in its history, known as the Antelope Valley Groundwater Cases. Wes represented this public water purveyor, which was challenged by virtually every other party, given the unique legal and factual issues underlying the district's water right and related claims, with Wes taking on up to 10 lawyers during trial who were challenging the client's positions. Wes's efforts led to the court allowing the district to continue to use the high capacity well at issue (rather than force it to shut down).

Joe Robinson, Senior Deputy District Attorney
City of Sacramento
(916) 808-2009; JRobinson@cityofsacramento.org

Defense of a peition for writ of mandate by the Natural Resources Defense Council seeking to set aside approximatley $1 million in grant funds for the City's water supply needs. With Wes Miliband serving as the lead, we defeated the petition at the early demurrer stage of the proceedings so that the City could receive its grant.

Currently advising and representing the City, with Wes Miliband as the lead for Stoel Rives, in the California WaterFix proceedings pending before the State Water Resources Control Board, with these proceedings bearing on the City's water rights and supplies from various surface water sources.

Vic Pankey, President
San Luis Rey Municipal Water District
(760) 468-2871; vicpankey@gmail.com

Served as General Counsel for approximately four years to this district that does not serve water, but instead acts as a groundwater management agency for the benefit of its landowners, who are mostly farmers. Wes provided advice on general public agency issues and led efforts involving deannexation of property and protection of landowner water rights including advice regarding SGMA. Wes also advised on various surface and groundwater issues occuring within the San Diego region that could affect the district's and its landowners' interests. During 2014 when the district was in need of special legislation, Wes rewrote an existing statute relating to the district's water availability charge, obtained legislative support and attended Assembly and Senate hearings on the bill (spoke at the Assembly hearing). The bill was signed by the Governor.

Marina West, General Manager
Bighorn Desert View Water Agency
(760) 910-3264; mwest@bdvwa.org

Assisted the district with general public agency issues, much of which entailed the Brown Act and Public Records Act. Wes helped negotiate the terms and agreement for what is commonly known as the Ames/Reche Groundwater Storage and Recovery Program, which is a collaborative effort among five participating water agencies for replenishing groundwater through a non-traditional project promoting environmental biodiversity and preservation of open space. The project involved connecting the Ames Groundwater Basin to the State Water Project via a 3,650-foot conveyance pipeline to recharge up to 1,500 acre-feet annually on six acres of federally managed land. The project won the prestigious 2015 Clair A. Hill Water Agency Award from ACWA.

Rich Mathis, former Operations Manager at Laguna Beach County Water District
(Currently a General Manager of Central District of Golden State Water Company)
(714) 293-9522; richard.mathis@gswater.com

Served as General Counsel to this public water purveyor, requiring advice to the Board, Commission, management and staff on general public agency issues with many projects involving public contracting issues and CEQA compliance. One such project involved the Sweany pipeline rehabilitation project in which CEQA was triggered and more complex due to the project being located in a coastal zone on State Parks land. Wes helped lead the district through the CEQA and public contracting process, which was successfully completed. Wes also helped lead the district through the Prop 218 water rate increase process, which also was successfully completed.

Doug Dancs, Director of Community Development (including Public Works)
City of Cypress
(714) 229-6740; DDancs@ci.cypress.ca.us

Advised and assisted the City of Cypress on water-related services involving rate-setting proceedings by the investor-owned and PUC-regulated purveyor Golden State Water Company, and assisted with a recycled water project involving "service duplication" and right-of-way issues between the City, the local water purveyor and a local cemetary. The project proceeded forward with receiving grant funding.

Joone Lopez, General Manager
Moulton Niguel Water District
(949) 448-4071; JLopez@mnwd.com

While a resident within this water district, Wes was very active with the district through its Citizens Advisory Committee, which met at least quarterly with the Board of Directors and district management to discuss water issues, including water and sewer rate increases, district budgets and capital improvement projects.

STRATEGY AND IMPLEMENTATION PLAN

Having worked previously with the City on subject matter contained within the RFP, we, through Wes, have gained institutional knowledge about the City's goals and its needs, evident from having led the Mascaro litigation, drafting of the Operations and Maintenance Agreement between the City and Banning Heights, and advising and advocating on behalf of the City with FERC and Forest Service staff. In these capacities, Wes previously helped develop and implement strategic options for accomplishing the City's goals as reflected in the RFP. Our institutional knowledge allows us to hit the ground running with the City.

Ultimately, we believe the City's objectives are to protect, and where feasible, enhance its existing water rights and water supplies, both from local surface water and groundwater (and potentially other supplies such as recycled water, or stormwater flows as the law continues to evolve). In furtherance of these objectives, existing infrastructure such as the flume needs to be restored, maintained and operated appropriately and in compliance with pertinent regulations, whether those regulations are from federal, state or local agencies. Other infrastructure, particularly for groundwater supplies, might arise with maintenance and capital improvement projects to increase supply reliability and flexibility of the City's water system, including where appropriate, interconnections (even if just for emergency purposes) with other water retailers or water partners in the region. Examples of regulatory and permitting compliance that might arise include: FERC potentially issuing an order bearing on flume operations; the State of California through Department of Fish & Wildlife and other agencies might develop a role if CEQA review is done for flume restoration; and eventual compliance with Groundwater Sustainability Agencies ("GSA" or "GSAs") under SGMA and/or similar local agency efforts to manage groundwater basins for long-term sustainability.

As for a strategic plan for achieving the City's objectives reflected in the RFP, we believe it best to avoid litigation, when possible without sacrificing the City's interests – real potential exists for litigation involving the flume.

Specifically as to the flume, the FERC DRD process has been the means toward that end, though the outcome remains uncertain. Also uncertain (at least as of now, having not been with the City for the past 10 months) is whether that process appears more likely than not to bear a successful outcome for the City – preservation of its water right and restoration of the flume for the City to acquire for ownership and maintenance obligations. To assess these uncertainties, our first suggested step is to evaluate the current City "team," which as of last April included consultants for technical areas of expertise regarding hydrology, biological studies and other environmental issues. We can then confirm, or ensure, by collaborating with the City that the proper team is in place, with the focus being on whether the DRD process bears a viable positive outcome for the City – acquire ownership of a repaired flume system with the City's water right in tact (e.g., not depleted for Forest Service demands).

As to the City's groundwater interests, we understand from the City's last Urban Water Management Plan, other literature, and Wes's prior work that the City has rights and interests in multiple basins, some of which have not been adjudicated. We would suggest the following assessments and actions: applicability of SGMA (e.g., critically overdrafted, high- or medium-priority basins); the extent to which other local agencies and water purveyors seek to be a GSA or otherwise manage the basin (even if a basin is prioritized by the State as low- or very low-priority for SGMA purposes); and with that information, ascertain how the City can

best advance its interests in those groundwater supplies for the long-term benefit of the City and its residents and businesses.

Through every step of these efforts, we would seek the City's input and direction so as to better ensure effective service and ultimately that the needs of Banning and its residents are met today as well as in the future with more development projects.

Wesley A. Miliband



Of Counsel
Sacramento, CA
(916) 319-4676 direct
(916) 447-4781 fax
wes.miliband@stoel.com

Experience

As a water resources lawyer, Wesley A. Miliband focuses his legal practice on securing, protecting and assisting with transfers of water supplies and rights as well as the infrastructure necessary to treat, store and deliver water. Wes' practice lends itself to related environmental issues involving water quality impacts to surface water and groundwater supplies, regulatory permitting, and environmental compliance with federal and state requirements including NEPA, CEQA, and water quality control statutes arising from the federal Clean Water Act and California's Porter-Cologne Water Quality Control Act. With unique cross training as advisory, transactional and trial counsel, and having represented individuals and public and private entities throughout the State of California, Wes provides clients with highly-sophisticated strategic approaches for effectively resolving challenging circumstances and disputes that result in environmental litigation.

Prior to joining Stoel Rives, Wes was a partner at a law firm based in southern California. Wes started his legal career as a Deputy District Attorney in Orange County, where he prosecuted twenty jury trials. As a law student, he clerked for Judge Gerald G. Johnston of the Orange County Superior Court. Prior to law school, Wes was on staff for a Member of Congress.

Representative Work

Water Rights, Water Supplies and Water Resource Management

- Lead trial and litigation counsel on several matters involving water rights and water supply issues including service as lead trial counsel through several phases of trial for a public water supplier in California's largest groundwater adjudication commonly referred to as the Antelope Valley Groundwater Cases.
- Lead counsel in acquiring and protecting water rights and water systems and effectuating transfers of groundwater and surface water rights and water supplies, both in transactional matters and contested matters pending in state courts and administrative forums including the State Water Resources Control Board.
- Negotiating and enforcing water supply agreements including with "physical solutions" to better ensure long-term reliability through groundwater basin management.
- Advising on compliance with and strategies related to implementation of California's Sustainable Groundwater Management Act, commonly known as SGMA, including formation of Groundwater Sustainability Agencies (GSAs) and Groundwater Sustainability Plans (GSPs).

Education

- Chapman University Fowler School of Law, J.D., 2005
  Mock Trial Board Member
  Certificate in Environmental, Land Use, and Real Estate Law
- Rutgers University, M.A., Public Affairs and Politics, 2000
  Fellow of the Eagleton Institute of Politics
- University of California, Riverside, B.A., Political Science/Law & Society, 1999

Admissions

- California
- U.S. District Court for the Central District of California

- Special Counsel to private landowners and entities including energy companies, agribusiness, vineyards, cemeteries and mutual water companies seeking to preserve and enhance water rights and long-term water supplies, including recycled water supplies.
- Helped negotiate the terms and agreement for what is commonly known as the Ames/Reche Groundwater Storage and Recovery Program, which was a collaborative effort among five participating water agencies for replenishing groundwater through a non-traditional project promoting environmental biodiversity and preservation of open space (2015 Clair A. Hill Water Agency Award from ACWA).
- Assisted a water district to manage local groundwater supplies on behalf of landowners, most of whom produce groundwater for irrigation uses and are riparian and pre-1914 appropriative water rights holders.
- Defended a municipality to protect its pre-1914 appropriative right and its superiority to a water right claim arising from an artificial, concrete-lined water conveyance system.
- Represented a municipality in the determination of overlying rights and protection of appropriative rights while also defending against a "takings" or inverse condemnation claim.
- Represented a private mortuary in California Court of Appeal and Supreme Court proceedings regarding groundwater storage rights, with Petition for Review granted and later dismissed.
- General Counsel (former) to a municipal water district that reserves latent powers while actively protecting and managing surface water and groundwater rights and quality for the district's residents and agricultural growers, including implementation of an "AB 3030" groundwater management plan.

Water Quality

- Assists dischargers with compliance strategies, obtaining Waste Discharge Requirements and defending against enforcement proceedings.
- Represented the League of California Cities as *amicus* party in a challenge by various Los Angeles County cities against the State Water Resources Control Board involving Basin Plan standards for stormwater quality control and related water quality standards.
- Represented several Los Angeles County cities in a challenge against the Regional Water Quality Control Board and State Water Resources Control Board regarding numeric limit standards for water quality standards (TMDLs) arising from NPDES permits.
- Represented a municipality in the adjudication of surface water and groundwater supplies in which significant water quality contamination from perchlorate and VOCs dictate water supply use and long-term water resources management.

Water Infrastructure and Finance

- Advising and negotiating agreements for sale or acquisition of recycled water supplies and related infrastructure.
- Advising on and advocating for grant awards from the California Department of Water Resources for water supply projects.
- Advising on legal and regulatory requirements for rate setting under Proposition 218 for public agencies and the California Public Utilities Commission for investor-owned utilities.

- Represented municipalities in transactional matters for repairs and construction of water conveyance systems, including drafting of operation and maintenance agreements.
- Represented a municipal water district in contested administrative proceedings before San Diego LAFCO regarding detachment/deannexation fees for groundwater management under the Cortese-Knox-Hertzberg Act.
- Assisted a municipal water district by drafting special legislation for a water availability charge compliant with Proposition 218, obtaining sponsorship for the bill, and guiding the client through the legislative process for the bill to become law.
- General Counsel (former) to a county water district serving approximately 25,000 people, often involving infrastructure projects and adept knowledge of California's transparency rules known as the California Public Records Act, the Brown Act, and the Political Reform Act.

Professional Honors and Activities

- Listed among *Rising Stars* (Environmental), *Southern California Super Lawyers®*, 2013-2015
- Member, American Bar Association, Environment, Energy and Resources Section, and Member of Water Resources Committee
- Member, State Bar of California, Environmental and Litigation Sections, and Environmental Section's Legislation Committee
- Member, Association of California Water Agencies (ACWA), Groundwater Management Committee
- Member, Groundwater Resources Association of California, Co-Chair of Education Committee
- Member, Sacramento County Bar Association, Environmental Law Section
- Member, Western Growers Association
- Member (former), California Special Districts Association, LAW Group Committee
- Editorial Board and Monthly Article Contributor, *Western Water Law and Policy Reporter*

Presentations

- Presenter, "Tapping 'New' Water: How Recycled Water Can Help Quench the State's Thirst," 26th Annual International Conference on Soil, Water, Energy, & Air, San Diego, CA, Mar. 22 2016
- Presenter, "Overcoming Legal and Regulatory Hurdles for Maximizing Water Resources with Reuse Projects," WateReuse California Annual Conference, Santa Rosa, CA, Mar. 13, 2016
- Presenter, "What New Regulations to Modify Basin Boundaries Mean for You & Update on Statewide GSA Formation," Stoel Rives Water Law Webinar, Feb. 10, 2016
- Panelist, "Water-Energy Nexus and the New Normal," California Water Law Symposium, Sacramento, CA, Jan. 23, 2016
- Presenter, "Success Stories in Water Infrastructure Finance," Symposium on Water & Long-Term Value, San Francisco, CA, Dec. 14, 2015
- Moderator, Southern California David Keith Todd Lecturer Session, Groundwater Resources Association Annual Meeting, Sacramento, California, Oct. 2015

- Presenter, "Maintaining Water Supplies During the Ebbs and Flows of California Water," West LegalEdcenter Webinar, Sept. 23, 2015
- Presenter, "How Changes to Basin Boundaries Intersect with GSA Formation," Stoel Rives Water Law Webinar, Aug. 25, 2015
- Co-Presenter, "Surface Water Diversions Under F&G Code Section 1602 - The Landscape has Changed," Stoel Rives Water Law Webinar, July 28, 2015
- Presenter, ACWA Regulatory Summit, Lake Tahoe, California, Aug. 2014
- Presenter, WateReuse Research Foundation's Annual Conference, Phoenix, Arizona, May 2013

Publications

- Regular contributor to California Environmental Law Blog and various publications throughout the State of California
- "Navigating Rough Waters–Challenges in California to Securing and Maintaining Long-Term Supplies," ABA SEER *Water Resources Committee Newsletter*, Jan. 2016
- "Regulating Groundwater in California: Will Groundwater Sustainability Agencies Change the Landscape?" *Environmental Law Reporter*, Dec. 2015
- "Regulating Groundwater in California: Will the Landscape Change with GSA Formation," *Environmental Law News*, Fall 2015
- "Water Challenges, Public and Private," *The Daily Journal*, Oct. 12, 2015

Civic Activities

- Member, California Bountiful Foundation
- Member, Cat Pack Booster Club and Cats Care Program of the Sacramento River Cats baseball team
- Mentor, student resource and guest lecturer, Chapman University Fowler School of Law and UC Davis School of Law
- Volunteer, High School Mock Trial Competition, Constitutional Rights Foundation
- Pro Bono Legal Counsel (former) to a non-profit wetlands

Juliet H. Cho



Associate
(415) 500-6556 direct
(415) 617-8907 fax
juliet.cho@stoel.com

Experience

Juliet Cho is an associate in the Environment, Land Use and Natural Resources group. Her practice involves a wide spectrum of environmental matters, including land use, environmental due diligence, entitlements, the California Environmental Quality Act (CEQA) permit approval process, regulations affecting cleanup of hazardous waste materials, municipal law, and land use and environmental litigation. Juliet has engaged in water projects, renewable energy projects, local government projects, and industrial and mixed use projects.

Prior to joining Stoel Rives, Juliet was a research assistant with Professor Linda Carter at the McGeorge School of Law (2009-2010); a summer associate with Stoel Rives LLP (2009); an extern with the U.S. Department of Justice, Environmental and Natural Resources Division (2009); a student teacher for the Street Law International Course, Sacramento (2009); and a Sacramento Bar Association Minority and Diversity Fellow (2008).

Representative Work

- Provide CEQA and permitting advice for development of solar, wind and natural gas energy facilities throughout California.
- Advised client in various state and federal compliance related to development of landfill on Tribal property.
- Advises clients in various state and federal compliance matters concerning contaminated lands and groundwater remediation.
- Successfully defended a client in CEQA challenge to large-scale, mixed-use redevelopment project.
- Successfully represented client in appeal of EPA's NPDES permit conditions before the Environmental Appeals Board.
- Advises clients regarding compliance with Regional Water Quality Control Boards and the State Water Resources Control Board related to water quality issues, storm water management and pollution control, NPDES permitting, waste discharge requirements, and pre-1914 water rights.
- Prepare acquisition, division order and drilling title opinions for oil and gas exploration and development.
- Advise and counsel affected landowners in connection with California High Speed Rail Authority's anticipated condemnation proceedings.
- Advise clients on various matters related to water rights, water supply and evaluating water quality certification under the Clean Water Act.

Education

- McGeorge School of Law, University of the Pacific, J.D., 2010
  Board Member, Asian Pacific American Law Students Association
  Mentor, Pacific Pathways Mentor Program
  Member, Environmental Law Society
  Advocacy Certificate
- University of California, San Diego, B.A., Political Science, 2004

Admissions

- California

Languages

- Japanese
- Korean

Juliet H. Cho

- Represent landowners in eminent domain proceedings.
- Prepare conservation easements for water banking project and forest offset project in accordance with the California Air Resources Board's greenhouse gas emissions offset protocols.

Professional Honors and Activities

- Honoree, Lawyers of Color 2014 Western Region Hot List
- Member, Asian American Bar Association of the Greater Bay Area
- Member, Association of Women in Water, Energy and Environment
- Member, Environmental Law Section, San Francisco Bar Association
- California representative, Stoel Rives Associate Committee, 2010-2011
- Mediator
- Student Associate, Kennedy American Inn of Courts, 2009-2010
- McGeorge Mock Trial Competition Team, 2008-2010
- Finalist, San Diego Defense League Mock Trial Competition, 2009

Presentations & Publications

- Co-Presenter, "Diversity and the Environmental Bar: Look to your Left, Look to your Right -- Where Are the People of Color?," California Bar Environmental Law Conference, Yosemite, California, Oct. 25, 2015
- Co-Presenter, "Review of the 'Typical' California Oil & Gas Lease," 32nd Annual West Coast Landmen's Institute, Las Vegas, Nevada, Oct. 23, 2014
- Moderator, "Utilizing Emerging Feedstocks II: Wastewater Treatment to Biogas," Fourth Annual Biogas West Conference, San Francisco, 2012
- "California High Speed Rail Authority Cleared for Construction; Central Valley Property Owners Could See Condemnation Action," HSR News Alert No. 4, July 2012
- Frequent contributor to California Environmental Law Blog on topics including California High Speed Rail Project developments and Eminent Domain proceedings

Publications

- "California High Court Case Has Not Made CEQA Obsolete," (co-author), *Law360*, Aug. 2014

Matthew J. Decker



Associate
(916) 319-4669 direct
(916) 447-4781 fax
matthew.decker@stoel.com

Experience

Matt Decker is a skilled transactional attorney who provides counsel and assistance on a broad range of real estate and renewable energy matters. He represents clients in the negotiation and preparation of real estate loan documents; office, retail and industrial leases; purchase and sale agreements; and easements, and he has significant experience reviewing title reports, surveys and financial documents related to renewable energy developments and financings. In addition, Matt represents for-profit and non-profit entities in corporate matters related to entity formation and restructuring, financing and regulatory compliance.

Before joining Stoel Rives, Matt was an associate at Weintraub Tobin Chediak Coleman Grodin Law Corporation (2014-2015) and Downey Brand LLP (2008-2014).

Representative Work

Real Estate and Renewable Energy

- Represented national wireless communications carrier in real estate matters in its Northern California, Southern California and Northern Nevada service areas, including the negotiation and preparation of land, building, rooftop and colocation leases and amendments for more than 100 cellular sites.
- Assisted in representation of lender in $500 million financing of new wind farm development in Southern California.
- Assisted in representation of wind power developer in $100 million refinancing of multiple wind farm projects in California.
- Assisted in representation of solar power developer in financing of solar development in California.
- Assisted in representation of solar power developer in the sale and assignment of two existing solar power developments.
- Drafted residential, commercial and industrial leases; purchase and sale agreements; easement agreements; subordination agreements; and related amendments.

Financing Transactions

- Assisted in representation of mezzanine lender in $28 million senior subordinated loan transaction.
- Assisted in representation of construction materials corporation in a $3 billion syndicated multicurrency revolving credit facility agreement.

Education

- Boston University School of Law, J.D., 2008
  Articles Editor, *Journal of Science and Technology*
  Moot Court
- Pepperdine University, B.A., Finance, 2005, *magna cum laude*
  Alpha Chi Honor Society
  Beta Gamma Sigma Honor Society
  Golden Key Honor Society

Admissions

- California

- Assisted in representation of lender banks in various real estate-secured loan agreements.

Corporate

- Represented and counseled for-profit corporations, non-profit corporations and limited liability companies in connection with entity formation and corporate restructuring issues.
- Represented emerging and established companies in the drafting and negotiation of vendor agreements, independent contractor agreements, non-disclosure agreements, stock option agreements, employment agreements, license agreements and terms of use and privacy policies.
- Counseled for-profit and non-profit business entities on day-to-day and strategic business decisions, including advice regarding fiduciary duties, employment issues and regulatory compliance matters.
- Assisted in representation of seller in the $10 million sale of a technology and software company pursuant to a stock purchase agreement.
- Assisted in representation of buyer in several asset purchase agreement deals involving the acquisition of franchises of an NYSE-listed restaurant chain.

Agriculture

- Drafted commercial agreements for agricultural entities, including supply agreements, agricultural leases and irrigation system purchase agreements.
- Represented numerous agricultural companies in connection with entity formation, partnership disputes and general counsel matters

Professional Honors and Activities

- Administrative Board Secretary (2014-present), Administrative Board Treasurer (2013), Member (2012-present), Business Section, Sacramento Bar Association
- Listed among *Rising Stars* (Real Estate), *Northern California Super Lawyers®*, 2015

Publications

- "Securities Law Update: Companies Can Raise Capital by Advertising," *California Grocer*, 2014, Issue 2

Civic Activities

- President (2014-present), Vice President (2013-present), Secretary (2012-2013), Director (2011-present), Board of Directors, River City Food Bank
- Chair (2011-2012), Co-Chair (2010-2011), Philanthropy Committee; Member (2010-2012), Leadership Committee, Metro EDGE, a program of the Sacramento Metro Chamber
- Volunteer, Community Tax Aid Boston (2007)

Parissa Ebrahimzadeh Florez



Associate
(858) 794-4106 direct
(858) 794-4101 fax
parissa.florez@stoel.com

Experience

Parissa Ebrahimzadeh Florez is an associate in the Environment, Land Use and Natural Resources group. Parissa focuses her practice in environmental and energy law. Her practice emphasizes land use, environmental due diligence, the California Environmental Quality Act (CEQA) permit approval process, municipal law, and land use and environmental litigation. She also works with Indian tribes and parties engaged in business or other transactions with Indian tribes. Prior to joining the firm, she was a clean tech policy intern for the U.S.-China Green Energy Council where she worked on current policy, legislation and trends in clean tech and green energy, and a law clerk for the AIDS Legal Referral Panel. Parissa was also a Green Policy and Leadership Intern at Green For All working under Van Jones to collaborate on key provisions to be entered into 2009 Climate and Energy Bill passed through the House of Representatives. Parissa was a Stoel Rives summer associate in 2010 and 2011 and a Sacramento Bar Association Minority and Diversity Fellow in 2010.

Prior to joining the legal community, Parissa founded and ran a premiere tutoring company that provides private academic tutoring to both privileged and underprivileged communities. There Parissa managed over seventy-five tutors who advised and assisted hundreds of students.

Representative Work

Regulatory Compliance

- Provide CEQA and permitting advice for development of solar, wind, geothermal and natural gas energy facilities throughout California.
- Provide advice on various matters related to water rights, water supply and evaluating water quality certification under the Clean Water Act.
- Provide advice regarding Williamson Act issues related to developing solar projects on agricultural lands throughout the Central Valley, California.
- Advises and represents clients before Regional Water Quality Control Boards and the State Water Resources Control Board related to water quality issues, storm water management and pollution control, NPDES permitting and waste discharge requirements.
- Advises clients regarding compliance with California's Construction Storm Water General NPDES Permit and Industrial Storm Water General NPDES Permit.

Environmental Litigation

- Represents clients in litigation under the California Environmental Quality Act (CEQA).

Education

- University of California, Davis, J.D., 2012
- China University of Law and Political Science
  Submissions Editor, Journal of International Law and Policy
- Antioch University, M.F.A., Creative Writing, 2005
- University of California, Irvine, B.A., Philosophy and Comparative Literature, 2002
- Peking University

Admissions

- California
- U.S. District Court for the Central, Eastern, Northern and Southern Districts of California

Languages

- Farsi
- Mandarin

Parissa Ebrahimzadeh Florez

Global Climate Change Counseling

- Provided strategic guidance to developers and electrical generating interests regarding the implications of AB 32 and cap and trade regulations.

Professional Honors and Activities

- California Diversity Committee Representative, Stoel Rives
- Recipient, Sacramento Bar Association Diversity Fellowship, 2010
- Student Associate, Schwartz/Levi American Inn of Courts
- Co-Chair, King Hall Legal Foundation
- Symposium Co-Chair, Environmental Law Society
- Member, Middle Eastern Southeast Asian Law Student Association
- Member, Native American Law Student Association

Publications

- Regular contributor to the Stoel Rives California Environmental Law Blog
- "Ten Things to Know About California's New Industrial Storm Water Permit" (coauthor), Stoel Rives California Environmental law Blog, Apr. 2014

Civic Activities

- Volunteer, Artists for a New South Africa, 2006-2011
- Volunteer Director and Program Coordinator, Feed the Children, 2007-2010
- Volunteer, 826 Valencia, 2008-2009

Shannon L. Morrissey



Associate
(916) 319-4671 direct
(916) 447-4781 fax
shannon.morrissey@stoel.com

Experience

Shannon Morrissey is an associate in the firm's Environment, Land Use and Natural Resources practice group. She has experience with permitting, transactional and natural resources matters.

Prior to joining the firm, Shannon was a summer associate (2014) and law clerk (2014-2015) with Stoel Rives LLP and was an extern for the State Water Resources Control Board (2014) and the Attorney General, Public Rights Division (2013) in Sacramento, California. She also conducted research and composed summaries of environmental issues covering water policy, air quality and energy and natural resource issues for the Southern Environmental Law Center in Birmingham, Alabama (2013).

Professional Honors and Activities

- Member, Women Lawyers of Sacramento
- Member, MetroEDGE
- Member, Sacramento County Bar Association, Environmental Law Section
- Editor, *Climate Change Law & Policy Reporter*

Publications

- Regular contributor to the Stoel Rives California Environmental Law Blog and Mineral Law Blog
- "FERC and USACE: The Necessity of Coordination in Implementation of the Hydropower Regulatory Efficiency Act," 48 U.C. Davis L.Rev. 1581, 2015

Civic Activities

- Recreational runner for various 5Ks and half marathons, including the Davis Turkey Trot benefitting A Change of Pace Foundation (2014) and the Big Sur Half Marathon (2013)

Education

- University of California, Davis, School of Law, J.D., 2015
  Senior Articles Editor, *UC Davis Law Review*, Volume 47
  Member, *UC Davis Law Review*, Volume 48
  Managing Editor, *Environs, Environmental Law & Policy Journal*
  Witkin Award, Administrative Law
  Co-chair, Environmental Law Society
- University of Florida, B.A., 2012, *summa cum laude*
  Honors Program
  University Scholars Program

Admissions

- California

Ha T. Nguyen



Paralegal
(916) 319-4659 direct
(916) 447-4781 fax
ha.nguyen@stoel.com

Experience

Ha Nguyen is a paralegal in the firm's Environment, Land Use and Natural Resources group. She provides support to all of the California offices in a diverse range of matters involving environmental compliance and general litigation.

Ha has assisted on a variety of environmental matters involving the California Environmental Quality Act, the Clean Air Act and the Comprehensive Environmental Response, Compensation and Liability Act. Ha is frequently involved in all aspects of litigation under CEQA, including preparation of administrative records, briefing and administrative trials on behalf of public agencies and municipalities as well as private developers.

Ha also provides support to the firm's litigation practice. She assists with all phases of litigation, including discovery, motion practice, research, trial and appeal. Ha routinely provides trial support to attorneys, both in and out of the courtroom. Ha is regularly involved in contract/business disputes, construction defect matters and judgment enforcement actions in California and Nevada.

Education

- MTI College, Paralegal Studies, 2007
- University of California, Davis, B.A., Sociology, 2002

Professional Honors and Activities

- Member, Sacramento Valley Paralegal Association
- Member, National Federation of Paralegal Associations

Presentations

- "Prepare Before the Lawsuit: The Planner's Interaction with Defense Counsel," Association of Environmental Professionals Conference, May 7, 2012

Lesley D. Berger



Transactional Specialist
(916) 319-4791 direct
(916) 447-4781 fax
lesley.berger@stoel.com

Education

- Sacramento City College, Music-Vocal Performance

Experience

Lesley Berger is a Transactional Specialist with more than 30 years of experience in all aspects of real estate acquisition, disposition and finance transactions, including preparation of transactional documents, management of complex multi-property transactions, due diligence document review and analysis with special emphasis on title insurance and survey matters, negotiation of title insurance coverage and pricing. She also has extensive knowledge of corporate and limited liability company entity formation, maintenance and dissolution, foreign qualification, operations of public and private entities, stock and stock option administration and corporate records maintenance.

Before joining Stoel Rives, Lesley was a senior paralegal at Morrison & Foerster LLP (2010-2015, 1978-2000), a paralegal and office administrator at Porter Simon + Shadek in Nevada (2009-2010), a transaction processing manager at Real Estate Equity Exchange, Inc. in San Francisco (2007-2008), a senior paralegal with Dechert LLP in San Francisco (2005-2007) and a legal analyst with Pillsbury Winthrop Shaw Pittman LLP in Sacramento (2004-2005).

Representative Work

- Performed due diligence review and analysis of title and survey matters and negotiated title and UCC insurance coverage for $1 billion loan secured by solar thermal power station facility located on BLM land in California.
- On behalf of large pension fund investor, coordinated the closing of more than 100 separate acquisitions and/or dispositions of shopping center, office building and apartment properties located throughout the western U.S., ranging in value from $10 million to $450 million.
- Assisted various commercial lending clients with due diligence review and analysis of title, survey and zoning matters; preparation of loan documentation; and coordination of closing of multi-site CMBS portfolio loans.

Professional Honors and Activities

- Board Member, San Francisco Association of Legal Assistants, 1988-1992
- Board Member, California Alliance of Paralegal Associations, 1990-1991

Presentations

- Presenter/Panelist, "The Commercial Real Estate Transaction, Practical Management," National Federation of Paralegal Associations Annual Conference, June 1986

- Speaker, "Real Estate Paralegal Practice," San Francisco State University Paralegal Studies Program, 1987

Civic Activities

- Volunteer, Truckee River Day, Truckee River Watershed Council, 1997-present
- Volunteer, Sacramento Habitat for Humanity, 2014-present

Timothy M. Taylor



Partner
(916) 319-4754 direct
(916) 447-4781 fax
tim.taylor@stoel.com

Experience

Tim Taylor is one of Sacramento's best known environmental and land use lawyers. He helps residential, commercial and industrial developers achieve compliance with California's numerous land use and environmental laws, with a particular focus on the California Environmental Quality Act and related litigation. During his more than 25-year career, Tim has also dealt extensively with a wide range of federal environmental laws, including the National Environmental Policy Act, the Clean Water Act and the Endangered Species Act. He also represents numerous public agency clients on state planning, zoning, development and environmental law matters.

Tim served as the office managing partner for the firm's California offices from 2009-2014, and was a member of the firm's Executive Committee for much of that time. He was selected as the Sacramento Land Use & Zoning Law Lawyer of the Year in 2013 and the Sacramento Environmental Law Lawyer of the Year in 2012 by *Best Lawyers®*.

Representative Work

- Tim represents numerous development interests in residential, commercial, and industrial matters, as well as public agency clients on matters concerning state planning, zoning, and development laws; the California Environmental Quality Act; and related federal and state environmental statutes

Professional Honors and Activities

- Selected by *Best Lawyers®* as Environmental Law Lawyer of the Year, Sacramento, 2012, 2015 and Land Use & Zoning Law Lawyer of the Year, Sacramento, 2013
- Listed in *Best Lawyers in America©* (currently: Environmental Law, Land Use & Zoning Law), 2009-2016
- Listed in *Northern California Super Lawyers®*, (Environmental Litigation), 2005-2006, 2009-2015
- Visiting professor, University of California, Davis, School of Law, 1994-2009; Lecturer, 2010-present
- Past chair, Executive Committee, State Bar of California Environmental Law Section and CEQA Review Committee, 1992-2005
- Co-Chair, Environmental Law Conference at Yosemite, 1999
- Former member, Research Screening Committee, State of California Air Resources Board

Education

- University of California, Los Angeles, School of Law, J.D., 1986
- University of California, Los Angeles, M.A., Architecture and Urban Planning, 1986
- Dartmouth College, B.A., 1981

Admissions

- California
- Pennsylvania (inactive)
- U.S. District Court for the Eastern District of California

- Strategic Planning Advisory Committee, State Department of Toxic Substances Control
- City of Davis Transportation Commission
- Member, Davis Urban Development Agricultural Buffer Task Force

Presentations

Tim has lectured for the University of California, Davis Extension; the State Bar of California; the State Bar of California Environmental Law Section; the Sacramento County Bar Environmental Law Section; the California Chapter of the American Planning Association; the Association of Environmental Professionals; the League of California Cities; and numerous other groups on environmental, land use, and urban planning topics.

Publications

- "California High Court Case Has Not Made CEQA Obsolete," (co-author), *Law360*, Aug. 2014
- "Sacramento Railyards: How the City of Sacramento is Facilitating Development of the Largest Brownfield Infill Site in America" (coauthor), *California Real Property Journal*, Vol. 29, No. 2, 20911
- "State Supreme Court Sets Environmental Baseline" (coauthor) *The Daily Journal*, Apr. 1, 2010
- "The California Environmental Quality Act: Assessment and Recommendations" (coauthor)
- "The Endless Quest: Pursuing the Elusive Administrative Record in CEQA and Related Mandamus Proceedings" (coauthor), *Environmental Law News*, Vol. 14, No. 1, Summer 2005

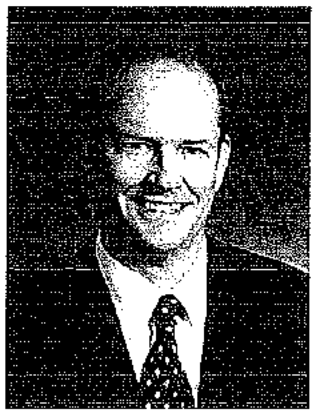
Awards and Honors

- Public Servant of the Year, City of Davis Thong Hy Huynh Memorial Award, 2012

Civic Activities

- Member, Advisory Board of Directors, California Environmental Law & Policy Center, UC Davis School of Law
- Founding member, Board of Directors, and Vice Chair, Nehemiah Corporation of America, 1994-2006
- Member, Board of Trustees, Davis Joint Unified School District, November 2005-present
- Served on the boards of several nonprofit community organizations

Thomas A. Henry



Partner
(916) 319-4667 direct
(916) 447-4781 fax
thomas.henry@stoel.com

Education

- University of California, Davis, School of Law, J.D., 1998
- University of Texas, Austin, B.B.A., 1982

Admissions

- California

Experience

Tom Henry is a partner in the Environment, Land Use and Natural Resources group specializing in mining and oil and gas matters. As a California mining attorney, Tom's practice involves permitting, environmental review under the California Environmental Quality Act (CEQA), as well as resolving other land use, title and regulatory compliance issues. Tom's oil and gas experience involves title review, as well as land use, permitting and CEQA issues related to oil and gas development and production. Tom also advises clients as to California's AB 32 emissions reporting and Cap and Trade Program. Before practicing law, Tom served as a U.S. Army officer on active duty from 1982-1987.

Before joining Stoel Rives, Tom was a partner with Downey Brand LLP in Sacramento.

Representative Work

- Represents mining, development and oil companies and other commercial and industrial project proponents on issues of CEQA compliance.
- Represents oil and gas companies in CEQA litigation, local agency oil and gas ordinances, title opinions, permitting issues and leases.
- Represents mining companies regarding environmental due diligence for mine acquisitions.
- Represents mining companies regarding California's pit backfill requirements.
- Represents mining companies in complying with the California Surface Mining and Reclamation Act and federal mining laws, including obtaining approval of mining permits and reclamation plans.
- Represents developers, vineyards and mining companies in complying with California lake and streambed alteration requirements under Section 1602, including negotiating streambed alteration agreements.
- Represents developers and mining companies in obtaining Clean Water Act Section 404 permits for fill activities.
- Represents developers and vineyards in obtaining Clean Water Act Section 401 water quality certifications from State and Regional Water Quality Control Boards, including drafting appeals of water quality certification determinations.
- Represents mining companies in determining vested rights status.
- Represents private project proponents in litigation regarding CEQA compliance and design review.

Thomas A. Henry

Professional Honors and Activities

- Listed in *Best Lawyers in America©* (currently: Oil & Gas Law), 2012-2016
- Member, California Independent Petroleum Association
- Member, Sacramento Petroleum Association
- Member, California Construction and Industrial Materials Association
- Member, Environmental Law Section, Sacramento County Bar Association
- Member, Environmental Law Section, State Bar of California
- Member, Rocky Mountain Mineral Law Foundation

Presentations

- Presenter, "Integrating the AB 32 Cap and Trade Program into Your GHG Permitting Strategy," CalCIMA Education Conference, Monterey, California, Nov. 18, 2015
- Co-Presenter, "Surface Water Diversions Under F&G Code Section 1602 - The Landscape has Changed," Stoel Rives Water Law Webinar, July 28, 2015
- Presenter, "Challenges Associated with California's Pit Backfill Requirements," State Mining and Geology Board meeting, Sacramento, California, June 11, 2015
- Co-Presenter, "Title Issues in Mine Leasing and Acquisitions and Their Potential Impacts on Permitting and Operations," CalCIMA Education Conference, San Diego, California, Nov. 4, 2014
- Co-Presenter, "Review of the 'Typical' California Oil & Gas Lease," 32nd Annual West Coast Landmen's Institute, Las Vegas, Nevada, Oct. 23, 2014
- Co-Presenter, "California SB 4 Compliance Update: Practical and Legal Implications of the DOGGR Interim Regulations for Operators in 2014," Stoel Rives Webinar, Mar. 13, 2014
- "Getting Ready for SB 4: California's New Well Stimulation Permitting Law," Stoel Rives Seminar, Bakersfield, California, Dec. 11, 2013
- "The Not So Good, the Bad and the Ugly - What Every Landman Needs to Know About Community Leases" (presenter), 31st Annual West Coast Landmen's Institute, Sept. 2013
- "Strategies for Complying with California's Cap & Trade Program," Kern County Bar Association, Bakersfield, California, Dec. 2012
- "Oil and Gas Exploration and Production of Private Lands in California," Infocast California Oil Summit, Long Beach, California, Dec. 2012
- "How to Use a Title Opinion," 30th Annual West Coast Landmen's Institute, Dana Point, California, Sept. 2012
- "Off or On? Examining OMR's AB 3098 Listing Procedures," California Construction and Industrial Materials Association Annual Education Conference, Monterey, California, Oct. 2011

- "CEQA -- Its Role In and Effect On the Permitting Process," 29th Annual West Coast Landmen's Institute, Santa Barbara, California, Sept. 2011
- "Regulatory Trends in California," Industrial Mineral Association-North America Annual Meeting & National Industrial Sand Association 75th Anniversary Celebration, The Lodge at Sonoma Renaissance Resort and Spa, Sonoma, California, Sept. 2011
- "Resolving Conflicts Between Oil and Gas and Renewable Energy Development," Bakersfield Association of Petroleum Landmen, Jan. 18, 2011
- "AB 32 and SB 97: California's Laws Regulating Greenhouse Gas Emissions and Climate Change and Their Related Impacts on Project Timelines and Permitting," 28th Annual West Coast Land Institute, Shell Beach, California, Sept. 23, 2010
- PITFALL - "Landman Harry's Adventure in California's Land Use Jungle," Bakersfield Association of Petroleum Landmen, Nov. 17, 2009
- "National Environmental Policy Act" and "Wetlands Regulations," Lorman Education Services, Zoning and Land Use in California, 2005
- "2004 Mining Law Update," American Association of Professional Landmen, 2005
- "2003 Mining Law Update," American Association of Professional Landmen, 2004
- "2002 Mining Law Update," American Association of Professional Landmen, 2003
- "Streambed Alteration Agreements and Notifications," Construction Materials Association Conference, 2003
- "How to Avoid a Prop. 65 Lawsuit," Construction Materials Association of California Operators Conference for the Construction Materials Industry, 1999

Publications

- "Calif. Seems Set To Solve Split On Oil Rail Shipments," *Law360*, Feb. 4, 2015
- "A Compliance Handbook for SB 4 - California's Well Stimulation Permitting Law" Third Edition and "SB 4 Compliance Flowchart," (co-author), Stoel Rives LLP, July 2015
- "California's Cap and Trade Program under AB 32 - a Primer" (co-author), Stoel Rives LLP December 2012
- "State Supreme Court Sets Environmental Baseline" (coauthor), *The Daily Journal*, Apr. 1, 2010
- "2000 Year in Review" (coauthor), Public Lands Section, American Bar Association
- "1999 Year in Review" (coauthor), Public Lands Section, American Bar Association

Michael N. Mills



Partner
Sacramento, CA
(916) 319-4642 direct
(916) 447-4781 fax
michael.mills@stoel.com

Experience

Michael Mills is an environmental attorney in the firm's California practice and a partner in the Environmental, Land Use and Natural Resources practice group. He is the Chair of the firm's Oil & Gas, Pipelines and Mining Industries Team and in that capacity works with and helps lead more than seventy of the firm's lawyers who counsel and represent oil and gas companies, mining companies, energy companies, pipeline operators, and gas storage and LNG project companies in various legal disciplines across the United States. Mike's practice involves a wide spectrum of environmental matters, including federal and state hazardous waste cleanup counseling and litigation, California Environmental Quality Act (CEQA) litigation, and California water rights litigation. His background in environmental toxicology, as well as his connections within many environmental regulatory agencies in Sacramento, make him ideally suited to provide cost-effective and practical solutions to environmental problems that clients confront.

Representative Experiences

Environmental Litigation and Administrative Enforcement Proceedings

- Representation of Fortune 500 oil and gas company in defense of Clean Water Act citizen suit arising from concerns over hydraulic fracturing and enhanced oil recovery techniques resulting in alleged storm water discharges in violation of the General Industrial Storm Water Permit.
- Lead counsel for property owner defendant in complex CERCLA action filed in the U.S. District Court for the Central District of California seeking contribution resulting from contamination within the El Monte Operable Unit of the San Gabriel Valley Superfund Site.
- Lead counsel for property owner defendant in complex CERCLA action filed in the U.S. District Court for the Eastern District of California seeking contribution for soil and groundwater contamination.
- Defended public water agency in complex environmental action brought in the U.S. District Court for the District of Arizona asserting claims under CERCLA, RCRA and Clean Water Act, as well as other claims.
- Defended second largest generator and coordinated representation of joint defense group in municipality's CERCLA cost-recovery action brought in the U.S. District Court for the Northern District of California.
- Lead counsel for mining company in complex environmental enforcement action brought by the California Attorney General's Office to require remediation of abandoned mine in Tuolumne County, California.

Education

- University of California, Davis, School of Law, J.D., 1997
  Order of the Coif
  Senior Notes and Comments Editor, *U.C. Davis Law Review*
- University of California, Davis, B.S., Environmental Toxicology (minor in English), 1994, *summa cum laude*
- Dana Curtis Mediation, Appellate Mediation Training Program, Certificate of Completion, 2010

Admissions

- California
- U.S. District Courts for the Eastern, Southern, Northern and Central Districts of California
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Bankruptcy Court for the Eastern District of California

- Lead counsel for mining company subsidiary in complex enforcement action brought by the Alaska Department of Environmental Conservation to require the cleanup of an abandoned fuel bunker in Juneau, Alaska.
- Lead counsel for property owner in real estate purchase dispute involving contaminated property.
- Lead counsel in defense of county in writ of mandate proceeding challenging selected site for water pumping facility.
- Representation of corporate defendant in complex litigation relating to closure of landfill in Amador County, California.

Environmental Counseling

- Lead counsel for trustee of trust established under court-ordered settlement to oversee funds dedicated to, and management of, remediation of abandoned gold mine.
- Lead counsel for Fortune 500 oil and gas company in connection with compliance efforts under the Federal Clean Water Act and General Industrial Storm Water Permit for oil and gas fields in Southern California.
- Representation of Fortune 500 oil and gas company in connection with application of, and compliance with, Prevention of Significant Deterioration Regulation under the Federal Clean Air Act in California's San Joaquin Valley.
- Common counsel to group of cooperating parties in cleanup of multiparty superfund site under supervision of the U.S. Environmental Protection Agency.
- Representation of trust established under court-ordered settlement to oversee funds dedicated to, and management of, remediation of solvent contamination to soil and groundwater in San Joaquin County, California.
- Representation and advice on legal and regulatory issues concerning contaminated lands and groundwater cleanup projects throughout Northern and Central California, including matters involving leaking or abandoned underground storage tanks.
- Lead counsel for property owner in negotiation of Corrective Action Consent Agreement with California Department of Toxic Substances Control.

California Environmental Quality Act (CEQA) Compliance and Litigation

- Advise clients with respect to CEQA compliance and related requirements.
- Evaluate projects for compliance with CEQA in preparation for litigation
- Lead counsel for plaintiffs in CEQA lawsuit challenging the City of Oakland, California's proposed ordinance to ban plastic carry-out bags.
- Lead counsel in defense of Fortune 500 oil company in CEQA challenge to drilling permits issued by the Department of Conservation, Division of Oil, Gas, and Geothermal Resources.
- Lead counsel for Fortune 500 oil and gas company in CEQA litigation to challenge residential development for lack of analysis of impacts to mineral resources.
- Lead counsel in defense of residential developer in CEQA lawsuit challenging approval of residential subdivision in San Bernardino County, California.

- Lead counsel in defense of hunting club in CEQA lawsuit challenging approval of shooting range facility.
- Defense of public agency in CEQA challenge arising from proposed residential development project.
- Advise and counsel mining clients on CEQA compliance and related permitting matters.
- Lead counsel in defense of aggregate mining company in CEQA lawsuit challenging approval of mine expansion in Merced County, California.
- Lead counsel in defense of national aggregate mining company in CEQA lawsuit challenging approval of mine expansion in Butte County, California.
- Representation of national aggregate mining company in CEQA lawsuit challenging approval of mine expansion in Fresno County, California.
- Representation of national aggregate mining company in CEQA challenge to municipal ordinance requiring conditional use permit for federally approved mitigation bank.
- Lead counsel for Fortune 500 telecommunications company in land use dispute concerning zooming and site placement of cell phone tower.

Water Rights Litigation

- Lead counsel for hydroelectric project operator in complex RICO action brought in the U.S. District Court for the Eastern District of California involving claims over disputed water rights.
- Representation of water right holders in Judicial Council Coordination Proceeding JC 4118: the Bay-Delta Decision 1641 Litigation.
- Representation of county water agency in complex lease dispute with lessee over construction of flood control and water quality project.

Published Opinions

- 138 Cal.App.4th 574 (2006).
- 105 Cal.App.4th 1155 (2003).
- 308 F.Supp.2d 1137 (2003).
- 213 F.Supp.2d 1208 (2002).

Professional Honors and Activities

- Listed in *Northern California Super Lawyers®* (Environmental Law), 2013-2015
- Member, State Bar of California, Environmental Law Section
- Panel Mediator, California Court of Appeal, Third Appellate District, Appellate Mediation Program

- Member and former President, former First Vice President, former Second Vice President, former Secretary/Treasurer and former Director-at-Large, Bar Council; Chair, Nominating Committee; member, Environmental Law Section, Sacramento County Bar Association
- Member and former President, Vice President, Programs Director and Secretary, Sacramento Chapter, Federal Bar Association
- Member, Natural Resources Section, American Bar Association
- Member and former Treasurer, Asian/Pacific Bar Association of Sacramento
- Member, Rocky Mountain Mineral Law Foundation
- Member, California Independent Petroleum Association
- Member, Sacramento Petroleum Association
- Member, Western States Petroleum Association

Presentations and Publications

Mike Mills has published, presented and been quoted on a wide array of environmental topics, including the regulation of hydraulic fracturing, the implementation of Senate Bill 4, California's well stimulation permitting law, California's new industrial storm water permit, California's cap & trade program under Assembly Bill 32, and regularly contributes to Stoel Rives Blogs, including www.californiaenvironmentallawblog.com and www.mineralslawblog.com. In 2014, the ABA's Section of Environmental, Energy and Resources published Mike's co-authored article, *"What is Fracking Wasterwater and How Should We Manage It?"*

Civic Activities

- Board Member, U.C. Davis School of Law, King Hall Alumni Association Board of Directors
- President, Spinning Rod Way Neighborhood Watch, 2003-2009
- Moot Court Judge, U.C. Davis School of Law, 2002, 2004-2007
- Alumni Representative, Distinguished Teaching Award Selection Committee, U.C. Davis School of Law, 2009
- Member, CEB Award for Excellence in Legal Research and Writing Selection Committee, U.C. Davis School of Law, 2009-2010

Aaron C. Courtney



Partner
(503) 294-9411 direct
(503) 220-2480 fax
aaron.courtney@stoel.com

Experience

Aaron Courtney is a partner practicing in the Environment, Land Use and Natural Resources group. He represents energy, municipal, industrial, agricultural and developer clients on compliance, permitting and litigation issues under the Clean Water Act (CWA) (with a particular emphasis on Section 404 and Section 10 permitting), the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA) (focusing on Bureau of Land Management rights-of-way authorizations), and federal and state clean-up laws. Aaron's energy infrastructure work focuses on linear project development (transmission and pipeline) and renewable energy generation project permitting (wind and solar). Aaron also has extensive experience representing clients in formulating mitigation strategies to facilitate such permitting, as well as advising clients in the development of natural resource mitigation banks. His public sector work includes representing numerous public wastewater treatment entities on water quality and distribution matters. He also applies his extensive practical skills in conducting environmental due diligence in support of major mergers and acquisitions matters, (a course he teaches as an adjunct faculty member at Lewis and Clark Law School).

Representative Work

- *CWA Section 404 and RHA Section 10 Permitting.* Counseling clients on CWA permitting and compliance matters throughout the United States. This includes advising clients on Section 404 and Section 10 for project impacts to wetlands or other jurisdictional waters, and on compliance with the related state and federal environmental and natural resource regulatory programs that accompany these authorizations (e.g., ESA, NEPA, CWA Section 401). The CWA work also entails wastewater and stormwater permitting under the CWA's Section 402 NPDES program. Representative current and past projects involving such legal assistance are:
    - Columbia River Shoreline Industrial Entities (ongoing). Represent several major industrial entities along the Lower Columbia River in ongoing Section 404, ESA, and NEPA compliance matters relating to regular maintenance dredging, dock construction and maintenance, berth construction and general in-water operational expansions.
    - Mitigation Banks (ongoing). Represent wetland, salmon, and Natural Resource Damage mitigation banks in the Columbia River Basin, including permitting the significant dredge and fill activities fundamental to the creation of the banks and associated habitat enhancements.

Education

- University of Virginia School of Law, J.D., 1992
  Editorial Board and Public Affairs chair, *Virginia Environmental Law Journal*, 1990-1992
- University of Virginia College of Arts & Sciences, M.S., Environmental Sciences, 1993
- University of Virginia, B.A., Environmental Sciences/Ecology and Biology, 1989
  Dean's List
  Sigma Gamma Epsilon

Admissions

- Oregon
- U.S. District Court for the District of Oregon
- U.S. Court of Appeals for the Ninth Circuit

Languages

- Spanish

- Sand and Gravel Mining (ongoing). Serving as general counsel to gravel mining and cement/asphalt processing company on permitting and compliance issues for island and several other waterfront facilities in downtown Portland, as well as for numerous sites in the Columbia River Gorge.
- Missouri River Dredgers Permitting and Appeal (pending). Represent sand and gravel mining company on an appeal of Section 404/10 proffered permit (and associated NEPA record) for sand mining across 550 miles of the Missouri River.
- Nationwide Permit Rulemaking (completed). Represented renewable energy trade association and certain members in providing extensive comments on the reissuance of the CWA Section 404 and RHA Section 10 Nationwide Permit Program.
- Agricultural Operations (ongoing). Representing a 90,000-acre Oregon agricultural operation (one of the largest dairy and organic farms in the United States) on permitting and public outreach matters. The representation has included creating a habitat conservation agreement under the ESA, acquiring and trading water rights to achieve mitigation credit for salmon habitat impacts associated with irrigation activities, overseeing dairy (CAFO) permitting, strategizing on issues related to the development of the farm's unprecedented sustainable, closed-loop operations, and permitting the development and operation of several digesters.
- Industrial and food and seafood processing environmental regulatory compliance and enforcement defense work (ongoing). Assisting several regional specialty goods manufacturing and food and seafood processing clients on state and federal environmental permitting compliance and in defense of state and federal and third-party enforcement actions.
- Watershed Permitting (ongoing). Assisting a wastewater treatment public utility that serves 12 Oregon cities in obtaining and complying with its unprecedented watershed-based CWA permit. The permit is based on an effluent trading program within the Tualatin River basin that responds to ESA and total maximum daily load (TMDL) requirements.
- Public Wastewater Permitting (ongoing). Representing the cities of Gresham and Hermiston, Oregon, on treatment plant water quality matters, including pretreatment programs, stormwater (MS4), TMDL and ESA issues.

- *Energy Project Permitting.* Overseeing state and federal environmental and land use permitting (CWA (emphasis on Section 404), ESA, NEPA, FLPMA) relating to wind, solar, natural gas, ethanol and other energy development projects throughout the United States. This includes counseling clients on facility siting, managing generation and pipeline and transmission permitting and construction, facilitating regulatory and public (NGO) outreach, and defending project proponents against regulatory enforcement actions and third-party environmental lawsuits. Representative current and past projects involving such legal assistance are:

  - Gateway West Transmission Project (pending). IBLA appeals defense.
  - Pembina Propane Export Facility (pending). State and federal permitting of major international propane export facility on the Columbia River.
  - Wind Farm Permitting (ongoing). Regularly provide federal public lands and CWA permitting and NEPA and ESA compliance assistance to numerous national and international wind power developers across the United States.
  - Ruby Pipeline (in service 2011). Approximately 675-mile, 42-inch natural gas transmission pipeline, beginning at the Opal Hub in Wyoming, crossing Utah and Nevada and terminating at interconnects near Malin, Oregon. At the time of construction, it was the largest federal lands pipeline project in the nation in more than a decade.

- Palomar Natural Gas Transmission Pipeline (pending FERC project). Proposed 220-mile, 36-inch diameter underground natural gas pipeline in Oregon that will cross BLM, USFS, private and Tribal lands.
- Coos County Pipeline (in service 2005). 60-mile, 12-inch pipeline extending from Roseburg, Oregon, across the Coastal Range to Coos Bay.
- Zephyr Power Transmission Project (pending). Proposed 900-mile, 500-kilovolt DC transmission line from Wyoming, across Colorado and Utah, terminating in southern Nevada.
- PGE Cascade Crossing. Proposed 200-mile, double-circuit, 500-kilovolt transmission line, from Boardman, Oregon, to Salem that will cross BLM, USFS, private and Tribal lands.
- EDP Renewables (formerly Horizon Wind Energy) Oregon Projects (pending). Several large wind farms under development in central and eastern Oregon on private and public lands and involving significant wildlife, CWA Section 404 permitting and state environmental regulatory compliance/permitting issues.
- Cascade Grain (completed). The largest corn ethanol processing plant on the West Coast (113.2 million gallons a year) in Clatskanie, Oregon, involving significant ESA and Section 404 permitting issues.
- SunPower solar projects (pending). Numerous federal lands solar projects in California and Arizona currently in the nascent phases of permitting.

- Served as lead environmental counsel in numerous mergers and acquisitions, including the $2.15 billion sale of Longview Fibre Company in its wood products facilities and timber holdings located across the country, and the $124.5 million sale of the Ritz Carlton Half Moon Bay Resort, one of the largest hotel sale transactions in the U.S.
- Providing legal support for the establishment (through federal legislation) of the 20,827-acre Opal Creek Wilderness, the 13,538-acre Opal Creek Scenic Recreation Area, and the 3,066-acre Wild and Scenic River corridor, and associated timberland transfers and mine tailings remediation.

Professional Honors and Activities

- Listed in *Best Lawyers in America*© (currently: Natural Resources Law), 2012-2016
- Faculty, Lewis & Clark Law School, 1999-2002
- Adjunct Faculty, Lewis & Clark Law School
- Environment Committee, Oregon Business Association
- Former Vice Chair, Marine Resources Subcommittee, American Bar Association
- Vice Chair, Public Lands Committee, American Bar Association
- Member, Oregon State Bar
- Member, Multnomah Bar Association

Aaron C. Courtney

Representative Presentations

- Regular Moderator, Infocast Annual Transmission in the West Conference, San Diego, 2013-2015
- "Linear Project Permitting," Rocky Mountain Mineral Law Foundation, Special Institute on Public Land Law, Regulation and Management, Santa Fe, NM, May 9, 2014
- AWEA Wind Project Siting Seminar, New Orleans, 2014
- Presenter, AWEA WINDPOWER 2012 Conference & Exhibition, Atlanta, Georgia, June 2012
- AWEA Wind Project Siting Seminar, Las Vegas, 2012
- AWEA Wind Project Siting Seminar, Kansas City, 2011
- "Combining NEPA Compliance with Other Statutes: the National Historic Preservation Act and the Endangered Species Act" Rocky Mountain Mineral Law Foundation, Special Institute on NEPA, Denver, CO, October 29, 2010
- Environmental Law Institute, Annual Environmental Law Bootcamp, Washington, D.C., 2003-2006
- International Conference on Invasive Species, Yokohama, Japan, 2004
- Sea Grant Law Center Conference on Interjurisdictional Fisheries Management, Toledo, Ohio, 2003
- Council of Great Lakes Fishery Agencies 2001 Annual Meeting, Windsor, Ontario, Canada
- Society for Conservation Biology 1992 Annual Meeting, Blacksburg, Virginia
- Regular presenter at regional environmental law seminars

Publications

- "Ocean Dumping and Marine Pollution Law," *Ocean Law and Policy* (American Bar Association), 2008 and 2015
- "Oregon Greenhouse Gas Reduction" and "Oregon Toxics in Water Reduction," *Oregon Insider* (Envirotech Publications), Oct. 2007
- "Legal Strategies for Combating Invasive Species," *Proceedings of the International Conference on Invasive Species*, IUCN (World Conservation Union), 2006
- "Marine Resources" and "Invasive Species," *Year in Review* (American Bar Association), 2002-2006
- "Multijurisdictional Regulation of Cruise Ship Discharges," *Natural Resources & Environment* (American Bar Association), Summer 2004
- "Industry Targeted for Compliance with Stormwater Requirements," *The Real Estate Finance Journal* (West Publications), Summer 2004
- "Challenging NMFS' 2000 Biological Opinion," *The Osprey* (Federation of Fly Fishers), Sept. 2001
- "Individual Area Relationships: The Relationship Between Animal Population Density and Area," *Ecology*, Mar. 2000
- "Developments in Private Party Cost Recoveries and UST Cleanups," *Oregon Environmental & Natural Resources Law News* (Oregon State Bar), Summer 1996

Aaron C. Courtney

Civic Activities

- Served on Federal Advisory Council, Opal Creek Scenic Recreation Area
- Board member, Illahee—Environmental Forum
- Former board member, Planned Parenthood of the Columbia Willamette
- Former board chair, Opal Creek Ancient Forest Center
- Former coach, Portland Youth Soccer

Barbara D. Craig



Partner
(503) 294-9166 direct
(503) 220-2480 fax
barbara.craig@stoel.com

Experience

Barbara Craig is a partner of the firm practicing in the Natural Resources and Land Use group. She focuses her practice on federal environmental and natural resources law with an emphasis on endangered species compliance, and forestry and energy facility permitting and compliance issues. Barbara has extensive experience on issues involving the Endangered Species Act (ESA), National Forest Management Act (NFMA), Federal Land Policy and Management Act, Federal Power Act (FPA), Natural Gas Act, Marine Mammal Protection Act (MMPA), Migratory Bird Treaty Act (MBTA), Bald and Golden Eagle Protection Act (Eagle Act), National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Clean Water Act (CWA) and Administrative Procedures Act. Representative clients include forestry companies and associations, ports, pulp and paper interests, developers and owners of hydropower dams, wind energy projects, utilities, and oil and gas facilities in complex permitting matters. Governor Kulongoski appointed Barbara to the Oregon Board of Forestry, where she served from 2004 through 2008.

Prior Experience

Barbara served as law clerk to the Honorable Robert C. Belloni, U.S. District Court for the District of Oregon, and has assisted Judge Owen M. Panner, Judge Malcom F. Marsh and Judge James A. Redden, U.S. District Court for the District of Oregon, in cases involving NEPA, the NFMA and the ESA.

Barbara has her B.S. in Forest Management from Oregon State University and worked for the U.S. Forest Service as a project forester for five years in the Leavenworth Ranger District in the Wenatchee National Forest in Washington. As a project forester, she was responsible for all aspects of timber management, including NEPA documents, silvicultural prescriptions, sale design, field layout, contract compilation and appraisal. She was a member of the Redmond Hotshot Crew, fighting forest fires in the region. Before joining the U.S. Forest Service, she worked as a private contractor for four years, procuring labor contracts in forestry for activities such as reforestation, slash piling, fire-line construction and precommercial thinning.

Representative Work

- Assisted timberland owners in Washington and Oregon with strategy and development of a Safe Harbor Agreement (SHA) for the northern spotted owl under the ESA. The U.S. Fish and Wildlife Service (FWS) critical habitat designation excluded all of the clients' lands encompassing 81,587 acres under the SHA.

Education

- Lewis & Clark Law School, J.D., 1987
  Certificate in Environmental and Natural Resources Law
  Cornelius Honor Society
- Oregon State University, B.S., Forest Management, 1980

Admissions

- Oregon
- Washington
- U.S. Court of Appeals for the Ninth Circuit

- Advised utilities on ESA, MBTA and Eagle Act issues for their hydropower projects and distribution and transmission lines, including the development of Avian Bat Protection Plans (ABPPs) or Bird and Bat Conservation Strategies (BBCS) and Eagle Conservation Plans (ECPs).
- Advised wind energy companies on ESA, MBTA, Eagle Act, NEPA and related NHPA issues and tribal consultations for existing wind projects, including the development of ABPPs or BBCS, ECPs, Section 7 ESA consultations and Section 10 Habitat Conservation Plans (HCPs) and ESA take avoidance agreements.
- Advised wind energy companies on ESA, MBTA, Eagle Act NEPA and NHPA issues in developing and constructing wind projects, including the development of Avian Bat Protection Plans (ABPs) or Bird and Bat Conservation Strategies (BBCS), Section 7 ESA consultations, Section 10 HCPs and Eagle Conservation Plans (ECPs).
- Advise utilities on federal and state permitting strategies for the development of energy projects, including Section 10 Rivers and Harbors Act issues, ESA compliance and NEPA and Waterway Suitability Assessments for the U.S. Coast Guard Letter of Recommendation.
- Advise utility on Federal Energy Regulatory Commission (FERC) license compliance issues consistent with its FERC license articles and agreements, including advice regarding HCP terms and the development of hatchery genetic management plans (HGMPs) and Section 10 ESA permits.
- Represented energy company in siting facility and obtaining a FERC certificate that included U.S. Coast Guard Letter of Recommendation, NEPA, Section 7 ESA consultation and MMPA compliance strategy related to the proposed construction and operation of the energy facility and pipeline in Pacific Northwest.
- Advised numerous private clients on ESA compliance strategies related to the Oregon silverspot butterfly, including completion of an HCP for a real estate development, completion of conservation agreements and take avoidance plans.
- Advised Potlatch Corp. in renewal of its National Pollution Discharge Elimination System (NPDES) permit under the CWA and Section 7 ESA consultation for the company's Lewiston, Idaho pulp and paper mill, and successfully defended consultation in federal court litigation.
- Represented intervenor Longview Fibre Company in litigation brought by environmental plaintiffs against the State of Oregon under the ESA. In PRC v. Brown, plaintiffs alleged that the State Forester was in violation of the ESA by approving timber harvest plans that could impact streams where listed fish were found. Due to a variety of circumstances, including revisions to the Oregon Forest Practices Act and the de-listing of the Coho, the court dismissed the case.
- Represent utility in FERC dispute through FERC license amendment and negotiated settlement agreement of HCPs under the ESA and FPA and associated tribal consultation.
- Represent utility in relicensing strategy that incorporated HCPs and additional settlement agreement measures for new FERC license under the FPA and assisted in Section 7 ESA consultations with the FWS, the National Marine Fisheries Service (NMFS) and FERC.
- Represented utility in development of successful ESA consultations to obtain HCP incidental take permits for two FERC hydropower projects.

- Negotiated and drafted decommissioning settlement agreement for hydroelectric project in Washington, resolving all issues related to interim project operations and project decommissioning involving numerous stakeholders, including American Rivers, NMFS, the U.S. Forest Service, the U.S. Department of the Interior, the Yakama Nation and the Columbia River Intertribal Fish Commission. Negotiated a related agreement under which the U.S. Department of Justice, acting in its capacity for Indian tribes, and four Indian tribes released potential claims against client.
- Advised coalition of private and public utilities on ESA compliance for the operation of the Federal Columbia River Hydropower System. Successfully defended in federal district court against a preliminary injunction that could have resulted in the judge running the operations of the river at great cost to the region and with a large loss of flexibility and reliability to the hydropower system. Successfully assisted in the development of a biological opinion pursuant to the court's remand order.
- Advised utility on interim ESA consultation with FERC for its ongoing hydroelectric operations, fortuitously providing incidental take coverage before a catastrophic event occurred. Represented the same utility in excluding its FERC project lands from being designated as critical habitat on the basis of its prior ESA compliance strategy.
- Advised private utility in ESA consultation, including the Lost River and shortnose suckers and coho, for its FERC hydroelectric project with the Bureau of Reclamation, the FWS, FERC and the NMFS. Successfully defended the ESA consultation compliance through the Ninth Circuit Court of Appeals.
- Advised an energy client in negotiating a settlement agreement with ranchers to acquire water rights to dedicate to instream flows to enhance fish habitat as part of an HCP.
- Advised industrial developer in all permitting associated with building a fabrication plant, including ESA compliance for Bradshaw's lomatium. Successfully defended ESA consultation in federal court litigation through the Ninth Circuit Court of Appeals without any injunctive relief.

Professional Honors and Activities

- Selected by *Best Lawyers®* as Natural Resources Law Lawyer of the Year, Portland, 2011
- Listed in *Best Lawyers in America©* (currently: Natural Resources Law), 2009-2016
- Selected as one of "America's Leading Lawyers for Business" (Oregon) by *Chambers USA* (currently: Environment), 2010-2015
- Past General Counsel, current Board Member and President, Northwest Hydroelectric Association, 2014
- Recipient of the Ted Young Stewardship Award from OFIC, 2009

Presentations

- "Finding the Balance: Wind Energy and Avian Conservation," Webinar, 2014
- Moderator, "Sage Grouse in the Western Landscape," Northwest Mining Association Annual Meeting, 2012
- "Teaming to Build a Defensible Record," 2011
- "Eagles and Wind Farms - Can't We All Just Get Along?" 2011
- Moderator, "Renewable Energy and the Endangered Species Act: Advancing Sustainable Energy While Protecting Wildlife," ABA Section of Environment, Energy and Resources Law Summit, 2010

- "Avian Laws and Wind Energy Development," 2010
- Moderator, "The Might Columbia," The Seminar Group, 2007
- "Demystifying the Endangered Species Act," Law Seminars International: Land Use in Southwestern Washington, 2007
- "Hatchery Policy & Steelhead 'Downlisting' Invalidated," The Seminar Group CLE Webcast, Seattle, 2007
- "New Legal Standards and Requirements: A Status Report, The Endangered Species Act," National Hydropower Association Annual Conference, 2006
- "A Primer on the Endangered Species Act: The Species List, Take Prohibition, Permits & Federal Consultation Requirements," 2006
- Moderator, "The Mighty Columbia - A River for All," The Seminar Group, 2005
- "Endangered Species Act: New Changes and How They May Affect You," 2005
- "The Present and Future of HCPs: With or Without 'No Surprises,' Habitat Conservation Plans and "No Surprise Rule" Panel, 2005
- "ESA and FERC Relicensing, PacifiCorp Case Study: Lewis River Hydroelectric Projects," National Hydropower Conference, 2005
- "Major Court Decision Affecting Critical Habitat in the Gifford Pinchot Case," National Hydropower Conference, 2004
- "The Intricate Interplay Between CWA and ESA Issues," ABA Section of Environment, Energy and Resources, 2002

Publications

- "Wind Energy Operators Need Eagle Eyes for New Rules," *Law 360*, 2014
- "FWS Extends Eagle "Take" Permit to 30 Years | What You Need to Know," Stoel Rives Environmental Law Alert, 2013
- "Final Rule Issued: FWS Extends Eagle 'Take' Permit to 30 Years--What You Need to Know," Stoel Rives Environmental Law Alert, 2013
- "Avian Impacts and the Law," *Compliance and Conservation Strategies for Permitting Projects*, 2013
- "U.S. Fish and Wildlife Service Issues Eagle Conservation Plan Guidance for Wind Projects," Stoel Rives Environmental Law Alert, 2013
- "U.S. Fish and Wildlife Service Issues Land-Based Wind Energy Guidelines," Stoel Rives Environmental Law Alert, 2013
- "Endangered Species Act: Endangered Species Act Developments," *Oregon Insider*, 2005
- "National Forest Planning & Anadromous Fish Protection: A Trilogy of NEPA Cases," *Journal of Environmental Law & Litigation*, 1988

Cherise M. Gaffney



Partner
(206) 386-7622 direct
(206) 386-7500 fax
cherise.gaffney@stoel.com

Experience

Cherise Gaffney is a partner in the Environment, Land Use and Natural Resources practice group. She advises clients on federal natural resources law in complex permitting and compliance matters. Cherise has extensive experience on issues arising under the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Federal Power Act (FPA), National Environmental Policy Act (NEPA) and Administrative Procedure Act (APA). Representative clients include developers and owners of hydropower dams, liquid natural gas (LNG) facilities, oil and gas facilities, and wave and tidal energy projects. She formerly worked in the National Oceanic and Atmospheric Administration's Office of General Counsel representing the National Marine Fisheries Service (NMFS) on endangered salmon, hydropower dam and forestry issues in California.

Representative Permitting and Compliance Work

- Led successful permitting effort for natural gas development platform and pipeline in Cook Inlet including ESA compliance and Clean Water Act (CWA) approvals.
- Advise Native Alaska regional corporation on State of Alaska's development of a proposed new 600 MW dam on the Susitna River on its lands and the lands of its Village Corporations.
- Advise California solar energy developer on endangered kit fox issues including negotiation of settlement with U.S. Fish and Wildlife Service and associated habitat mitigation proposal
- Advise developer of nation's first wave energy test facility on licensing, federal leasing and permitting issues including Federal Energy Regulatory Commission (FERC) and Bureau of Ocean Energy Management (BOEM) siting approvals.
- Advised liquid natural gas (LNG) company in ESA section 7 consultation and MMPA compliance strategy related to proposed construction and operation of LNG terminal in the Pacific Northwest.
- Advised Alaska business association comprised of oil and gas, mining, forestry and other interests on Cook Inlet beluga whale ESA listing and critical habitat designation issues.
- Advised commercial fishing association on ongoing ESA and MMPA compliance issues critical to fishing activities in Hawaii and on the high seas.

Education

- Law & Marine Affairs, University of Washington School of Law, LL.M., 1998
- American University, Washington College of Law, J.D., 1997
- University of Washington, B.A., 1993

Admissions

- Washington
- Alaska
- U.S. District Court for the Western District of Washington

- Advised wave energy developer on strategic permitting issues for wave energy project on Oregon coast, including federal licensing, ESA and MMPA permitting, and coastal zone issues; negotiated and drafted agreement with federal, state and non-governmental stakeholders resolving all issues for 35 year license term.
- For two oil and gas clients, obtained changes to final Southern Resident killer whale vessel regulations to protect existing Puget Sound oil and gas tanker, barge, tug and service vessel operations.
- Negotiated and drafted settlement agreements with key federal, state, tribal, local and non-governmental parties for relicensing five large hydroelectric projects in Washington, Oregon, Idaho and Montana for up to 50 years. Agreements resolved issues ranging from fish passage, water quality and ESA issues to recreation, cultural resources and flood control.
- Advised various public and private entities on ESA compliance strategies, including wind energy developer on Indiana bat consultation issues; port on killer whale issues related to relocation of cruise ship operations; pulp and paper mill in development of ESA strategy for discharge permit; Oregon irrigation districts in development of habitat conservation plan (HCP) related to reintroduction of ESA-listed salmon; and housing developer in preparation of HCP for listed butterflies.
- At NOAA, represented NOAA Fisheries Service in ESA section 7 consultations with the Federal Energy Regulatory Commission, U.S. Army Corps of Engineers, Environmental Protection Agency and Bureau of Reclamation; negotiated and drafted ESA HCPs for state's fishing program, irrigation district's water diversion, and forest product company's timber management plan.

Professional Honors and Activities

- Listed in *Best Lawyers in America*© (currently: Energy Regulatory Law, Environmental Law), 2013-2016
- Selected as one of "America's Leading Lawyers for Business" (Washington) by *Chambers USA* (currently: Environment), 2014-2015
- Board Member, National Hydropower Association (NHA), 2010-2014; Vice President, 2012-2013; Chair, Legislative Affairs Committee, 2011-2012; Chair, Regulatory Affairs Committee, 2010-2011; Advisory Board Member, 2009-2010; Chair, Ocean, Tidal & New Technologies Council, 2008-2010
- Board Member, Ocean Renewable Energy Coalition, 2007-2013
- Panel Member, DOE Waterpower Program Peer Review Panel, 2009, 2011
- Chair, ABA Endangered Species Committee, 2004-2006; Vice Chair, 2001-2004
- Board Member, EarthShare Washington, 2012-2014
- Recipient, "Women with Hydro Vision" Award, HydroVision International Conference, 2015
- Seattle Mentor of the Year, Stoel Rives LLP, 2015
- Seattle Mentor of the Year, Stoel Rives LLP, 2011
- Recipient, PacifiCorp "Exceptional Leadership, Creativity and Dedication" Award in the Lewis River hydropower projects settlement process, 2004
- Recipient, Interagency Task Force to Improve Hydroelectric Licensing Process "Exceptional Performance and Dedication" Award in interagency effort involving the U.S. Departments of the Interior, Commerce, Energy and Agriculture and the U.S. Environmental Protection Agency, 2000

Cherise M. Gaffney

Select Presentations

- "Endangered Species Act Permitting Basics: Section 7 Consultations," Permitting Strategies CLE, Seattle, 2015
- "Regulatory Policy: A Focus on Emerging ESA Issues," NHA Annual Conference, Washington, D.C., 2015 (moderator)
- "Environmental Questions: Asked and Answered," Ocean Renewable Energy Conference, Portland, 2014
- "Accelerating the Decision Making Process for MHK Facilities," GMREC, Washington, D.C., 2011
- "Working Toward Successful ESA Outcomes," NHA Annual Conference, Washington, D.C., 2011 (moderator)
- "ESA and NEPA Developments: Impacts on Natural Resource Development in Alaska," Alaska Oil & Gas Congress, Anchorage, 2010
- "The Water-Energy Nexus: Licensing Non-Federal Hydropower and Hydrokinetic Projects," 17th Annual Western Water Law Conference, Seattle, 2010
- "Overcoming Barriers and Offering Incentives: Ocean Energy's Infrastructure, Regulatory and Financing Needs," Capitol Hill Ocean Week, Washington, D.C., 2010
- "Adaptive Management Case Studies," NOAA and Coastal States Organization's Marine and Coastal Renewable Energy Adaptive Management Workshop, Washington, D.C., 2009
- "The Endangered Species Act: Should Alaska's Natural Resource Economy Be Listed as Endangered?," Resource Development Council's 29th Annual Conference, Anchorage, 2008
- "New Technologies: Fish and Wildlife Permitting Issues," NWHA Annual Conference, Portland, 2008
- "The Endangered Species Act's Section 7 Consultation Requirement: A Refresher on the Latest Best Practices," Land Use in Washington CLE, Seattle, 2007
- "Species Protection: Resolving Today's Top Issues," NHA Annual Conference, Washington, D.C., 2007 (moderator)

Publications

- "MHK Siting and Permitting: Working Toward Commercialization with Federal and State Agencies," *Marine Technology*, July 2013
- "Using Adaptive Management to Resolve Uncertainties for Wave and Tidal Energy Projects," *Oceanography*, Vol. 23, No. 2, 2010
- "Coastal and Marine Spatial Planning for Offshore Renewable Energy Development on the West Coast," *Environmental & Land Use Law Newsletter*, May 2010
- "Siting Ocean and Tidal Energy Projects," *WSBA Environmental & Land Use Law Newsletter*, Vol. 36, No. 2, 2009
- "Siting Ocean and Tidal Energy Projects," *Bloomberg Law Reports: Sustainable Energy*, Vol. 1, No. 1, 2008
- "ESA Update: A Review of 2005," *The Water Report*, 2005

Bao M. Vu



Associate
(916) 319-4658 direct
(916) 447-4781 fax
bao.vu@stoel.com

Experience

Bao Vu is an attorney in the firm's Litigation practice group. He advises clients on regulatory compliance issues and represents clients in complex commercial and environmental litigation. He has represented public and private entities in business disputes, class action litigation, and administrative proceedings. He frequently defends lawsuits under California's Safe Drinking Water and Toxic Enforcement Act (Proposition 65). He also has experience representing policyholders of various specialty lines of insurance in coverage matters.

Prior to joining the firm, Bao was an associate with the San Francisco office of a national law firm. In law school, he served as a judicial extern to the Honorable James Ware (Ret.), U.S. District Court for the Northern District of California, and the Honorable Roger L. Efremsky, U.S. Bankruptcy Court for the Northern District of California.

Representative Litigation

- Assisted in the defense of an asphalt plant operator at trial in trespass action brought by gold dredging company seeking disgorgement damages in excess of $10 million.
- Assisted in the representation of national metals recycling corporation at arbitration in multimillion-dollar dispute concerning asset purchase agreement for largest metals recycling facility in California.
- Assisted in the representation of agriculture company against numerous class action lawsuits involving genetically modified crops.
- Assisted in the defense of corporation's director in shareholder derivative action involving claims of breach of fiduciary duty and mismanagement.
- Assisted in the defense of oil and gas exploration company against alleged breach of mineral leases.
- Assisted in the representation of national dairy cooperative in numerous contractual disputes with members in California and Oregon.
- Assisted in the representation of national *qui tam* law firm at arbitration in multimillion-dollar professional negligence case.*
- Assisted in the representation of national honey cooperative against numerous class action lawsuits involving unfair competition and breach of warranty allegations.*

Education

- University of California, Davis School of Law, J.D., Public Service Certificate, 2011
  Managing Editor, *UC Davis Law Review*
  Senior Editor, *Environmental Law and Policy Journal*
  Recipient, Witkin Award in Environmental Law
- University of California, Santa Barbara, B.A., Psychology, 2008, with honors

Admissions

- California
- U.S. District Court for the Central, Eastern, Northern, and Southern Districts of California
- U.S. Bankruptcy Court for the Central, Eastern, Northern and Southern Districts of California

Languages

- Vietnamese

- Defended various food, nutritional supplement, footwear, and fashion accessory manufacturers and retailers in lawsuits brought by private enforcers and public prosecutors, including the California Attorney General.

*Work performed prior to joining Stoel Rives

Administrative Proceedings

- Assisted in the representation of food and product manufacturers in county-level investigations, as well as investigations by the California Air Resources Board and California Department of Pesticide Regulation.

Regulatory Compliance

- Advised various food, nutritional supplement, footwear, and fashion accessory manufacturers and retailers on compliance with Proposition 65 requirements.
- Advised clients on compliance with California's AB 32 emissions reporting and Cap and Trade Program.
- Advised oil and gas companies on permitting and compliance with California Public Resources Code.

Professional Honors and Activities

- Member, Bar Association of San Francisco

Connor W. Olson



Associate
Sacramento, CA
(916) 319-4672 direct
(916) 447-4781 fax
connor.olson@stoel.com

Experience

Connor Olson is an associate in the firm's Litigation group and advises clients in a variety of litigation matters. He has experience in construction litigation, condemnation law, and other business and civil litigation matters.

Before joining Stoel Rives, Connor was an associate with Downey Brand LLP in Sacramento, California (2013-2015), a summer associate with Downey Brand LLP (2012), and a workers' rights advocate for the Katharine & George Alexander Community Law Center in San Jose, California (2011).

Representative Work

- Drafted all pleadings in the successful opposition of two separate writ challenges to the award of a $120 million construction contract.
- Successfully defended a breach of contract claim at the pleading stage where the plaintiff sought damages in excess of $1 million.
- Obtained a quarter-million-dollar judgment against out-of-state corporation for failing to pay on promissory notes.
- Represented both condemnors and condemnees in all aspects of the condemnation process.
- Played an integral role in defending large pavement preservation company with respect to air quality fines in excess of $750,000.
- Foreclosed on, and defended against, numerous mechanics' liens.
- Assisted in a will and trust dispute, and related civil litigation, that included assets in excess of $10 million.

Professional Honors and Activities

- Board Member, Barristers' Club of Sacramento, 2014-present
- "Top Lawyer" for Construction Litigation, *Sacramento Magazine*, 2015
- Program Coordinator, Lawyers in the Library, Sacramento Public Law Library, 2015
- Member, Sacramento Metro EDGE, 2014-present
- Member, State Bar of California, 2013-present
- Member, Sacramento County Bar Association, 2013-present

Education

- Santa Clara University School of Law, J.D., 2013
- Sonoma State University, B.A., 2010, *magna cum laude*, with distinction

Admissions

- California
- U.S. Court for the Eastern District of California

LEGAL SERVICES FEE PROPOSAL
FOR CITY OF BANNING
February 17, 2016

Business Partnership

Stoel Rives believes that client-lawyer relationships work best when they operate like a business partnership. As such, we believe that fee arrangements should be discussed openly with clients at the beginning of all significant projects. We promote the following three-step process:

1. We discuss fees with the client before the beginning of each work assignment.
2. If requested, we develop an estimated budget with the client for each project.
3. We promptly discuss and resolve changes in the project that impact the budget and anticipated fee.

We review our rates firm wide on an annual basis. Adjustments typically go into effect December 1, with 30 days advance notice to our clients, however we are prepared to hold rates through June 2017 because we recognize this might help the City with budgeting as it runs on a traditional fiscal year. And, we would like to demonstrate further our interest to earn the City's business.

Flexible Fee Arrangements

To meet the differing needs of our clients, we are happy to discuss a variety of fee arrangements because we recognize needs and types of services vary. We've outlined several options for the City to consider.

1) Stoel Rives is prepared to "**price match**" the lowest bid received in this RFP process, but without currently knowing who we are competing against, our price match offer is subject to the lowest bid being a law firm that Stoel (using its fair judgment) considers to be a competitor, and provided the City would negotiate with us a success or performance bonus if the City prevails in acquiring the flume from Southern California Edison (or such other basis that we agree on).

2) For non-litigation "flume-related work," we propose a retainer **of $8,000 per month.**

- This amount would be effective through December 2016, at which point with the City and Stoel having worked together for many months, we think it appropriate for the City and Stoel to reassess the retainer based on a track record having developed for this type of work.
- The retainer agreement would include time and travel expenses for at least one in-person visit to the City per month (perhaps more trips depending on project needs and unpredictable factors that impact costs such as how much advance notice for visits). Primary Team Lead Wes Milliband maintains discretion to work with the City to minimize travel costs.
- This option provides fee certainty – something of ongoing importance to our public agency clients – despite Stoel potentially utilizing different lawyers with varying levels of experience on different areas of expertise.

Definition of "flume related work": Advisory, settlement and transactional services directly related to the flume, its operations and maintenance, which consist of: the city's surface water right (e.g., pre-1914 right); the water supply sources such as the flume and Whitewater River; real property issues associated with the flume and access to the flume; permitting, environmental and regulatory compliance efforts; and communications with the City, other stakeholders, consultants and regulatory agencies such as FERC and USFS. "Flume related work" does not include services involving the Sustainable Groundwater Management Act or litigation.

3) For non-litigation work outside the scope of the retainer (e.g., work that is not "flume related work"), we propose a **blended discounted rate based on work volume**, as follows:

- 0-15 hours: 10% discount - $360 per hour blended rate
- 15-30 hours: 15% discount - $340 per hour blended rate
- >30 hours: 20% discount - $320 per hour blended rate
- The volume levels would reset each month.
- The blended discounted rate structure provides the City with some fee certainty and the volume discount gives further protection from excessive fees, particularly for the high quality services available by Stoel *coupled with* with better efficiency (e.g., superior service and work product in less time) than that of many competitors and other law firms.

4) For litigation services, should litigation become necessary, we would propose a blended rate so that the City receives the highest quality available in the legal profession but at discounted rates. With the blended rate, we anticipate the City would receive between a 10% and 50% discount off the rates of some of our most renowned and experienced lawyers. Given uncertainty of whether litigation would occur in one year or five years, or at all, we believe it to be very speculative on what the blended rate would be; however, we anticipate this blended rate would be less than Stoel's competitors and competitive with what we believe the largest municipal law firm in the State charges for specialized litigation services.

Hourly Billing Rates

Our standard hourly billing rates, which are billed in 1/10 increments, for 2016 are outlined below with a 10% discount for the City. Stoel is prepared to hold these rates in place through June 2017, as we understand the City works on a traditional fiscal year. We do not charge time or costs for administrative staff support.

PRIMARY Team Member	*Hourly Billing Rate*
Wesley A. Miliband, Of Counsel, Primary Attorney	$360
Juliet H. Cho, Associate	$324
Matthew J. Decker, Associate	$315
Parissa Ebrahimzadeh Florez, Associate	$248
Shannon L. Morrissey, Associate	$216
Ha T. Nguyen, Paralegal	$203
Lesley Berger, Real Estate Specialist	$293

Attorneys on the SECONDARY Team are contemplated as specialized resources on federal issues involving NEPA, Clean Water Act permits, FERC and US Forest Service permits, proceedings and authority. Notably, non-California licensed Team members can assist California-licensed Team members on federal issues. The SECONDARY Team members are not anticipated to generate significant billing (but are accounted for in the Fee Proposal).

SECONDARY Team Member	***Hourly Billing Rate***
Timothy M. Taylor, Partner	$518
Thomas A. Henry, Partner	$450
Michael N. Mills, Partner	$459
Aaron C. Courtney, Partner	$473
Barbara D. Craig, Partner	$504
Cherise Gaffney, Partner	$482
POTENTIAL LITIGATION Team Member	***Hourly Billing Rate***
Wesley A. Miliband, Of Counsel, Primary Attorney	$360
Bao M. Vu, Associate	$270
Connor W. Olson, Associate	$234
Ha T. Nguyen, Paralegal	$203

Reimbursable Expenses
Unless specific arrangements have been otherwise agreed to, disbursements are billed as follows:

- No charge for postage, long-distance telephone calls, conference calls utilizing Stoel's pre-established conference line, facsimile or office supplies.
- Twelve cents per page for photocopies.
- Airplane travel is by coach, at the best fares we can obtain under the circumstances.
- Other charges such as messenger service and computerized research are passed through to clients with no markup.

Timely, Understandable Invoices
Our accounting system allows clients to select from a variety of invoice formats. Our goal is to provide our clients with invoices that are timely and understandable and that contain no surprises. If at any time during the course of our representation there are questions or concerns about any aspect of our service or billings, we will work with the client on achieving a prompt resolution.

Format options for legal service invoices include a description of the work performed, the date of such work, identification of the attorney or paralegal who performed the work, the amount of time spent for each entry and/or the value of the time. Time recap options are available, which display the total hours, hourly rate, average hourly rate and/or value for each attorney and paralegal. Financial recap options allow for viewing of inception-to-date or fiscal-year fee billings.

Stoel Rives typically renders its billings monthly.

Electronic Billing Options
We offer a fully customizable suite of electronic billing options, including task-based entries, periodic billing estimates, multiple file submission formats and customized billing timetables. We currently use more than 15 separate electronic billing systems, including Serengeti, Tymetrix 360, Counsel Link and Datacert, and we are happy to work with clients on setting up the electronic billing system of their choice, as necessary. Upon conclusion of a retainer agreement, our accounting specialists work directly with clients to establish billing procedures that accurately reflect the agreed upon terms of payment.

CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: BANNING UTILITIY AUTHORITY

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Public Works Director
Holly Stuart, Management Analyst

MEETING DATE: March 22, 2016

SUBJECT: **Resolution No. 2016-04 UA, "Awarding a Construction Agreement for Project No. 2015-01W, 'Water Main Improvements' on Hargrave Street to Tri-Star Contracting II, Inc. in the amount of $510,993.50 and establishing a total project budget of $562,092.85"**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution No. 2016-04 UA:

I. Approving a Construction Agreement for Project No. 2016-01W, "Water Main Improvements" on Hargrave Street to Tri-Star Contracting II, Inc. of Desert Hot Springs, CA in the amount of $510,993.50 and a 10% contingency in the amount of $51,099.35 to cover unforeseen conditions.

II. Authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2015-01W, "Water Main Improvements" and to approve change orders within the 10% contingency.

III. Authorizing the City Manager to execute the Construction Agreement with Tri-Star Contracting II, Inc. for Project No. 2015-01W, "Water Main Improvements".

JUSTIFICATION:

The existing main has reached the end of its service life and is in need of replacement. Additionally, the replacement of the steel main will adjust the alignment to accommodate a future Riverside County Flood Control & Water Conservation District ("RCFC&WCD") storm drain project.

BACKGROUND:

On March 24, 2015 under Resolution No. 2015-04 UA, the Banning Utility Authority approved the Professional Services Agreement with Land Engineering Consultants, Inc. for the "Water Main Replacement Design at Various Locations" project. As part of that design, Land Engineering provided plans and specifications for Project No. 2015-01W.

The construction project will replace approximately 2,610 linear feet of eight inch steel main installed in 1933 with an eight inch ductile iron pipe along Hargrave Street from Hoffer Street to Indian School Lane. The project also includes the reconnection of existing water services, installation of valves and hydrants, chlorinating and testing the new water main and final trench repairs. A project site plan is attached as Exhibit "A"

Additionally, on July 14, 2015 City Council approved Resolution No. 2015-69, "Approving the Cooperative Agreement with RCFC&WCD for Storm Drain Line 'D-2' Stage 1 and Stage 2". As part of the Cooperative Agreement the City agreed to relocate water lines in conflict with the proposed alignment of the storm drain system. Project 2015-01W will relocate the water main alignment to the opposite side of the street in order to support the future RCFC&WCD storm drain project.

Public Works staff advertised the availability of plans and specifications on February 5, 2016 and February 12, 2016 in the Press Enterprise and on the City's website. In response to these efforts, the Public Works Department received twelve (12) bids from the following contractors:

Companies	Bid Amount
1) Tri-Star Contracting II, Inc	$510,993.50
2) MCC Pipeline, Inc.	$605,834.00
3) Borden Excavating, Inc.	$612,555.00
4) Mamco, Inc.	$654,444.44
5) Weka, Inc.	$674,622.00
6) O'Duffy Bros., Inc.	$687,095.00
7) El-Co Contractors, Inc.	$690,078.00
8) Tekton Construction Ent., Inc.	$695,791.00
9) Hemet Mfg. Co. Inc.	$743,096.00
10) Titan Engineering, Inc.	$786,271.00
11) TK Construction	$816,765.00
12) S&S Douglas Pipeline, Inc.	$1,021,957.00

As a result, staff respectfully requests that the Construction Agreement be awarded to Tri-Star Contracting II, Inc. in the amount of $510,993.50. A copy of the bid schedule for the lowest bid can be found attached as Exhibit "B". Once work commences, it is anticipated to be completed within 150 working days.

OPTIONS:

The Banning Utility Authority may choose to take no action at this time. If the construction project is not approved, the Hargrave Street water main will not be replaced and will continue to age and deteriorate leading to additional leak repairs and disruption to water delivery. Additionally, water lines will not be relocated as required by the Cooperative Agreement between the City and RCFC&WCD.

FISCAL IMPACT:

Funding for project 2015-01W was included in the current approved budget (FY15/16) in the amount of $500,000.00. The Construction Agreement with Tri-Star Contracting II, Inc. is for an amount of $510,993.50 with a 10% contingency for a total project budget amount of $562,092.85. An appropriation in the amount of $62,092.85 from the Water Operations Fund to Account No. 660-6300-471.95-10 (Water Mains) is required to fully fund the project.

ATTACHMENT:

Exhibit "A" – Project Site Plan
Exhibit "B" – Tri-Star Contracting II, Inc. Fee Schedule

Prepared and Reviewed by:

Art Vela,
Public Works Director/City Engineer

Reviewed by:

Rochelle Clayton,
Administrative Services Director/
Deputy City Manager

Approved by:

Michael Rock,
City Manager

THIS PAGE LEFT BLANK INTENTIONALLY

RESOLUTION NO. 2016-04 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION AGREEMENT FOR PROJECT NO. 2015-01W, "WATER MAIN IMPROVEMENTS' AT HARGRAVE STREET TO TRI-STAR CONTRACTING II, INC. OF DESERT HOT SPRINGS, CA IN THE AMOUNT OF $510,993.50 AND ESTABLISHING A TOTAL PROJECT BUDJECT OF $562,092.85

WHEREAS, on March 24, 2015 under Resolution No. 2015-04 UA, the Banning Utility Authority approved the Professional Services Agreement with Land Engineering Consultants, Inc. for the Water Main Replacement Design at Various Locations and as part of that design, Land Engineering provided plans and specifications for Project No. 2015-01W; and

WHEREAS, on July 14, 2015 City Council approved Resolution No. 2015-69, "Approving the Cooperative Agreement with Riverside County Flood Control and Water Conservation District for Storm Drain Line 'D-2' Stage 1 and Stage 2" in which the City agreed to relocate water lines in conflict with the proposed alignment of the storm drain system; and

WHEREAS, Project No. 2015-01W will replace approximately 2,610 linear feet of eight inch steel main installed in 1933 along Hargrave Street from Hoffer Street to Indian School Lane with a new eight inch ductile iron pipe in a new alignment outside of the construction limits of the future storm drain system; and

WHEREAS, Public Works staff advertised the availability of plans and specifications on February 5, 2016 and February 12, 2016 in the Press Enterprise and on the City's website and in response received twelve (12) bids; and

WHEREAS, Tri-Star Contracting II, Inc. of Desert Hot Springs, CA was deemed to be the lowest responsive and responsible bidder;

WHEREAS, the Construction Agreement will be awarded to Tri-Star Contracting II, Inc. in the amount of $510,993.50, bid schedule attached as Exhibit "A", with a 10% contingency for a total project budget of $562,092.85; and

WHEREAS, once the work commences, it is anticipated to be completed within 150 working days; and

WHEREAS, an appropriation in the amount of $62,092.85 from the Water Operations Fund to Account No. 660-6300-471.95-10 (Water Mains) is required to fully fund the project.

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

SECTION 1. The Banning Utility Authority adopts Resolution No. 2016-04 UA approving a Construction Agreement for Project No. 2015-01W, "Water Main Improvements" at Hargrave Street to Tri-Star Contracting II, Inc. of Desert Hot Springs, CA in the amount $510,993.50 and authorize a 10% contingency in the amount of $51,099.35 to cover unforeseen conditions.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments and appropriations and transfers related to the Construction Agreement for Project No. 2015-01W, "Water Main Improvements" and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Construction Agreement with Tri-Star Contracting II, Inc. for Project No. 2015-01W, "Water Main Improvements".

PASSED, ADOPTED AND APPROVED this 22nd day of March, 2016.

Arthur L. Welch, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

APPROVED AS TO FORM AND LEGAL CONTENT:

Anthony R. Taylor, Authority Counsel
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie Calderon, Secretary of the Banning Utility Authority of Banning, California, do hereby certify that the foregoing Resolution No. 2016-04 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 22nd day of March, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

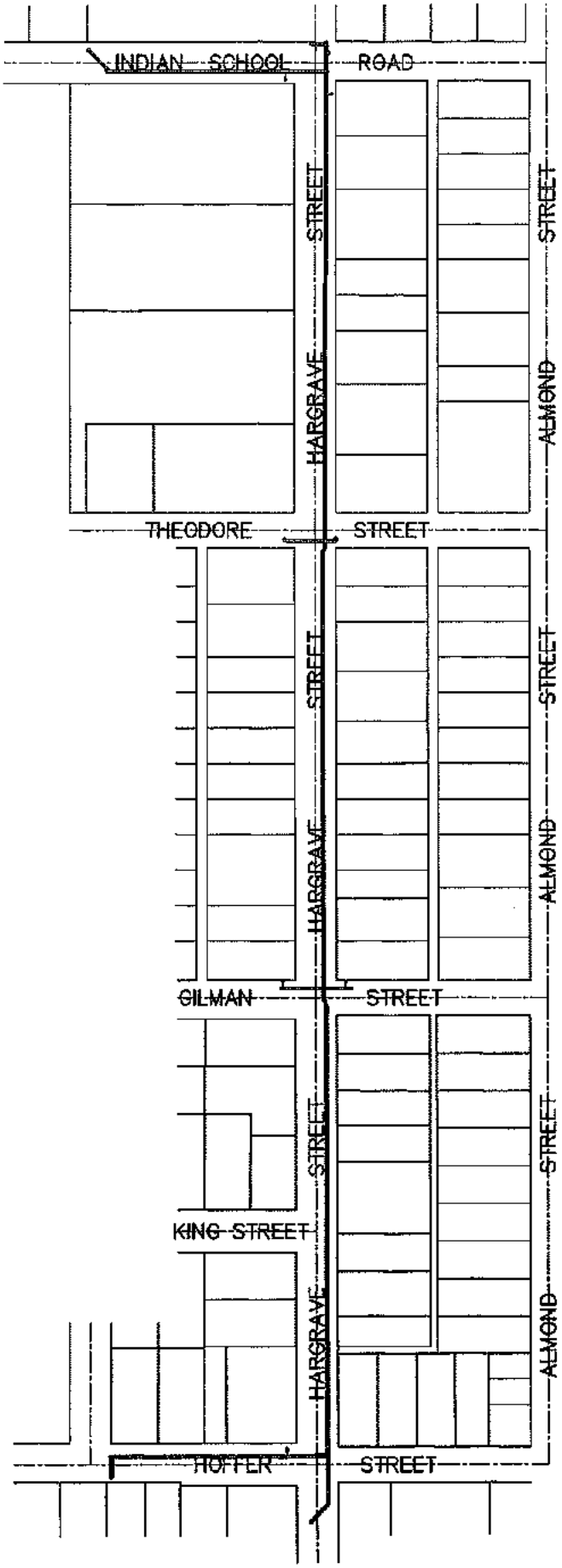
_____

Marie A. Calderon, Secretary
Banning Utility Authority

THIS PAGE LEFT BLANK INTENTIONALLY

EXHIBIT "A"

SITE PLAN


INDIAN SCHOOL ROAD
HARGRAVE STREET
ALMOND STREET
THEODORE STREET
GILMAN STREET
KING STREET
HOFFER STREET

SITE MAP

EXHIBIT "B"

BID SCHEDULE

BID SCHEDULE

Project No. 2015-01W, "Water Main Improvements"

ITEM NO	DESCRIPTION OF ITEM	ESTIMATED QUANTITY		UNIT PRICE	TOTAL
1.	PERMITS AND LICENSES	LS	LS	$644.00	$644.00
2.	TRAFFIC CONTROL	LS	LS	$29,633.00	$29,633.00
3.	TESTING, CHLORINATION AND DISINFECTION	LS	LS	$3,500.00	$3,500.00
4.	NPDES COMPLIANCE	LS	LS	$7,264.00	$7,264.00
5.	CLEARING AND GRUBBING	LS	LS	$32,162.00	$32,162.00
6.	INSTALL 8" D.I.P. WATER MAIN, A.W.W.A. C151 CLASS 350.	2,585	LF	$56.60	$146,311.00
7.	INSTALL 6" D.I.P. WATER MAIN, A.W.W.A. C151 CLASS 350.	80	LF	$48.68	$3,894.40
8.	INSTALL 4" D.I.P. WTR MAIN, AWWA C151 CLASS 350.	5	EA	$209.00	$1,045.00
9.	INSTALL 3/4" METER AND 1" WATER SERVICE LINE PER CITY STD. W-5.	18	EA	$1,249.00	$22,482.00
10.	INSTALL 1" WATER SERVICE LINE & CONNECT TO EX. METER PER CITY STD. W-5.	29	EA	$1,388.00	$40,252.00
11.	INSTALL 1" WATER SERVICE LINE FROM METER AND CONNECT TO CLOSEST AVAILABLE SOURCE OF WATER SUPPLY AT BUILDING.	18	EA	Disregard per Addendum #1	Disregard per Addendum #1
12.	INSTALL 1" PRIVATE WATER SERVICE LINE FROM METER AND CONNECT TO CLOSEST AVAILABLE SOURCE OF WATER SUPPLY AT BUILDING.	18	EA	$1,864.00	$33,552.00
13.	INSTALL 6" RESIDENTIAL FIRE HYDRANT ASSEMBLY PER CITY STD. W-18.	2	EA	$7,933.00	$15,866.00

14.	INSTALL 4" BLOW-OFF ASSY. PER CITY STD. W-19.	3	EA	$5,230.00	$15,690.00
15.	INSTALL 8" FLG. GATE VALVE PER CITY STD. W-20.	15	EA	$1,936.00	$29,040.00
16.	INSTALL 6" FLG. GATE VALVE PER CITY STD. W-20.	1	EA	$1,526.00	$1,526.00
17.	INSTALL 4" BLIND FLANGE	1	EA	$110.00	$110.00
18.	PAVING/TRENCH REPAIR PER CITY STD. W-30. (CLASS II BASE)	600	TON	$50.50	$30,300.00
19.	PAVING/TRENCH REPAIR PER CITY STD. W-30. (A.C. PAVEMENT)	350	TON	$147.90	$51,765.00
20.	INSTALL 8"x 6" FLG. TEE.	3	EA	$501.00	$1,503.00
21.	INSTALL 8"x 4" FLG. TEE.	1	EA	$457.00	$457.00
22.	INSTALL 8" FLG. TEE.	1	EA	$618.00	$618.00
23.	INSTALL 8" FLG. CROSS.	4	EA	$391.00	$1,564.00
24.	INSTALL 8"FLG. 90° ELBOW.	1	EA	$272.00	$272.00
25.	INSTALL 6" FLG. 90° ELBOW.	1	EA	$203.00	$203.00
26.	INSTALL 4" FLG. 90° ELBOW.	1	EA	$155.00	$155.00
27.	INSTALL 8" M.J. 45° ELBOW.	2	EA	$254.00	$508.00
28.	INSTALL 6" M.J. 45° ELBOW.	2	EA	$246.00	$492.00
29.	INSTALL 8" M.J. 22.5° ELBOW.	6	EA	$252.00	$1,512.00
30.	INSTALL 6" M.J. 22.5° ELBOW.	2	EA	$197.00	$394.00
31.	INSTALL 8" M.J. 11.25° ELBOW.	6	EA	$246.00	$1476.00
32.	INSTALL 8" BLIND FLANGE.	5	EA	$164.00	$820.00
33.	INSTALL 8"x 6" M.J. REDUCER.	1	EA	$218.00	$218.00
34.	ABANDON EX. WATERMAIN IN PLACE PER AWWA STD'S & SPECS.	LS	LS	$8,942.00	$8,942.00

35.	CUT IN & JOIN EXISTING STEEL WATER MAIN	6	EA	$689.00	$4,134.00
36.	REMOVE EXISTING WATER METER & BOX, AND CAP EXISTING WATER SERVICE AT WATERMAIN PER A.W.W.A. STD'S & SPECS.	18	EA	$197.00	$3,546.00
37.	REMOVE EXISTING FIRE HYDRANT, SALVAGE TO CITY	2	EA	$1,463.00	$2,926.00
38.	CUT IN 8" FLG. CROSS WITH G.V.'S AND CONNECT TO EXISTING 8" STEEL WATER MAIN WITH 18" PUPS AND SHORT BARREL FLEX COUPLINGS.	1	EA	$4,017.00	$4,017.00
39.	SAWCUT, REMOVE & REPLACE SIDEWALK PER CITY STD. C-213, TO ACCOMMODATE 1" SERVICE LINE AND METER BOX.	500	SF	$20.90	$10,450.00
40.	PROTECT EXISTING CURB & GUTTER IN PLACE. TRENCH UNDER CURB TO ACCOMMODATE 1" SERVICE LINE, AND BACKFILL TRENCH WITH 2 SACK SLURRY.	86	LF	$20.35	$1,750.10

TOTAL BID AMOUNT IN WORDS: $ Five Hundred Ten Thousand Nine Hundred Ninety Three 50/100
(Bid Item No.'s 1 through 40)

TOTAL BID AMOUNT IN FIGURES: $ 510,993-50
(Bid Item No.'s 1 through 40)