AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

April 12, 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 – Pastor Sarah Guevara, New Creation Church
- Pledge of Allegiance
- Roll Call – Councilmembers Franklin, Miller, Moyer, Peterson, Mayor Welch

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – *On Items Not on the Agenda*

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

PRESENTATIONS:

1. Recycling All-Stars Presentations *(ORAL)*
   Cara Vera, Waste Management of the Inland Empire

2. Certificate of Recognition to Fidel Romo, Banning High School *(ORAL)*
   Mayor and City Council

3. Introduction of New Employees *(ORAL)*

   Rochelle Clayton, Deputy City Manager/Administrative Services Director
   -Cheryl Stafford, Accounting Specialist

   Art Vela, Public Works Director
   -Kevin Sin – Senior Civil Engineer
   -Jerry Moledor– Wastewater Technician

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

- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager – Start Time and Ending Time for City Council Meetings

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 10
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 – 03/22/16 *(Closed Session)* **1**
2. Approval of Minutes – Regular Meeting – 03/22/16 ..... **3**
3. Ordinance No. 1493 – 2nd Reading: 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 **47**
4. Report of Investments for February 2016. ..... **55**
5. Approval of Accounts Payable and Payroll Warrants for Month of January 2016. ..... **63**
6. Approval of Accounts Payable and Payroll Warrants for Month of February 2016. ..... **67**
7. Notice of Completion for Project No. 2015-01, ADA Upgrades at Lions Park. **70**

8. Notice of Completion for Project No. 2015-02EL – EV Charging Station at 2140 W. Ramsey St., City of Banning. 82
9. Resolution No. 2016-24, Awarding a Construction Agreement for Project No. 2016-02, Community Center Generator Enclosure to BWW & Company of Redlands, CA in the amount of $50,926.00 and establishing a total project budget of $56,-18.60 90
10. Resolution No. 2016-26, Approving the Measure "A" Five Year Capital Improvement Plan Project List 100

- **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. Resolution No. 2016-25, Requesting a twelve (12) month extension for Tentative Parcel Map No. 34335, located generally south of the railroad Right of way, immediately north of Banning Airport, and east of Hathaway Street. APN's: 532-110-006, 532-130-001 and 532-130-002 120
   Staff Report – Brian Guillot, Community Development Director

Recommendations: **1) Conduct the public hearing on the extension of time for Tentative Parcel Map No. 34335; and 2) Adopt Resolution No. 2016-25, Approving a Twelve (12) Month Extension for Tentative Parcel Map No. Map No. 34335 (TPM 34335).**

VII. REPORTS OF OFFICERS

1. Resolution No. 2016-19, General Plan Annual Progress Report for Calendar Year 2015 *(This item was continued from the regular City Council Meeting of March 22, 2016)* 226
   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).**

2. Resolution No. 2016-21, Awarding the Construction Contract for Project No. 2016-01EL, West Barbour St., 12kV Underground Reconductoring and Rejecting All Other Bids 372
   Staff Report – Fred Mason, Electric Utility Director

Recommendations: **I.) Adopt Resolution No. 2016-21, Approving the award of the Construction Contract for Project No. 2016-01 EL, West Barbour St. 12kV Underground Reconductoring to M. Brey Electric Inc., of Beaumont CA, in the**

amount not to exceed $205,590.00 including taxes and allowing a 10% contingency of $20,559.00, and rejecting all other bids; II.) Authorizing the City Manager to execute the construction and professional services contract agreements related to Project No. 2016-01El, West Barbour St. 12kV Underground Reconductoring; and III.) Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers related to the project and to approve change orders within the 10% contingency.

2. Resolution No. 2016-27, Appropriating funding and Amending the job description, minimum qualifications, and title for the Economic Development Director to create the Economic Development Manager position under the Classification and Compensation Plan for the City of Banning **426**
Staff Report – Brian Guillot, Community Development Director

Recommendation: **Adopt Resolution No. 2016-27, authorizing the appropriation and amending the Classification and Compensation Plan for the City of Banning, to change the job description, minimum qualifications, and title for the Economic Development Manager position under the Classification and Compensation Plan for the City of Banning; and authorizing the City manager to direct staff to recruit the Economic Development Manager upon approval.**

3. Resolution No. 2016-30, Appropriating Funding for the Fiscal Year 2016-2017 Budget for the Community Service Officer (CSO) Position **450**
Staff Report – Alejandro Diaz, Chief of Police

Recommendation: **Adopt Resolution No. 2016-30, authorizing the appropriation of funding for the Fiscal Year 2016-2017 Budget, and authorize the City Manager to direct staff to recruit the Community Service Officer position upon approval.**

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. 2016-05 UA, Awarding a Construction Agreement for Project No. 2016-01W, Repairs to Wells and Booster Pump to Tri County Pump Company in the amount of $175,000.00 and establishing a total project budget of $201,250.00 . . . . . **460**
Staff Report – Art Vela, Acting Public Works Director

Recommendations: **1) Adopt Resolution No. 2016-05UA, Awarding a Construction Agreement for Project No. 2016-01W, Repairs to Wells and Booster Pump to Tri County Pump Company of San Bernardino, CA in the amount of $175,000.00 and a 15% contingency in the amount of $26,250.00 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. 2016-01W, Repairs to Wells and Booster Pump and to approve change order within the 15% contingency; and 3) Authorize the City Manager to execute the Construction Agreement with Tri County Pump Company for Project No. 2016-01W, Repairs to Wells and Booster Pump.**

2. Reconsider Resolution No. 2016-03 UA, Awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services 478
Staff Report – Michael Rock, City Manager

Recommendation: **The Banning Utility Authority reconsider Resolution No. 2016-03 UA, Awarding a Professional Services Agreement with Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services at this meeting or a future Meeting.**

BUA ADJOURNMENT - Next regular meeting: Tuesday, April 26, 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. Set Public Hearing date for Budget Workshop – May 31, 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

03/22/16
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Welch on March 22, 2016 at 3:00 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
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 six items – 1) Conference with legal counsel - anticipated litigation significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Government Code Section 54956.9: 1 potential case involving threat of litigation concerning district elections; 2) Conference with legal counsel existing litigation regarding Smith v. Hanna, Riverside Superior Court Case No. RIC 474602, Appellate Case No. EO45670; 3) Conference with legal counsel existing litigation Robertson's Ready Mix, Lt., v. City of Banning and the Banning City Council, et al, Riverside Superior Court Case Nos. RIC 1409829, RIC 1409037, RIC 1500296 and RIC 1513475; 4) Conference with labor negotiations pursuant to Government Code Section 54957.6 – agency representative City Manager Michael Rock, employee organization Banning Police Officers Association (BPOA); 5) Existing litigation Highland Springs Conference and Training Center and Banning Bench Community of Interest Association, Inc. v. City of Banning, Riverside Superior Court Case No. RIC 460950, Appellate Case No. 5060915; and 6) Conference with legal counsel anticipated litigation – initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 549569: 1 potential case.

Meeting went into closed session at 3:03 p.m. and recessed at 4:52 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 4:52 p.m.

_____

Marie A. Calderon, City Clerk

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

03/22/16
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Welch on March 22, 2016 at 5:01 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Councilmember Miller

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, Public Works Director
Fred Mason, Electric Utility Director
Brian Guillot, 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 Rev. Daniel Pedraza, First Hispanic Baptist Church. Councilmember Franklin led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney Taylor said that six items that were discussed in Closed Session and he read each of those items before the Council went into closed session. Each of the items were discussed and they included anticipated litigation involving the threat of litigation involving district elections, existing litigation regarding the Smith v. Hanna matter, the matter of Robertson's Ready Mix, conference with labor negotiator involving the Banning Police Officers Association, conference with legal counsel regarding the existing litigation matter Highland Springs Conference and Training Center and Banning Bench Community of Interest Association, Inc. v. City of Banning, and conference with legal counsel anticipated litigation. Each of those items were discussed in closed session and there is no reportable action on those items.

PUBLIC COMMENTS/CORRESPONSENCE

PUBLIC COMMENTS – *On Items Not on the Agenda*

Steven Douglas, 4690 Elsie Lee Circle, President of the Board of Directors for Faith in Action (FIA) of the San Gorgonio Pass read from his letter expressing their gratitude and appreciation to the City of Banning (exhibit "A" attached).

Stacy Sparks, Banning Family Community Health Center addressed the Council and the public letting them know that they are now accepting new patients and will be celebrating National Infant Vaccination Week April 16-23, 2016 and will also have a special enrollment for Covered California. They will also be having their 12th Annual Golf Tournament on June 3, 2016 at the Morongo Golf Club at Tukwet Canyon.

Inge Schuler, resident addressed the Council registering her dissatisfaction with the actions of the new City Manager when he manager to offend the hard-working volunteers of the Stagecoach Days Committee by awarding the weekend date before the Banning signature event to a competing group that wanted to put on a rodeo. Mr. Rock has absolutely no concept of the equestrian rules that govern events and establish firm mileage and date rules. Apparently it never entered his mind that the public might not be able to attend Stagecoach Days because some of them will have spent their money on the preceding competing event. He forced his decision effectively sabotaging Stagecoach Days the only true historic signature event that Banning is famous for. Mr. Rock then takes on the Planning Commission and allows the Acting Community Development Director Mr. Guillot to present to the December Planning Commission a fraudulent, plagiarized Mitigated Negative Declaration (MND) for a project of 98 homes on the north east corner of Sunset and Wilson. This MND was created for 26 homes, Habitat for Humanity site in the city of Jurupa Valley and was presented as if it had been created for the City of Banning; not exactly legal. The Planning Commission sent the MND back to staff to create an MND that would apply to our city and in January a slightly altered MND was presented to the Planning Commission but still not a new document. Mr. Rock apparently encouraged this to sail through in order to please the developer. Chairman David Ellis was the only one on the Commission who questioned the validity of the MND. Two Commissioners apparently had not even read the document and they and Commission Krick voted 3/2 to approve the project especially after Mr. Pitassi of Diversified Pacific had given an impressive performance of smoke and mirrors to avoid answering legitimate concerns of the public. The MND then came before the City Council and with a determined shepherding by Mr. Rock was approved 3/2 and it was not even the same document that the Planning Commission had approved. That is the case of circumventing the law but that if of no concern to Mr. Rock. Instead he is instigating now the removal of Mr. Ellis claiming that this is Mayor Welch's instruction. Mayor Welch had actually met with Mr. Ellis a couple of weeks ago and assured him that he was doing a good job. Mr. Rock is clearly overstepping his bounds and he is not only ruining our City's heritage but also dividing our city on every front. Mr. Rock has rather an interesting history on his last job in the City of Lomita where he had received positive performance reviews but only a few days thereafter he engaged in an altercation with a Council Member there and an emergency closed session was called within a few days and he was terminated; Google Michael Rock Lomita. Did we not witness this kind of behavior in the City of Bell with Mr. Rizzo?

Diane Box, resident addressed the Council thanking the Code Enforcement Officers Debbie and Art, as well as, Sgt. Fisher and Chief Alex Diaz for the major improvement that has been happening around Banning.

Ann Price, resident addressed the Council stating that at Lion's Park they have finished the ADA upgrade and the park looks beautiful. Banning Pass Little League had their opening day last Saturday and there were about 450 players, parents, family and friends in attendance, 25 to 30 vendors, and games played until late in the evening; it was a wonderful opening day. She appreciated Mayor Welch coming out and helping her with getting change for the snack bar and thanked Councilmembers Franklin and Moyer and Chief Diaz for their participation and for supporting Banning Pass Little League. She also congratulated the Council on the opening of the Sunset Grade Separation project.

Katie Bray, owner of Rowdy Rose addressed the Council stating that she wanted to clear the air. She had had a couple of meetings with the City Manager and some other stock contractors and she was actually on the Stagecoach Board years ago as a volunteer and her job at the time for Stagecoach Days was to bring quotes up to these stock contractors because nobody had a lot of history with rodeo. She and her husband do have experience with professional rodeos and have a lot of connections with stock contractors so she brought these quotes up to Stagecoach Days at that time and at the next meeting is when she resigned because she brought this one specific quote up that was $12,000 less than the contractor they went with and she didn't how they could spend their money or the City's money that way and so that was kind of her falling out with that organization. Moving forward they opened up this western lifestyle destination putting their own money into it, spent their own money for the 300 foot flag, and put up their own money for the barrel races. This rodeo that they are having at the end of April is not $10,000 of City gifted money, it is $30,000 out of their pocket that they are putting in to benefit, of course, themselves because they are a business but mostly to bring prosperity to the city and to their business. When they opened up the Rowdy Rose 9.9 out of 10 business people they worked with thought they were crazy to do this in the city of Banning and they also thought she was crazy to have American made products and American made leather goods. They went from 2 employees to 12 employees in the last year and a half. Their sales tax, the first quarter was $4,000 and now it is close to $18,000 a quarter where it is actually working and it is working in the city of Banning and she is proud of it. She is proud of the fact that she comes from a rodeo lifestyle and she and her husband have created this western lifestyle destination in the city and she absolutely doesn't want to be anywhere where she is not wanted. Everybody had always said that Stagecoach Days was two-weeks long and they were so proud of actually everybody getting together for that two weeks so what they had talked about maybe bringing in a barrel race the two weeks before, or a roping that weekend before, or maybe even having a junior rodeo leading up into it so that we could have a two-week long festival. At no point did she ever want to undermine Stagecoach; it never happened. This is just nonsense and politics and she wanted to clear the air and wants nothing more than her dollars to go towards a good cause and she wants the city to prosper.

Dorothy Familetti-McLean, resident thanked Katie and thinks she is an astute businesswoman and has done a lot for the City. She said that she just knows that when they decided to go with a professional rodeo they all voted on it and her understanding was that we either go with a local rodeo or go with a professional rodeo. With a local rodeo they had to get a sound system, somebody to speak, etc., etc. and as a team they chose to go with Honeycutt for their rodeo and it wasn't because they didn't agree with what she said; they voted on it.

Councilmember Peterson commented that it is unfortunate that the Stagecoach Committee and Ms. Bray had this misunderstanding. He had spoken to the City Manager regarding the issue back in January and it was his understanding that the City Manager had understood that there was another rodeo and they were going back to back. So it was never put out until within the last week that you were actually conducting a barrel race which is a totally different venue than what had been proposed. There was a lack information and a lot of false assumptions made but the word had been spread that you had reserved the park for another rodeo. Thinking that residents in Banning have only so much disposable income and our non-profit already being on the hook and contracted to these rodeo people it was a concern to them that they would not be able to succeed. So a non-profit coming after a for-profit event makes a huge difference and unfortunately it was just false information. He is really glad that it certainly has come out to where people know it is not another rodeo, it is a separate rodeo, and that it is not a competing weekend for weekend.

There was some dialogue between Councilmember Peterson and Ms. Bray regarding this misunderstanding.

CORRESPONDENCE:

City Clerk read a letter from Jim Keefe, owner of Ramsey Self Storage regarding the current Conditional Use Permit (CUP) fees in Banning (exhibit "B" attached).

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

City Council

Councilmember Franklin –

- She reported that through various water districts they have had multiple water meetings here in the Pass Area and talked about several issues. It is her understanding that the Council will be having a workshop in April so that everybody gets an overview of some of things that have been talked about such as cooperation between the water districts, the supply of water, and an allocation water plan. They did have a meeting on March 10th and tomorrow night they will have the San Gorgonio Regional Pass Water Alliance Meeting and will be talking again about the priorities for water, as well as, a presentation on the California Quick Fix. The meeting is open to the public and will start at 5:00 p.m. here at city hall.
- One June 23, 2016 the Western Riverside Council of Governments is inviting the public to its Annual General Assembly Meeting. The keynote speaker is going to be Julia Gillard who was the Prime Minister of Australia from 2010 to 2013. The public is invited to come out and it will be held at Morongo Casino and Resort.
- In regards to Riverside County Transportation Commission we did celebrate the ribbon cutting for the Sunset Grade Separation last week. Also, they are asking if people are interested in volunteering to be a part of the pilot program for the California Road Charge and this is the Vehicle Miles Traveled Pilot Program. The idea is to try to get enough people throughout Riverside County to participate so that they get an overview throughout the state of different driving patterns so they can have a better understanding if this is to change, what it means to people throughout the state and not just in the urban areas. If a

person wants to sign up, it take you about five-minutes online and you can go to www.californiaroadcharge.com.

- This Saturday the Kiwanis is hosting its Annual Easter Egg Hunt at Sylvan Park at 10:00 a.m. It is for children ages 0 to 13 years old and you just need to bring your.
- On April 16th the City of Banning is hosting the Bulky Item and Free Paper Shredding event at Dysart Park from 8 a.m. to 1 p.m. and it is for Banning residents.

Councilmember Moyer –

- He stated that he did meet with Mr. Rock and a committee from Stagecoach Days about a month ago and he thought that meeting was positive in that they corrected some misconceptions and although they were not totally satisfied he thought they left there with their minds a lot more at ease. He is aware that Rowdy Rose and the Stagecoach Days people want to make improvements to Dysart Park which he thinks is great. He doesn't understand why they can't get the two parties together and get that done and he would like to see them get together and work out the differences and in fact, get the improvements that they both want done. With that said he made a commitment to Amy Pippenger a year ago that Stagecoach Days is his priority and he doesn't want to see anything happen that would hurt it.
- He met with the Banning Advisory Committee last Wednesday and they are in need of some new members. This committee is made up of residents from all around the city. If you are interested, they do get involved with a lot of community projects and one of the things that they are looking at now is the Healthy Cities Program and they are also looking at having an weekly academy that will expose people interested in learning about the way the city works and we will have department heads there talking about all the departments in the City so that people can get a better understanding of how it works and you will be hearing more about that later. If you are interested in being part of this committee, please let him know.

Mayor Welch –

- The week of March 8, 2016 he had the opportunity to accompany the City Manager and the Electric Utility Director to Washington D.C. where the American Public Power Association met. His impression when they first got involved was that this was for cities from the state of California being represented in Washington D.C. and that was a misunderstanding on his part. It was the American Public Power Association for the entire nation so almost all the States were there and companies that operate in those states. They spent a lot of time with our legislators and staff over a two-day period. Across the nation renewable energy is still really wanting as far as the eastern half of the United States is concerned and we on the west coast are moving forward very aggressively to create a renewable energy for the whole state. He is very proud that one of the major leaders in that effort in the state of California is the City of Banning. We are well aware percentagewise to our total use of electricity and are well ahead of the majority of cities in the state of California thanks to our Electric Department and staff.
- In regards to Stagecoach Days he has enjoyed Stagecoach Days for the last 20 years and he thinks it is one of the best events we have ever had happen in the city of Banning and doesn't want to see anything happen to that. Echoing what Councilmember Moyer said we have an opportunity here to make Dysart Park, arena park, a very living thing throughout the year so he certainly hopes that the parties involved can get together and make this thing

really happen because whatever happens at Dysart Park is a plus for the city of Banning and it is a moniker for our history and our future.

City Committee Reports – None

Report by City Attorney -

- The first matter is an opinion received from the State of California Fair Political Practices Commission (FPPC). From time to time city attorneys in their ordinary course of work request opinions from the FPPC on a variety of matters and in this instance they sought an opinion whether Mayor Welch, Mayor Pro Tem Miller and Councilmember Miller can participate in decisions that involve unpaid water utility fee dispute between the City and Sun Lakes and if all three Councilmembers can participate in discussions concerning that matter and the FPPC answered that question consistent with our advice which was that Mayor Welch, Mayor Pro Moyer and Councilmember Miller may participate in these governmental decisions and are allowed to participate in the matters. He wanted the public to be aware of that and it is a public document on the FPPC website dated March 10, 2016.
- The other matter is an item on the Consent Calendar regarding the Banning Police Officers Association MOU and there are some corrections that were made to that document by Colin Tanner of his office and there are also a couple of typographical issues that he wanted to bring to the Council's attention on pages 11 and 12 and he went over those changes. This document with the changes made by Colin Tanner of his office has been made publically available so it is appropriate for Council action on the Consent Calendar. However, he recommend that if the Council is inclined to accept all of the changes proposed that it be clarified in the motion approving the Consent Calendar item so that the record is clear.

Report by City Manager -

- The traffic signals at Sunset are still in a "red flash mode". Caltrans and technicians are scheduled to be on site to do the east bound and west bound ramps on March 24th and on March 28th the contractor along with City's technicians will move to Ramsey Street at the Sunset intersection to activate the traffic signal at this location. So by March 28th the entire area should be back in a normal traffic signal operational mode.

CONSENT ITEMS

Mayor Welch pulled Consent Item No. 5 and Councilmember Peterson pulled Consent Item No. 4 for discussion.

1. Approval of Minutes – Special Meeting – 02/023/16 *(Closed Session)*

Recommendation: That the minutes of the Special Meeting of February 23, 2016 be approved.

2. Approval of Minutes – Regular Meeting – 02/23/16

Recommendation: That the minutes of the Regular Meeting of February 23, 2016 be approved.

3. Report of Investments for January 2016

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

Motion Franklin/Moyer to approve Consent Items 1, 2 and 3. Mayor Welch opened the items for public comments; there were none. **Motion carried, all in favor with Councilmember Miller absent.**

4. Contracts Approved under the City Manager's Signature Authority

City Manager Rock said that this is a list of the contracts under $25,000 under the City Manager's authority to sign and this is a list of all of the contracts that he has signed since he began work in November, 2015.

Councilmember Peterson said regarding the contract that they have been talking about to Liebert, Cassidy and Whitmore has that contract been executed.

City Manager Rock said not by Liebert, Cassidy and Whitmore. They would have to execute it and send it back to the City.

Councilmember Peterson said we signed that on February 4, 2016.

City Manager said yes and he is waiting for it to be returned. It is not part of the packet because it was not completed in time for the packet. He said that there will be a list every month of the contracts that he signed so every month the Council will have an update of the next 30 days' worth of contracts that were signed. That is the understanding that he had with the Council that they would see all the contracts that he signs on a regular basis so it will be done one per month.

Councilmember Peterson said on this contract he did not see a not-to-exceed $25,000; what he sees is just an open-ended contract. If this is an open-ended contract, is this supposed to go before Council or is it approval by the City Manager.

City Manager Rock said that it is not on the agenda tonight and it is not an open-ended contract.

Councilmember Peterson said that it is a contract that he failed to put in the staff report that he has a copy of that was issued in February and now he wants an answer as to why wasn't this contract on this staff report that he signed on February 4th and he doesn't care if it is on the agenda or not. It was a contract that was signed in February and the City Manager said that these are all the contracts that he signed in February but this one was omitted and he wants answers on this one.

City Manager Rock said that it is not fully executed yet.

There was further dialogue between Councilmember Peterson and City Manager Rock in regards to this item being on the agenda and these being all the contracts that were signed since the city manager's arrival in November 2015 and also the not-to-exceed amount of $25,000 not being in the contract.

Councilmember Peterson said he doesn't understand why the City Manager is still hiring and contracting to outside attorney services.

Mayor Welch said that usually the outside services of attorneys are specialized areas and it usually goes with electric or water or contract negotiations with unions and this is something that this City has done very well and controlled costs on for a very long time. That is why you see other law firms.

Councilmember Peterson said he wants to know why the contract was issued, who authorized the contract for new legal services when we have a legal firm already, what is the purpose and why wasn't it brought before Council that we are going to seek a new law firm.

City Manager Rock said they are not new and we have used this firm for many, many years and we use them for very specific personnel items where there is a conflict of interest with our City Attorney's office where they cannot represent the City then we use a different legal firm for personnel reasons. That is really the very limited way that we use them.

There was further dialogue between Councilmember Peterson and City Manager Rock in regards to using a different legal firm for personnel issues.

Motion Franklin/Moyer to approve Consent Item No. 4, to 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, 2016, totaling the amount of $25,945.

Mayor Welch opened the item for public comments.

A gentleman from the audience addressed the Council stated that he is with Councilmember Peterson. You send a contract but you are waiting for the signature of a contract but you don't have all the details in it. Are we dealing with another City of Bell here?

Diego Rose, resident addressed the Council stating that this seems to be a huge problem on every issue that everybody has brought forward tonight. We are still a small town and we are just as divided as everything we see on TV about every different subject. It is kind of ironic and kind of sad. A lot of that has to do with your leadership. We have the ability and the potential to really lead a small community and you can do a lot of those things all on your own by taking the initiative. One would be to actually have a give and take forum. Everybody gets to hide behind the microphones, behind telephones, behind paper bills that get sent to the house, but when things actually transpire when people get questions answered, when they give information and get information in return and it is done in a transparent open forum that is when things happen.

Mayor Welch said the microphone is open for comments on this subject. Mr. Rose said that this is exactly the subject that it needs to be brought up with.

Mr. Rose said if there are questions that the public has and they feel upset about this particular contract and it is not answered and you have a Councilmember that wants questions answered and done so in a manner that is transparent and open and everybody feels comfortable with that

information, we eliminate the time wasted on this kind of stuff. When we have subjects like the rodeo, if everybody worked together in answering and giving back and forth there wouldn't have been the confusion. Leadership is what we are looking for; transparency, integrity, and honesty will help.

Diane Box, resident stated that the contract that Mr. Peterson is speaking about was said that it was waiting to be executed and to her that means finalized by whoever it was sent to. You didn't state that that you had to have them add in "up to $25,000". You said you were waiting on them to execute and that means finalize. She may be wrong or misunderstood it but when you say execute that means complete. This has happened before with the Burk situation. This is why Banning got in trouble awhile back because people were taking it upon themselves to sign things or push things through without Council's approval and it was very disturbing to the public. We don't want that to happen again. If you send something to be executed, please make sure everything is included and ready to be passed through.

Motion carried, all in favor with Councilmember Miller absent.

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.

Motion Moyer/Franklin to approve Consent Item No. 5, adopting 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 as amended by the City Attorney's office. Motion carried, all in favor with Councilmember Miller absent.

PUBLIC HEARINGS

1. Adopt Ordinance No. 1493; and Resolution No. 2015-96 – Billboard or Outdoor Advertising Signs Zone Text Amendment No. 15-97505.
(Staff Report – Brian Guillot, Acting Community Development Director)

Director Guillot gave the staff report on this item as contained in the agenda packet and also gave a power-point presentation on the subject (attached Exhibit "C).

There was Council and staff dialogue in regards to the recommended changes made to the resolution regarding relocation agreements, and also some dialogue on the 2 for 1 billboards, and local benefit.

Mayor Welch asked the City Clerk to read the title of Ordinance No. 1493. City Clerk read: 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.

Mayor Welch opened the public hearing for comments from the public.

Diego Rose, owner of Boondocks Tavern stated that he actually has freeway frontage property that he owns selling beer and wine for three years. They are doing quite well but if you really want to help small business then allow some more signs because he can build a sign instead of paying $1500 and he could actually make that amount with his billboard or are we looking to bring in high-dollar, big-money signs that are already owned by large companies and assist them with a very hypocritical presentation or preservation of the original intent of the ordinance which was not allow for hundreds and hundreds of signs that look like Vegas canal but that is exactly what we are planning on doing. Large companies are going to invest more and more and those billboards are going to be more and more expensive and we all know how that is going to work. It is nice to write in there that you are going to help out the small business but you are not; we are going to be priced-out. But the original intent to the ordinance itself was to limit the amount of billboards.

Jim Stuart, owner of Group One Realty and also representing Lamar Outdoor said that they are mainly interested in the two-for-one will never work because if one operator has four billboards and you want to develop 30,000 square feet into a retail place then you have to give up two of your boards, they are not going to do it because they are making about $1500 a side. What they want to do is to move the one billboard on their property about 40 feet east so that 44,000 square feet can be built. They did have four different commercial ventures that wanted to buy that freeway frontage property and put in commercial stores. Unfortunately, they have lost two and fortunately the person who took over the K-Mart building has picked up two of those so Banning did not lose the Big 5 and Party City so they are going to stay in Banning. But they have several others that want to do this but on this one, for example, let's move the one board to the east within the same property and open up the balance of the western side of the property and for your information those digital billboards can run from $200,000 up to as high as $700,000 and can have a rotation up to six slots. One of those faces could be advertising Stagecoach Days as a constant when it is going on and when maybe Rowdy Rose is doing other things that could be on there. When Banning has different things the ability to put that up there is part of the deal but we have to be able to, because of the cost of the boards, on the main one they want to move the one so that they can open up the property for development but they cannot give up two. They have another situation where the Banning Electric Department wants to buy the property that they own that has a billboard on it so if they sell that property, they want to relocate the billboard. He thinks the ordinance is fine however, it should be individualized instead of a definite two-for-one or one-for-one because somebody may have one billboard. Or like this last gentleman who was just up here if there is 500 feet between billboards which he thinks is the Caltrans ordinance, if he has an opening there, let him put it up the advertising. Billboards do work. The ordinance is fine but you have to think it out and it has to be separated and to penalize somebody that wants to develop property and make them take away two just to move one, is not cost effective especially with the cost of the new boards. The other side of this is that the City of Banning owns property and we could lease that property and put billboards on it as long as it is within the regulations so

don't cut off your nose despite your face but we don't want to see a Las Vegas row of billboards but we do want to see them neatly and to cater to the local business.

Frank Burgess said that he owns a billboard on the east end of town and has been encouraging this ordinance to get on the agenda. The Planning Commission and the City Council had a workshop and then in December the Planning Commission passed it and now we are still waiting. It may not have all the answers but let's pass it and get on with it. He doesn't happen to have those million dollar billboards but he does have one that he would like to improve and it does shows the City of Banning on it permanently and it would have Stagecoach Days on it from time to time. He urged the Council to pass this ordinance and move forward.

Steven Douglas said you just brought him back 23 years ago when his father owned a restaurant in town and wanted a billboard and we are now talking about this same issue. He doesn't want to see a Vegas style strip through Banning and he doesn't want to see major corporations own the signs. He wants to see small business own the signs because the major corporations aren't going to put the money back into this town. You might get a half of a percent of the people driving who are going to eat and get fuel and that is all they are going to do so really consider what you are voting on tonight because it is a very, very important thing.

Frank Burgess said that in the 70's the City of Banning made an agreement with the Southern Pacific Railroad with the billboards that they have between here and Fields Road and that was with the understanding that they would not fight the City's LAFCO expansion of the city limits to Fields Road so long as we didn't bother their billboards. Keep that in mind when you say take down a sign; you may not have the right to do so.

Mayor Welch closed the public hearing on this subject.

There was further Council and staff dialogue in regards to the justification of the two-for-one and what purpose does it serve, and what is the need to cut down on what we have,

Mayor Welch re-opened the public hearing.

Jim Stuart said in the Lamar instance it is the difference between a private owner like Frank Burgess or Diego Rose. They have nine boards in the city and the City's electric company wants to expand its piece there on the freeway where they have a billboard so if they relocate and sell that property to the City so that it can expand its electrical unit there and they want to relocate that board, it means that two have to go. They have the board by Sunset which they want to turn into a digital board and that means two more have to go so that means that the company would be reduced to five billboards. The private people like Frank Burgess and Diego Rose are not subject to that because they are putting up one board for themselves and just want to advertise their own product. He said that they are working with the new owner of the General Motors dealer here to get him on the freeway because they want to advertise that you have a Chevrolet, Buick and GMC dealer here. There are studies out here that people stop and buy more than just fuel and food.

Diego Rose said that freeway-oriented signs is a vague term and it is not a billboard. He can put a sign and face it towards the freeway on a vinyl cloth and that would be a freeway-oriented sign. Currently a billboard, a piece of vinyl stretched out or a banner would cost him $371 to put up for three weeks and he would do that for a maximum of four times per year. He can't put any sign over the roof line of his building so again legal distinctions are kind of important of what is and isn't allowed. The whole point of the ordinance is to reduce the amount of signs. His likelihood of getting approved is probably pretty low so he is not going to waste the money to go through the process, the time or energy. He is pretty limited as to what he can do; it shouldn't be that hard.

Jim Stuart said that the Rowdy Rose just told him the same thing. As far as he knows their billboards are above a roof line and if their sign is above a roof line, why can't the Rowdy Rose and Diego Rose have their signs? It only makes sense that you have to get above the roof line or go on your own roof.

Director Guillot said you can apply for a freeway-oriented sign and there are design guidelines for it. The maximum height is 55 feet and you can also put one on the building and the limitations on that are a certain amount of square footage but you can apply for a permit to have a somewhat larger freeway-oriented sign. So if you are a freeway-oriented business you do have the ability to do something other than the standard sign that is allowed in our sign code.

There was some further Council and staff dialogue on scenic highway restrictions, aesthetic restrictions, and landscape highway restrictions.

Don Smith said that there was a study session on this, there was a Planning Commission hearing on this and the Council had a hearing on this and asked that certain changes be made so his understanding is that the changes were made and now it is brought back to the Council; it is time to pass this.

Mayor Welch closed the public hearing from further public comments.

Motion Moyer/Franklin to amend the ordinance, Section 17.36.190, No. 1 where it says, "...removal of at least one existing billboard per owners of one billboard, and will require the removal of at least two existing billboards for owners of two or more..." He is moving that it be amended to read: "...require the removal of a minimum of one existing billboard..." Then when we do our relocation agreements it gives us room to work. What he is saying instead of demanding two-for-one he is saying that we say a minimum of one and then in special circumstances we have a little leeway when we do our relocation agreements because we have to approve all the relocation agreements.

Mayor Welch said you are making an amendment to consideration No. 2 where it says, "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."

Councilmember Moyer said he wants to change it to say, "...removal of a minimum of one..." and that way it can be one-for-one and in some cases we may insist two-for-one.

There was some further Council discussion. Motion carried, all in favor except for Councilmember Miller who was absent.

Motion Franklin/Peterson to waive further reading of Ordinance No. 1493. Motion carried, all in favor with Councilmember Miller absent.

Motion Franklin/Moyer that Ordinance No. 1493 pass its first reading. Motion carried, all in favor with Councilmember Miller absent.

Motion Franklin/Moyer that the City Council adopt Resolution No. 2015-96, as amended, 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.

City Attorney said that he did want to note that in Section 2 that has the same language that was amended in the ordinance he wanted to make sure the record is clear that that changes are going to be consistent in both the ordinance and the resolution.

Motion carried, all in favor with Councilmember Miller absent.

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.
(Staff Report – Brian Guillot, Community Development Director)

Director Guillot gave the staff report on this item as contained in the agenda packet and gave a brief power-point presentation.

Councilmember Moyer said that this was approved 11 years ago and why are we extending it and why we should or the reasoning in wanting to.

Director Guillot said that the State Legislature cited their extensions being delivered because of the economic conditions here in the state of California so they actually did adopt another extension this summer and like he mentioned we don't qualify for it. The reason that the applicant is applying for the extension is basically because the Subdivision Map Act makes provision for that. They can have six years of discretionary extensions and he could understand the applicant submitting application because they invest quite a bit of money in obtaining this entitlement so it is in their interest to try to preserve that investment in our city.

Mayor Welch said in the staff report it says that the State Legislature is not providing additional extension at this time and this would be a third extension on this property.

Director Guillot said he believes the State Legislature did four two-year extensions and then that would bring us to the current day.

Councilmember Franklin said for clarification if we were not to approve this then that means they start over from scratch from the developer.

Director Guillot said yes. And in order to not approve it, you could address that to the City Attorney because there are certain requirements related to that.

City Attorney said State law under the Subdivision Map Act does provide limitations that cities have in terms of denying this type of extension request. State law provides that in order to have a denial you basically need a situation where residents in the immediate community have a threat to their health, safety and welfare or that the extension would be in violation of State and Federal law. This is not a situation here you have unfettered discretion; there are limitations here. If there was public testimony or support that the Council had for denial, it is something that they would recommend that the item be brought back that a resolution be prepared so everything is fully documented in the record.

There was some further Council and staff discussion regarding extensions.

Mayor Welch opened the public hearing on this item for public comments.

Diane Box stated that we have an issue with property owners not maintaining their property and she wanted to know if anyone has been by this property to make sure that they are keeping it weed free and abated.

Linda Pippenger said that she lives close to this property and it is maintained and it has a tractor on it with a Century 21 for sale sign on it for about $400,000 so that answers the question of what they are going to do with it and if this expires then it loses its value.

Don Smith said that he goes by it almost every day and they actually do a pretty good job of weed abatement. They had a fence that was getting worse and worse so a couple of years ago they took down the fence and it is just wide open, a for sale sign went up a month or two ago, and the property is in the RA zone which calls for half acre lots with at least 100 foot frontages. He doesn't think you could actually get, if you kept that zoning, more than the six houses there. When this went through it met those requirements and met what the neighbors there wanted which was RA lots so it is actually is what the neighborhood at that time asked for.

Frank Burgess asked if all fees have been paid since it started in 2005 and have all fees been paid as we extend it each time because there is a fee charge. This would be the same for Resolution No. 2016-17. Make sure that we have received all permit fees, grant fees, and extension fees.

Barbara Lock said that she lives directly across the street from that field and for the first 10 to 12 years that she has lived there it was fine and they disked it a couple of times a year even with the nasty fence. In the last five years she has done nothing but pull tumbleweeds from her yard. Every fall she picks up all these terrible weeds and she filled 5 bins with big fat tumbleweeds and

her neighbors to the north and her work together to take care of the tumbleweeds. They disked it once in the last 18 months that she could see and now the weeds are already up past her knees so we are going to have another big weed season with all kinds of tumbleweeds. She hates that property and wishes somebody would do something with it.

Mayor Welch closed the public hearing on this item.

Councilmember Franklin asked if there was a way, if this was to be approved, to condition that the issues that were brought forward in regards to the fees being paid and code compliant, can that be put on the condition to extend it. Her concern is if they sell it they would try to turn around and make the lost smaller.

City Attorney said yes if the Council finds for example, that in terms of the code enforcement, if there is a threat to the residents and you heard some testimony about complaints about the property and it would be interesting to see if staff has any additional comments on that. But that is something that could be approved by Council but we would want to bring that back in a specific resolution and that would be his recommendation because it requires specific findings under the code.

Councilmember Peterson said unless there is a reason as to the public health or welfare and we don't have that, why would we disapprove it or want to bring it back. Why wouldn't we approve the 12-month extension and move on. We don't have that unless we are going to go out and now solicit it or we are going to go out and investigate it after the fact. If there are no reports or findings now and we don't have any citations obviously from code enforcement or anything else that is going to prohibit one more year of granting this, what difference does it make? Grant it and move on.

Director Guillot said that the fee for the tentative map extension was paid. He said he wouldn't bring an application to either the Planning Commission or City Council without fees. That is the basis of deeming the application incomplete and it would not be processed.

Motion Peterson/Moyer to adopt Resolution No. 2016-16, Approving a Twelve (12) Month Extension of Time for Tentative Tract Map No. 33013 (TTM 33013). Motion carried, all in favor with Councilmember Miller absent.

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)
(Staff Report – Brian Guillot, Community Development Director

Director Guillot gave the staff report on this item as contained in the agenda packet and gave a brief power-point presentation.

Councilmember Peterson said the same questions are going to apply and do we have anything on record that would pose a problem of health and welfare on the property and are the fees paid.

Director Guillot said not that he is aware of and the fees are paid.

Mayor Welch opened the public hearing for public comments.

Darleen Moxon, resident read her letter in regards to this parcel map extension (attached Exhibit "D").

Pat Moore addressed the Council wanting to know who the applicant is because if he is talking from about 2005 when it was proposed for an auto dealership, the medical building and restaurants it was never completed and approved and she noticed that it was still listed with the letter that they received mentioning the same item. That man is not the applicant so there has to be a new one and it has nothing to do with what happened back in 2005. She said that she has to talk Brian Guillot anyway eventually about The Lakes and how they got by without an environmental impact report.

Director Guillot said the applicant still holds the property and the LLC that was originally created however, he understands that she is correct and it is not the original owner. It is a real estate investment company out of Arizona and he doesn't have the contract information with him however, he will be happy to provide it to anyone that is interested.

Mayor Welch closed the public hearing.

Motion Peterson/Franklin to adopt Resolution No. 2016-17, Approving a Twelve (12) Month Extension of Time for Tentative Parcel Map No. 33326 (TPM 33326). Motion carried, all in favor with Councilmember Miller absent.

Councilmember Franklin said she would like to ask if we can ask for staff to make sure that code compliance has been done for the weeds on this properties if there is as problem with them as the audience has noted earlier.

REPORTS OF OFFICERS

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

Chief Diaz gave the staff report on this item as contained in the agenda packet. He believes that Council has already made recommendations on the ad hoc committee by assigning Councilmembers Peterson and Moyer to form the committee. Sgt. Fisher will be representing the police department in that capacity as one of the members of the committee and has done a lot of the research that will be presented to the ad hoc committee and Dr. John McQuown will also be part of the committee. The ad hoc committee will pick members of the community and they need direction from the Council as to how they would like to pick the committee members from the community whether they want to establish some type of meeting where the community can come out and voice their concerns or their ideas of how to move forward with the ad hoc committee.

Councilmember Peterson asked that Sgt. Fisher perhaps get in touch with them by email and they will set up a date to meet and go over things.

Mayor Welch opened the item for public comments.

Steven Douglas, 4690 Elsie Lee Cir. asked once this committee sets their date will they put out to the public when this meeting will be so the public can come and then you will be able to designate 1, 2, 3 people from the public who represents the public.

Ellen Carr put in her bid in to be on the committee since she is involved in animal rescue and could provide the group with a lot of ideas and suggestions.

James Pane, citizen of Banning, expressed his gratitude and support for Chief Diaz, as well as, Sgt. Fisher for doing this. This is something that he knows that they have expressed a long time ago and it has been a concern that they had brought here to Council.

Bill Dickson, resident said he would like to put a bid in to put Ellen Carr on this committee. He doesn't think that there is anyone in this city that has done anymore to rescue animals and getting them homes.

Motion Moyer/Franklin to 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. Motion carried, all in favor with Councilmember Miller absent.

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

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

Councilmember Moyer said there was a line item for potholing and didn't they discover this early on when they were they were potholing. Director Mason said no.

Mayor Welch opened the item for public comments

Jerry Westholder said he understands that problems come especially when you are remodeling and fixing things but where are we going to get this extra money and where is it going to come from to fix it. Maybe it should be left alone for a while until we get the extra money.

Director Mason said that the money is coming from the electric bond funds that are already available in the account.

Frank Burgess said that this Ramsey Street was the old Highway 99 and it is all concrete. He is quite concerned that the contractor didn't do his homework and thinks that Mr. Moyer started to refer to that in his question. What was the contingency of the contract for the developer to come

down Ramsey Street because as he stated it was a concrete highway long before any of us where here. How many square feet of asphalt are we purchasing. Let's take a look at it before we okay a $76,000 purchase.

There was some staff and Council discussion regarding the potholing, asphalt repairs and it being excessive.

Mayor Welch closed the item for public comments.

Councilmember Peterson asked if this would fall within 10% of the job.

Director Mason said the cost of the job was $1.324 million for the entire third phase undergrounding and there were was $16,384.00 of contingency remaining and so $76,350.00 was additional.

Councilmember Peterson said that was almost $100,000.00 more on the job and that is a huge jump. He asked the City Attorney that if the contract went out for $1. plus million and there was a 10% contingency built into the contract and they have utilized that 10% contingency but still require $76,000.00 more, where do we stand legally.

City Attorney said if they used their standard form contract under Section 1.8 of that standard form contract they would have to go back to the City Council as it is here in this item and the City Council would have discretion whether or not to approve the item.

There were some further Council and staff discussion regarding the costs.

Motion Peterson/Moyer to 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. Motion carried, all in favor with Councilmember Miller absent.

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

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

Councilmember Moyer asked when the request for proposals when out was advocacy included and how important was it.

Director Guillot said it would depend upon the different departments because for example Public Works is dealing with some significant water issues and if they were to seek grants, they might describe that proposal with some details; it could be included.

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

Motion Franklin/Peterson 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. Motion carried, all in favor with Councilmember Miller absent.

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.
(Staff Report – Art Vela, Public Works Director)

Director Vela gave the staff report on this item as contained in the agenda packet and he also displayed some pictures of Unit #808.

Councilmember Peterson said that he went on-line and was looking at the International trucks and sees that we are getting a 2017, 4X2 440 SBA but unless he overlooked it the truck doesn't come with the dump bed and it is purchased separately so it was hard for him to tell how much the truck was and how much the dump bed was but he was finding new trucks like 2013 and 2014 same make and model with a different wheel base, etc. but a huge difference in price. He asked if there would be a difference in buying a 2017 than a new 2015.

Director Vela said without looking at the specs it would be hard to answer. The proposal that was submitted was a lump sum proposal and they didn't break it up so he doesn't know what the exact break down was but this truck here is a little sturdier than your average dump truck because it is used to transport some of the City's heavy equipment.

There was some further Council and staff discussion regarding the comparison of a new earlier model truck versus a 2017 the possibility of utilizing any AQMD dollars.

Mayor Welch opened the item for public comments.

Diane Box spoke in regards to possibly getting a used truck with lower mileage than purchasing a new one. She doesn't see the reason for a new dump truck especially with our financial problems in Banning. Also, she can't see buying a new vehicle that is just going to be beat up.

Mayor Welch closed the item for public comments.

Councilmember Peterson said he would like staff to take two weeks and go on-line and look and see what can be found as far as 2016, 2015, 2014 new because he saw them all over. For his own satisfaction and for the satisfaction of the public if we can save $20,000 to $25,000 he thinks that he would be happy with that.

There was further Council and staff discussion regarding the possibility of purchasing a dump trunk on the internet.

Motion Peterson/Moyer to continue this item to April 12, 2016 with staff doing research on the purchase of a dump truck on the internet and bring the results of that research back to the City Council for further action. Motion carried, all in favor with Councilmember Miller absent.

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

There was some Council comments in regards to not having enough time to completely go through this item in three days and the Council would like to have it brought back at the next meeting.

Director Guillot highlighted a couple of items in the document since 2015 that he wanted the Council to be aware of.

Motion Peterson/Franklin that this item be brought back to the next City Council Meeting.

Mayor Welch opened the item for public comments; there were none. Motion carried, all in favor with Councilmember Miller absent.

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 At-Large Electoral System.
(Staff Report – Anthony Taylor, City Attorney)

City Attorney gave the staff report on this item as contained in the agenda packet.

Councilmember Franklin said she knows the Council talked about whether or not the consultant was here to be able to address how long this might take.

City Attorney said he did reach out to the consultant to see if they were available and unfortunately they were not able to be here. He understands that time is of the essence is the provisions that we are operating under but his understanding is that it is going to take a few weeks.

Councilmember Franklin said then at that point it would come back to us to decide whether or not there is more research to be done.

City Attorney said exactly. They would report the findings of that to the Council and then the Council would have in its discretion to decide the next steps to take at that point.

Councilmember Peterson said that Phase 1 would take about 3 weeks and Phase 2 is another 3 weeks and after Phase 1 and 2 are completed the Council then receives the data and then decides whether or not to go into Phase 3 which is the actual districting itself. Each phase is a separate cost factor ranging at about $4,000 each up until the time they get to Phase 3 which will kick it up to about $16,000 depending on how many meetings and how involved the meetings go. The

City has to by law put on three community meetings inviting the public to speak and discuss the boundaries and districting and if they took their time and dragged their feet it could take up to 9 months and it could be speed-lined with a lot of waivers and other things and it could be done in as quickly as one month so it depends on the different avenues that the Council decides to take. Once they receive the demographic data from Phase 1 and Phase 2 then at that point in time the boundaries will go, if that is the direction of the Council and that was his research on it.

Councilmember Moyer said that we could be sued either direction on this thing if we move too fast and do something wrong then the advocates could sue us for that and so forth and our City Attorney has recommended a course of action that is safe and step by step and he feels that they should follow the City Attorney's advice.

Mayor Welch opened the item for public comments.

Frank Burgess said he believes what we have is a stalling game on this project and the City of Hemet rather than get involved in a lawsuit decided to immediately start the procedure. The city of Banning school district did theirs about a year and a half ago and the total cost to do this was about $14,000. Here tonight you are proposing to spend $8,000. The City Attorney received a notice from the lawyers today that suit has been filed. It was taken to the court in Riverside to stamp the case number on it. So let's don't spend more taxpayer's money. You are stalling and it is a reality. This attorney can verify and you can check with the company in Sacramento that does this for a living filed suit against a city and we can be sitting here and quite honestly the funds are coming out of Frank Burgess' pocket. He is assuming that in Closed Session the Council was made aware that they received an email from the attorney that suit is being filed as of today. He said that a few years ago Councilmember Franklin was desperately wanting to go into districting and here today you are hesitating and that it is going to cost the taxpayers thousands and thousands of dollars. Please make a decision to reject this resolution and proceed in hiring a company which the City Manager was given information of the company that did it for the Banning school district. Let's stop waiting and wasting taxpayer's money.

Councilmember Peterson said everybody has read the agenda and we are privy to not much more information that what the public has seen other than the fact of what goes on in closed session regarding litigation, etc. He said that he did have a conversation with the CEO and President of National Demographics and he spoke to him today because there was not enough information in the packet and he wanted to know timelines and went over the timelines he received. Ultimately the decision does rest with the Council and as far as speed of implementation it is going to rest with the Council. His suggestion is to forego the research and it seems like a wasted expense and go straight to Phase 3 but that is only his opinion and he is one of five.

Mayor Welch closed the item for public comments.

City Attorney said he thinks it is very important to point out here there was this claim of foot-dragging. We were very careful and included a "time is of the essence" clause in this contract meaning that the contractor as to move as quickly as possible and that is Section 3.1 of the agreement. The concern he has is that he has to look at things as an attorney based on objective data, objective facts and he hears about skipping a step of going to research and that causes him

some concern because he thinks that when the Council makes a decision they should have all of the objective data and information in front of them. We have learned from his comments here that there was an email received last night but now we have heard through the comments that a lawsuit has been filed and he does find it interesting that the lawsuit was filed before this City Council even had the opportunity to decide this matter and he thinks that is an indication that the group is not waiting for the Council to take an action one way or the other. They just decided that they want to go to court and there is no bar to the courthouse steps and we will have to deal with that and aggressively defend that lawsuit but we have to look at every matter with objective and verifiable facts and we don't skip steps and that is their prudence and practice as attorney's and that is why they made this recommendation. Of course, it is ultimately up to the Council and the Council through this contract that was presented can always order additional steps down the road once they have all the information and that is built into the contract. Of course all of that comes with additional costs and that cost will be presented to the Council at that appropriate time.

Councilmember Franklin said she is very concerned that we do not rush. She is not trying to hold things up as much as she wants to make sure that we do have as much objective information as possible.

Councilmember Franklin recommended approval of the recommendation given by our City Attorney to make sure that we get the information so that we know what we are voting on. She would hate to go one direction and then turn around and be sued because we didn't check something else out after we have already gone in a different direction which would actually slow the process down.

Councilmember Moyer said we sit up here and time, after time, the public and the audience says you rushed into this, you should have done that and now we are saying we want to be sure of what we are doing, that's all. Are these people trying to rush us because maybe we will find out something we don't like? They are blackmailing us basically into moving when we should be taking our time going step by step as our City Attorney has recommended.

Councilmember Moyer seconded the motion.

Frank Burgess said that the City Attorney insinuated that we are rushing the gun and it is the reverse. How long have you had this letter and here it is two months later and you are just now bringing it on the agenda. You wasted two months and therefore left no choice. The letter was issued on the 22nd of January and today is February 22 and it has been two months and you haven't moved on it. He doesn't want you to think that they are jumping the gun and filing suit ahead of you but you have had two months and have done nothing. You caused this suit to be filed. It is simply a shell game trying to stall it. Do what is right for the city for a change and not what a selected few in the city wants.

Motion carried to: 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. Councilmember Miller was absent.

7. 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.
(Staff Report – Michael Rock, City Manager)

City Manager Rock gave the staff report on this item as contained in the agenda packet.

Mayor Welch said that under the Banning Municipal Code and this is under the Manual of Procedural Guidelines, Chapter 2.28 under the Planning Commission, "Members shall serve at the pleasure of the Council and may be removed at any time by a majority vote of the entire Council." In that same writing, Conduct of Members of Commissions, "Don't speak in derogatory fashion concerning colleagues, employees, or citizens." In Article 10 in the Manual of Procedural Guidelines for the Conduct of City Council and Commission Meetings on Decorum and Order, 10.1F says, "Legislative body members (and commissioners also) shall accord the utmost courtesy to each other, to city or legislative bodies and employees and the public and shall refrain at all times from rude and derogatory remarks, reflections as to integrity, abusive comments and statement as to motives and personalities which disrupt, disturb, or otherwise imped the order of a meeting." These guidelines were updated and approved by this Council and it was for all of us that are public servants serving our community. He did met with David Ellis and his sole purpose at that time was to, and by the way, David Ellis has done some very good things for the city, was to try to get Mr. Ellis to realize that his demeanor, not only here in council meetings or commission meetings which can be viewed on Channel 10, has been very personal in some respects, very abusive to elected officials and other board members and this is conduct that this Council approved in these guidelines that cannot be continued or allowed in our meetings.

City Clerk read a letter from Councilmember Miller in regards to the removal of David Ellis (see Exhibit "E" attached).

Mayor Welch opened the item for public comments.

David Ellis, Planning Commission and lifelong resident of Banning addressed the Council stating that he should not be under public comment right now but involved in the discussion on his actions. He said he is a good commissioner and does his due diligence and is one of the few commissioners that studies every single line and every single item that is in the reports and he would dare anyone of the Council to challenge that he is not a good commissioner. Where we have a problem is most recently with some of his conduct in a meeting was because of our City Manager. Very similar with the City Manager of Bell with the way he is doing things. He allowed his staff to present a mitigated negative declaration to the Planning Commission that was riddle with errors and does he sit back as a Commissioner as say let's just let it go through or do what is best for the citizens of this town and critique the document and ask for answers. It took him 2-1/2 hours and he still had the developer and staff lying to him and he couldn't get to the

bottom of it. The City of Jurupa was the lead agency and the developer made statement and said we had an orange grove where the development is going up and he spoke to a lady who has lived here for 97 years and there has never been a citrus orchard there but to this date our City Manager and developer swear that there was a grove there. So he would guess what you are telling him is that as a good Commissioner he is supposed to play ball with corruption and deception when he gets his documents; that is not the discussion he had with Art Welch. He is very set back that he is here right now having discussed this because he was told and if he controlled his conduct that we wouldn't have to go forward with this and he thought that they had a verbal agreement. He doesn't think it is Art Welch and thinks it is the City Manager and he calls him "Rizzo Rock" now because he is just like the City Manager of Bell in the way he operates and he is throwing him under the bus for his incompetence. This is not the first time that he has done this and they had issues on the districting and Councilman Peterson walked right by Frank Burgess when he gave "Rizzo Rock" his letter for the suit and Rock failed to bring it to you folks and how embarrassing it was to see you folks sitting here where you are being chastised by Mr. Burgess over a document you never received; that's a good City Manager? That's a rouge City Manager in his opinion. He said that he had an issue with the document that was given to them and it was basically a comic book and he thinks the Council should realize that and he is trying to do what is best for the citizens in this town and the whole community. He thinks that there is not an issue with him being a good Commissioner. What we have an issue with is the Council trying to take his first amendment rights away as a citizen because every time he comes to this podium he addresses himself as a citizen of Banning; not a commissioner. When he criticizes and critiques and he gets upset at what is going on it is as a citizen. He is vested in this town and has lived here for many, many years and he has to fight people over corruption. He said he walked away with a lot of good information from his meeting with Art Welch and thought he would have an opportunity to use it but now he is starting to wonder. The Council runs this City and not the City Manager and why would you allow him to do something like this. He said that he is the best Commissioner that this town has probably had in 20 years when it comes to due diligence and doing what is right. He asked if there was any dialogue that they could have on this. He asked what conduct has been wrong in what meetings besides the one where he received a document that had the City of Jurupa. Not one of you can sit here and say that he is a bad Planning Commissioner and he has been out of line during their meeting. He may be boisterous and outspoken when it comes to being a citizen of this town and you cannot restrict his first amendment rights; not at all. Under no conditions will you take his first amendment rights away and under no condition will he let you take anybody's first amendment rights away. This is not an issue about his performance; this is a personal issue and it is not right.

Rick Pippenger, 35 year resident said that he cannot disagree with anything that David Ellis said. He has seen a lot of planning commissioners come and go and some were okay and some were not so good and some were really bad. David Ellis is by far one of the best ones that any of you have ever seen and he has ever seen. He also agrees with him also about our City Manager and if anybody is removed, it should be him.

Jerry Westholder said by that ordinance that was just read Mr. Welch and Mr. Moyer should be recused immediately. How about the time, Mr. Welch, when your mike was left on and you chastised the good citizens of this city underneath our breath and you talked negative about them and everybody heard. And Mr. Moyer, how about the time where you publically chastised him

over a disagreement we had just because he was on the opposite side of the fence and how you violated the Brown Act. Are those not the same charges you are bringing against Mr. Ellis and he does have a first amendment right. He is an old Marine and he fought for a constitution, not a socialistic government. This sounds so much like retaliation, it looks like retaliation, it smells like retaliation and he thinks that this is just an abuse of power and doesn't think that this should have ever been brought before this Council. Mr. Ellis is boisterous but some of your best people have different personalities and it is okay and to silence him and do this injustice which is exactly what it is, an injustice is criminal and would speak highly of the character of this Council if you vote to dismiss him. I trust the people watching will listen and remember this at voting time.

Linda Pippenger, citizen of Banning read a letter from Dorothy Familetti-McLean because she had to leave early. She read as follows: "Councilmember, in regards to the dismissal of David Ellis on the Planning Commission, did he break a law. Does he say that since he is on the Planning Commission that he is not able to speak as a citizen and express his views at a Council meeting? If not, then he has a right to stay on the commission. She hopes that this is just not a power-play because he said something that you people did not like made public or you did not agree with him. Think about it."

Frank Burgess said the Council is going to do what we expect you are going to do and it is sad because you are not listening to the citizens of Banning at all and two-thirds of the time you never do. Nine months ago he asked for a report from this Council of $77,000 on a project that was never collected. Each of you tonight will vote to remove your Planning Commissioner and Chair, one in the same person, while doing so you must ask yourself a few questions. Why are you doing this? Is it because you don't like David Ellis? Is he doing his job as a commissioner? Has any of his fellow commissioners complained of his work? Does he do his homework by reading the agenda and checking out the items that are on the package? Who is requesting that Mr. Ellis be removed? Are you honestly saying to this citizen group here tonight that it is solely your request that you are asking him to be removed? Can you honestly say that? Who are you going to get to replace Mr. Ellis? Are we throwing away three years or more of his knowledge of the Planning Commission procedures? Are you willing to do that? It takes years to be a Council Member. How long will it take a new person to get onboard with all of the laws? Who will be next that you ask to get off the commission if they don't satisfy your decisions? You as a Council person must remember that this is a volunteer job and a person, David Ellis, does this for the best of the citizens of Banning. You may or may not like Mr. Ellis but he is doing his job as a Planning Commissioner and as Chairman. He does his homework and he has talked to the commissioners and not one of them has anything but good to say about Mr. Ellis. Should you remove him you will have set this City back even more years as it has already been set back in the last 15 years. You are saying that 29,000 people are saying that he is not worth a dam to be on the Planning Commission. Mr. Ellis should not be removed just because he speaks at the Council meeting as a private citizen of Banning. He would also like to know as to who asked you to take the responsibility. Also another questions you would need to address to the City Attorney if he read that packet right, it said a "full Council"; we are short one. Can the City Attorney tell him and the Council that you three people that are going to vote against him have a right to do so when you are short one Council Member? You people are not listening to these people out here. You never put anything back on the agenda, never give them an answer for

anything and it is very, very sad and you should resign from the City Council unless you straighten up your act and represent the citizens of Banning.

Mrs. Price said that she doesn't know Mr. Ellis but the Commissioners had to elect him their Chairman and they had a lot of confidence and respect in what he does and that he is the one that does read everything and helps them understand what is going on.

Diane Box, resident said in following up with Mr. Burgess, Mr. Miller is not here and she heard twice that the whole Council, as well as, the entire Council has to be here unless she misunderstood. She is sure that three of you already have your minds made up and it is pretty sad because that is MO of three of you for every single vote there is. She is here because she felt the absolute need to support Commissioner Ellis against this attack of his character. He is very passionate about his city and it is very hard to find people like him. It seems that Michael Rock, our new City Manager, is upset because he was exposed as trying to run the City like the City of Bell. Yes, I would too be embarrassed as well. No wonder he was let go from the City of Lomita after only three years. This guy jumps from job to job and cannot hold a position for longer than five years. That is a major red flag to her. Where do we find these people? We need better. Commissioner Ellis raised concern about documents that already had been approved by Michael Rock and sent to the Planning Commission for approval. When Mr. Ellis read these he noticed major issues of plagiarism, as well as, many references to a different city altogether. It took the commission over two hours to realize that these were reruns from a different project and a different city. They just added the City of Banning here and there to make it be pushed through. Did Rock even read it or is he just being courted by these developers too? So he gets exposed by Mr. Ellis and all of a sudden Mr. Ellis is on the agenda to be removed as commissioner. It seems that Mr. Rock is the one that needs to be on the agenda to be let go again. Do not let Mr. Rock finish off Banning once and for all. We need Ellis. He seems to be the only one actually looking out for Banning's best interest.

James Pane, citizen said that he came here to show support also for Mr. Ellis. In looking at the sign in the Council Chambers he sees something that refers to Mr. Ellis in that he has a proud history and has been here a long, long time. He also believes in a prosperous tomorrow and he can see that through Mr. Ellis' actions. He can see how he cares and he exudes character. He does that by being responsible in his planning processes and informed decision making. One of the things that he sees is how this is going and when it first opened up on the agenda and where it came and then the Mayor cited the code or whatever it is that he is in violation and things were made clear in the air of where it came out that these are attacks against his first amendment rights. He sees everything going on here and he can't understand why this is happening. You are all up here as responsible city officials, elected and the folks that are coming up and talking and saying one thing about one person or another, everything that we had in common, whether it was not Mr. Rock or the Council or whoever, we all came forth and we stood waiting for our turn to speak on behalf of Mr. David Ellis and as you folks are up here to represent the City and what we want and he is reiterating what many folks have said preceding him to support Mr. Ellis. Show your support; show where you lie. He has done a great service as a commissioner, he has been a great person as a neighbor, and he has be doing great things as a citizen and as a citizen that cares about the city of Banning.

Fred Sakurai submitted a letter to be read during this time regarding the status of David Ellis (see Exhibit "F" attached).

Councilmember Peterson said it was a ridiculous statement that he would have derived a method to keep him from coming here. However, we all know that Fred Sakurai is the talking head for our former Mayor and Council Member Bob Botts. As you know our former Councilman who quit and walked off the dais has now become a consultant and lobbyist for Diversified Pacific. This is why Fred Sakurai speaking for Bob Botts would want David Ellis off the commission and once again you connect the dots and you start seeing where everything comes from. David Ellis is a threat to Diversified Pacific, Bob Botts is the agent for Diversified Pacific, and Fred Sakurai is the talking head.

Gary Hironimus submitted a letter to be read during this time regarding David Ellis's proposed removal (see Exhibit "F" attached).

Ellen Carr said she doesn't get it. He is a good Planning Commissioner but because he speaks his mind and maybe ruffling feathers he should lose his job. She doesn't get it.

Mayor Welch closed the item for public comments.

Councilmember Peterson said he is absolutely astounded by all of this and really shocked. The Council for the last three years has been okay and we have gotten along and everything has been good but he has to admit that since the City Manager has gotten here this Council has taken a huge turn. Whether it is just all coincidental or maybe it was time to rock the boat he doesn't know but he can recall one thing, directing his comment to Mayor Welch, "I Arthur L. Welch do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I bear true faith and allegiance to the same." The First Amendment the right to freedom of speech was adopted by our forefathers on September 25, 1789 and he has not seen anyone appeal it. That being said if we are going to remove David Ellis because of his tacks on whomever it is just like some of the people have said and I can recall you sitting here with an open mic when these same people were sitting here in the audience and saying, "good, their gone." Was that rude; was that good? Those were your constituents. He can also remember last year at Stagecoach Days and you walked through the gate and didn't pay and said, "I am the Mayor Pro Tem, I don't pay" and walked through. You sent the apology to Stagecoach and they wrote the complaint and that was abuse of power. Furthermore, you sat in the beer garden and said, "When I am Mayor I am going to forgive the Chamber debt" that was heard by many people. And then we have Moyer, "Go get my gun and shoot he son of a bitch" and whatever and it is it's in the police report. Then right after we appointed Richard Krick he sat out here and chastised the entire Council within an hour of his appointment for us wanting to do away with the airport. We all go chewed and that was an appointment but nothing has happened to these people and that is no different than what he does. He has said this a hundred times that you have to be able to take the heat. Look at what they do on a national stage and it is whole lot worse than what we are going through. At this time Councilmember Peterson read from his statement (see Exhibit "H" attached). In conclusion the bottom line is, if we are going to fire people, he will start with asking the City Manager to tender

his resignation effective immediately, for his incompetence and for violating Commissioner Ellis's First Amendment rights, harassment and retaliation.

Councilmember Welch said that he is the one that requested the City Manager to put this on the agenda tonight. He is the one that has taken an awful lot of criticism, unfounded. A person that he asked be put on the agenda tonight stood up here one night and read a statement accusing him of being an alcoholic; unfounded, un-researched , untruths. Yet, he is the one that gets to hear that. He has also sat up here one evening and heard a majority of the Council be berated by Mr. Ellis and threatened with a recall. Now, his colleague, Mr. Peterson can dig up all kinds of accusations and comments but there is one just about as far from the truth for the three of us up here that have as much care for the city as anybody else. For two years almost he has sat up here listening to decisions being made that excluded his recommendations. Today decisions are being made excluding other people's recommendations and they don't like it either. There is not one of us up here that gets a money gain from any decision we make. So to be indicted, and he thinks that they are wrong on both sides of the fence sometimes, just on rumor, published for people to read untruths is not good for any of us. We have had people that have worked very, very long years in this city and have done very well but he thinks the hardest thing to put up with is the lack of respect for each other when we are making our case and it is true on both sides but it gets really wearing on you. He said he is the one that asked that this subject be on the agenda tonight and not the City Manager. If you read the bylaws, the City Manager cannot put on the agenda, it has to come from a City Council person.

There was some further dialogue between Mayor Welch and Councilmember Peterson regarding what Mayor Welch just said.

Commission Moyer moved 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 that we remove David Ellis from the Planning Commission.

Motion seconded by Councilmember Franklin. Motion carried with Councilmember Peterson voting no and Councilmember Miller absent.

There was consensus of the City Council Members to continue the meeting to finish the items on the agenda.

Mayor Welch recessed the regular City Council meeting and called to order a schedule meeting of the Banning Utility Authority.

SCHEDULED MEETINGS – BANNING UTILITY AUTHORITY (BUA)

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.
   (Staff Report – Art Vela, Public Works Director)

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

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

Councilmember Franklin said just in regards to what Director Vela talked about we are at the point especially with the flume where legal representation is very necessary. She stressed that since they have had a chance to see some of the documents you really do need somebody that is well-versed in water, as well as, land use and a multitude of things. In fact our FERC mediator told us that if we didn't have an attorney yet, we needed to get one as soon as possible. She does support getting not only Stoel Rives but having a firm that is a leader in the water land use area to represent us on these issues because we are at the critical point.

Motion Peterson/Franklin to 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. Motion carried, all in favor with Councilmember Miller absent.

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. (Staff Report – Art Vela, Public Works Director)

Councilmember Peterson pointed out a correction on the agenda sheet to Director Vela and he confirmed that the amount of the 10% contingency should be noted as "$51,099.35" and not "451,099.35".

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

There was Council and staff dialogue in regards to possibly using RDA money for the $62,000.00 shortfall, and when is the work going to be completed on Hargrave between Hoffer and Ramsey Street.

Motion Peterson/Moyer to adopt Resolution No. 2016-04 UA, Approving a Construction Agreement for Project No. 2015-01W, 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; 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.

Mayor Welch opened the item for public comments; there were none. Motion carried, all in favor with Councilmember Miller absent.

Next regular meeting of the Banning Utility Authority: Tuesday, April 12, 2016 at 5:00 p.m., Banning City Hall Council Chambers.

BANNING FINANCING AUTHORITY (BFA) – no meeting.

Mayor Welch adjourned the scheduled meetings and reconvened the regular City Council Meeting.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Peterson said he would like to get a consensus from the Council and start immediately in trying to move the time to 6:00 p.m. for our Council Meeting.

City Attorney Taylor said the one question he would have to look at is that he is not sure if that is set by ordinance and if so, we would need to follow that specific procedure to change it.

There was a consensus of the Council to get a report on this from the City Attorney at the next Council meeting.

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.)

Mayor Welch said this evening he would like to adjourn the City Council Meeting in memory of a lady who for decades was a real jewel and a real worker to the success of the people in Banning so he is adjourning the Banning City Council Meeting in memory of Marion Johnson.

ADJOURNMENT

By common consent the meeting adjourned at 9:15 p.m. in memory of Marion Johnson.

_____

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.

Public Comments 3/22/16

fia

03/22/2016

Good evening Honorable Mayor and Council Members.

My name is Steven William Douglas; I reside at 4690 Elsie Lee Cr. Banning Ca..

I am the President of the Board of Directors for Faith in Action of the San Gorgonio Pass.

We are comprised of 22 local Churches and many citizens. I am here this evening to express my groups gratitude and appreciation we have towards the City of Banning.

If you are not aware, I am pleased to inform this Council that the parameters set to open the shelter were met and on March 8th 2016, we did. As a reminder, the following are those parameters.

1) If the temperature drops below 36°.
2) If rain is forecast. (@ 42° Temp).
3) Operational hours would be 9:00pm until 6:30am.

. With this being said, we were able to house for the evening (at the Hacienda Hotel). One couple and One single man as well as One single woman.

In addition, we feed Soup to 28 others that are homeless. (Soup provided by St. Stephens)

As Faith in Action of the San Gorgonio Pass continue to search for our own facility, we hope that we can count on Banning's continuing support.

We would also like to thank all those who have stepped up with their financial support. St. Stephens Episcopal / Calvary Church of God in Christ / San Gorgonio Memorial Hospital Foundation "Chaplains Core" / Congregation Shalom Bait. And those individual givers. Thank you. Anyone wishing to give can contact Faith in Action @ (951)377-4735

We would also like to give a heads up That coming Sunday November 6th 2016

We will be sponsoring a SOCK SUNDAY. A sock drive for the Emergency Cold Weather shelter. Socks can be dropped any Church and watch the Record Gazette for which local Business will accept donations.

Respectfully

Steven W. Douglas

President F.I.A.S.G.P.

Original

Mac

City Clerk's Office

Ramsey Self Storage
1441 E. Ramsey St.
Banning, CA 92220

March 2, 2016

City of Banning
Fee Review Committee

To Whom It May Concern:

As a business owner in the City of Banning for the last 10 years I have an interest in seeing the City strive both by growth and economically. One way of a strong city is through a business friendly government that encourages new business. This provides the city with tax revenues that would make it fiscally strong.

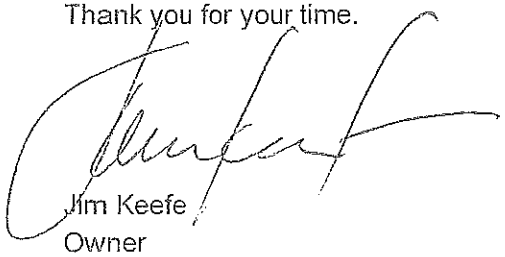
In my opinion, the City of Banning is being "penny wise and dollar foolish" regarding new business. Case in point - The current Conditional Use Permit (CUP) fees in Banning are approximately $4,700.00. The City of Beaumont CUP's fees are $750.00. I buy and sell high end cars as a hobby. In the middle of 2014 I approached the City to convert one of my storage units into a office to satisfy DMV requirements for a retail car dealership. I had building plans drawn and received tentative approval from building and safety. From the City's perspective there would be no additional police, fire or any other city services that the City would provide that we are not already receiving. I was told I would need to get a CUP for this and the cost was approximately $4,700.00. I did go through the preliminary CUP process and there was no objections from the various departments. However the City could not guarantee that I would receive a CUP if I applied after paying $4,700 non refundable money.

This seemed like a "one way benefit" for the City I pay a high CUP fee and the City gets all the tax revenues while providing me with no additional services. I decided not to follow through with the car dealership. Since that time I have sold over $600,000 in cars through a dealer/friend of mine The City's high fees has cost the City close to $12,000 in past tax revenues and of course any future revenues. I have no problem in paying a reasonable fee that reimburses the City for the time it takes to process the CUP. But these exorbitantly high up front fees not only discourages small business owners from opening in the City of Banning which in turns deprives the City of important tax revenues.

I believe the City should ask itself are we being "penny wise and dollar foolish" in charging high fees up front. How many small business owners, like myself, have wanted to do business in the

City but were discouraged with the fee structure and decided not to open a business. Of course the City doesn't know how many business that were discouraged because no one from the City has followed up with me to find out why I haven't followed through with my proposed business.

Thank you for your time.



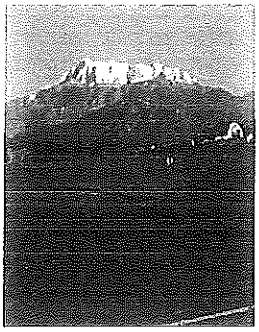
Jim Keefe
Owner

Exhibit "B"
33
reg.mtg.-03/22/16

City of Banning

Community Development Department
Planning Division

March 22, 2016



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

Relocation Agreements

Billboard
3500 block of W. Ramsey Street

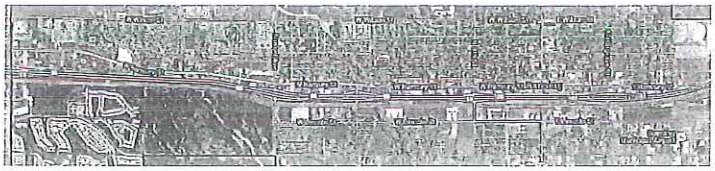


- Amend the sign regulations to allow the **relocation** of existing billboards or outdoor advertising signs through approval of a relocation agreement by City Council.

2

Exhibit "C"
34
reg.mtg.-03/22/16

Background



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

3

Issues and Opportunities



Digital billboard located in San Bernardino along Interstate 10

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

4

Possible Benefits






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

5

City of Banning

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

MAR 22 2016

For Mayor City Council

March 22, 2016

To: Members of the Banning City Council

Subject: Parcel Map #33326, APN 419-140-057, located No. of Sun Lakes Blvd. and East of Highland Springs Ave.

Regarding the 12-month extension for the subject property I believe you will be approving it. Therefore, my concerns now are for any future development of the property since my backyard on Northwood Ave. backs up to the property. The residents on Northwood are concerned about about our property values and quality of life for many reasons. These issues were identified and brought up in 2006 when there was a development plan (that never went forward) and these issues remain. Therefore, I am requesting that a complete EIR be prepared when a development plan is submitted (not one of those very limited negative reports). Also, very importantly, we request that in future planning there be a very large buffer zone between any development and the residential homes. Big box stores and other large commercial developments could be devastating with the trucks, noise, pollution, etc., they would bring in.

Also during the 2006 discussions of the then proposed development, it was brought out by Mr. Oscar Orci, the Communiy Development Director at the time, that the city had just become aware of an easement for underground electrical conduits running along the eastern boundary of the property adjacent to the residents backyard walls that had never been recorded. Mr. Orci further stated the city would investigate and it would be rectified. I am now asking the City Council if this easement has since been properly recorded?

I hope these issues will be addressed with any future developer prior to their submitting any development plans for the property. Thank you.

Darleen Moxon

Darleen Moxon
327 Northwood Ave.
Banning, CA 92220
(951) 845-6697

cc: Members of the Planning Commission
Community Development Director

Marie Calderon

Section 7
Item No. 7 Page 6

From: Emiller <emiller1@dc.rr.com>
Sent: Thursday, March 17, 2016 10:58 PM
To: Marie Calderon
Cc: emiller1@dc.rr.com
Subject: CORRECTED

CORRECTED
Marie
I have corrected some spelling errors.
Please read this when the Ellis removal comes before the Council Es

I am sorry I am ill and not able to attend this meeting. But I doubt that my vote would affect anything. There is absolutely no reason except personal ones to consider removing Dave Ellis from the Planning Commission. He has been diligent and the most serious, dedicated ,member we have been fortunate to have on the Commission. Why would anyone on the. council consider removing him? Has a Council member been insulted by Ellis? yES! So what? What we need is serious volunteers, not subservient ones! Has he disagreed with the council members? yES! So what? To repeat, we need good volunteers, not political yes men. If you voter to remove him, you will demonstrate that you are more interested in your ego than in helping Banning.. When you vote to remove him you will show how important you consider your image compared to what is important to Banning.. However, your removing Ellis will not improve your image, it will simply reinforce the image of this Council as being driven strictly by its own welfare, and not the welfare of our City.

Ed Miller

Exhibit "E"
38
reg.mtg.-03/22/16

Marie Calderon

Section 7
Item No. 7 Report

From: Frp2002@aol.com
Sent: Monday, March 21, 2016 6:43 PM
To: Marie Calderon
Subject: letter

Hello Marie,
Please read this letter during the public comments portion of the agenda item regarding the status of David Ellis.

Fred Sakurai

My name is Fred Sakurai and I live in the City of Banning, and prior to late last year I was a regular attendee at the Banning City Council meetings. Often, I would stand and make comments as I thought were fitting for the occasion. That was until late last year.

It is my thought that member Peterson derived a method to make it uncomfortable for me to stand up and speak. A prime party to that method was Mr. David Ellis. I am glad to read that on the agenda for this meeting is the item concerning the conduct of Planning Commissioner, David Ellis. At one meeting, Mr. Ellis chose to attack my wife and her contributions to the welfare of the city. At that time, I decided that if the council was going to accept this sort of behavior by a representative of the city, I would prefer to bow out.

Now that the question has come before the Banning City Council, I vote a resounding thumbs **DOWN** on the issue of the retention of Mr. David Ellis.

P.S. Short reminder of the conduct of then commissioner Ellis: during a Patriot's Day flag waving demonstration, he tried to
manhandle a Banning police officer.

Fred Sakurai
Banning, CA

Marie Calderon

Section 7
Item #7 Reports

From: Gary Hironimus <ghironimus@hotmail.com>
Sent: Tuesday, March 22, 2016 1:59 PM
To: Marie Calderon
Subject: David Ellis

Marie,

I am going to try to make it to tonight's meeting. If I don't, will you please read this for the agenda item regarding David Ellis's proposed removal?

Thank you,

Gary Hironimus

Councilmembers;

We have had a very controversial issue in the reduced lot sizes at Sunset & Wilson, in direct conflict with the City's General Plan and the State's Housing Element, but still approved by 3 of the councilmembers, under what many consider to be suspicious circumstances.

Now, we have the Mayor calling for one of the Planning Commissioners to be removed and replaced!? Why? David Ellis has every right to speak, both as a Planning Commissioner and as a private citizen, about that very controversial decision. He has done nothing illegal. He has done nothing immoral. He has done nothing that approaches neither malfeasance nor any legitimate reason to remove him from his duly appointed position, other than disagree with the 3 of you on this issue. You are setting a really dangerous precedent by attempting this heavy handed removal. A precedent that would signal future members of ALL departments that in Banning, it is more important to "agree" with whatever clique is currently in power than to do what is right for this city.

So what's next, Mayor Welch? I've disagreed with you and your self-righteous arrogance for many years, often times very vocally. While I supported Franklin in her early terms, that support has evaporated as her decisions become more and more about her own power rather than what is really in the best interests of the City. Supermarket on the east side, anyone? And Moyer? Well, there's no secret to how I feel about someone who doesn't really want to pay for what they have used. So am I next? Are you looking for a way to "remove" me and others from the council chambers, as you are trying to remove David Ellis, simply because we have the nerve to disagree with you?

In this Country, we have a system that allows dissent... that allows disagreement... and that allows public airing of differing opinions. And that freedom extends to everyone, even if you dislike what they have to say. This agenda item is nothing more than a juvenile, petty attempt to eliminate truths and opinions that you find uncomfortable. And if that's the way that you think city government should operate, then YOU, sir, should be on the removal end of that stick.

Gary Hironimus

Exhibit "G"
40
reg.mtg.-03/22/16

I find it outrageous, and hard to believe that, we are here talking about the removal of the Chair of the Planning Commission, and without cause. A removal or firing that has been motivated by the City Manager Michael Rock, which I will explain later. Commissioner Ellis has an impeccable record on the Commission. There has never even been any alleged wrong doing, nor has there ever been an allegation of misconduct. Commissioner Ellis is so well thought of, and respected by his peers, that he was unanimously voted to sit in the Chair position. Furthermore, Our Mayor, Art Welch in a one on one meeting with Commissioner Ellis two weeks ago, commended him for doing an outstanding job on the Commission.

It is true, Commissioner Ellis has verbally fired off a barrage of complaints, and has expressed his dissatisfaction with some of the City Council's decisions. And, why shouldn't he? After all he has lived in this town for over 65 years. His grandfather had a hand in the building of the Fox Theater. So, I believe Commissioner Ellis has the right to question his government, especially when he observes people destroying his town, people who moved here within the last 20 years, and ran the debt up to $115 million dollars. Commissioner Ellis, has watched sitting Council Members beginning in 2002 and up until 2012 give away millions of tax payer dollars to their friends. Friends like: The Banning Cultural Alliance, and the County of Riverside. But more importantly, the United States Constitution protects Commissioner Ellis, and the First Amendment allows Commissioner Ellis the right to freedom speech. And as of today, we are still living in the United States of America.

But we need to ask ourselves why, why does the City Manager and 3 Council Members want this Commissioner off of the Planning Commission. So, let's start with the City Manager.

1. City Manager Michael Rock does not like for the City Council, or any City Commission to publicly embarrass any of his Staff members. He has personally told me this, so I know it to be true. So, let's look at the most recent incident when a Staff Member was embarrassed by a Commissioner or Council Member. As you may remember, it was during January and February, when our Planning Director submitted a Comic Book in the disguise of a Mitigated Negative Declaration. The supposedly MND was a poorly plagiarized document for a project in the City Jurupa. If you do not know Commissioner Ellis, he is an individual who takes the position of Planning Commissioner seriously. Having seen and been victim to some of the bizarre projects imposed on his town, he does not want to be responsible for a mistake, eye soar or another bizarre project. So, he reads and completely familiarizes himself with the Agenda, and Supporting documents. When Commissioner Ellis sits on the dais, he is ready for business. Unfortunately, Commissioner Ellis asked too many questions, criticized the Comic Book Mitigated Negative Declaration, and in some ways the Staff member was humiliated because he was not prepared. Nevertheless, this did not set well with Michael Rock.

2. Let's talk about Diversified Pacific. As you know, Diversified Pacific was just involved in a controversial zoning issue over the last couple of months. This is where the Comic Book was used as a Mitigated Negative Declaration. In any event, the object here was: Diversified Pacific wanted to decrease the size of 58 residential lots from 10,000 sf to 7,000 sf. This would increase the number of saleable residential lots from approximately 58 to approximately 98. This is obviously a huge profit win for the developer, because he can build more houses. However, this was not good for Banning. I still see no purpose to create a high density urban area, when we are a country rural area. But Council Members Welch, Franklin, and Moyer who all received campaign donations from Diversified Pacific all voted to increase their profit margin. And the City Manager, well after everything was said and done, Michael Rock wrote a Letter to the Editor, still trying to sell the project to the public.

3. We need to finish up with Diversified Pacific, and make sure you understand that, Diversified Pacific is a company that is entrenched in corruption scandals, and you should also know that former Mayor and Council Member Bob Botts is a consultant & lobbyist for Diversified Pacific. Botts offers tea and coffee's at his personal residence in order to promote Diversified Pacific's developments in Banning.

   In order to make sure everyone is up to speed, there is a new Diversified Pacific project, named Rancho San Gorgonio that is being proposed on the South side of town. Presently, the construction area is approximately 800 acres that is located South of I-10 and east of Sun Lakes Presently, this area is zoned for approximately 2,100 homes. However, Diversified Pacific (the developer) will be requesting the zoning changed to allow approximately 3,800 homes.

   Since Commissioner Ellis insured that Diversified Pacific crossed their t's and dotted their i's on the small project located on Wilson, do you really think that Diversified Pacific, or our Planning Department would want Commissioner Ellis on the Planning Commission? I think not.

   Banning is a unique town, where the Establishment or what I call the "Club" has ran this City for years, and it is a place where the boat is not rocked. However, Commissioner Ellis is like me, he asks a lot of questions, and when he does not get the answer he will find the answer. Problem is, what else does he find? The public would be shocked at what we find under the rocks.

Asking questions got me sued, even though the suit was dismissed and thrown out of court, it is still aggravating. In Commissioner Ellis's case, asking too many questions is getting him fired from his volunteer non-paid position.

During the Council meeting held on February 23, Commissioner Ellis spoke during Public Comment as, A PRIVATE CITIZEN. In his address, he criticized three Council Members, namely Art Welch, Debbie Franklin and George Moyer, for being corrupt because they accepted donations from Diversified Pacific, and rubber stamping their project. I happen to agree with Commissioner Ellis statement, but even if I didn't, his speech would be protected under the First Amendment, and his speech cannot be used to dismiss him from the Planning Commission.

4. If the Commissioner is being released without cause, but in reality based on one or more of the issues I spoke on, then I find that appalling and offensive. I realize the Commissioners all sit at the pleasure of the city council and can be released with or without cause. I also know the City Manager sits at the pleasure of the City Council and can be released with or without cause

5. Let me also point out that, within the first two weeks of Michael Rocks employment, he created a huge rift between the Stagecoach Days Committee and a local business. It seems the City Manager allowed a similar horse venue to be scheduled at Dysart Park one week before Stagecoach days. I cannot emphasize enough the significance of Stage Coach Days for our City, it is a signature event that is even part of our City Logo. To interfere with Stagecoach Days in anyway, is interfering with the prosperity and identity of our city. This is totally unacceptable.

6. The City Manager also wrote a Letter to the Editor, whereby he attempted to white wash a split decision by the council and attempted to sell it to the public, as the only viable solution. It is not the City Manager's job to take sides on split decisions by the council.

CONCLUSION:

The bottom line is, if we are going to fire people, I will start with asking the City Manager to tender his resignation effective immediately, for his incompetence and for violating Commissioner Ellis's First Amendment rights, Harassment and Retaliation.

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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 12th day of April, 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 Ordinance No. 1493 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 22nd day of March, 2016, and was duly adopted at a regular meeting of said City Council on the 12th day of April, 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

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

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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: April 26, 2016

SUBJECT: Report of Investments for February 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 February 2016. As of February 29, 2016, the City's operating funds totaled $77,329,896. Included in Successor Agency operating funds is $869,169 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Summary Schedule.

As of February 29, 2016 approximately 41% of the City's unrestricted cash balances were invested in investments other than LAIF.

The February 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 0.467% in February. The average rate for all investments in February was 0.394%.

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

		Interest Rate	Amount	Amount	
Operating Funds					
Petty Cash				4,205	
Bank Accounts					
Wells Fargo Bank		0.180% *	3,995,569		
Bank of America-Airport		0.020%	11,740		
Bank of America-Parking Citations		0.020%	6,280		
Bank of America-CNG Station		0.020%	5,144		
Money Market and Bank Account Sub-Total				4,018,733	
Government Pools					
Account #1 Operating Amount	43,304,486				
Account #1 CRA Bond Cash Bal.	869,169				
Local Agency Investment Fund: Account #1		0.467%	44,173,655		
Account #2 Sucessor Agency Cash Bal	0				
Local Agency Investment Fund: Account #2		0.467%	0		
Government Pool Sub-Total				44,173,655	
Operating Cash Balance					**48,196,593**
Restricted Operating Funds					
Riverside Public Utilities- Highmark U.S. Government Money Market Fund		0.140%			**1,019,351**
Calfornia ISO Corp- Union Bank					**109,617**
Worker's Compensation Program- (PERMA)					**1,937,705**
Other Investments					
Investments-US Bank/Piper Jaffray - See Page 2		0.304%			**26,066,631**
Operating Funds Total					**77,329,896**

Fiscal Agent

	Amount	
US Bank	28,914,439	
Fiscal Agent Total		**28,914,439**

* *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								
3,995,569	Wells Fargo Bank-Operating	n/a	0.18%	daily	varies	3,995,569	n/a	3,995,569
11,740	Bank of America-Airport	n/a	0.02%	daily	varies	11,740	n/a	11,740
6,280	Bank of America-Parking Citations	n/a	0.02%	daily	varies	6,280	n/a	6,280
5,144	Bank of America-Parking Citations	n/a	0.02%	daily	varies	5,144	n/a	5,144
	Sub-total							4,018,733
Government Pools								
44,173,655	L.A.I.F. account #1	n/a	0.467%	daily	varies	44,173,655	n/a	44,173,655
0	L.A.I.F. account #2	n/a	0.467%	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		2,000,780
1,700,000	FHLMC Mtn	n/a	0.700%	12/30/2016	6/30/2014	1,700,000		1,701,207
1,000,000	FNMA	n/a	1.250%	11/27/2018	5/27/2015	1,000,000		1,002,030
2,000,000	Federal Home Loan Bks	n/a	1.100%	3/29/2018	7/1/2015	2,000,000		2,002,180
2,000,000	Federal Home Loan Bks	n/a	1.050%	10/5/2018	10/5/2015	2,000,000		2,001,960
17,358,474	Money Market	n/a	0.010%	daily	varies	17,358,474	0	17,358,474
	US Bank/Piper Jaffray Average Rate=		0.304%					26,066,631

Average Rate All= 0.394%

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 72 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

Individual Investments with Fiscal Agent

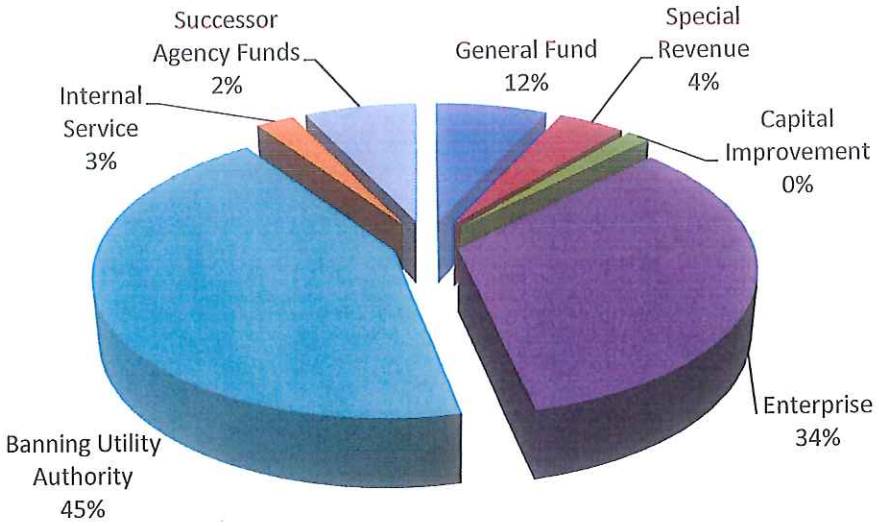
February 29, 2016

TRUSTEE Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Feb-16	2/29/2016 Market Value
COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct	0.090%	daily	188,024	14.69	280,284
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		990,304
		US Bank Mmkt 5-Ct	0.090%	daily		12.50	21,035
		US Bank Mmkt 5-Ct	0.090%	daily			260,000
		US Bank Mmkt 5-Ct	0.090%	daily		34.13	34
Surplus Fund		US Bank Mmkt 5-Ct	0.080%	daily			12
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 5-Ct	0.090%	daily		651.30	7,624,508
		US Bank Mmkt 5-Ct	0.090%	daily			390,000
Reserve Fund		US Bank Mmkt 5-Ct	0.090%	daily	1,875,100	146.54	1,875,278
Special Fund		US Bank Mmkt 5-Ct	0.090%	daily		69.25	69
Surplus Fund		US Bank Mmkt 5-Ct	0.090%	daily			11
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Interest Account		US Bank Mmkt 5-Ct	0.000%	daily			2
Principal Account		US Bank Mmkt 5-Ct	0.000%	daily			3
		US Bank Mmkt 5-Ct	0.090%	daily		255.27	3,267,059
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			3,007,573
Cost of Issuance Fund		First Amer Treas Oblig Fd Cl D	0.000%	daily			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			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**		**1,183.69**	**28,914,439**

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
PREPARED BY:	Michelle Green, Deputy Finance Director Melissa Elizondo, Accountant
MEETING DATE:	April 26, 2016
SUBJECT:	Approval of Accounts Payable and Payroll Warrants Month of January 2016

RECOMMENDATION:

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

FISCAL DATA:

The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of January 2016.

The reports included for this month are:

Expenditure approval lists:

January 8, 2016		483,772.07
January 14, 2016		158,091.53
January 21, 2016		544,854.35
January 28, 2016		253,403.03
April 4, 2016	(January Month End)	3,602,765.06

Payroll check registers:

January 8, 2016	2,900.08
January 22, 2016	3,825.62

*Payroll direct deposits:**

January 8, 2016	253,264.70
January 22, 2016	276,392.36

**Included in Month End total*

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

Approved by:

Michael Rock
City Manager

CITY of BANNING

Fund/Department Legend

Fund/Department Legend

001 General Fund Departments

0001 – General
1000 – City Council
1200 – City Manager
1300 – Human Resources
1400 – City Clerk
1500 – Elections
1800 – City Attorney
1900 – Fiscal Services
1910 – Purchasing & A/P
2060 – TV Government Access
2200 – Police
2210 – Dispatch
2279 – TASIN – SB621 (Police)
2300 – Animal Control
2400 – Fire
2479 – TASIN – SB621 (Fire)
2700 – Building Safety
2740 – Code Enforcement
2800 – Planning
3000 – Engineering
3200 – Building Maintenance
3600 – Parks
4000 – Recreation
4010 – Aquatics
4020 – Day Care
4050 – Senior Center
4060 – Sr. Center Advisory Board
4500 – Central Services
4800 – Debt Service
5400 – Community Enhancement

All Other Funds

002 – Developer Deposit Fund
003 – Riverside County MOU
005 – SA Admin Fund
100 – Gas Tax Street Fund
101 – Measure A Street Fund
103 – SB 300 Street Fund
104 – Article 3 Sidewalk Fund
110 – CDBG Fund
111 – Landscape Maintenance
132 – Air Quality Improvement Fund
140 – Asset Forfeiture/Police Fund
148 – Supplemental Law Enforcement
149 – Public Safety Sales Tax Fund
150 – State Park Bond Fund
190 – Housing Authority Fund
200 – Special Donation Fund
201 – Sr. Center Activities Fund
202 – Animal Control Reserve Fund
203 – Police Volunteer Fund
204 – D.A.R.E. Donation Fund
300 – City Administration COP Debt Service
360 – Sun Lakes CFD #86-1
365 – Wilson Street #91-1 Assessment Debt
370 – Area Police Computer Fund
375 – Fair Oaks #2004-01 Assessment Debt
376 – Cameo Homes
400 – Police Facilities Development
410 – Fire Facilities Development
420 – Traffic Control Facility Fund
421 – Ramsey/Highland Home Road Signal
430 – General Facilities Fund
441 – Sunset Grade Separation Fund
444 – Wilson Median Fund
451 – Park Development Fund
470 – Capital Improvement Fund
475 – Fair Oaks #2004-01 Assessment District
600 – Airport Fund
610 – Transit Fund
660 – Water Fund
661 – Water Capital Facilities
662 – Irrigation Water Fund
663 – BUA Water Capital Project Fund
669 – BUA Water Debt Service Fund
670 – Electric Fund
672 – Rate Stability Fund
673 – Electric Improvement Fund
674 – Electric Revenue Bond Project Fund
675 – Public Benefit Fund
678 – '07 Electric Revenue Bond Debt Service Fund
680 – Wastewater Fund
681 – Wastewater Capital Facility Fund
682 – Wastewater Tertiary
683 – BUA Wastewater Capital Project Fund
685 – State Revolving Loan Fund
689 – BUA Wastewater Debt Service Fund
690 – Refuse Fund
700 – Risk Management Fund
702 – Fleet Maintenance
703 – Information Systems Services
761 – Utility Billing Administration
805 – Redevelopment Obligation Retirement Fund
810 – Successor Housing Agency
830 – Debt Service Fund
850 – Successor Agency
855 – 2007 TABS Bond Proceeds
856 – 2003 TABS Bond Proceeds
857 – 2003 TABS Bond Proceeds Low/Mod

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CITY 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:	April 26, 2016
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RECOMMENDATION:

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

FISCAL DATA:

The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of February 2016.

The reports included for this month are:

Expenditure approval lists:

February 4, 2016		340,082.56
February 11, 2016		455,794.42
February 16, 2016		3,645.25
February 17, 2016		-
February 18, 2016		499,631.89
February 25, 2016		198,473.69
April 4, 2016	(February Month End)	2,187,075.63

Payroll check registers:

February 5, 2016	3,784.75
February 16, 2016	4,505.25

*Payroll direct deposits:**

February 5, 2016	264,642.75
February 16, 2016	257,297.92

**Included in Month End total*

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

Approved by:

Michael Rock
City Manager

CITY of BANNING

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2210 – Dispatch
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2300 – Animal Control
2400 – Fire
2479 – TASIN – SB621 (Fire)
2700 – Building Safety
2740 – Code Enforcement
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3000 – Engineering
3200 – Building Maintenance
3600 – Parks
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4050 – Senior Center
4060 – Sr. Center Advisory Board
4500 – Central Services
4800 – Debt Service
5400 – Community Enhancement

All Other Funds

002 – Developer Deposit Fund
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682 – Wastewater Tertiary
683 – BUA Wastewater Capital Project Fund
685 – State Revolving Loan Fund
689 – BUA Wastewater Debt Service Fund
690 – Refuse Fund
700 – Risk Management Fund
702 – Fleet Maintenance
703 – Information Systems Services
761 – Utility Billing Administration
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CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Director of Public Works

MEETING DATE: April 12, 2016

SUBJECT: Notice of Completion for Project No. 2015-01 "ADA Upgrades at Lions Park"

RECOMMENDATION:

That the City Council accepts Project No. 2015-01 "ADA Upgrades at Lions Park" as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

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

BACKGROUND:

On October 13, 2015, the City Council adopted Resolution No. 2015-93, "Awarding the Construction Contract for Project No. 2015-01, "ADA Upgrades at Lions Park" and Rejecting All Other Bids'", attached hereto. The project was awarded to Leonida Builders, Inc. of Glendora, California.

The scope of work included the reconstruction of an existing ADA parking area; construction of new ADA parking areas; construction of new accessible paths of travel to all ball fields; ADA retrofit of existing park restroom facilities; installation of new drinking fountains; minor restoration and repair of landscape and irrigation systems; installation of new playground equipment; and site cleanup.

If accepted, the retention amount withheld from the contractor will be released after 35 days from the date the Notice of Completion is recorded. The retention amount is equal to 5% of the amount invoiced ($19,371.30).

FISCAL IMPACT:

The original contract amount for this project was $368,000.00 with an approved contingency of $36,800.00 for a total project budget of $404,800.00. The final contract amount was $387,426.00, 5.3% over the original contract amount and within the 10% contingency.

This project was fully funded by the Community Development Block Grant program.

OPTIONS:

1. Accept Project No. 2015-01 "ADA Upgrades at Lions Park" as complete and direct the City Clerk to record the Notice of Completion.
2. City Council may elect to not accept the project as complete.

ATTACHMENTS:

1. Notice of Completion
2. Photographs of Project

Prepared and Reviewed by:

Art Vela
Director of Public Works

Approved by:

Michael Rock
City Manager

ATTACHMENT 1

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WHEN RECORDED MAIL TO:

Office of the City Clerk
City of Banning
P.O. Box 998
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2015-01" ADA UPGRADES AT LIONS PARK"

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning, pursuant to authority conferred by the City Council this April 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

That the OWNER, the City of Banning, and Leonida Builders Inc., Inc. of Glendora, California, the vendee, entered into an agreement dated October 14, 2015, for Project No. 2015-01, 'ADA Upgrades at Lions Park".

The scope of work included the reconstruction of an existing ADA parking area; construction of new ADA parking areas; construction of new accessible paths of travel; ADA retrofit of existing park restroom facilities; installation of new drinking fountains; installation of new playground equipment; minor restoration and repair of landscape and irrigation systems; and site cleanup.

That the work of improvement was completed on March 22, 2016, for Project No. 2015-01 "ADA Upgrades at Lions Park."

(1) The Nature of Interest was ADA Upgrades to Lions Park.

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

(3) That said work of improvement was performed at 955 South Hargrave Street in Banning, California 92220.

(4) That the original contractor for said improvement was Leonida Builders, Inc., State Contractor's License No. 896772.

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

(6) The nature of interest is in fee.

Dated: April 12, 2016.

CITY OF BANNING
A Municipal Corporation

By_____
Michael Rock, City Manager

APPROVED AS TO FORM:

_____
Anthony Taylor, City Attorney
Aleshire & Wynder, LLP

JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this 12th day of April, 2016 by _____ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

_____
Notary Public in and for said County and State

STATE OF CALIFORNIA)
) ss
COUNTY OF RIVERSIDE)

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

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

Executed on April 12, 2016 at Banning, California.

_____
City Clerk of the City of Banning

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ATTACHMENT 2









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CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Fred Mason, Electric Utility Director
Brandon Robinson, Electrical Engineer

MEETING DATE: April 12, 2016

SUBJECT: Notice of Completion for "Project No. 2015-02EL – EV Charging Station at 2140 W. Ramsey St, City of Banning"

RECOMMENDATION:

The City Council accept Project No. 2015-02EL – EV Charging Station at 2140 W. Ramsey St, City of Banning as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION:

The contractor has completed the work per the project plans and specifications.

BACKGROUND:

The City Council awarded the construction contract for said project to M. Brey Electric, Inc. of Beaumont, at its regular meeting held on March 24, 2015.

The scope of work for the project included furnishing of all labor, materials, equipment, services, and incidentals necessary for the installation of electric vehicle charging equipment at 2410 W. Ramsey St., Banning, CA 92220.

OPTIONS:

1. Accept Project No. 2015-02EL – EV Charging Station at 2140 W. Ramsey St, City of Banning as complete and direct the City Clerk to record the Notice of Completion.

2. Do not accept Project No. 2015-02EL – EV Charging Station at 2140 W. Ramsey St, City of Banning as complete, which would prevent the City Clerk from recording this new City owned asset with the County of Riverside. This may also result in the contractor filing a claim against the City, since we would be unable to pay him the $1,250.70 in withheld retention, which the Notice of Completion releases.

FISCAL IMPACT:

The project was completed within the Council approved contract amount of $25,014.

ATTACHMENTS

Exhibit A: Signed Release from Contractor and Notice of Completion

Reviewed by:

Fred Mason
Electric Utility Director

Approved by:

Michael Rock
City Manager

Prepared by:

Brandon Robinson
Associate Electrical Engineer

EXHIBIT "A"

SECTION 1.13
OF
PROCEDURAL DOCUMENTS

RELEASE

Owner: City of Banning Electric Utility

Contractor: M. Brey Electric, Inc.

Project: **Project No. 2015-02EL, "EV Charging Station 2140 W. Ramsey St, City of Banning"**

In consideration of the final payment of the undisputed contract amounts of $25,014.00 relating to the above referenced project, the Contractor hereby Releases the Owner from any and all claims and liability for payment on the project except for any outstanding disputed amount listed below.

CONTRACTOR:

By: _____

Title: PRESIDENT

Dated: 3-10-16

ATTEST:

_____

Name: Shelley Bates
(Please Print)

Title: QM

WHEN RECORDED MAIL TO:

City Clerk's Office
City of Banning
City Hall, 99 E. Ramsey Street
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION

PROJECT NO. 2015-02EL - EV CHARGING STATION 2140 W. RAMSEY ST., CITY OF BANNING

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning pursuant to authority conferred by the City Council this April 12, 2016, and the grantees consent to recordation thereof by its duly authorized agent.

(1) That the OWNER, the City of Banning, and M. Brey Electric, Inc., entered into a written Agreement dated April 17, 2015, for the EV Charging Station 2140 W. Ramsey St., City of Banning. The scope of work for the project included furnishing all labor, materials, equipment, services, and incidentals necessary for the installation of electric vehicle charging equipment at 2410 W. Ramsey St., Banning, CA 92220.

(2) That the Work of Improvement was substantially completed on February 4, 2016, and the Nature of Interest is in fee simple owner.

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

(4) That the said Work of Improvement was performed at 2140 W. Ramsey St. in the City of Banning.

(5) That the original contractor for said improvement was M. Brey Electric, Inc., State Contractor's License No. 581224.

(6) That the corporate surety on the performance and payment bonds is U.S. Specialty Insurance Company.

Dated: April 12, 2016

CITY OF BANNING
A Municipal Corporation

By_____
Fred Mason
Director of Electric Utility

APPROVED AS TO FORM:

_____
Anthony R. Taylor, Aleshire & Wynder, LLP
City Attorney

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

_____

Marie A. Calderon
City Clerk of the City of Banning

Executed on _____, 2016 at Banning, California.

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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: April 12, 2016

SUBJECT: **Adopt Resolution No. 2016-24, "Awarding a Construction Agreement for Project No. 2016-02, 'Community Center Generator Enclosure' to BWW & Company of Redlands, CA in the amount of $50,926.00 and establishing a total project budget of $56,018.60"**

RECOMMENDATION:

The City Council adopt Resolution No. 2016-24 approving the following actions:

1. Approve a Construction Agreement for Project No. 2016-02, "Community Center Generator Enclosure" to BWW & Company of Redlands, CA in the amount of $50,926.00 and a 10% contingency in the amount of $5,092.60 to cover unforeseen conditions.

2. Authorize the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-02, "Community Center Generator Enclosure" and to approve change orders within the 10% contingency.

3. Authorize the City Manager to execute the Construction Agreement with BWW & Company for Project No. 2016-02, "Community Center Generator Enclosure".

JUSTIFICATION:

The existing enclosure at the Community Center is not large enough to house the new generator purchased by the City and therefore must be demolished in order to construct a new enclosure.

BACKGROUND:

The City of Banning Community Center is located at 789 N. San Gorgonio Avenue. As a result of a routine inspection, staff discovered that the emergency generator located at the Community Center was not permitted. Additionally, a permit will not be obtained due to the reason that South Coast Air Quality Management District ("AQMD") standards cannot be met. Emission standards are more stringent when a generator is within 100 meters (328 feet) from a school. In this case, the generator is approximately 145 feet from Nicolet Middle School.

AQMD Rule 1470 requires that all generators located within 100 meters of a school do not exceed emission of diesel particulate matter of 0.01 g/bhp-hr.

Since the existing equipment did not meet AQMD standards and was unable to be retrofitted with a particulate matter trap it was determined that a new generator would have to be purchased. On June 25, 2013 City Council approved Resolution No. 2013-66 approving the purchase of a new generator for the Community Center.

The existing generator is housed in a concrete block enclosure. The new generator is larger than the existing generator and will not fit in the existing enclosure, therefore it will have to be demolished and a new enclosure will have to be constructed.

Public Works staff prepared plans and specifications for the Project 2016-02 "Community Center Generator Enclosure" which included the following items: removal and delivery of the existing generator to the City Corporate Yard; demolition of the existing enclosure; construction of concrete foundations, concrete masonry walls, a metal screen cover and man gate; placement of the new generator and related electrical work to connect the new generator to the Community Center electrical system.

Bid documents for Project No. 2016-02 were advertised on March 8, 2016 and March 15, 2016 in the Press Enterprise and on the City's website. Additionally, notifications were sent to multiple plan rooms. In response to these efforts, the Public Works Department received five (5) bids from the following contractors:

Companies	Bid Amount
1) BWW & Company of Redlands, CA	$50,926.00
2) Three Peaks Corp. of Calimesa, CA	$75,550.00
3) Jitney Company, Inc. of Corona, CA	$86,432.00
4) Rio Jordan Construction, Inc. of Pico Rivera, CA	$104,000.00
5) Tennyson Pipeline Co. of Hesperia, CA	$106,450.00

As a result, staff recommends that the Construction Agreement be awarded to BWW & Company in the amount of $50,926.00. A copy of the bid schedule for the lowest bid can be found attached hereto. Once work commences, it is anticipated to be completed within 45 working days.

FISCAL IMPACT:

The Construction Agreement with BWW & Company is for an amount of $50,926.00 with a 10% contingency of $5,092.60 for a total project budget amount of $56,018.60. Funding for a portion of Project No. 2016-02 is available in the 2015/2016 budget in the amount of $31,778.00, Account No. 001-3200-412.90-56. An appropriation in the amount of $24,240.60 from the General Fund to Account No. 001-3200-412.90-56 is required to fully fund the project.

OPTIONS:

1. Adopt Resolution No. 2016-24.
2. City Council may choose to take no action, which will result in having an unpermitted generator at the Community Center, which can lead to penalties from AQMD.

ATTACHMENTS:

1. Resolution No. 2016-24
2. BWW & Company Bid Schedule

Reviewed by:

Art Vela,
Public Works Director

Reviewed by:

Rochelle Clayton,
Administrative Services Director/
Deputy City Manager

Approved by:

Michael Rock,
City Manager

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ATTACHMENT 1

(Resolution No. 2016-24)

RESOLUTION NO. 2016-24

A RESOLUTION OF THE CITY COUNCIL OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION AGREEMENT FOR PROJECT NO. 2016-02, "COMMUNITY CENTER GENERATOR ENCLOSURE" TO BWW & COMPANY OF REDLANDS, CA IN THE AMOUNT OF $50,926.00 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $56,018.60

WHEREAS, the existing generator at the City of Banning Community Center is located approximately 145 feet from Nicolet Middle School and does not meet South Coast Air Quality Management District ("AQMD") requirements; and

WHEREAS, AQMD Rule 1470 requires that all generators located within 100 meters (328 feet) of a school do not exceed emission of diesel particulate matter of 0.01 g/bhp-hr; and

WHEREAS, on June 25, 2013 City Council approved Resolution No. 2013-66 approving the purchase of a new generator for the Community Center; and

WHEREAS, the new generator is larger than the existing generator and will not fit in the existing enclosure, therefore it will have to be demolished and a new enclosure will have to be constructed; and

WHEREAS, Public Works staff prepared plans and specifications for the Project 2016-02 "Community Center Generator Enclosure" which included the following items: removal and delivery of the existing generator to the City Corporate Yard; demolition of the existing enclosure; construction of concrete foundations, concrete masonry walls, a metal screen cover and man gate; placement of the new generator and related electrical work to connect the new generator to the Community Center electrical system; and

WHEREAS, bid documents for Project No. 2016-02 were advertised on March 8, 2016 and March 15, 2016 in the Press Enterprise, the City's website and multiple plan rooms and as a result five (5) bids were received; and

WHEREAS, staff recommends that a Construction Agreement be awarded to BWW & Company in the amount of $50,926.00 and requests that a 10% contingency of $5,092.60 be added for a total project budget amount of $56,018.60; and

WHEREAS, an appropriation in the amount of $24,240.60 from the General Fund to Account No. 001-3200-412.90-56, which currently has a balance of $31,778.00, is required to fully fund the project.

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

SECTION 1. The Banning City Councils adopts Resolution No. 2016-24 approving the Construction Agreement for Project No. 2016-02, "Community Center Generator Enclosure" to BWW & Company of Redlands, CA in the amount of $50,926.00 and a 10% contingency in the amount of $5,092.60 to cover unforeseen conditions.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-02, "Community Center Generator Enclosure" and to approve change orders within the 10% contingency.

SECTION 3. The City Manager is authorized to execute the Construction Agreement with BWW & Company for Project No. 2016-02, "Community Center Generator Enclosure".

PASSED, ADOPTED AND APPROVED this 12th day of April, 2016.

_____
Arthur L. Welch, Mayor
City of Banning

ATTEST:

_____
Marie A. Calderon, Secretary

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. 2016-24 was duly adopted by the City Council of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of April, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

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

ATTACHMENT 2

(BWW & Company Bid)

BID SCHEDULE
(REVISED)

PROJECT NO. 2016-02 "COMMUNITY CENTER GENERATOR ENCLOSURE"

ITEM NO.	DESCRIPTION OF ITEM	TOTAL
1.	NPDES COMPLIANCE	2500.00
2.	CLEARING AND GRUBBING	3000.00
3.	DISCONNECT AND REMOVE THE EXISTING GENERATOR AND DEMOLITION OF THE EXISTING GENERATOR ENCLOSURE INCLUDING THE CONCRETE PAD.	5650.00
4.	CONSTRUCT GENERATOR ENCLOSURE PER THE APPROVED EMERGENCY GENERATOR ENCLOSURE PLANS SHEETS 1 AND 2 (PREPARED BY TKE ENGINEERING, INC.)	32926.00
5.	COORDINATE WITH GENERATOR SUPPLIER FOR THE DELIVERY OF THE NEW GENERATOR. SET UP AND INSTALL NEW GENERATOR. CONTRACTOR IS RESPONSIBLE FOR RECONNECTING THE NEW GENERATOR. THE CONTRACTOR SHALL COMMISSION THE GENERATOR.	2650.00
6.	FLAT CONCRETE WORK	4200.00

TOTAL BID AMOUNT IN FIGURES: $50,926.00
(Bid Item No.'s 1 through 6)

TOTAL BID AMOUNT IN WORDS: Fifty Thousand Nine Hundred Twenty Six Dollars
(Bid Item No.'s 1 through 6)

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Art Vela, Public Works Director
Kevin Sin, Senior Civil Engineer

MEETING DATE: April 12, 2016

SUBJECT: Adopt Resolution No. 2016-26, "Approving the Measure 'A' Five Year Capital Improvement Plan Project List"

RECOMMENDATION:

Adopt Resolution No. 2016-26, "Approving the Measure 'A' Five Year Capital Improvement Plan Project List"

JUSTIFICATION:

The City is required to submit a Five Year Capital Improvement Plan ("CIP") annually to the Riverside County Transportation Commission ("RCTC") in order to receive Measure "A" funds.

BACKGROUND:

Voters in Riverside County approved Measure "A" in 1988, which authorized the Riverside County Transportation Commission to impose an additional one-half percent (0.5%) sales tax for the next 20 years to be used for improvements of state highways, public transit systems, and local streets. In 2002, voters in Riverside County approved a 30-year extension of the one-half percent sales tax for transportation improvements.

Each City in Riverside County is required by the RCTC to submit a Five Year CIP, as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years. The list of street locations under the Five Year CIP is attached as Exhibit "A".

In 2012, the City hired Mission Geographics, LLC ("Mission") to complete a City wide mapping and data collection of the city's street network. Mission used automated data collection technology to collect pavement surface distress data such as cracking, roughness, rutting, raveling/weathering, bleeding/flushing and deflection. Using these asset parameters the streets are scored and prioritized.

As part of the yearly Measure "A" CIP list submittal, the City is required to submit a Project Status Report for projects previously approved by City Council in previous fiscal years that have not been completed. Attached, as Exhibit "B", is the Project Status Report for FY 2014/2015 – 2015/2016.

Additionally, the Measure "A" Ordinance requires annual certification that discretionary General Fund expenditures for transportation-related construction and maintenance activities for Fiscal Year 2016/2017 will meet or exceed the Maintenance of Effort Certification ("MOE") base year amount and commitment to expending Measure "A" funds to projects identified in the City's Five Year CIP. The MOE base year amount has been set to $164,325.00. The MOE, attached as Exhibit "C", must be signed by the City Manager and submitted to RCTC along with the Five-Year CIP.

The program is intended to support public transit systems, street pavement rehabilitation, and public street improvements. If needed, City Council can request a change in the priority list of street locations after RCTC has approved the list by submitting a written request.

OPTIONS:

1. Adopt Resolution No. 2016-26 "Approving the Measure "A" Five Year Capital Improvement Plan".

2. The City Council may choose not to adopt Resolution No. 2016-26 at this time, which as a result the City will not be eligible to receive Measure "A" funds.

FISCAL IMPACT:

RCTC has estimated that the City of Banning will receive Measure "A" Funds totaling $2,979,000.00 as follows for the next five years:

Year	Estimated Amount
2016/2017	**$569,000.00**
2017/2018	**$580,000.00**
2018/2019	**$592,000.00**
2019/2020	**$610,000.00**
2020/2021	**$628,000.00**

ATTACHMENTS:

1. Resolution No. 2016-26
2. Exhibit "A": 5-Year Measure "A" CIP
3. Exhibit "B": Project Status Report
4. Exhibit "C": Maintenance of Effort Certification Statement

Reviewed by:

Art Vela,
Public Works Director

Reviewed by:

Rochelle Clayton,
Administrative Services Director/
Deputy City Manager

Approved by:

Michael Rock,
City Manager

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ATTACHMENT 1

(Resolution No. 2016-26)

RESOLUTION NO. 2016-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE MEASURE "A" FIVE YEAR CAPITAL IMPROVEMENT PLAN

WHEREAS, in 1988, Riverside County voters approved a 0.5% sales tax (Measure "A") over a 20-year span to be used toward improvements of state highways, local transit systems, and public streets; and

WHEREAS, in 2002, Riverside County voters approved a 30-year extension of the Measure "A" 0.5% sales tax; and

WHEREAS, each City in Riverside County is required by the Riverside County Transportation Commission ("RCTC") to submit a Five Year Capital Improvement Plan (attached as Exhibit "A"), as approved by its governing board, to indicate how Measure "A" funding is to be utilized over the next five years; and

WHEREAS, the RCTC has estimated that the City of Banning will receive a total of $2,979,000.00 in Measure "A" funds over the next five years; and

WHEREAS, the program is intended to support local transit systems, street pavement rehabilitation and public street improvements; and

WHEREAS, the Measure "A" Ordinance requires annual certification that discretionary General Fund expenditures for transportation-related construction and maintenance activities for Fiscal Year 2016/2017 will meet or exceed the Maintenance of Effort Certification ("MOE") base year amount and commitment to expending Measure "A" funds to projects identified in the City's Five Year CIP; and

WHEREAS, the priority list of street locations can be changed by the City Council by submitting a written request to RCTC;

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

SECTION 1. City Council adopts Resolution No. 2016-26, "Approving the Measure 'A' Five Year Capital Improvement Plan."

SECTION 2. The City Manager is authorized to execute the Maintenance of Effort Certification Statement.

PASSED, APPROVED and ADOPTED this 12th day of April, 2016.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

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. 2016-26 was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 12th of April, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

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

ATTACHMENT 2

(Exhibit "A": 5-Year Measure "A" CIP)

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
FY 2016/2017

Agency: City of Banning

Page 3 of 7

Prepared by: Kevin Sin, P.E.

Phone #: 951-922-3130

Date: *3-29-16*

FY 2014-15 Audited Measure A Balance:	$1,465,222.00
FY 2015-16 Measure A Revenue:	$680,000.00
FY 2014-15 & FY 2015-16 Project Status report expenses:	$1,250,170.50
Estimated Prior Year Measure A Balance:	$895,051.50
Estimated FY 2016/2017 Measure A Allocation:	$569,000.00
Estimated Measure A Available for FY 2016/2017 Projects:	$1,464,051.50

FY 2016/2017

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds
1	Theodore Street: Alessandro Road to Almond Way	AC Overlay	$166,000.00	$166,000.00
2	8th Street: Lincoln Street to Westward Avenue	AC Overlay	$180,000.00	$180,000.00
3	Charles Street: Hargrave Street to 1037 E. Charles Street	AC Overlay	$100,000.00	$100,000.00
4	Wesley Street: Hargrave Street to 1041 E. Wesley Street	AC Overlay	$100,000.00	$100,000.00
		TOTALS	**$546,000.00**	**$546,000.00**

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
FY 2017/2018

Agency: City of Banning
Page 4 of 7
Prepared by: Kevin Sin, P.E.
Phone #: 951-922-3130
Date: *3-29-16*

Estimated Prior Year Measure A Balance:	$918,051.50
Estimated FY 2018/2019 Measure A Allocation:	$580,000.00
Estimated Measure A Available for FY 2017/2018 Projects:	$1,498,051.50

FY 2017/2018

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds
1	Sun Lakes Boulevard: Highland Home Road to Sunset Avenue	Environmental Document and Plans, Specs and Estimates Only	$1,325,384.77	$1,325,384.77
		TOTALS	**$1,325,384.77**	**$1,325,384.77**

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
FY 2018/2019

Agency: City of Banning

Page 5 **of** 7

Prepared by: Kevin Sin, P.E.

Phone #: 951-922-3130

Date: *3-29-16*

Estimated Prior Year Measure A Balance:	$172,666.73
Estimated FY 2018/2019 Measure A Allocation:	$592,000.00
Estimated Measure A Available for FY 2018/2019 Projects:	$764,666.73

FY 2018/2019

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds
1	Cottonwood Road: 8th Street to 12th Street	AC Overlay	$100,000.00	$100,000.00
2	George Street: 8th Street to 12th Street	AC Overlay	$100,000.00	$100,000.00
3	10th Street: Williams Street to George Street	AC Overlay	$115,000.00	$115,000.00
4	12th Street Williams Street to George Street	AC Overlay	$122,000.00	$122,000.00
5	14th Street: Williams Street to George Street	AC Overlay	$120,000.00	$120,000.00
		TOTALS	**$557,000.00**	**$557,000.00**

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
FY 2019/2020

Agency: City of Banning

Page 6 of 7

Prepared by: Kevin Sin, P.E.

Phone #: 951-922-3130

Date: *3-29-16*

Estimated Prior Year Measure A Balance:	$207,666.73
Estimated FY 2019/2020 Measure A Allocation:	$610,000.00
Estimated Measure A Available for FY 2019/2020 Projects:	$817,666.73

FY 2019/2020

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds
1	Indian School Lane: 8th Street to San Gorgonio Avenue	AC Overlay	$200,000.00	$200,000.00
2	Lincoln Street: San Gorgonio Avenue to Hargrave Street	AC Overlay	$300,000.00	$300,000.00
3	City Wide Slurry Seal	Slurry Seal	$91,000.00	$91,000.00
		TOTALS	**$591,000.00**	**$591,000.00**

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
FY 2020/2021

Agency: City of Banning

Page 7 of 7

Prepared by: Kevin Sin, P.E.

Phone #: 951-922-3130

Date: *3-29-16*

Estimated Prior Year Measure A Balance:	$226,666.73
Estimated FY 2020/2021 Measure A Allocation:	$628,000.00
Estimated Measure A Available for FY 2020/2021 Projects:	$854,666.73

FY 2019/2020

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds
1	Monroe Street: 22nd St to Jefferson St	AC Overlay/Rehab	$100,000.00	$100,000.00
2	Jefferson Street: Monroe St to 22nd St	AC Overlay/Rehab	$90,000.00	$90,000.00
3	Lincoln Street: Sunset Ave to 22nd St.	AC Overlay	$180,000.00	$180,000.00
4	George Street: Hargrave St to Hathaway St	AC Overlay	$140,000.00	$140,000.00
5	Citywide Slurry Seal	Slurry Seal	$120,000.00	$120,000.00
		TOTALS	**$630,000.00**	**$630,000.00**

ATTACHMENT 3

(Exhibit "B": Project Status Report)

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
PROJECT STATUS REPORT FY 2014/2015

Agency: City of Banning
Page 1 of 7
Prepared by: Kevin Sin, P.E.
Phone #: 951-922-3130
Date: *3-29-16*

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds	Estimated Completion	Status
1	2014-05: Sidewalk Repairs at Various Locations	S/W Improvements	$70,170.50	$70,170.50		Completed
2	Nicolet Street: Sims Street to 8th Street	AC Overlay	$120,000.00	$120,000.00	10/1/2016	Scheduled to bid in April, 2016.
3	Ramsey Street: San Gorgonio Avenue to 4th Street	AC Overlay	$300,000.00	$300,000.00	12/1/2016	Scheduled to bid in July, 2016.
4	City Wide Slurry Seal	Slurry Seal	$110,000.00	$110,000.00	10/1/2016	Scheduled to bid in April, 2016.
		TOTALS	**$600,170.50**	**$600,170.50**		

Note: An amendment is requested to replace "Cherry Street: Hoffer Street to George Street" with new Item No. 2 "Nicolet Street: Sims Street to San Gorgonio Ave" to the approved FY 2014/15 CIP.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION
MEASURE A LOCAL FUNDS PROGRAM
PROJECT STATUS REPORT FY 2015/2016

Agency: City of Banning
Page 2 of 7
Prepared by: Kevin Sin, P.E.
Phone #: 951-922-3130
Date: *3-29-16*

Item No.	Project Name / Limits	Project Type	Total Cost	Measure A Funds	Estimated Completion	Status
1	Nicolet Street: Sims Street to Sunset Avenue	AC Overlay	$310,000.00	$310,000.00	10/1/2016	Scheduled to bid in April, 2016.
2	FTIP: Ramsey Street: Hargrave Street to East City Limits	AC Overlay	$477,000.00	$295,000.00	12/1/2016	Environmental hold up
3	Nicolet Street: McGovern Ave to Sunset Avenue	AC Overlay	$45,000.00	$45,000.00	10/1/2016	Scheduled to bid in April, 2016.
		TOTALS	**$832,000.00**	**$650,000.00**		

Note: An amendment is requested to replace "Feasibility Study: Lincoln Street - Sunset Ave to Highland Home Road" with new Item No. 3 "Nicolet Street: McGovern Ave to Sunset Avenue" to the approved FY 2015/16 CIP.

ATTACHMENT 4

(Exhibit "C": Maintenance of Effort Certification Statement)

FY 2016/2017 MEASURE A PROGRAM
MAINTENANCE OF EFFORT
CERTIFICATION STATEMENT

The undersigned agrees and certifies for the CITY OF BANNING (the "Agency") that sales tax transportation funds received pursuant to Ordinance No. 02-001 of the Riverside County Transportation Commission (Measure "A") shall be used in compliance with the Commission's Maintenance of Effort Guidelines and a base year amount of $164,325.00, approved by the Commission at its July 11, 2012 meeting, and that the Agency shall not use such funds to replace discretionary Local Funds previously expended by the Agency for local transportation purposes. The Agency hereby acknowledges that the failure of the Agency to continue such local expenditure shall result in a reduction or loss of Measure "A" funds. Additionally, the Agency commits to expending Measure A Local Streets and Roads funds for projects listed in the Five Year Capital Improvement Plan as approved by Riverside County Transportation Commission.

Dated: _____, 2016

_____
Michael Rock, City Manager

Attest:

_____
Secretary

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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: April 12, 2016

SUBJECT: **Adopt Resolution No. 2016-25 Requesting a twelve (12) month extension for Tentative Parcel Map No. 34335 located generally south of the railroad right of way, immediately north of Banning Airport, and east of Hathaway Street. APN's: 532-110-006, 532-130-001 and 532-130-002**

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing on the extension of time for Tentative Parcel Map No. 34335; and

2. Adopt Resolution No. 2016-25 (Attachment 1) approving a twelve (12) month extension of time for Tentative Parcel Map No. 34335.

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 October 22, 2007, the Planning Division reviewed the proposed Mitigated Negative Declaration and Tentative Parcel Map No. 34335; and, findings were

made to approve the tentative map subject to the Conditions of Approval (Attachment 2). The tentative map provides for the subdivision of a 63.9 acre site into four (4) development parcels, with Parcel "A" as a remnant parcel used, in part, for detention basin, and Street "A". Tentative Parcel Map No.34335 will involve the construction of up to 1,000,000 square feet of Airport Industrial land uses. The Project involves the extension of John Street to the subject site as well as the secondary emergency access road through the Banning Airport and east of Hathaway Street.

On June 14, 2007, The Riverside County Airport Land Use Commission (ALUC) found Tentative Parcel Map No.34335 to be consistent with the 2004 Banning Municipal Airport Land Use Compatibility Plan, subject to conditions of approval. (Attachment 3)

The original approval provided the applicant two (2) years in which to record the map (until October 22, 2009). Actions by the State Legislature specifically SB1185, AB333, AB208, and AB116 extended TPM No. 34335 to October 22, 2016. The State of California is not providing additional automatic extensions at this time. If approved, this would grant the first extension and will require the project applicant to record the subdivision map by October 22, 2017.

OPTIONS:

Generally, the discretionary approval of a tentative map extension is limited to the length of time that may be granted by the agency for the extension. Additional conditions of approval may not be added to the map as the map was entitled through the tentative map approval process. Should the City Council desire to deny the tentative map extension, certain findings must be made in accordance with the denial (Government Code Section 66498.1(c)). Once a tentative map expires, it cannot be revived. Instead, a new tentative map must be applied for, processed, and approved.

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 April 1, 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. 2016-25
2. Copy of Approval Letter Dated 10-22-07 with Conditions of Approval and Mitigated Negative Declaration.
3. Airport Land Use Commission (ALUC) Development Review 6-14-07
4. Copy of Tentative Parcel Map No. 34335
5. Public Hearing Notice

Prepared and Reviewed by:

Brian Guillot
Community Development Director

Approved by:

Michael Rock
City Manager

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ATTACHMENT 1

Resolution No. 2016-25

RESOLUTION NO. 2016-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A TWELVE (12) MONTH EXTENSION FOR TENTATIVE PARCEL MAP NO. 34335 (TPM 34335)

WHEREAS, an application for time extension for Tentative Parcel Map No. 34335 has been duly filed by:

Project Applicant:	Banning Industrial, L.P. by Pacific Newport Properties, Inc., General Partner
Project Location:	Located generally south of the railroad right of way, immediately north of Banning Airport, and east of Hathaway Street.
APN's:	532-110-006, 532-130-001 and 532-130-002
Project Area:	63.9 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 October 22, 2007, the Planning Division reviewed the proposed Mitigated Negative Declaration and Tentative Parcel Map No. 34335; and, findings were made to approve the tentative map subject to the Conditions of Approval; and, the tentative map provides for the subdivision of a 63.9 acre site into four (4) development parcels, with Parcel "A" as a remnant parcel used, in part, for detention basin, and Street "A"; and, Tentative Parcel Map No.34335 will involve the construction of up to 1,000,000 square feet of Airport Industrial land uses; and, the Project involves the extension of John Street to the subject site as well as the secondary emergency access road through the Banning Airport and east of Hathaway Street; and

WHEREAS, on June 14, 2007, the Riverside County Airport Land Use Commission (ALUC) found Tentative Parcel Map No. 34335 to be consistent with the 2004 Banning Municipal Airport Land use Compatibility Plan, subject to conditions of approval; and

WHEREAS, Actions by the State Legislature specifically SB1185, AB333, AB 208, and AB116 extended Tentative Tract Map No. 34335 to October 22, 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. 34335 in accordance with Government Code Section 66452.6. Therefore, said tentative parcel map shall expire October 22, 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 12th day of April, 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. 2016-25 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of April, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT 2

Copy of Approval Letter Dated 10-22-07 with Conditions of Approval and Mitigated Negative Declaration
(original approval)

CITY OF BANNING

P.O. BOX 998
BANNING, CA 92220
(951) 922-3125

Planning Department

October 22, 2007

Mr. Jeff Gordon
Messenger Investment Company
250 Newport Center Drive, Suite 250
Newport Beach, CA 92660

SUBJECT: MITIGATED NEGATIVE DECLARATION AND TENTATIVE PARCEL MAP 34335

Dear Mr. Gordon:

Thank you for the opportunity to review the proposed project (Mitigated Negative Declaration and Tentative Parcel Map 34335); located south of the railroad right-of-way, north of the Banning Airport, and immediately west of the eastern City limits (Assessor's Parcel Numbers 532-110-006, 532-130-001, and 532-130-002).

The project involves the subdivision of a 63.9 acre site into four (4) development parcels, Parcel "A" (remnant parcel used, in part, for a detention basin), and Street "A". Tentative Parcel Map 34335 will involve the construction of up to 1,000,000 square feet of Airport Industrial land uses. The project involves the extension of John Street to the subject site as well as the secondary emergency access road through the Banning Airport to the southwest portion of the subject site.

In accordance with Table 9111.A of the Zoning Code, the Community Development Department has reviewed and approves Tentative Parcel Map 34335 subject to the findings (stated below) and Conditions of Approval (Attachment "A"). In addition, Staff has determined that the project would result in potentially significant effects on the environment, but that revisions to the project or the incorporation of the mitigation measures would avoid or lessen the effects below the threshold of significance; therefore, the Community Development Department has approved a Mitigated Negative Declaration in accordance with the Guidelines for the Implementation of the

California Environmental Quality Act. The Mitigated Negative Declaration, as well as corresponding information is attached to this letter (Attachment "B").

The Community Development Department has made the following findings to approve this project, subject to Conditions of Approval (attached to this letter and incorporated by reference):

1. CEQA: The approval of Tentative Parcel Map 34335 is in compliance with the requirements of the California Environmental Quality Act ("CEQA"), in that on August 6, 2007, the Community Development Department approved the Mitigated Negative Declaration and Mitigation monitoring Program reflecting its independent judgment and analysis and documenting that there was 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. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.

2. Wildlife Resources: Pursuant to Title 14, California Code of Regulations Section 753.5(c), the Community Development Department has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. Furthermore, on the basis of substantial evidence, the Community Development Department hereby finds that any presumption of adverse impact has adequately been rebutted.

3. Multiple Species Habitat Conservation Plan (MSHCP): The project is found to be consistent with the MSHCP. The project is located outside of any MSCHP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

   In accordance with Banning Municipal Code §2-9 and Government Code §66473.1, §66473.5 and §66474, the Community Development Department, in light of the whole record before it, including but not limited to the documents incorporated by reference therein, the City's General Plan, Subdivision Ordinance, Zoning Ordinance, standards for public streets and facilities and any other evidence within the record or provided for this project, the Community Development Department hereby finds and determines as follows:

Finding 1:
Tentative Parcel Map 34335 is consistent and compatible with the objectives, policies, general land uses, and programs specified the City's General Plan in that:

Fact:
The General Plan land use designation for the site is Airport Industrial ("AI"). The General Plan encourages industrial land uses that are: non-polluting which provide local jobs for the City's residents; sufficient lands for manufacturing, warehousing and distribution; and good access to Interstate 10. The proposed map will result in the development of up to one million square feet

of industrial uses, which will accommodate various industrial-related land uses. Although the applicant is not proposing to develop the lots, the parcels will be developed in a manner consistent with the General Plan's land use designation.

In terms of air quality, the impacts were calculated based on the current South Coast Air Quality Control Board model (EMFAC 2007). This model and its factors include construction and operational data for a project as described in the Initial Study. The factors used in the analysis assume an opening year of 2008, and applied the appropriate factors for that year. All required analysis was completed for the proposed project.

The proposed mitigation measures reduce impacts associated with fugitive dust to less than significant levels, consistent with the SCAQMD's reduction factors for fugitive dust control. The intensity of the use, and the number of heavy truck trips which will result from build out of the proposed project, will also result in high emissions of oxides of carbon and nitrogen, volatile organic compounds and particulate matter.

The proposed project's traffic impacts can be mitigated to levels which are less that significant with the implementation of the improvements listed in the Initial Study. The proposed project will participate in the construction of these improvements on a fair share basis. The proposed project's impacts on traffic and circulation will be less than significant.

The proposed project occurs in the Airport Industrial land use designation, and is surrounded by lands designated Public- Airport or Industrial in the General Plan. Industrial and airport uses occur on developed lands surrounding the proposed project. No sensitive receptors occur adjacent to the proposed project. The proposed project is consistent with the General Plan land use designation which has been assigned to the property, and does not exceed the development standards for that land use designation. The intensity of development proposed was therefore analyzed in the General Plan, and the General Plan EIR. The proposed project has the potential to generate over 650 jobs, which would be available to the City's existing and future residents, and would reduce commuter traffic on regional roadways. The reduction in commuter traffic would result in a reduction in air emissions in the region.

As stated in the Initial Study, the General Plan EIR was used in the completion of the Initial Study. That analysis considered the potential impacts associated with General Plan build out for all aspects of the affected environment, including air quality. The EIR concluded that operational and construction air quality impacts would be potentially significant. The City considered these potential impacts, and determined that the benefits associated with the build out of the General Plan outweigh the impacts associated with air quality. The City adopted Findings and a Statement of Overriding Considerations in conjunction with the certification of the EIR. Therefore, the proposed project's benefits outweigh the potential air quality impacts.

Finding 2:
The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site

improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards:

Fact:
The design and improvement of the subdivision proposed under Tentative Parcel Map 34335 is consistent with the City's General Plan in that the proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities which have been designed and are conditioned to be constructed in conformance with City standards.

Finding 3:
The site is physically suitable for the type of development proposed under Tentative Parcel Map 34335:

Fact:
The site is generally flat and rectangular in shape and 63.9 acres in size and suitable for development. The site is not located within a flood plain and no major geologic hazards have been reported on the site or other limited conditions that would render it unsuitable for industrial development. There is an industrial development immediately adjacent to the project site.

Finding 4:
The site is physically suitable for the density of development proposed under Tentative Parcel Map 34335:

Fact:
The site is generally rectangular and flat in shape and consists of 63.9 acres in size and suitable for industrial development. The subdivision has been designed to accommodate the development of four (4) industrial parcels ranging in size from 254,080 sq. ft. to 691,419 sq. ft. in size. There are no density ranges provided in the Land Use Element of the City's General Plan for Airport Industrial designated properties.

Finding 5:
The design of the subdivision and improvements proposed under Tentative Parcel Map 34335 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat:

Fact:
Both a habitat assessment and a jurisdictional delineation were completed for the proposed project[1]. The habitat assessment determined that the site's vegetation consists of non-native grasslands, and remnants of alluvial scrub, which pre-date the grasslands. The assessment also determined that several drainages occur on the project site.

1 "Habitat Assessment Report for the Messenger Industrial Park..." prepared by Rocks Biological Consulting, June 2007; and "Jurisdictional Delineation Banning Industrial Park," prepared by Kimley-Horn, April 2007.

The assessment found that no burrowing owl occurred on the project site. However, given the presence of the species on and around the Banning Airport, its presence in the future is possible. This is a potentially significant impact which requires mitigation.

The assessment further determined that the project site does not consist of suitable soils (clays) for either Marvin's Onion or Many-stemmed Dudleya.

The Riverside County Multiple Species Habitat Conservation Plan identifies the project site as part of a Special Linkage Area (SLA), Subunit 3 of the San Timoteo Creek portion of the Special Linkage areas. The assessment considered the potential impacts of the proposed project on the SLA, and found that many of the species identified in the MSHCP do not occur, or will not be significantly impacted by the proposed project. The assessment further identified that the proposed project consists of less than 3% of the total SLA, and that the lack of development activity, and the small area to be disturbed within the SLA, will lower the potential impacts to the SLA. However, the assessment did not complete trapping for the Los Angeles Pocket Mouse, which is known to occur in drainages in the east side of the City. Impacts to the species would be potentially significant, and mitigation is required to insure that these potential impacts are reduced to less than significant levels.

The jurisdictional delineation prepared for the project site determined that the proposed project contains 0.81 acres of jurisdictional areas in 5 drainages, including the San Gorgonio River. The document further determined that the proposed project will permanently impact 0.17 acres of California and US jurisdictional area, and temporarily impact 0.07 acres of such area. The document proposes the installation of vegetative enhancements above the ordinary high water mark to compensate for these losses. The project will be required to secure permits from the US Army Corps of Engineers, the California Department of Fish and Game, and the California Regional Water Quality Control Board for impacts to these drainages. In addition, the MSHCP requires the preparation of a Determination of Biologically Equivalent or Superior Preservation (DBESP) for impacts to the drainages, which will be approved by the City, the CDFG and the USFWS. This mitigation measure will assure that impacts to the drainages will be less than significant.

1. Prior to the issuance of a grading permit, a pre-construction burrowing owl survey shall be completed, in compliance with California Department of Fish and Game protocol. The survey shall be completed immediately preceding the initiation of construction. Should the species be identified, avoidance measures shall be undertaken, unless a relocation plan is approved by the California Department of Fish and Game. No ground disturbing activity shall commence on the site until all recommended mitigation measures are completed to the satisfaction of the City and the Department of Fish and Game.

2. Prior to the issuance of a grading permit, the project proponent shall cause to be completed, by a qualified biologist, a trapping study for Los Angeles Pocket Mouse. Should the habitat or species be identified, the provisions of the MSHCP shall apply. Preservation of habitat, or the preparation of a Determination of Biologically Equivalent or Superior Preservation

(DBESP) shall be prepared and approved by the US Fish and Wildlife Service, the California Department of Fish and Game, and the City.

3. Prior to the issuance of a grading permit, the project proponent shall secure appropriate permits from the US Army Corps of Engineers, the California Department of Fish and Game, the California Regional Water Quality Control Board and the City for impacts to the drainages on the site.

With the implementation of these mitigation measures, impacts to biological resources are expected to be less than significant.

Finding 6:
The design of the subdivision and improvements proposed under Tentative Parcel Map 34335 is not likely to cause serious public health problems:

Fact:
The construction of industrial buildings on the project site will result in the storage and transport of small amounts of cleansers, chemicals and similar products required for cleaning and maintenance within the project. The amounts to be stored are not expected to result in a hazard.

Should a business which handles larger amounts of these materials be proposed within the project, the business will be regulated by the City, the County and the State, and the storage and transport of these materials will occur under prescribed standards. These standards are designed to reduce potential impacts to less than significant levels.

The construction of the proposed project will not impact wildland fire hazards, as the site is located in an urbanized area of the City. The applicant will be required to provide an emergency access roadway onto the airport, to provide a second point of access and assure emergency access for public safety vehicles.

The site is located adjacent to the Banning Airport. The construction of structures on the site will be subject to the requirements of the Airport Land Use Plan, and will require review by the Airport Land Use Commission. These requirements will assure that impacts associated with structures to be located adjacent to the airport are reduced to less than significant levels.

Overall impacts associated with hazardous materials are expected to be less than significant.

Finding 7:
The design of the subdivision and improvements proposed under Tentative Parcel Map 34335, will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision in that:

Fact:
No easement of record or easements established by judgment of a court of competent jurisdiction for public access across the site have been disclosed in a search of the title records for the site

and the City does not otherwise have any constructive or actual knowledge or any such easements.

In order to assure that the proposed project does not significantly impact the circulation system, the following mitigation measures are required:

1. The project proponent shall contribute his fair share to the signalization of the project area intersections, the widening of 8th Street and Hargrave Street prior to issuance of building permits.

2. Prior to issuance of building permits for the proposed project, the applicant shall contribute his fair share to widen Lincoln Street to 4 lanes.

The proposed project does not include unsafe designs. The proposed project will be required to conform to the City's Zoning Ordinance in the provision of parking for the site. In order to provide access to the site, the project has been conditioned to develop the roadway to the site before or concurrently with the any development of the site. The proposed project will be reviewed and approved by the Fire Department to assure adequate emergency access. The proposed project will be reviewed by the Airport Land Use Commission to assure no conflicts with its land use plan.

With the implementation of the mitigation measures listed above, impacts associated with traffic and circulation are expected to be less than significant.

Finding 8:
The design of the subdivision proposed for Tentative Parcel Map 34335 adequately provides for future passive or natural heating and cooling opportunities in the subdivision in that:

Fact:
The proposed layout has taken into consideration the local climate and the existing contours and its surroundings because the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit the future orientation of structures in an east-west alignment for southern exposure, or to take advantage of prevailing breezes.

If you or anyone is aggrieved with this decision, this matter can be appealed within fifteen (15) days from the mailing date of this correspondence to the Planning Commission. Said appeal must be in writing and outline/substantiate the basis for the disagreement. All appeals must be accompanied with a non-refundable fee ($4,031.00) to cover the costs associated with processing. If you file an appeal, you will be notified thereafter of the date and time the public hearing that will be held by the Planning Commission.

Regards,

Oscar Orci
Community Development Director

CC: Mayor and City Council
Planning Commission
Randy Anstine, City Manager

Attachments

A. Conditions of Approval
B. Mitigated Negative Declaration with Mitigation Measures

TPM 34335

CONDITIONS OF APPROVAL

ATTACHMENT "A"

DEPARTMENT OF PLANNING

Planning Department
(951)922-3125

CONDITIONS OF APPROVAL

PROJECT #: Tentative Parcel Map 34335

SUBJECT: Messenger Industrial Project

APPLICANT: Messenger Investment Company

LOCATION: South of Railroad right of way, north of Banning Airport, immediately west of the eastern City Limit; Assessor's Parcel Nos: 532-110-006, 532-130-001, 532-130-002

APPLICANT SHALL CONTACT THE PLANNING DIVISION, (951) 922-3125, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

A. General Requirements	Completion Date
1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.	__/__/__
2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.	__/__/__

	Completion Date
3. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for plan check.	___/___/___
B. Site Development	
1. The site shall be developed and maintained in accordance with the approved plans.	___/___/___
2. Development plans shall be reviewed and approved in accordance with the Banning Code provisions.	___/___/___
3. Building permits will be issued concurrently or after the development of the required roadways to the site.	___/___/___
4. Occupancy of the facilities shall not commence until such time as all Uniform Building Code and State Fire Marshal regulations have been complied with. Prior to occupancy, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division to show compliance. The buildings shall be inspected for compliance prior to occupancy.	___/___/___
5. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, tree removal, encroachment, building, etc.) or prior to final map approval in the case of a custom lot subdivision, or approved use has commenced, whichever comes first.	___/___/___
6. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community or Specific Plans in effect at the time of building permit issuance.	___/___/___
7. All ground-mounted utility appurtenances such as transformers, AC condensers, etc., shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director.	___/___/___
8. The developer shall submit a construction access plan and schedule for the development of all lots for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.	___/___/___
9. Six-foot decorative block walls shall be constructed along the project perimeter.	___/___/___
10. Graffiti shall be removed within 72 hours.	___/___/___
11. A detailed on-site lighting plan, including a photometric diagram, that illustrates "0" lumens at the property line, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.	

C. Landscaping

1. A detailed landscape and irrigation plan, including slope planting, shall be prepared by a licensed landscape architect and submitted for Community Development Director review and approval prior to the issuance of building permits. ___/___/___

2. All private slopes of 5 feet or more in vertical height and of 5:1 or greater slope, but less than 2:1 slope, shall be, at minimum, irrigated and landscaped with appropriate ground cover for erosion control. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy. ___/___/___

3. All private slopes in excess of 5 feet, but less than 8 feet in vertical height and of 2:1 or greater slope shall be landscaped and irrigated for erosion control and to soften their appearance as follows: one 15-gallon or larger size tree per each 150 sq. ft. of slope area, 1-gallon or larger size shrub per each 100 sq. ft. of slope area, and appropriate ground cover. In addition, slope banks in excess of 8 feet in vertical height and 2:1 or greater slope shall also include one 5-gallon or larger size tree per each 250 sq. ft. of slope area. Trees and shrubs shall be planted in staggered clusters to soften and vary slope plane. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy. ___/___/___

4. For the project property owners are responsible for the continual maintenance of all landscaped areas on-site, as well as contiguous planted areas within the public right-of-way. All landscaped areas shall be kept free from weeds and debris and maintained in healthy and thriving condition, and shall receive regular pruning, fertilizing, mowing, and trimming. Any damaged, dead, diseased, or decaying plant material shall be replaced within 30 days from the date of damage. ___/___/___

5. The final design of the perimeter parkways, walls, landscaping, and sidewalks shall be included in the required landscape plans and shall be subject to Community Development Director review and approval and coordinated for consistency with any parkway landscaping plan which may be required by the Engineering Division. ___/___/___

6. All walls shall be provided with decorative treatment. If located in public maintenance areas, the design shall be coordinated with the Engineering Division. ___/___/___

7. Landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape in accordance with the Zoning Code. ___/___/___

D. Environmental ___/___/___

1. Applicant shall abide by the mitigation measure stipulated in the Mitigated Negative Declaration for this Parcel Map (Tentative Parcel Map 347335). ___/___/___

E. Other Agencies ___/___/___

1. The applicant shall contact the U.S. Postal Service to determine the appropriate type and location of mail boxes. Multi-family residential developments shall provide a solid overhead structure for mail boxes with adequate lighting. The final location of the mail boxes and the design of the overhead structure shall be subject to Community Development Director review ___/___/___

and approval prior to the issuance of building permits.

APPLICANT SHALL CONTACT THE BUILDING AND SAFETY DIVISION, (951) 922-3120, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

F. General Requirements ___/___/___

1. Submit four complete sets of plans including the following:
   a. Site/Plot Plan;
   b. Foundation Plan;
   c. Floor Plan;
   d. Ceiling and Roof Framing Plan;
   e. Electrical Plans (2 sets, detached) including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
   f. Plumbing and Sewer Plans, including isometrics, underground diagrams, water and waste diagram, sewer or septic system location, fixture units, gas piping, and heating and air conditioning; and
2. Submit two sets of structural calculations, energy conservation calculations, and a soils report. Architect's/Engineer's stamp and "wet" signature are required prior to plan check submittal.
3. Separate permits are required for fencing and/or walls. ___/___/___
4. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance. ___/___/___
5. Business shall not open for operation prior to posting the Certificate of Occupancy issued by the Building and Safety Division. ___/___/___

G. Site Development ___/___/___

1. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number (i.e., CUP 98-01). The applicant shall comply with the latest adopted Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electric Code, Title 24 Accessibility requirements, and all other applicable codes, ordinances, and regulations in effect at the time of permit application. Please contact the Building and Safety Division for availability of the Code Adoption Ordinance and applicable handouts. ___/___/___
2. Prior to issuance of building permits for a new commercial or industrial development or addition to an existing development, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance. ___/___/___

Project No._____

Completion Date

3. Street addresses shall be provided by the Building Official, after tract/parcel map recordation and prior to issuance of building permits. ___/___/___

4. For projects using septic tank facilities, written certification of acceptability, including all supportive information, shall be obtained from the Riverside County Department of Environmental Health and submitted to the Building Official prior to the issuance of Septic Tank Permits, and prior to issuance of building permits. ___/___/___

5. Construction activity shall not occur between the hours of 8:00 p.m. and 6:30 a.m. Monday through Saturday, with no construction on Sunday or holidays. ___/___/___

6. Construct trash enclosure(s) per City Standard (available at the Planning Division's public counter). ___/___/___

7. Submit pool plans to the County of Riverside's Environmental Health Services Department for approval. ___/___/___

8. The following is required for side yard use for increase in allowable area: ___/___/___

   a. Provide a reduced site plan (8 ½" x 11") which indicates the non-buildable easement.

   b. Recorded "Covenant and Agreement for the Maintenance of a Non-Buildable Easement," which is signed by the appropriate property owner(s).

   c. Sample document is available from the Building and Safety Division.

H. New Structures ___/___/___

1. Provide compliance with the Uniform Building Code for the property line clearances considering use, area, and fire-resistiveness. ___/___/___

2. Provide compliance with the Uniform Building Code for required occupancy separation(s).

3. Roofing material shall be installed per the manufacturer's "high wind" instructions. ___/___/___

4. Plans for food preparation areas shall be approved by County of Riverside Environmental Health Services prior to issuance of building permits. ___/___/___

5. Provide draft stops in attic areas, not to exceed 3,000 square feet, in accordance with UBC Table 5-A. ___/___/___

6. Provide draft stops in attics in line with common walls. ___/___/___

7. Roofing materials shall be Class "A." ___/___/___

8. Exterior walls shall be constructed of the required fire rating in accordance with UBC Table 5-A ___/___/___

9. Openings in exterior walls shall be protected in accordance with UBC Table 5-A. ___/___/___

10. If the area of habitable space above the first floor exceeds 3,000 square feet, then the construction type shall be V-1 Hour. ___/___/___

11. Walls and floors separating dwelling units in the same building shall be not less than 1-hour fire-resistive construction. ___/___/___

12. Provide smoke and heat venting in accordance with UBC Section 906. ___/___/___

13. Provide method of airborne and impact sound transmission control between dwelling units. ___/___/___

14. Upon tenant improvement plan check submittal, additional requirements may be needed. ___/___/___

___/___/___

I. Grading

1. Grading of the subject property shall be in accordance with the Uniform Building Code, City Grading Standards, and accepted grading practices. The final grading plan shall be in substantial conformance with the approved grading plan. ___/___/___

2. A soils report shall be prepared by a qualified engineer licensed by the State of California to perform such work.

3. A geological report shall be prepared by a qualified engineer or geologist and submitted at the time of application for grading plan check. ___/___/___

4. The final grading plans shall be completed and approved prior to issuance of building permits. ___/___/___

5. As a custom-lot subdivision, the following requirements shall be met: ___/___/___

   a. Surety shall be posted and an agreement executed guaranteeing completion of all on-site drainage facilities necessary for dewatering all parcels to the satisfaction of the Building and Safety Division prior to final map approval and prior to the issuance of grading permits. ___/___/___

   b. Appropriate easements for safe disposal of drainage water that are conducted onto or over adjacent parcels, are to be delineated and recorded to the satisfaction of the Building and Safety Division prior to issuance of grading and building permits. ___/___/___

   c. On-site drainage improvements, necessary for dewatering and protecting the subdivided properties, are to be installed prior to issuance of building permits for construction upon any parcel that may be subject to drainage flows entering, leaving, or within a parcel relative to which a building permit is requested. ___/___/___

   d. Final grading plans for each parcel are to be submitted to the Building and Safety Division for approval prior to issuance of building and grading permits. (This may be on an incremental or composite basis). ___/___/___

6. A separate grading plan check submittal is required for all new construction projects and for existing buildings where improvements being proposed will generate 50 cubic yards or more of combined cut and fill. The Grading Plan shall be prepared, stamped, and signed by a California Registered Civil Engineer. ___/___/___

APPLICANT SHALL CONTACT THE ENGINEERING DIVISION, (951) 922-3130, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS: ___/___/___

J. Public Works General Requirements

1. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class "A" State Contractor's License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative. ___/___/___

2. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:

   - Fire Marshal
   - Public Works Department (Grading Permit, Public Improvement Permit)
   - Community Development Department
   - Federal Aviation Administration (FAA)
   - Riverside County Environmental Health Department
   - Banning Unified School District
   - California Regional Water Quality Control Board Colorado River Basin (RWQCB)
   - South Coast Air Quality Management District (SCAQMD)
   - United States Army Corps of Engineers (USACE)
   - California Department of Fish and Game (DFG)

   The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

3. The following improvement plans shall be prepared by a civil engineer or architect licensed by the State of California as allowed and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized by the City Engineer in writing, the plans shall utilize the minimum scale specified and shall be drawn on 24" x 36" Mylar. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors).

   A. On-Site Rough Grading Plan:1" = 40' Horizontal
      (all conditions of approval shall be reproduced on last sheet of set)
   B. Clearing Plan:1" = 50' Horizontal
      Include fuel modifications zones
      Include construction fencing plan
   C. SWPPP:1" = 40' Horizontal
      (Note: A, B, & C shall be processed concurrently.)
   D. Storm Drain Plan: 1" = 40' Horizontal
   E. Off-Site Street Improvement Plan: 1" = 40' Horizontal/1" = 4' Vertical
   F. Off-Site Landscaping Plan: 1"=20' Horizontal
   G. Off-Site Signing & Striping Plan: 1" = 40' Horizontal
   H. On-Site Street Improvement/Signing & Striping Plan: 1" = 40' Horizontal/ 1"= 4' Vertical
   I. On-Site Precise Grading Plan 1" = 30' Horizontal

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

4. Upon completion of construction, the applicant shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the "As-Built" conditions.

5. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City Codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired as necessary. ___/___/___

K. Rights of Way ___/___/___

6. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements. ___/___/___

7. The applicant shall offer for dedication on the Final Map all public street right-of-ways in conformance with the City's General Plan, Municipal Code, applicable precise plans, standard plans, and/or as required by the City Engineer. ___/___/___

8. Offer to dedicate for public purposes the right-of-way for "A" Street from subdivision to Lincoln Street as a collector highway; 66 foot width. A portion of the city standard street section may be modified to 48' width right-of-way minimum to provide access adjacent to existing structures along John Street. The geometrics for the knuckle shall be in accordance with City of Banning Standard No. G-806. The geometrics for the cul-de-sac shall be in accordance with City of Banning Standard No. G-800. Offers of dedication shall include corner cut-off at intersections. ___/___/___

9. Obtain secondary access rights in accordance with Fire Department regulations and direction. ___/___/___

10. City and applicant acknowledge that a portion of the property needed to secure the alignment for "A" Street and perhaps the secondary access required by the Fire Department regulations, is on private property and not owned or controlled by the applicant. The applicant shall bear the full burden of securing necessary property rights for "A" Street and any necessary secondary access required by the Fire Department. The City shall not issue grading or building permits until such time that applicant provides proof that the necessary access rights have been secured. In the event that applicant is unable to secure the access rights, the applicant may request the City exercise its power of eminent domain to secure said access rights. However, Applicant acknowledges that the City shall be under no obligation in any way to exercise its power of eminent domain and shall only exercise such power, if at all, in its sole and absolute discretion in accordance with California eminent domain laws and regulations. ___/___/___

11. Grant slope easements to the City of Banning for road maintenance purposes for the slopes adjoining "A" Street. The easements shall extend 10 feet from the toe of slope to provide adequate access. ___/___/___

12. Grant a drainage easement along Parcel 4 for the benefit of the upstream property. A note shall be added to the final map stating "drainage easements shall be kept free of buildings and obstructions." ___/___/___

13. Obtain a drainage easement from the downstream property owner adjacent to Parcel 4 for the benefit of the public in order to drain the development to the existing blue line stream, if permitted. A note shall be added to the final map stating *"drainage easements shall be kept free of buildings and obstructions."* ___/___/___

14. Dedicate an avigation easement in accordance with Riverside County Airport Land Use Compatibility Plan dated October 14, 2004. ___/___/___

15. Grant a sewer easement along the easterly line of Parcel "A", Parcel 3, and Parcel 4 for the benefit of the public in accordance with the conditions of approval specified by the Wastewater Utility. ___/___/___

16. The conditions, covenants and restrictions (CC & R's) shall include the right, but not the obligation, of the City of Banning to maintain the common property, after reasonable notice, if the property owners fail to do the maintenance. The deed restrictions shall permit the City of Banning, if it does maintenance, to recover all costs, both direct and indirect, from the property owners, and to place a pro rata lien on the individual lots of the subdivision if the property owners do not reimburse the City. ___/___/___

17. Prior to the issuance of any certificates of occupancy, the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer to the City of Banning or the Riverside County Flood Control and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFC. Prior to granting any of said easements, the subdivider shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy. ___/___/___

L. Public Improvements ___/___/___

18. All public improvements shall be financed, designed, and constructed at the expense of the developer. This may include the formation of and participation in a regional financial mechanism for the construction of required improvements. Additionally, the developer may enter into a reimbursement agreement for those improvements constructed that may provide benefit outside the development in accordance with Banning Municipal Code. ___/___/___

19. Participation in the design and construction of public improvements by the subdivider shall mean the fair share amount to be determined by engineering estimates prepared by the applicant subject to review and approval of the City Engineer; and, the preparation of associated engineering studies. ___/___/___

20. The applicant shall provide estimates to construct, improve, or finance the construction or improvement of public improvements to the City Engineer for review and approval. The estimate shall differentiate between public improvements outside the property boundaries of the tentative map and public improvements which abut the boundary of the property to be subdivided.

21. Prior to placement of any combustible construction materials on the project, construct full street improvements in accordance with City standards for "A" Street from subdivision to Lincoln Street as a collector highway including street lighting, curb and gutter, access ramps, sidewalk, and asphalt concrete paving, street name signs, traffic signs and striping, and any transitions. A portion of the city standard street section may be modified to 5' parkway, 38' traveled way, and 5' parkway to provide access adjacent to existing structures along John Street. Curb returns have a 35 foot radius. Street lights shall be installed offset of any existing street lights. Where the transverse slope of the existing pavement exceeds 3% the applicant shall remove pavement and join the existing pavement surface. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method. ___/___/___

22. Construct full street improvements for Lincoln Street at "A" Street for two hundred feet from curb returns, minimum, plus transitions in each direction to establish the intersection in accordance with City Standards including street lighting, curb and gutter, cross gutters and spandrels, access ramps, sidewalk, and asphalt concrete paving, street name signs, traffic signs and striping. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method. ___/___/___

23. Construct the median island along Lincoln Street from "A" Street to Hargrave Street and provide a dedicated left turn pocket for proposed "A" Street. The median island shall restrict vehicular traffic circulation to left-in, right-out only for "A" Street. As an alternative to restricting turning movements along Lincoln Street, the developer may construct a traffic signal at the intersection of Lincoln Street and "A" Street to allow full turning movements. The operation of the traffic signal shall be interconnected/coordinated with the intersections of Lincoln Street/San Gorgonio and Lincoln Street/Hargrave Street. ___/___/___

24. Remove and replace pavement markings at along 8th Street from Lincoln Street to Interstate 10 to provide 4 lane arterial vehicular traffic circulation. Construction of pavement transitions may be necessary to provide 4-lane vehicular traffic circulation at intersections.

25. Remove and replace pavement markings at along Hargrave Street from Lincoln Street to Interstate 10 to provide 4 lane arterial vehicular traffic circulation. Construction of pavement transitions may be necessary to provide 4-lane vehicular traffic circulation at intersections. ___/___/___

26. Widen Lincoln Street where necessary from "A" Street to San Gorgonio Avenue and remove and replace pavement markings to provide 4-lane vehicular traffic circulation. ___/___/___

27. Construct an 8-phase traffic signal at the intersection of Lincoln Street and San Gorgonio Avenue. The operation of the traffic signal shall be interconnected/coordinated with the traffic signals at Lincoln Street/8th Street and Lincoln Street/Hargrave Street. ___/___/___

28. Participate in the design and construction of the traffic signals at 8th Street/Lincoln and 8th Street/I-10 ramps including lane widening. ___/___/___

29. Participate in the design and construction of the traffic signals at Hargrave Street/Lincoln and Hargrave Street/I-10 ramps including lane widening.

30. All street improvement design shall provide pavement transitions per Caltrans standards for transition to existing street sections. ___/___/___

31. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy. ___/___/___

M. Grading and Drainage ___/___/___

32. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFC), RCFC Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed. ___/___/___

33. The design of the development shall not cause any increase in flood boundaries, levels or frequencies in any area outside the development. Note: An identified floodway exists along the southerly boundary of the subdivision map as identified in Flood Boundary and Floodway Map dated October 17, 1978. ___/___/___

34. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north and west. ___/___/___

35. The applicant shall comply with Chapter 34 "Stormwater Management and Discharge Controls" of the Banning Municipal Code (BMC); California Building Code Appendix Chapter 33 "Excavation and Grading"; and the State Water Resources Control Board's Order No. 99-08-DWQ. ___/___/___

    1. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.
    2. The applicant's SWPPP shall be reviewed and approved by the City Engineer prior to any on-site or off-site grading being done in relation to this project.
    3. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through, and including acceptance of all improvements by the City.
    4. The applicant's SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):
        a. Temporary Soil Stabilization (erosion control).
        b. Temporary Sediment Control.
        c. Wind Erosion Control.
        d. Tracking Control.
        e. Non-Storm Water Management.
        f. Waste Management and Materials Pollution Control.

    e. All erosion and sediment control BMPs proposed by the applicant shall be approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

    f. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

36. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California. ___/___/___

37. A rough grading plan and a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity. Rough grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions. ___/___/___

38. Prior to the issuance of a building permit, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil. The data shall be organized by lot number, and listed cumulatively if submitted at different times.

39. All lot drainage shall be directed to the driveway by side lot drainage swales independent of any other lot, or provide drainage easements as necessary. ___/___/___

40. Obtain clearance or approval from the U.S. Army Corps of Engineers, California Department of Fish and Game, Regional Water Quality Control Board, and Riverside County Flood Control and Water Conservation District as required. Comply with all conditions and mitigation measures if so determined and submit copies of all correspondence with the agencies to the Engineering Division. ___/___/___

Please Note: this development is adjacent to a blue line stream as identified on the USGS Beaumont Quadrangle 1996 and may require 404/401 permit clearance in accordance with the Clean Water Act.

5. ___/___/___

N. Landscaping

41. An automatic sprinkler system and landscaping shall be installed, prior to issuance of any certificate of occupancy, within the parkway fronting Street "A" and parkway and median island along Lincoln Street. The system shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.

42. A property owners' association shall be established promptly following recordation of the final map and the applicable Conditions, Covenants & Restrictions (CC & R's), shall be prepared for review and approval of the City Engineer providing for maintenance of the parkway, slopes, and median island landscaping along Lincoln Street and "A" Street. The developer shall appoint the members of the Board of Directors of the property owners' association, or take such other steps as may be reasonably necessary to assure that members have been appointed or elected to such Board of Directors, until under the terms of the applicable CC & R's individual lot owners have the power to elect the members of the Board of Directors in accordance with the CC & R's. ___/___/___

43. Prior to the recordation of the final map, the subdivider shall reserve open space Lots (i.e. Parcel A) for granting in fee to a property owner's association who shall be responsible for their maintenance and upkeep in a manner meeting the approval of the Fire Marshall and Community Development Director. If a lot cannot be granted in fee, the subdivider shall reserve the necessary rights to maintain the lots. ___/___/___

O. Traffic

44. Provide a focused traffic study addressing the proposed onsite circulation for the project and address the adequacy as it relates to safe access to the site. This includes identifying the desired level of traffic control at project driveways and/or intersections. A scoping agreement shall be prepared addressing the required details of the study. ___/___/___

45. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer. ___/___/___

46. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance. ___/___/___

47. Prior to the issuance of a precise grading permit or building permit, the applicant shall submit and obtain approval of the Fire Marshall for the plans for all public or private access roads, streets and courts. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end street exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshall. Applicable CC&Rs or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Marshall is granted. ___/___/___

P. Final Map

48. Prior to approval of any Final Map, the applicant shall construct all on-site and off-site improvements in accordance with the approved plans and satisfy its obligations for same, or shall furnish a fully secured and executed Agreement for Construction of Public Improvements guaranteeing the construction of such improvements and the satisfaction of its obligations for same, or shall agree to any combination thereof, as may be required by the City. ___/___/___

49. The applicant shall file an Environmental Constraint Sheet. An Environmental Constraint Sheet means a duplicate of the final map on which are shown the Environmental Constraint Notes. This sheet shall be filed simultaneously with the final map, with the County Surveyor, and labeled ENVIRONMENTAL CONSTRAINT SHEET in the top margin. Applicable items will be shown under a heading labeled Environmental Constraints Notes. The Environmental Constraint Sheet shall contain the statement: ___/___/___

    THE ENVIRONMENTAL CONSTRAINT INFORMATION SHOWN ON THIS MAP SHEET IS FOR INFORMATIONAL PURPOSES DESCRIBING CONDITIONS AS OF THE DATE OF FILING, AND IS NOT INTENDED TO AFFECT RECORD TITLE INTEREST. THIS INFORMATION IS DERIVED FROM PUBLIC RECORDS OR REPORTS, AND DOES NOT IMPLY THE CORRECTNESS OR SUFFICIENCY OF THOSE RECORDS OR REPORTS BY THE PREPARER OF THIS MAP SHEET.

    The sheet shall delineate constraints involving, but not limited to, any of the following that are conditioned by the Advisory Agency: archaeological sites, geologic mapping, grading, building, building setback lines, flood hazard zones, seismic lines and setbacks, fire protection, water availability, and sewage disposal.

50. Prior to the recordation of final map or the issuance of a grading permit, the applicant shall obtain approval from the Fire Marshall in consultation with the City Engineer, for a conceptual fuel modification plan and program. Prior to the issuance of any certificate of occupancy, the fuel modification shall be installed and completed under the supervision of the Fire Marshall with an approved plant pallet. The CC&Rs or other approved documents shall contain provisions for maintaining the fuel modification zones, including the removal of all dead and dying vegetation. ___/___/___

51. Prior to the recordation of the final map or the issuance of a grading permit the applicant shall notify the Federal Aviation Administration (FAA) regarding the proposed construction of the planned improvements and obtain any restrictions from the FAA regarding the proposed use of the site. Any restrictions placed on project by the FAA or the approved Riverside County Airport Land Use Compatibility Plan shall be made part of the public record. The applicant shall be solely responsible for complying with FAA and local regulations and requirements. ___/___/___

52. Security for the construction of public improvements in accordance with Government Code Section 66499 shall be as follows: ___/___/___

    Faithful Performance Bond - 100% of estimated cost
    Labor and Material Bond - 100% of estimated cost
    Monumentation Bond - $5,000.00

    Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.

53. Prior to approval of the Final Map, the applicant shall submit a list of street names and addresses in Microsoft Excel spread sheet format or compatible format for review and approval. The address number system shall be in accordance with Section 21-17 & 21-18 of the Banning Municipal Code. A reduced copy of the subdivision map shall be included with the submittal. ___/___/___

54. Revisions to the tentative map during plan check including, but not limited to, lot line alignments, easements, improvement plan revisions, and similar minor changes which do not alter the design (property rights, number of lots, access, environmental impact, etc.) may be administratively approved through the plan check process with the mutual consent and approval of the Community Development Director and City Engineer. Final maps shall be amended in accordance with the Subdivision Map Act. ___/___/___

55. Prior to approval of any final map the applicant shall identify and include in its improvement plans those routine structural and non-structural Best Management Practices (BMP's) as outlined in Supplement A to the Riverside County Drainage Area Management Plans and any attachments or revisions. ___/___/___

56. A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond. ___/___/___

57. Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to final map approval. ___/___/___

58. A map of the proposed subdivision drawn at 1"=200' scale showing the outline of the streets including street names shall be submitted to the City to update the city atlas map. ___/___/___

59. An original Mylar of the final map (after recordation) shall be provided to the City for the record files. ___/___/___

Q. Trash/Recycling

60. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris. ___/___/___

R. Fees

61. Plan check fees for final map review, professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the Fee Schedule in effect at the time of submittal. ___/___/___

62. Public Works Inspection fees shall be paid prior to the scheduling the final map for approval by City Council in accordance with the Fee Schedule in effect at time of time of scheduling. ___/___/___

63. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the Fee Schedule in effect at that time. ___/___/___

a. A plan storage fee shall be paid prior to approval of the final map and improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid. ___/___/___

b. A Traffic Control mitigation fee shall be paid on a per lot basis prior to issuance of building permits for each lot within the subdivision. ___/___/___

c. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision. ___/___/___

APPLICANT SHALL CONTACT THE FIRE DEPARTMENT, (951) 922-3219, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

S. Fire Department Conditions of Approval

64. The applicant shall provide on-site "evacuation centers" where the people at the site can go for short periods allowing fire apparatus to enter the site before civilians are evacuated ___/___/___

65. The fire department will not approve development on the site until this issue related to "evacuation centers" has been mitigated. ___/___/___

APPLICANT SHALL CONTACT THE ELECTRIC DEPARTMENT, (951) 922-3260, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

T. Electric Department Conditions of Approval

66. The applicant shall be responsible for submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2000. ___/___/___

67. The applicant shall be responsible for paying required fees - electrical permit, plan check fee, inspection fees, in aid of construction fee, etc. Current fee schedule available from the City Department of Building and Safety. ___/___/___

Project No._____

	Completion Date
68. The applicant shall be responsible for granting easement for electric facilities installation/maintenance, etc.	___/___/___
69. The applicant shall be responsible for all trenching, backfill, and compaction	___/___/___
70. The applicant shall be responsible for all conduits, vaults, and other materials associated with their installation (except cables and their terminations).	___/___/___
71. The applicant shall be responsible for installation of Streetlight poles lights and conductors per City Standard.	___/___/___
72. The City Electric Department shall be responsible for reviewing plans submitted by customer.	___/___/___
73. The City Electric Department shall be responsible for providing a cost estimate for City to installed underground cable and apparatus to supply 12kv power.	___/___/___
74. The City Electric Department shall be responsible for inspecting all trenches prior to backfilling. 24 hour prior notice is required before inspection.	___/___/___
75. The City Electric Department shall be responsible for installing conductors, terminations and apparatus for primary underground line extension. Secondary service entrance conductors to be provided and installed by the developer (at customer's expense).	___/___/___

TPM 34335

MITIGATED NEGATIVE DECLARATION

ATTACHMENT "B"

Environmental Checklist Form

1. Project title: Tentative Parcel Map 34335

2. Lead agency name and address: City of Banning
   99 East Ramsey
   Banning, CA 92220

3. Contact person and phone number: Oscar Orci
   951-922-3107

4. Project location: South of Railroad right of way, north of Banning Airport, immediately west of the eastern City Limits. Assessor's Parcel Nos: 532-110-006, 532-130-001, 532-130-002

5. Project sponsor's name and address: Messenger Investment Company
   250 Newport Center Drive, Suite 250
   Newport Beach CA92660

6. General plan designation: Airport Industrial

7. Zoning: Airport Industrial

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 parcel map to subdivide a 63.9 acre site into 3 parcels, for the ultimate construction of up to 1,000,000 square feet of industrial space. Project also includes the creation of a street from the west property line to Lincoln Street, and an emergency access roadway at the southwestern corner of the property, through the San Gorgonio River, and onto Banning Airport property.

9. Surrounding land uses and setting: Briefly describe the project's surroundings:

   North: Railroad right of way and Interstate 10.
   South: Banning Municipal Airport
   West: Banning Municipal Airport
   East: Vacant lands in the County of Riverside/Morongo Band Reservation lands

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

    Regional Water Quality Control Board
    California Department of Fish and Game
    US Army Corps of Engineers

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	X	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	X	Transportation/Traffic
	Utilities / Service Systems	X	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 parcel map will not, in and of itself, have any impact on aesthetics. The ultimate development of the site for up to one million square feet of industrial space will result in one or more buildings, likely to be single-story in height, on the 63 acre site. The site is currently vacant and is bordered on two sides by the airport, and on one side by the railroad and I-10 right of way. The development site is not expected to generate buildings inconsistent with the airport's structures, and will not significantly impact a scenic vista, insofar as the development of the building(s) at single story heights will not affect residents and travelers to the north in how they view the San Jacinto mountains.

There are no scenic resources on the site. The project site is in an industrial area, and its development will not substantially change the visual character of the area.

The proposed project will result in new light sources from the businesses operating there, including building lighting and vehicle headlights. The lighting on the buildings will be regulated by the City's lighting standards, which limit exterior lighting, particularly its impacts on adjacent properties. Vehicle headlights will be shielded from the railroad right of way by project landscaping and perimeter walls, and therefore are not expected to significantly impact the surrounding area.

Overall impacts associated with aesthetics are expected to 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 project site is currently vacant and undeveloped. The site is not, and has not been in agriculture. There are no agricultural lands in the vicinity of the site. There are no Williamson Act contracts on the property. The property has been designated for Industrial development for a number of years. No impacts associated with agricultural resources are expected.

	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 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. The proposed project is consistent with the General Plan designation for the property. Therefore, the proposed project will have no impact on air quality plans.

Approval of the parcel map will not impact air quality. However, the ultimate development of the site with one million square feet of industrial space will result in air quality impacts. Development of the site will result in short term construction impacts, and long term operational impacts. Each of these is described separately below. Please note that in all the tables below, only SCAQMD factors have been utilized. No mitigating factors are included, in order to provide the most conservative estimates.

Construction Impacts

The development of the site will result in air quality impacts associated with grading of the site. This City is in non-attainment for PM10 (particulate matter of 10 microns or less), which are associated with fugitive dust. The grading of the site will disturb a total of approximately 61.0 acres, including those areas of the site itself which will be

developed, and the extension of A Street, connecting to the existing Lincoln Street. Table 1 illustrates the potential fugitive dust generated by mass grading of the project site.

Table 1
Calculations of Fugitive Dust Potential

Total Acres to be Disturbed at Buildout	Factor (lbs./day/acre)	Total Potential Dust Generation (lbs./day)
61.0	26.4	1,610.4

Source: Table A9-9, "CEQA Air Quality Handbook," prepared by South Coast Air Quality Management District, April 1993.

As demonstrated in the Table, if the entire site were to be actively graded, a significant impact will result, insofar as the SCAQMD threshold of 150 pounds per day will be exceeded. Although it is likely that the site will be graded in phases, since there is no development plan available at this time, a worse case scenario has been assumed. This is a potentially significant impact which requires mitigation.

In addition to fugitive dust, construction equipment used on the site during grading will result in vehicle emissions. For purposes of this analysis, it has been assumed that the mitigation measure below, limiting site grading to no more than 10 acres in any one work day, would be applied. Table 2 below estimates the potential emissions from grading equipment on the site.

Table 2
Grading - Related Exhaust Emissions Summary
(pounds per day)

	ROG	CO	NOx	SOx	PM_{10}
Equipment Emissions	83.54	706.29	502.96	31.37	49.28
Workers' Vehicle Emissions	-	33.42	3.57	0.02	0.27
Total Construction Emissions	83.54	739.71	506.53	31.39	49.55
SCAQMD Thresholds of Significance	75.00	550.00	100.00	150.00	150.00

The Table demonstrates that the proposed project will exceed the thresholds established by SCAQMD. Grading emissions are short term and temporary, however, and would be expected to have limited impact (several weeks only) on ambient air quality. Mitigation measures are proposed below to reduce potential impacts to the extent possible.

Long Term Impacts

The proposed project will generate 4,960 average daily trips at build out[1]. For purposes of this analysis, it has been assumed that 50% of the trips would be in passenger vehicles, and 50% would be in heavy duty trucks. These vehicle trips will result in the emissions depicted in Table 3.

1 "Traffic Impact Study Banning Industrial Park," prepared by Kimley-Horn and Associates, May 2007.

Table 3
Daily Exhaust Emissions at Project Buildout
(pounds per day)

Total No. Vehicle Trips/Day		Ave. Trip Length (miles)		Total miles/day
2,480	x	15	=	37,200
Total No. Diesel Truck Trips/Day		**Ave. Trip Length (miles)**		**Total miles/day**
2,480	x	50	=	124,000

Pollutant	CO	NOx	ROG	SOx	PM_{10}
Passenger Vehicles	360.3	37.4	36.9	0.4	3.2
HD Diesel Trucks	1,590.0	5,188.9	408.4	5.0	247.5
Total pounds per day	**1,950.3**	**5,226.3**	**445.3**	5.4	250.7

Based on California Air Resources Board's EMFAC 2002 Emissions Model. Assumes Year 2009.

The Table shows that the operation of the proposed project will exceed emissions for oxides of carbon and nitrogen. The project, however, is consistent with the General Plan land use designation for the property, and the EIR for the General Plan determined that although impacts associated with air quality will exceed SCAQMD thresholds, the benefits associated with build out of the General Plan outweigh the potential impacts as they relate to air quality. Further, the improvement of technology over time, and the creation of jobs in the City, allowing residents to work within the City rather than commuting to Inland Empire employment centers, will serve to reduce impacts in the long term. In order to reduce impacts to the extent possible, mitigation measures are proposed below.

In order to assure that impacts associated with the project are reduced to the greatest extent possible, the following mitigation measures shall be implemented.

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. No more than 10 acres shall be actively graded during any one day.
4. During all grading and construction activities, the site shall be watered at least twice daily.
5. Any area which remains undeveloped for a period of more than 30 days shall be stabilized using either chemical stabilizers or hydroseed on the affected portion of the site.
6. All trucks hauling dirt, sand or soil shall be covered, or shall maintain two feet of freeboard.
7. Streets accessing the project site shall be swept at the end of each work day.
8. All grading activities shall be suspended during wind speeds of 25 mph or greater.
9. All diesel powered vehicles and equipment shall be properly maintained.

10. Electric or natural gas powered equipment shall be used to the greatest extent possible.
11. Aqueous diesel fuels shall be used for construction vehicles, if feasible.
12. No more than 2 scrapers shall operate on the site at any time.
13. Construction vehicles shall not idle on the site for more than 5 minutes.

III. e) The development of the proposed office project is not expected to generate significant odors. Although the tenant mix on the site is not known, warehousing or similar activities are likely. Any proposed use would be required to operate entirely indoors, as required by the Zoning Ordinance. Operation of a light industrial use which emits fumes would be regulated by regional agencies, and would include scrubbers or other devices required to clean air emissions. These regulations, whether local or regional, will assure that impacts associated with odors will be reduced to less than significant levels.

	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?		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?		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?				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?		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?		X		

IV. a)-f) Both a habitat assessment and a jurisdictional delineation were completed for the proposed project[2]. The habitat assessment determined that the site's vegetation consists of non-native grasslands, and remnants of alluvial scrub, which pre-date the grasslands. The assessment also determined that several drainages occur on the project site.

The assessment found that no burrowing owl occurred on the project site. However, given the presence of the species on and around the Banning Airport, its presence in the future is possible. This is a potentially significant impact which requires mitigation.

The assessment further determined that the project site does not consist of suitable soils (clays) for either Marvin's Onion or Many-stemmed Dudleya.

The Riverside County Multiple Species Habitat Conservation Plan identifies the project site as part of a Special Linkage Area (SLA), Subunit 3 of the San Timoteo Creek portion of the Special Linkage areas. The assessment considered the potential impacts of the proposed project on the SLA, and found that many of the species identified in the MSHCP do not occur, or will not be significantly impacted by the proposed project. The assessment further identified that the proposed project consists of less than 3% of the total SLA, and that the lack of development activity, and the small area to be disturbed within the SLA, will lower the potential impacts to the SLA. However, the assessment did not complete trapping for the Los Angeles Pocket Mouse, which is known to occur in drainages in the east side of the City. Impacts to the species would be potentially significant, and mitigation is required to insure that these potential impacts are reduced to less than significant levels.

The jurisdictional delineation prepared for the project site determined that the proposed project contains 0.81 acres of jurisdictional areas in 5 drainages, including the San Gorgonio River. The document further determined that the proposed project will permanently impact 0.17 acres of California and US jurisdictional area, and temporarily impact 0.07 acres of such area. The document proposes the installation of vegetative enhancements above the ordinary high water mark to compensate for these losses. The project will be required to secure permits from the US Army Corps of Engineers, the California Department of Fish and Game, and the California Regional Water Quality Control Board for impacts to these drainages. In addition, the MSHCP requires the preparation of a Determination of Biologically Equivalent or Superior Preservation (DBESP) for impacts to the drainages, which will be approved by the City, the CDFG and the USFWS. This mitigation measure will assure that impacts to the drainages will be less than significant.

1. Prior to the issuance of a grading permit, a pre-construction burrowing owl survey shall be completed, in compliance with California Department of Fish and Game protocol. The survey shall be completed immediately preceding the initiation of construction. Should the species be identified, avoidance measures shall be undertaken, unless a relocation plan is approved by the California Department of Fish and Game. No ground disturbing activity shall commence on the site until all recommended mitigation measures are completed to the satisfaction of the City and the Department of Fish and Game.

2 "Habitat Assessment Report for the Messenger Industrial Park..." prepared by Rocks Biological Consulting, June 2007; and "Jurisdictional Delineation Banning Industrial Park," prepared by Kimley-Horn, April 2007.

2. Prior to the issuance of a grading permit, the project proponent shall cause to be completed, by a qualified biologist, a trapping study for Los Angeles Pocket Mouse. Should the habitat or species be identified, the provisions of the MSHCP shall apply. Preservation of habitat, or the preparation of a Determination of Biologically Equivalent or Superior Preservation (DBESP) shall be prepared and approved by the US Fish and Wildlife Service, the California Department of Fish and Game, and the City.
3. Prior to the issuance of a grading permit, the project proponent shall secure appropriate permits from the US Army Corps of Engineers, the California Department of Fish and Game, the California Regional Water Quality Control Board and the City for impacts to the drainages on the site.

With the implementation of these mitigation measures, 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 proposed project site is located in an area of Low probability for archaeological resources. No structures, historic or modern, occur on the project site. No impacts to these resources are anticipated.

The site is not located in an area of sensitivity for paleontological resources. No impacts to these resources are anticipated.

The site is not known to have been a cemetery, and no internments are known to have occurred on the property. State law requires that any human remains uncovered during earth moving be reported to the authorities and thoroughly investigated. This state requirement will assure that impacts to human remains, should they occur, will 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 proposed project is not located in an Alquist-Priolo Fault Hazard Zone. The site is located, however, in an active seismic area, approximately 1 mile west of the San Gorgonio Fault. The City will require the implementation of Uniform Building Codes for seismic zones, which are designed to mitigate impacts in this area.

The site is located in a Moderate liquefaction potential area. The site-specific geotechnical analysis which will be required by the Building Department at the time that building permits are sought will include analysis of the depth to groundwater on the site,

as it relates to liquefaction potential. This requirement will assure that potential impacts associated with liquefaction are reduced to less than significant levels.

The site is flat, and is surrounding by similarly flat lands. No hazard associated with landslides or slope instability is expected.

The site will be subject to both wind and water erosion. The discussions under Air Quality and Hydrology, however, will assure that impacts associated with erosion are reduced to less than significant levels.

Soils in the City are not identified as expansive. The site will be required to connect to the City's sanitary sewer system, and no septic systems will occur on the site.

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 construction of industrial buildings on the project site will result in the storage and transport of small amounts of cleansers, chemicals and similar products required for cleaning and maintenance within the project. The amounts to be stored are not expected to result in a hazard.

Should a business which handles larger amounts of these materials be proposed within the project, the business will be regulated by the City, the County and the State, and the storage and transport of these materials will occur under prescribed standards. These standards are designed to reduce potential impacts to less than significant levels.

The construction of the proposed project will not impact wildland fire hazards, as the site is located in an urbanized area of the City. The applicant will be required to provide an emergency access roadway onto the airport, to provide a second point of access and assure emergency access for public safety vehicles.

The site is located adjacent to the Banning Airport. The construction of structures on the site will be subject to the requirements of the Airport Land Use Plan, and will require review by the Airport Land Use Commission. These requirements will assure that impacts associated with structures to be located adjacent to the airport are reduced to less than significant levels.

Overall impacts associated with 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)? (Urban Water Management 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) The project will be required to comply with City standards for the disposal of sanitary sewage. The City's wastewater treatment plant has sufficient capacity to service the proposed project, and also complies with all waste discharge requirements. The City will not allow the disposal of industrial waste water in its municipal system. Should such a land use be proposed for the site, the proponent will be required to implement measures to assure safe disposal of such waste water at the time the project is proposed. The project is therefore not expected to violate any standard.

Domestic water is supplied to the project site by the City of Banning. The proposed project is consistent with the General Plan designation assigned to it, on which the City's Urban Water Management Plan is based. The City's adopted Urban Water Management Plan indicates that the City has sufficient water, in the groundwater basins available to it, as well as through future recycled water production and State Water Project allocations, to serve the proposed project and future development. The City is implementing water conservation, purchase and replenishment measures which will result in additional resources available in the long term. The project will be required to contribute, through the payment of connection fees, for the purchase of these sources. 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 proposed project will be required to prepare, for review and approval by the City Engineer, a hydrology study. This study will demonstrate how the proposed project will retain the 100 year storm on site, as required by City standards. The applicant currently proposes the construction of a retention basin on the southern boundary of the site, which will outlet into the San Gorgonio River. Such a system will require City and state approval, and will be reviewed and approved by the governing agencies prior to the issuance of grading permits for the site.

In addition, the proposed project will be required to prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) for City and Regional Water Quality Control Board review and approval. The SWPPP will include the required NPDES standards for the control of construction and operational storm flows as it relates to pollutant concentrations. This requirement will assure that on site storm water runoff from the site will not introduce pollutants to the regional system. This requirement will assure that impacts associated with polluted runoff are less than significant.

The area of the project site which will be constructed upon is not located in a flood zone.

	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 vacant, and development of the site will not divide an established community.

The proposed parcel map, and resultant industrial project are consistent with the land use and zoning designations assigned to the site. The development of the project will be required to conform to the standards contained in the Zoning Ordinance.

The proposed project will be required to comply with the requirements of the Western Riverside MSHCP through the payment of fees and the preparation of studies as required by the Plan.

No impacts associated with land use are expected.

	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 project site is located in a MRZ-3 mineral resource zone, indicating that there is insufficient data to determine whether significant resources occur on the site. However, the property has been designated for urban development for a number of years, is located in the Banning's urbanized core, adjacent to the airport, and would be inappropriate for the location of mining facilities. Overall impacts are expected to be less than significant.

	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 EIR, p. III-163 ff.)			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (General Plan EIR, p. III-163 ff.)			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (General Plan EIR, p. III-163 ff.)				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (General Plan EIR, p. III-163 ff.)			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 will result in the construction of industrial buildings. These uses are not considered sensitive receptors in the General Plan. The site is located in a noise impacted area, adjacent to the railroad right of way and the airport. Industrial uses, which have low sensitivity to noise, are appropriate in such an area. The proposed project will be required to submit final noise analysis with the submittal of building plans. This analysis must demonstrate that acceptable interior and exterior noise levels can be

achieved with construction of the project. This City standard will assure that potential impacts associated with operation of the site are less than significant.

The proposed project will generate elevated noise levels during construction. However, there are no sensitive receptors in the vicinity of the project site which might be impacted by the construction noise levels. Furthermore, the construction noise generated at the site will be temporary and periodic, and not sustained for long periods of time. Finally, the City regulates construction hours to time periods during the day when ambient noise levels are more elevated, and increases in noise levels are less noticeable. Therefore, impacts are expected to be less than significant.

The project site is located within the elevated noise contours of the Banning airport. The uses proposed, however, are not sensitive receptors, and can accommodate the 65 dBA CNEL anticipated at this location.

Overall impacts associated with noise are expected to be less than significant.

	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 project site is currently vacant. The development of up to 1,000,000 square feet of industrial space will generate new or expanded businesses in the City, and create an undetermined number of new jobs. These jobs will be available to new and existing residents of the City. Housing growth in the City should be able to accommodate the project, particularly since it is likely to be constructed in phases. Since industrial land uses have lower job generation factors per square foot than many other employment sectors, it is expected that the normal growth in housing in the City will accommodate the new jobs created by the proposed project.

The site is vacant, and construction of the project will not displace either people or houses. 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 EIR)			X	
Parks? (General Plan; Recreation and Parks Master Plan)				X
Other public facilities? (General Plan)				X

XIII. a) Development of the proposed project will have a less than significant impact on public services. The project will be served by the City Police Department, and by the County Fire Department, under City contract. The proposed project will generate some calls for these agencies, but the added property tax, and potentially also sales tax generated by the businesses in the project will offset these increases. In addition, the City is currently implementing a community facilities district for public safety which this project would participate in to cover costs associated with public safety.

Development of industrial buildings is not expected to impact park facilities.

The proposed project will be required to pay the mandated school fees at the time that building permits are issued.

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) As stated above, development of the proposed project is not expected to impact recreational or park facilities. No existing facilities will be affected by construction of the project. No impacts are expected.

	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 EIR p. III-20 ff.)		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 EIR p. III-20 ff.)		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)? (TPM 34335)				X
e) Result in inadequate emergency access? (TPM 34335)			X	
f) Result in inadequate parking capacity? (TPM 34335)				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 study was prepared for the proposed project[3]. The study found that at project build out, the project will generate 4,960 average daily trips, 450 of which will be at the AM peak, and 470 of which will be at the PM peak. The traffic analysis studied the impact of these trips on 7 intersections, including:

3 "Traffic Impact Study Banning Industrial Park," prepared by Kimley-Horn, May 2007.

- 8th Street/I-10 eastbound ramps
- 8th Street/I-10 westbound ramps
- Lincoln Street/8th Street
- Lincoln Street/San Gorgonio
- Lincoln Street/Hargrave Street
- Hargrave Street/I-10 eastbound ramps
- Hargrave Street/I-10 westbound ramps

The study found that under current conditions, the studied intersections operate at acceptable levels of service (LOS), with the exception of the 8th Street I-10 eastbound ramps and Hargrave/I-10 eastbound ramps (which operate at LOS F). The study further found that all studied roadway segments currently operate at acceptable levels of service.

The study further found that with the addition of the proposed project, planned projects and ambient growth, all studied intersections, with the exception of Hargrave/I-10 westbound ramps will operate at LOS E or F during the AM or PM peak hours. These are significant impacts which require mitigation. In order to restore acceptable levels of service, signalization of the studied intersections is required, as is the widening of 8th, Lincoln and Hargrave Streets. These improvements will result in acceptable levels of service at the intersections.

In order to assure that the proposed project does not significantly impact the circulation system, the following mitigation measures are required:

1. The project proponent shall contribute his fair share to the signalization of the project area intersections, the widening of 8th Street and Hargrave Street prior to issuance of building permits.
2. Prior to issuance of building permits for the proposed project, the applicant shall contribute his fair share to widen Lincoln Street to 4 lanes.

The proposed project does not include unsafe designs. The proposed project will be required to conform to the City's Zoning Ordinance in the provision of parking for the site. The proposed project will be reviewed and approved by the Fire Department to assure adequate emergency access. The proposed project will be reviewed by the Airport Land Use Commission to assure no conflicts with its land use plan.

With the implementation of the mitigation measures listed above, impacts associated with traffic and circulation are expected to be less than significant.

	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, or can be extended along Street A at the time development occurs. The City and other service providers will collect connection and usage fees to offset the cost of providing services. The project will control on-site storm water to the satisfaction of the City Engineer, and will connect their facilities to downstream facilities as required (please see Hydrology, above). The City has sufficient capacity to serve the project at its wastewater treatment plant. Water supplies are, and will be sufficient to serve the project site (please see Hydrology, above). The City's solid waste provider transports waste to several regional landfills with sufficient capacity to serve the proposed project, including the Badlands, Lambs Canyon and other landfills. The City will also 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 has the potential to significantly impact biological resources, as described above. The mitigation measures included in this study, however, reduce these impacts to less than significant levels.

XVII. b) The proposed project is designated for industrial development in the General Plan, and has been envisioned for the uses proposed in the long term for the City. The project is consistent with General Plan goals and policies supporting added and broadened employment opportunities for its residents.

XVII. c) The proposed project is consistent with the General Plan vision for the property. The General Plan and its accompanying EIR considered the impacts of build out of the City,

and found these impacts, where they were cumulatively considerable, to be acceptable given the social, economic and technological benefits which will result.

XVII. d) The proposed project will impact human beings under the categories of air quality and traffic. These impacts 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.

General Plan EIR.

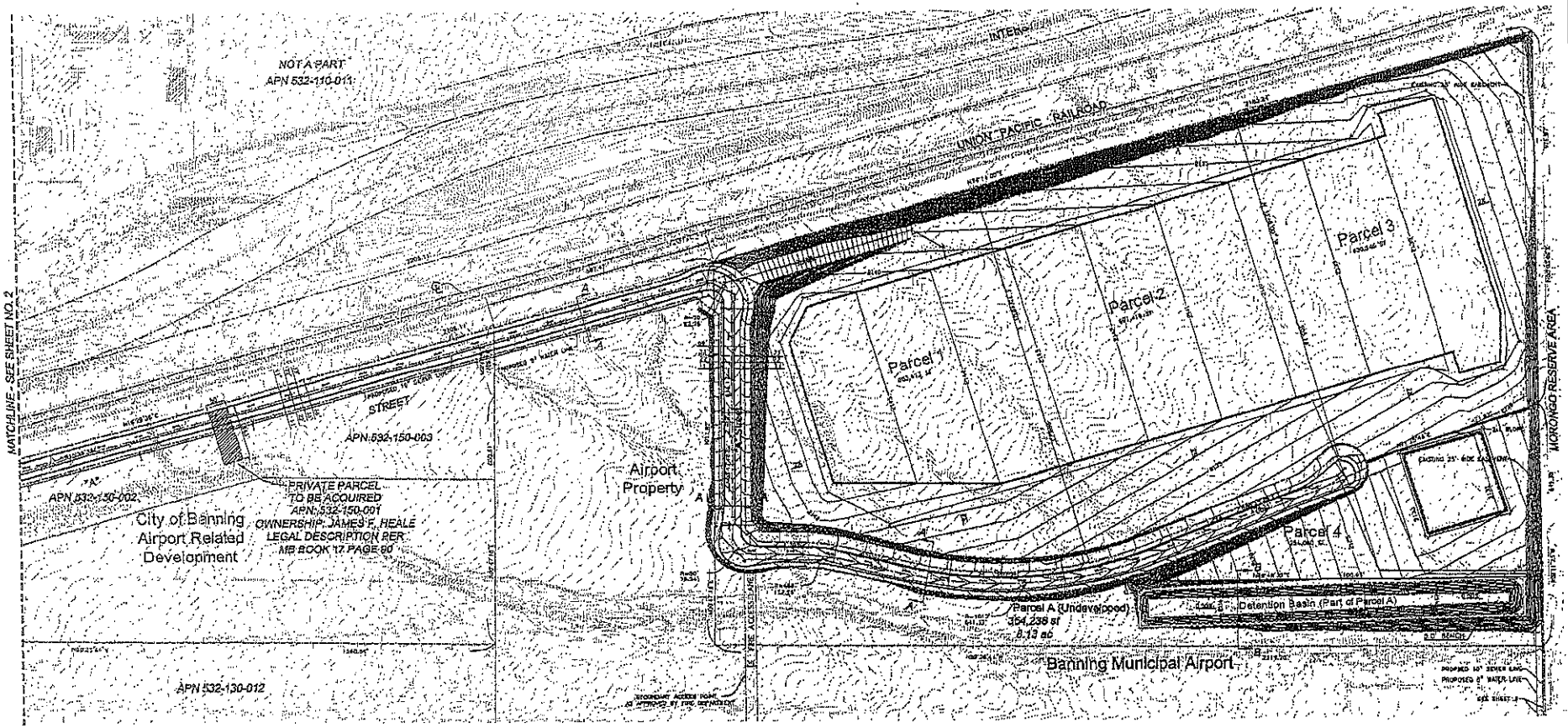
b) **Impacts adequately addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

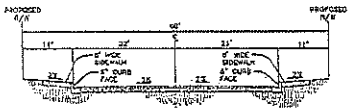
Not applicable.

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.

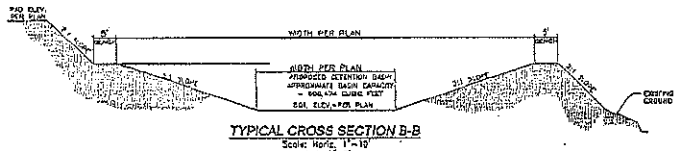
TENTATIVE PARCEL MAP NO. 34335





TYPICAL STREET CROSS SECTION A-A

Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL CROSS SECTION B-B

Scale: Horiz. 1"=10'
Vert. 1"=5'

GRAPHIC SCALE

100 0 100 200

SCALE: 1" = 100'

PROJECT DATA:

GROSS AREA: 2,760,265 SF (63.36 AC)
"A" STREET 168,158 SF (3.86 AC)

NOTE:
THE GRADING ENVISIONED ON THIS MAP RESULTS IN AN APPROXIMATE "CUT" OF 38,000 CY. FINAL DESIGN EFFORTS WILL YIELD MORE DETAILED ANALYSIS OF THE EARTHWORK OPERATIONS AND SHOULD YIELD A NEARLY BALANCED OVERALL SITE.

OWNER/DEVELOPER

MID HOLDINGS, LLC.
2300 NEWPORT CENTER DRIVE, SUITE 200
NEWPORT BEACH, CA 92660
TEL: (949) 721-0010
FAX: (949) 644-0880
CONTACT: JEFF CORDON

SOILS ENGINEER

GEOTECHNICS INCORPORATED
1100 PALMYRA, SUITE 130A
RIVERSIDE, CA 92507
TEL: (951) 222-1224
FAX: (951) 222-1878
CONTACT: ANTHONY F. BELFAST

GENERAL PLAN

AIRPORT INDUSTRIAL

ZONING

M

APN

532-130-001,
532-130-003
532-150-004

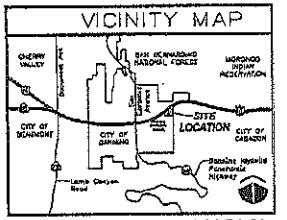
BENCH MARK

FOUND 3" BRASS DISK IN PLASTIC SLEEVE STAMPED "C 1311 1974" FOR NATIONAL GEODETIC SURVEY, LOCATED 2.30 MILES EAST ALONG RAILROAD RIGHT R/W, 8.5M CONCRETE AVENUE CROSSING IN BANNING.

ELEVATION= 2113.44 FEET DATUM=NGVD 29

Date: October 16, 2007

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

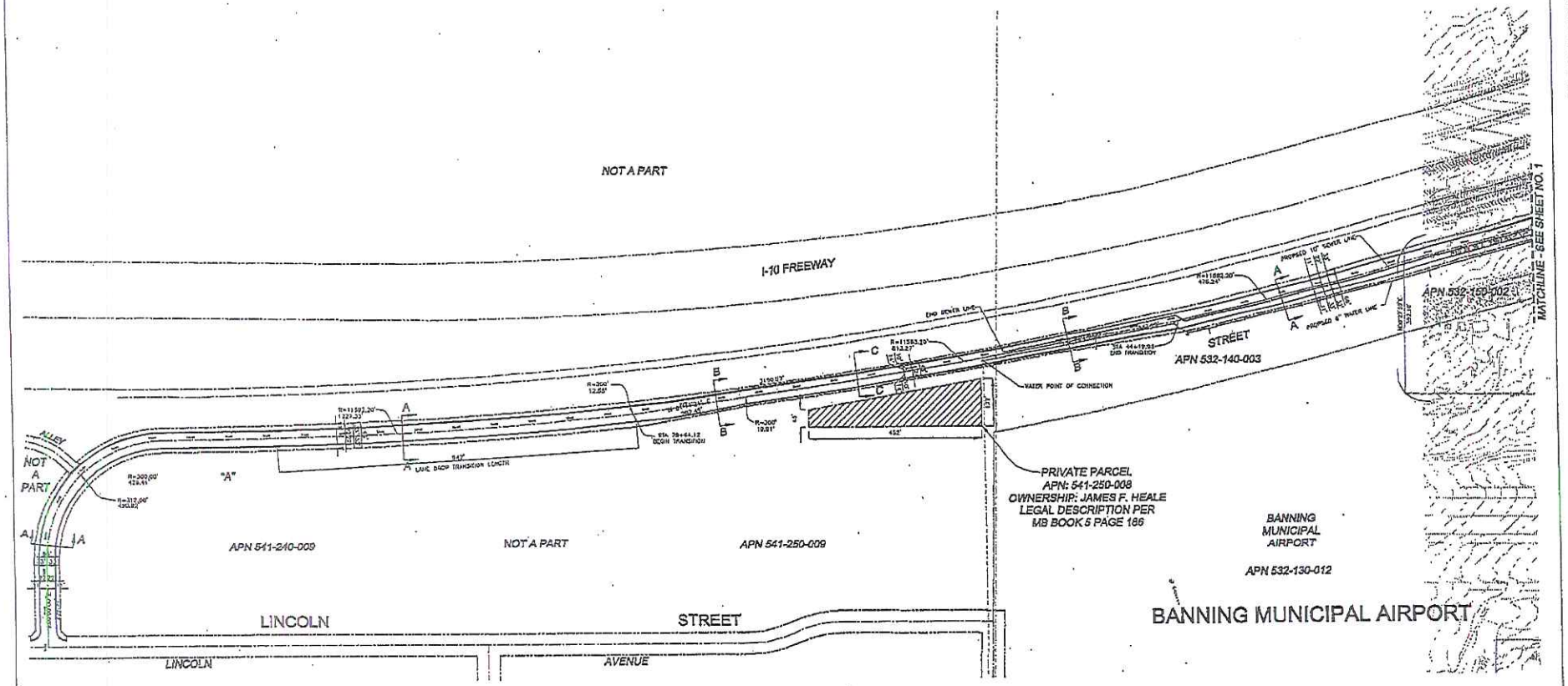
PREPARED BY:

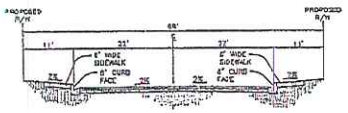
Kimley-Horn and Associates, Inc.

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2700 Inland Empire Boulevard, Suite 200, Ontario, CA 91764
Tel: (909) 783-0941 Fax: (951) 783-0915

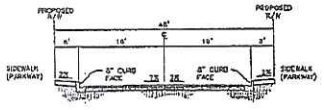
TENTATIVE PARCEL MAP NO. 34335





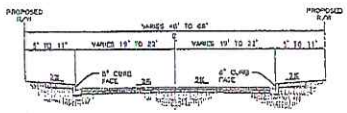
TYPICAL STREET CROSS SECTION A-A

Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION C-C

Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION B-B

Scale: Horiz. 1"=10'
Vert. 1"=5'

GRAPHIC SCALE
100 0 100 200
SCALE: 1" = 100'

GENERAL PLAN
AIRPORT INDUSTRIAL

ZONING
IA

APN
532-130-001
532-130-002
532-130-009

OWNER/DEVELOPER
MC HOLDINGS LLC.
250 NEWPORT CENTER DRIVE, SUITE 200
NEWPORT BEACH, CA 92660
TEL: (949) 721-0013
FAX: (949) 644-4850
CONTACT: JEFF GORDON

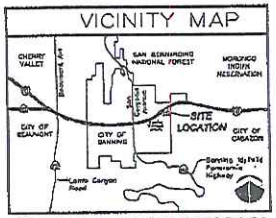
SOILS ENGINEER
GEOTECHNICS INCORPORATED
1020 PALMYRA, SUITE 330A
RIVERSIDE, CA 92507
TEL: (951) 732-0206
FAX: (951) 275-2239
CONTACT: ANTHONY F. BELFAST

BENCH MARK
FOUND 3" BRASS DISK IN PLASTIC SLEEVE MARKED "D 1311 1918" PER NATIONAL GEODETIC SURVEY, LOCATED 3.50 MILES EAST ALONG RAILROAD FROM THE SAN GORGONIO AVENUE CROSSING IN BANNING.

ELEVATION= 2110.64 FEET DATUM=NGVD 29

Date: October 18, 2007

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:
Kimley-Horn and Associates, Inc.
© 2006 KIMLEY-HORN AND ASSOCIATES, INC.
1770 Iowa Avenue, Suite 200 Riverside, CA 92507
Tel (951) 782-0881 Fax (951) 782-0948

SHEET NO. 2 OF 2

ATTACHMENT 3

Airport Land Use Commission (ALUC) Development Review 6-14-07

AIRPORT LAND USE COMMISSION
RIVERSIDE COUNTY

CHAIR
Simon Housman
Rancho Mirage

VICE CHAIRMAN
Rod Ballance
Riverside

COMMISSIONERS

Arthur Butler
Riverside

Robin Lowe
Hemet

John Lyon
Riverside

Glen Holmes
Hemet

Melanie Fesmire
Indio

STAFF

Interim
Executive Director
Ed Cooper

John Guerin
Cecilia Lara
Sophia Nolasco
Barbara Santos

County Administrative Center
4080 Lemon St., 9th Floor.
Riverside, CA 92501
(951) 955-5132

www.rcaluc.org

June 14, 2007

Mr. Oscar Orci, Community Development Director
City of Banning Planning Department
99 E. Ramsey Street
Banning, CA 92220

RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW
File No.: ZAP1002BA07
Related File No.: Parcel Map No. 34335
APN: 532-110-006; 532-130-001; 532-130-002

Dear Mr. Orci:

On June 14, 2007, the Riverside County Airport Land Use Commission (ALUC) found the above-referenced project consistent with the 2004 Banning Municipal Airport Land Use Compatibility Plan, subject to the following conditions:

CONDITIONS:

1. Prior to recordation of a final map, the land divider shall convey an Avigation Easement covering the entire property to the City of Banning as owner-operator of Banning Municipal Airport.

2. All new structures at this location shall require FAA aeronautical review through the Form 7460-1 FAA notice process.

3. Any outdoor lighting installed shall be hooded and shielded to prevent either the spillage of lumens or reflection into the sky. All lighting plans shall be reviewed and approved by the airport manager prior to approval.

4. The following uses shall be prohibited:

   a. Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

   b. Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

c. Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including landfills, trash transfer stations that are open on one or more sides, composting operations, recycling centers containing putrescible wastes, construction and demolition debris facilities, incinerators, fly ash disposal, wastewater management facilities, artificial marshes, production of cereal grains, sunflower, and row crops, livestock operations, aquaculture, and landscaping utilizing water features..

d. Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

e. Highly noise-sensitive outdoor nonresidential uses.

5. The following uses shall be prohibited within those portions of the site located in Airport Zones B1 and B2 as depicted on the 2004 Banning Municipal Airport Land Use Compatibility Plan (a copy of which is attached hereto):

   Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, aboveground bulk storage of hazardous materials, and multi-story buildings (more than two aboveground habitable floors).

6. The attached notice shall be given to all prospective buyers and tenants.

7. All proposals for discretionary review of development of structures 5,000 square feet or greater in floor area shall be referred to the Airport Land Use Commission for review.

8. A minimum of thirty percent (30%) of the portion of the site within Airport Zone B1 and a minimum of ten percent (10%) of the portion of the site within Airport Zone D shall be "open land" as defined in Policy 4.2.4 of the 2004 Riverside County Airport Land Use Compatibility Plan. (Maintenance of existing natural surface conditions is preferred, but driveway areas and parking areas may also qualify.)

9. The detention basin shall be designed so as to provide a maximum 48-hour detention period for the design storm, and to remain totally dry between rainfalls. Vegetation in and around the detention basin that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping.

If you have any questions, please contact John Guerin, Airport Land Use Commission staff planner, at (951) 955-0982.

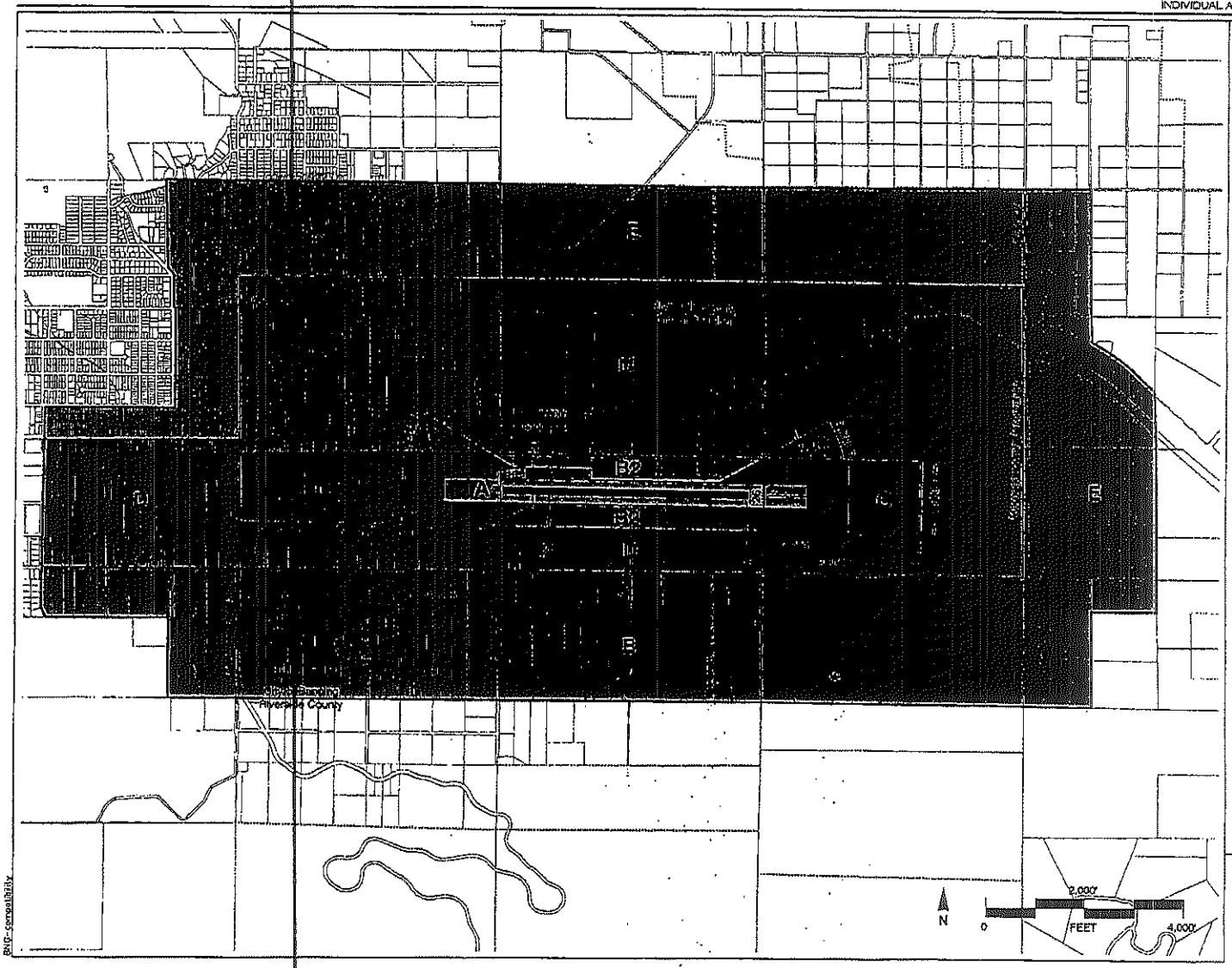
Sincerely,
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

Edward C. Cooper, Interim Executive Director

JJGG:bks

cc: ALUC Staff
MIC Holdings
Banning Airport Manager

Y:\ALUC\Banning\ZAP1002BA07.LTR.doc



Legend

Compatibility Zones

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

Boundary Lines

- Airport Property Line
- City Limits
- Morongo Indian Reservation

Note

Dimensions measured from runway ends and centerlines.

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

Riverside County
Airport Land Use Commission

Riverside County
Airport Land Use Compatibility Plan
Policy Document

(Adopted October 2004)

Map BN-1

Compatibility Map

Banning Municipal Airport

- On-airport storage of aviation fuel and other aviation-related flammable materials.
- Aboveground storage of less than 6,000 gallons of nonaviation flammable materials (this limit coincides with a break-point used in the Uniform Fire Code to distinguish between different classes of tanks).

(3) Within *Compatibility Zone C*, manufacture or storage of hazardous materials other than the types listed in Sub-policy (2) above is prohibited unless no other feasible alternative site exists and the facility is designed in a manner that minimizes its susceptibility to damage from an aircraft accident.

(d) Critical Community Infrastructure: Construction of power plants, electrical substations, public communications facilities, and other critical community infrastructure shall be restricted as follows:

(1) Within *Compatibility Zone A*, all such uses are prohibited.

(2) Within *Compatibility Zones B1* and *B2*, such uses are prohibited unless no other feasible alternative site exists and the facility is designed in a manner that minimizes its susceptibility to damage from an aircraft accident.

4.2.4. *Open Land:* In the event that a light aircraft is forced to land away from an airport, the risks to the people on board can best be minimized by providing as much open land area as possible within the airport vicinity. This concept is based upon the fact that the majority of light aircraft accidents and incidents occurring away from an airport runway are controlled emergency landings in which the pilot has reasonable opportunity to select the landing site.

(a) To qualify as open land, an area should be:

(1) Free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires.

(2) Have minimum dimensions of approximately 75 feet by 300 feet.

(b) Roads and automobile parking lots are acceptable as open land areas if they meet the above criteria.

(c) Open land requirements for each compatibility zone are to be applied with respect to the entire zone. Individual parcels may be too small to accommodate the minimum-size open area requirement. Consequently, the identification of open land areas must initially be accomplished at the general plan or specific plan level or as part of large (10 acres or more) development projects.

(d) Clustering of development, subject to the limitations noted below, and providing contiguous landscaped and parking areas is encouraged as a means of increasing the size of open land areas.

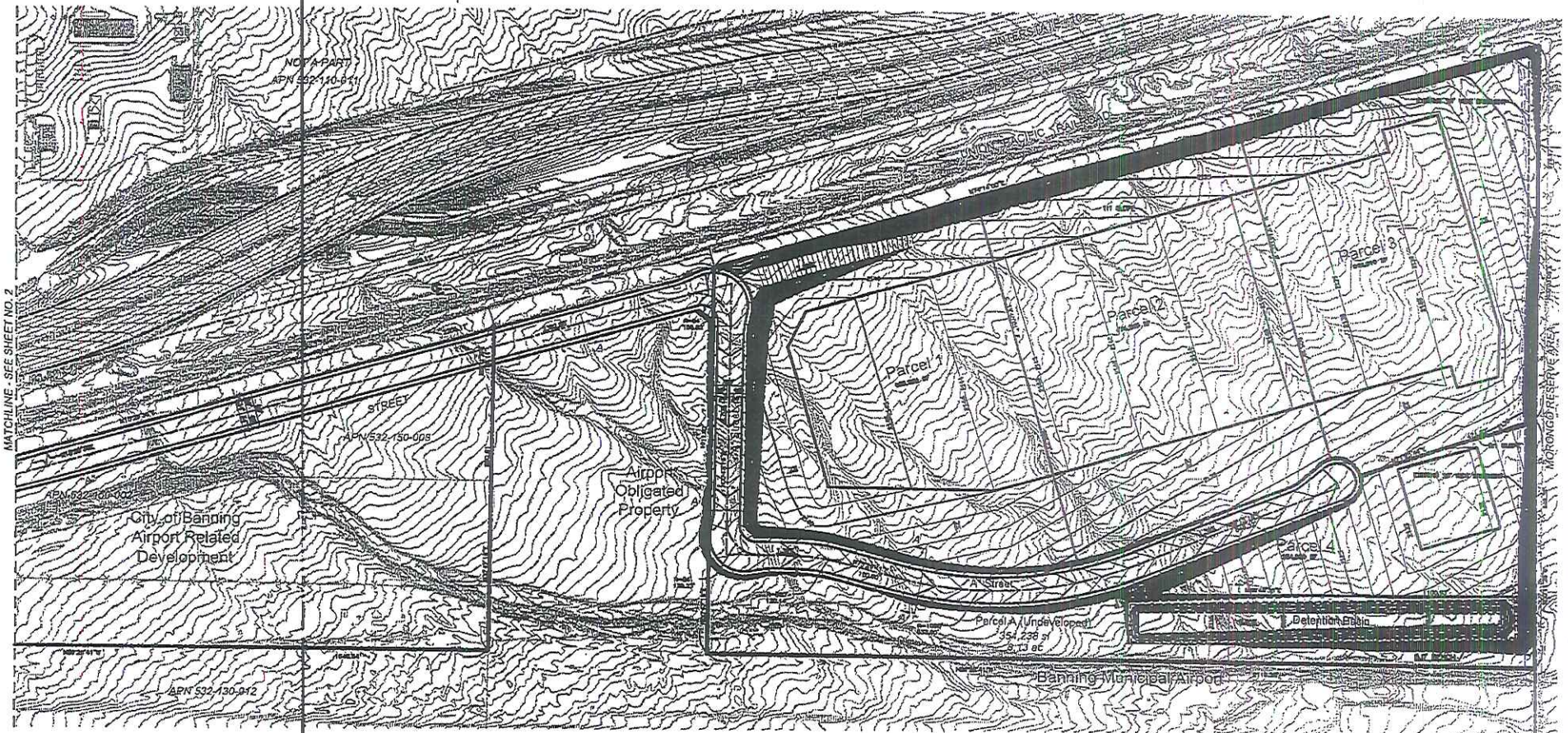
(e) Building envelopes and the airport compatibility zones should be indicated on all development plans and tentative maps for projects located within the influence area of airports covered by this *Compatibility Plan*. Portraying this information is intended to assure that individual development projects provide the open land areas identified in the applicable general plan, specific plan, or other large-scale plan.

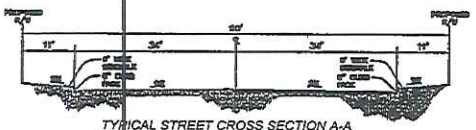
NOTICE OF AIRPORT IN VICINITY

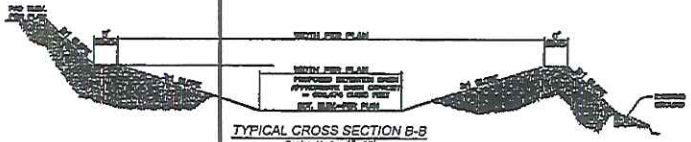
This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. Business & Profession Code 11010 12(A)

661

TENTATIVE PARCEL MAP NO. 34335







GRAPHIC SCALE
SCALE: 1" = 100'

PROJECT DATA:

GROSS AREA	3,723,413 SF	(85.60 AC)
"A" STREET	221,581 SF	(5.09 AC)
DETENTION BASIN	105,093 SF	(2.41 AC)
NET (BUILDABLE) AREA	1,977,330 SF	(45.39 AC)

OWNER/DEVELOPER

BBG HOLDINGS, LLC.
230 NEWPORT CENTER DRIVE, SUITE 200
NEWPORT BEACH, CA 92660
TEL: (949) 221-0013
FAX: (949) 644-4650
CONTACT: JEFF GORDON

SOILS ENGINEER

GEOTECHNICS INCORPORATED
17-22 FOUNTAIN, SUITE 230A
FOUNTAIN, CA 92707
TEL: (951) 221-0015
FAX: (951) 221-0070
CONTACT: ANTHONY F. BELFIAT

GENERAL PLAN

AIRPORT INDUSTRIAL

ZONING

A

APN

532-130-001
532-130-002
532-110-009

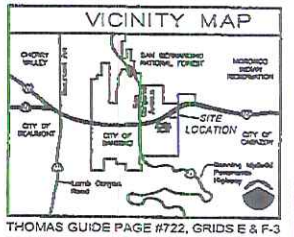
BENCH MARK

FOUND 3" BRASS DISK IN PLASTIC SLEEVE MARKED "D 1291 1979" PER NATIONAL GEODETIC SURVEY, LOCATED 2.2± MILES EAST ALONG RAILROAD FROM THE 1999 CONCORD AVENUE CROSSING IN BANNING.

ELEVATION= 2918.44 FEET DATUM=NGVD 29

Date: December 8, 2006

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:

Kimley-Horn and Associates, Inc.

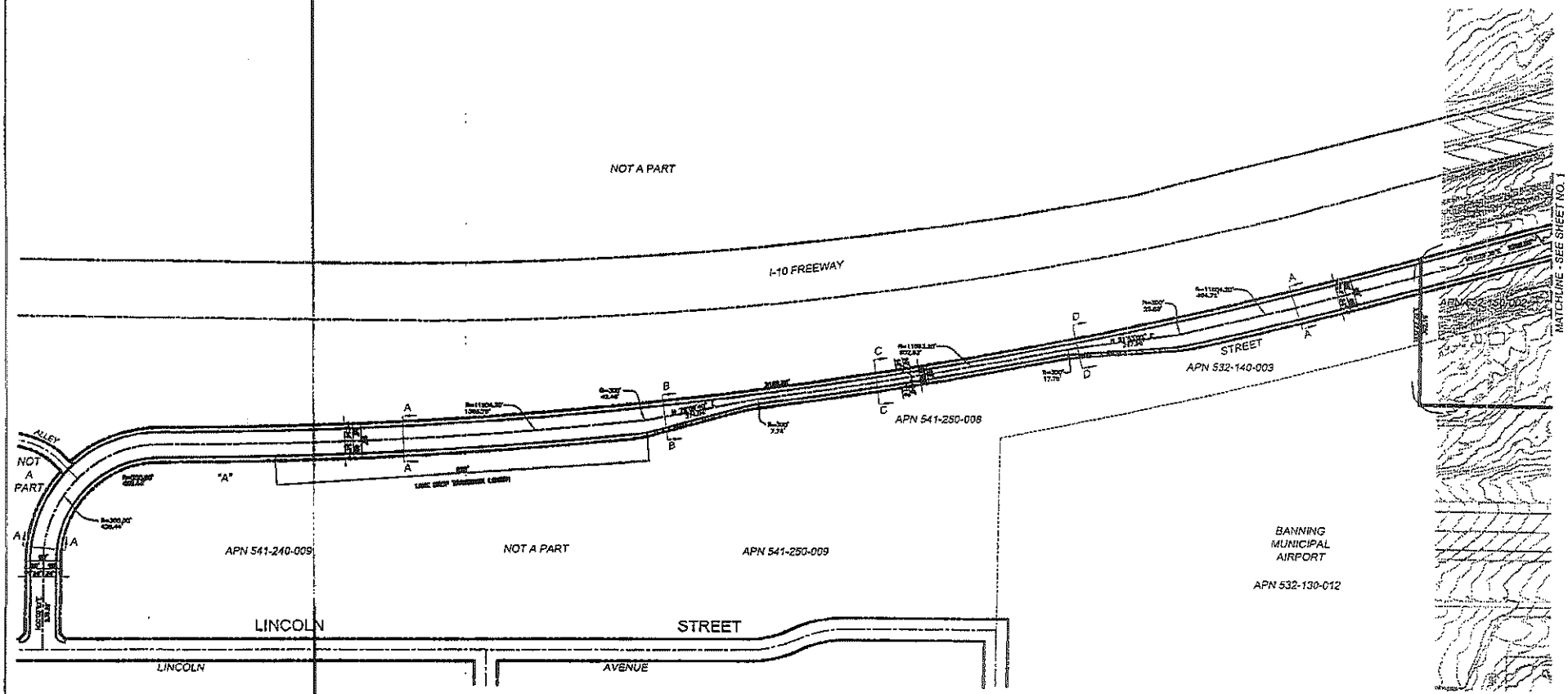
©2006 KIMLEY-HORN AND ASSOCIATES, INC.

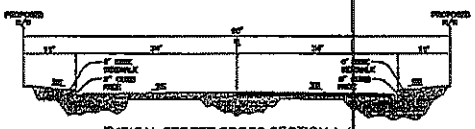
1770 Iowa Avenue, Suite 200, Riverside, CA 92507
Tel (951) 782-0940 Fax (951) 782-0949

SHEET NO. 1 OF 2

200

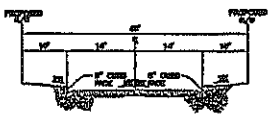
TENTATIVE PARCEL MAP NO. 34335





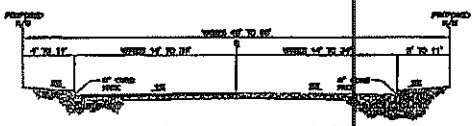
TYPICAL STREET CROSS SECTION A-A

Scale: Horiz. 1"=10'
Vert. 1"=5'



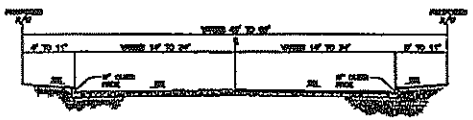
TYPICAL STREET CROSS SECTION C-C

Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION B-B

Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION D-D

Scale: Horiz. 1"=10'
Vert. 1"=5'

GRAPHIC SCALE

SCALE: 1" = 100'

PROJECT DATA:

GENERAL PLAN
AIRPORT INDUSTRIAL

ZONING
M

APN

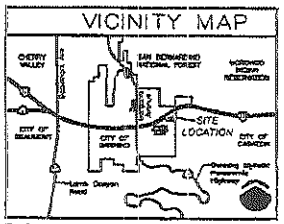
OWNER/DEVELOPER

SOILS ENGINEER

BENCH MARK

Date: December 8, 2006

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:

Kimley-Horn and Associates, Inc.

SHEET NO. 2 OF 2

201

COUNTY OF RIVERSIDE
AIRPORT LAND USE COMMISSION

STAFF REPORT

AGENDA ITEM: 3.3

HEARING DATE: June 14, 2007

CASE SUMMARY

CASE NUMBER: ZAP1002BA07 – MIC Holdings, LLC/Jeffrey Gordon
APPROVING JURISDICTION: City of Banning
JURISDICTION CASE NO.: Parcel Map No. 34335

MAJOR ISSUES: None.

RECOMMENDATION: Staff recommends a finding of CONSISTENCY with the 2004 Banning Airport Land Use Compatibility Plan, subject to the conditions included herein.

PROJECT DESCRIPTION:

Parcel Map No. 34335 proposes to divide 58.79-64.35 acres into four lots for industrial development.

PROJECT LOCATION:

The site includes three Assessor's parcels located southerly of Interstate 10, easterly of Hathaway Street, northerly of the runway at Banning Municipal Airport, and westerly of the Morongo Tribal lands in the City of Banning, approximately 280 feet northerly of Runway 8/26 at Banning Municipal Airport.

LAND USE PLAN: 2004 Banning Airport Land Use Compatibility Plan

a. Airport Influence Area: Banning Municipal Airport
b. Land Use Policy: Airport Zones B1, B2, and D
c. Noise Levels: From below 55 CNEL on north to above 65 CNEL on south.

BACKGROUND:

Land Use Intensity: The site is located within Airport Zones B1, B2, and D. Nonresidential development intensity in Airport Zone B1 is restricted to an average of 25 persons per acre, with a maximum of 50 persons within any given acre of the property. Nonresidential development intensity in Airport Zone B2 is restricted to an average of 100 persons per acre, with a maximum of 200 persons within any given acre of the property. Nonresidential development intensity in Airport Zone D is restricted to an average of 100 persons per acre, with a maximum of 300 persons within any given acre of the property. At this time, no buildings are proposed, so it is unknown whether future development would be in compliance. However, given that industrial uses are proposed, compliance would appear to be possible in any of these zones.

In order to provide for compliance, staff is recommending conditions that would provide for Airport Land Use Commission review (or staff review, as appropriate) of all discretionary permits proposing development of structures 5,000 square feet or larger in gross floor area.

Open Area: The site is located in Airport Zones B1, B2, and D. Countywide compatibility criteria require that a minimum of 30% of land in Airport Zone B1 and 10% of land in Airport Zone D be maintained as open space. (Airport Zone B2 does not have an open area requirement.) With no buildings proposed at this time, compliance cannot be verified until a development project is proposed.

Noise: The site is located adjacent to the airport. Average noise levels from aircraft operations range from over 65 CNEL at the southerly boundary of the site to below 55 CNEL in the northerly portion of the site. Given the location of the site between the airport runway and the freeway, industrial use is most appropriate at this location. Office uses would require noise attenuation.

Part 77: The elevation on the site varies from 2,096 to 2,178 feet above mean sea level (AMSL). The applicant projects pad elevations not exceeding 2,145 feet AMSL. No structures are proposed at this time. The elevation of Runway 8/26 at its easterly terminus (its low point) is 2,110 feet AMSL. At a distance of 280 feet from the runway, any structure with a top elevation greater than 2,112 feet AMSL would require FAA review. At a distance of 710 feet from the runway, any structure with a top elevation greater than 2,117 feet AMSL would require FAA review. Staff anticipates that FAA review will be required for all on-site structures. However, no structures are proposed at this time.

CONDITIONS:

1. Prior to recordation of a final map, the land divider shall convey an Avigation Easement covering the entire property to the City of Banning as owner-operator of Banning Municipal Airport.

2. All new structures at this location shall require FAA aeronautical review through the Form 7460-1 FAA notice process.

3. Any outdoor lighting installed shall be hooded and shielded to prevent either the spillage of lumens or reflection into the sky. All lighting plans shall be reviewed and approved by the airport manager prior to approval.

4. The following uses shall be prohibited:

   a. Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

   b. Any use which would cause sunlight to be reflected towards an aircraft engaged in an

initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

c. Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area, including landfills, trash transfer stations that are open on one or more sides, composting operations, recycling centers containing putrescible wastes, construction and demolition debris facilities, incinerators, fly ash disposal, wastewater management facilities, artificial marshes, production of cereal grains, sunflower, and row crops, livestock operations, aquaculture, and landscaping utilizing water features..

d. Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

e. Highly noise-sensitive outdoor nonresidential uses.

5. The following uses shall be prohibited within those portions of the site located in Airport Zones B1 and B2 as depicted on the 2004 Banning Municipal Airport Land Use Compatibility Plan (a copy of which is attached hereto):

Children's schools, day care centers, libraries, hospitals, nursing homes, places of worship, aboveground bulk storage of hazardous materials, and multi-story buildings (more than two aboveground habitable floors).

6. The attached notice shall be given to all prospective buyers and tenants.

7. All proposals for discretionary review of development of structures 5,000 square feet or greater in floor area shall be referred to the Airport Land Use Commission for review.

8. A minimum of thirty percent (30%) of the portion of the site within Airport Zone B1 and a minimum of ten percent (10%) of the portion of the site within Airport Zone D shall be "open land" as defined in Policy 4.2.4 of the 2004 Riverside County Airport Land Use Compatibility Plan. (Maintenance of existing natural surface conditions is preferred, but driveway areas and parking areas may also qualify.)

9. The detention basin shall be designed so as to provide a maximum 48-hour detention period for the design storm, and to remain totally dry between rainfalls. Vegetation in and around the detention basin that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping..

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. Business & Profession Code 11010 12(A)

BN. BANNING MUNICIPAL AIRPORT

BN.1 Compatibility Map Delineation

1.1 *Airport Master Plan Status:* The *Compatibility Plan* for Banning Municipal Airport is based upon the airport master plan adopted by the City of Banning in 1989.

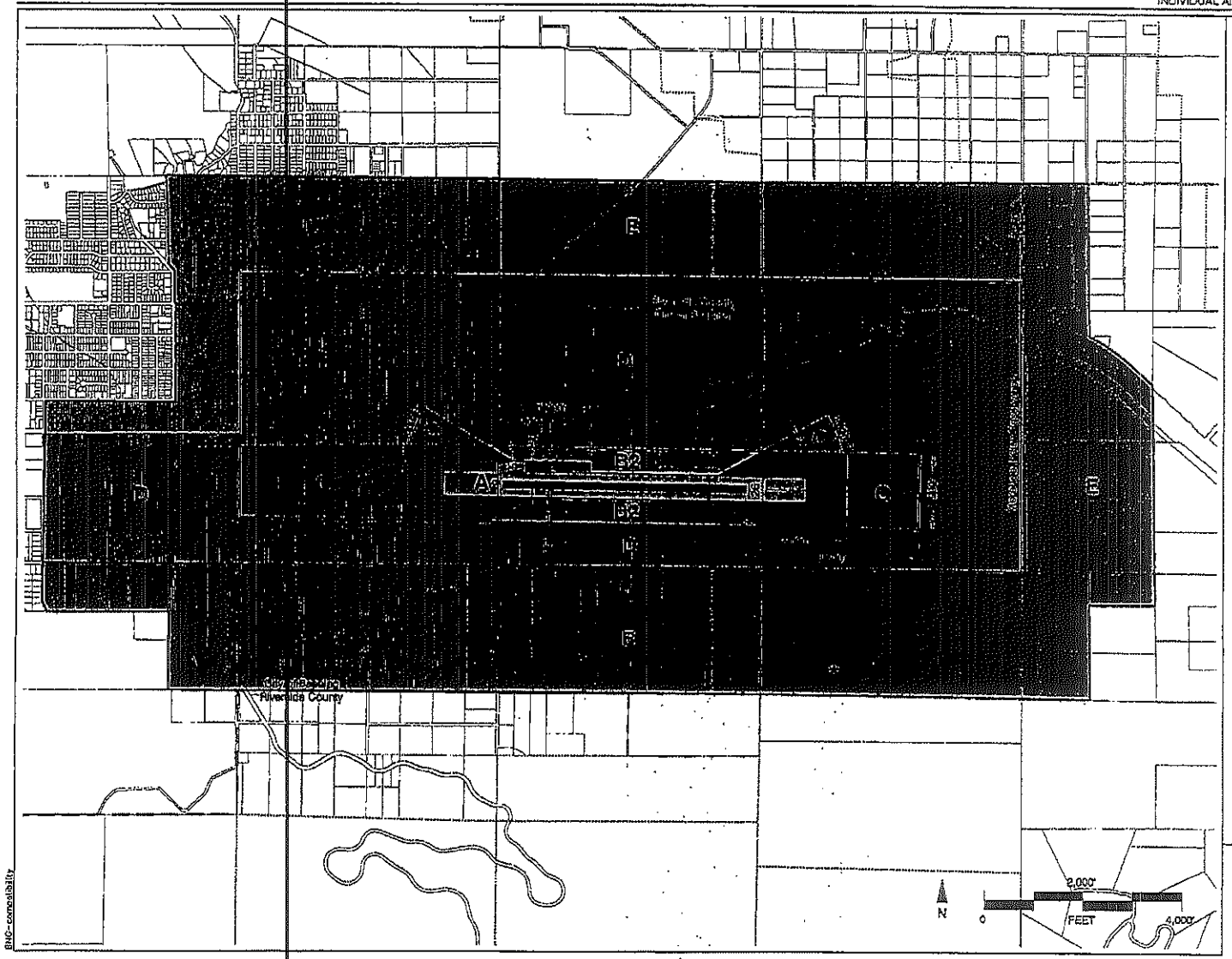
1.2 *Airfield Configuration:* A minor change in the runway configuration (elimination of a displaced threshold in favor of relocation of the runway's eastern end) occurred as a result of a pavement overlay project in the 1990s. The existing helipad north of the runway's west end is included in the compatibility planning analysis. No further airfield changes are planned.

1.3 *Airport Activity:* The *Compatibility Plan* reflects the master plan's long-range activity projection plus additional helicopter operations. The resulting 70,000 operations activity level is anticipated to be beyond the minimum 20-year time frame required for compatibility plans by the State Aeronautics Act.

1.4 *Airport Influence Area:* Because mountains north and south of the airport greatly restrict where aircraft fly, the airport's impacts are not as far reaching as the extents of the FAR Part 77 conical surface. Conveniently situated roads and other geographic features have therefore been used to define a smaller airport influence area boundary.

BN.2 Additional Compatibility Policies

2.1 None.



Legend

Compatibility Zones

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

Boundary Lines

- Airport Property Line
- City Limits
- Morongo Indian Reservation

Note

Dimensions measured from runway ends and centerlines.

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

Riverside County
Airport Land Use Commission

Riverside County
Airport Land Use Compatibility Plan
Policy Document

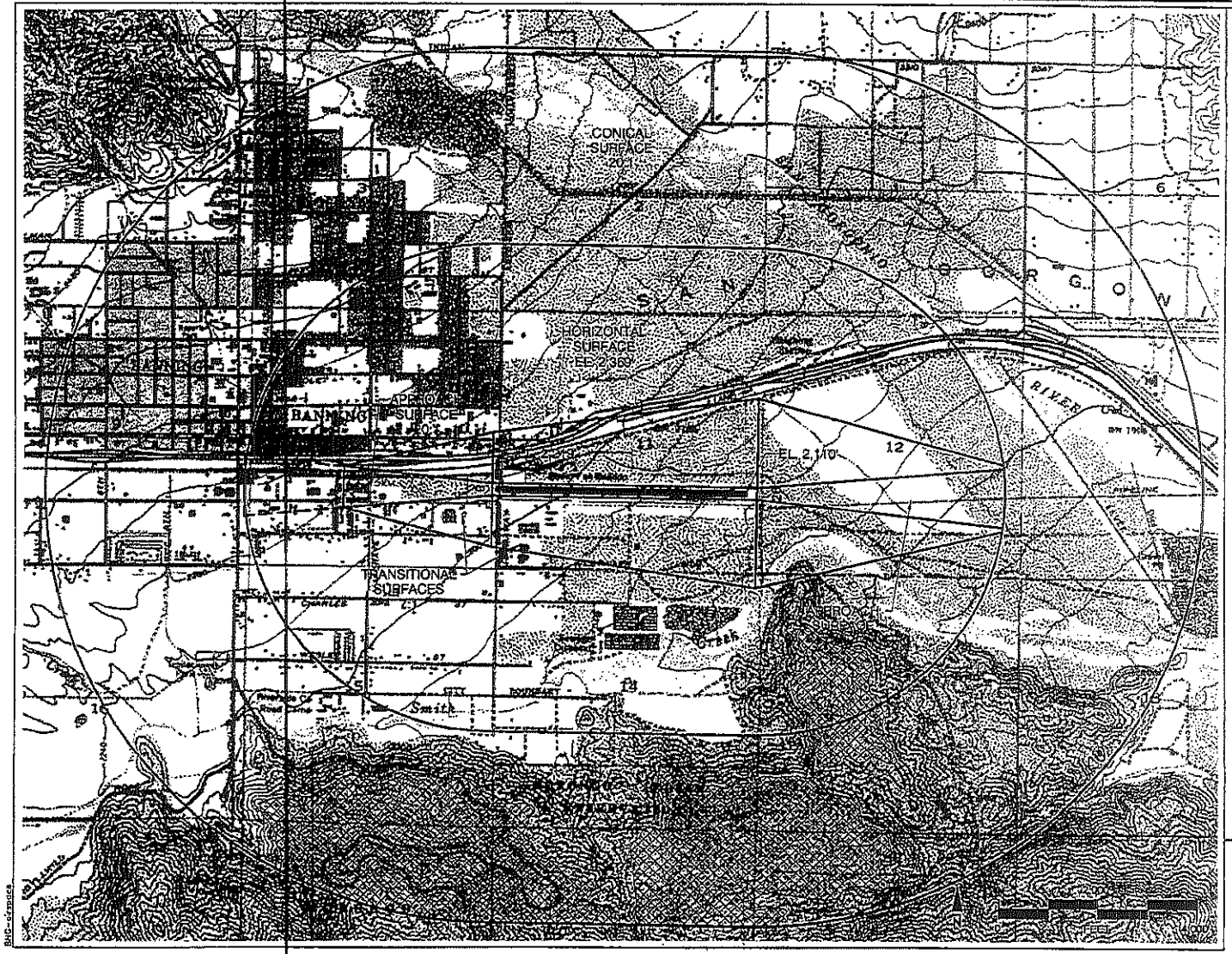
(Adopted October 2004)

Map BN-1

Compatibility Map

Banning Municipal Airport

BNC-compatibility



LEGEND

Ground penetration of depicted FAR Part 77 Surfaces

Riverside County
Airport Land Use Commission

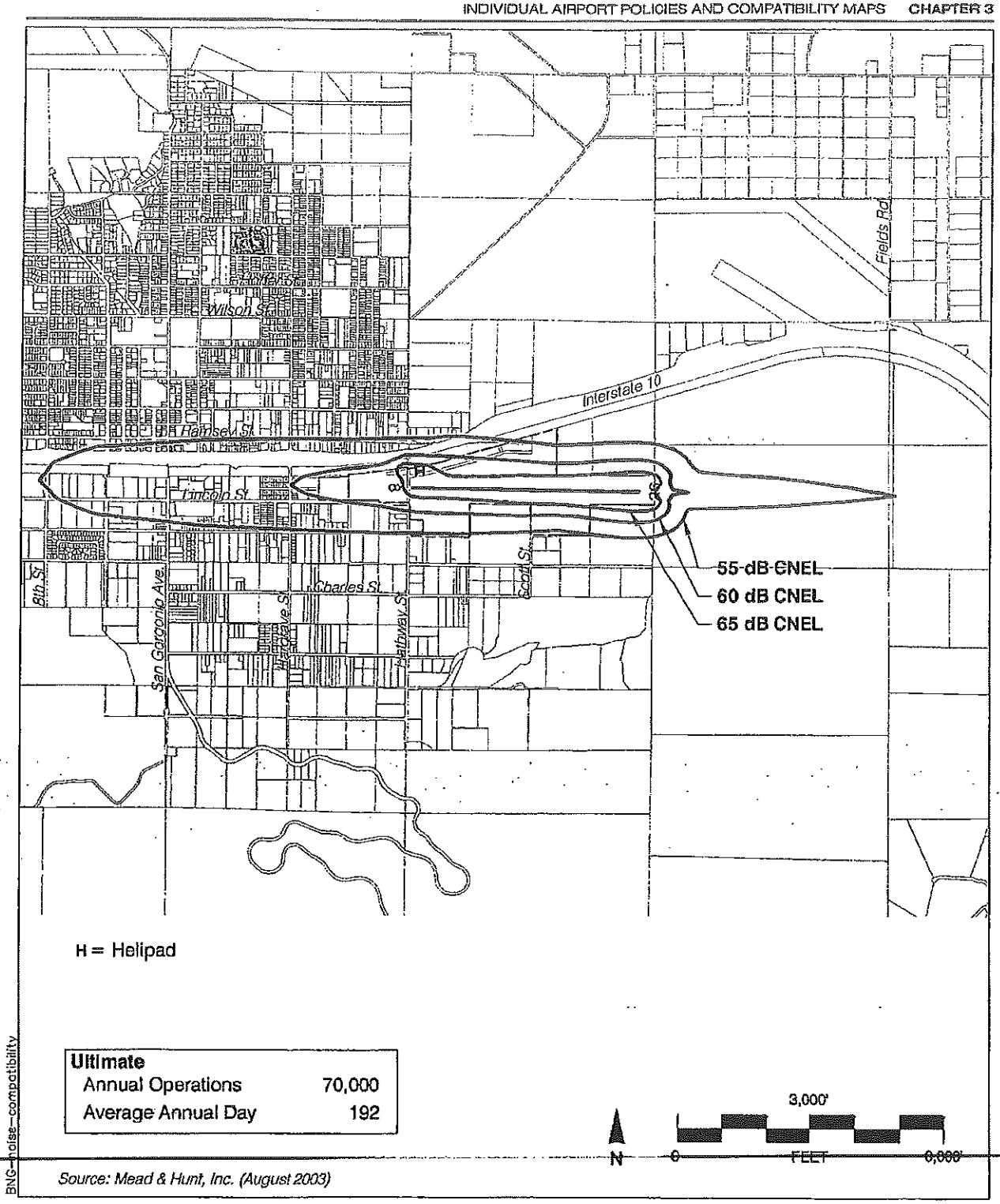
Riverside County
Airport Land Use Compatibility Plan
Policy Document

(Adopted October 2004)

Map BN-2

Airspace Plan

Banning Municipal Airport



BNG–noise–compatibility

Map BN-3

Noise Compatibility Contours

Banning Municipal Airport

Zone	Locations	Maximum Densities / Intensities: Residential (d.u./ac) [1]	Other Uses (people/ac) [2]: Average [6]	Single Acre [7]	with Bonus [8]	Req'd Open Land [3]	Additional Criteria: Prohibited Uses [4]	Other Development Conditions [5]
A	Runway Protection Zone and within Building Restriction Line	0	0	0	0	All Remaining	› All structures except ones with location set by aeronautical function › Assemblages of people › Objects exceeding FAR Part 77 height limits › Storage of hazardous materials › Hazards to flight [9]	› Avigation easement dedication
B1	Inner Approach/ Departure Zone	0.05 (average parcel size ≥20.0 ac.)	25	50	65	30%	› Children's schools, day care centers, libraries › Hospitals, nursing homes › Places of worship › Bldgs with >2 aboveground habitable floors › Highly noise-sensitive outdoor nonresidential uses [10] › Aboveground bulk storage of hazardous materials [11] › Critical community infrastructure facilities [12] › Hazards to flight [9]	› Locate structures maximum distance from extended runway centerline › Minimum NLR of 25 dB in residences (including mobile homes) and office buildings [13] › Airspace review required for objects >35 feet tall [14] › Avigation easement dedication
B2	Adjacent to Runway	0.1 (average parcel size ≥10.0 ac.)	100	200	260	No Req't	Same as Zone B1	› Locate structures maximum distance from runway › Minimum NLR of 25 dB in residences (including mobile homes) and office buildings [13] › Airspace review required for objects >35 feet tall [14] › Avigation easement dedication
		0.2 (average parcel size ≥5.0 ac.)	75	150	195	20%	› Children's schools, day care centers, libraries › Hospitals, nursing homes › Bldgs with >3 aboveground habitable floors › Highly noise-sensitive outdoor nonresidential uses [10] › Hazards to flight [9]	› Minimum NLR of 20 dB in residences (including mobile homes) and office buildings [13] › Airspace review required for objects >70 feet tall [15] › Deed notice required
		(1) ≤0.2 (average parcel size ≥5.0 ac.) *or* [16] (2) ≥5.0 (average parcel size ≤0.2 ac.)	100	300	390	10%	› Highly noise-sensitive outdoor nonresidential uses [10] › Hazards to flight [9]	› Airspace review required for objects >70 feet tall [15] › Children's schools, hospitals, nursing homes discouraged [17] › Deed notice required
C	Extended Runway	No Limit	No Limit [18]			No Req't	› Hazards to flight [9]	› Airspace review required for objects >100 feet tall [15] › Major spectator-oriented sports stadiums, amphitheaters, concert halls discouraged beneath principal flight tracks [18]
*	Height Review Overlay	Same as Underlying Compatibility Zone				Not Applicable	Same as Underlying Compatibility Zone	› Airspace review required for objects >35 feet tall [14] › Avigation easement dedication

See Chapter 3 for airport-specific additions or exceptions to these policies

Table 2A

Basic Compatibility Criteria

- On-airport storage of aviation fuel and other aviation-related flammable materials.
- Aboveground storage of less than 6,000 gallons of nonaviation flammable materials (this limit coincides with a break-point used in the Uniform Fire Code to distinguish between different classes of tanks).

(3) Within *Compatibility Zone C*, manufacture or storage of hazardous materials other than the types listed in Sub-policy (2) above is prohibited unless no other feasible alternative site exists and the facility is designed in a manner that minimizes its susceptibility to damage from an aircraft accident.

(d) Critical Community Infrastructure: Construction of power plants, electrical substations, public communications facilities, and other critical community infrastructure shall be restricted as follows:

(1) Within *Compatibility Zone A*, all such uses are prohibited.

(2) Within *Compatibility Zones B1* and *B2*, such uses are prohibited unless no other feasible alternative site exists and the facility is designed in a manner that minimizes its susceptibility to damage from an aircraft accident.

4.2.4. *Open Land:* In the event that a light aircraft is forced to land away from an airport, the risks to the people on board can best be minimized by providing as much open land area as possible within the airport vicinity. This concept is based upon the fact that the majority of light aircraft accidents and incidents occurring away from an airport runway are controlled emergency landings in which the pilot has reasonable opportunity to select the landing site.

(a) To qualify as open land, an area should be:

(1) Free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires.

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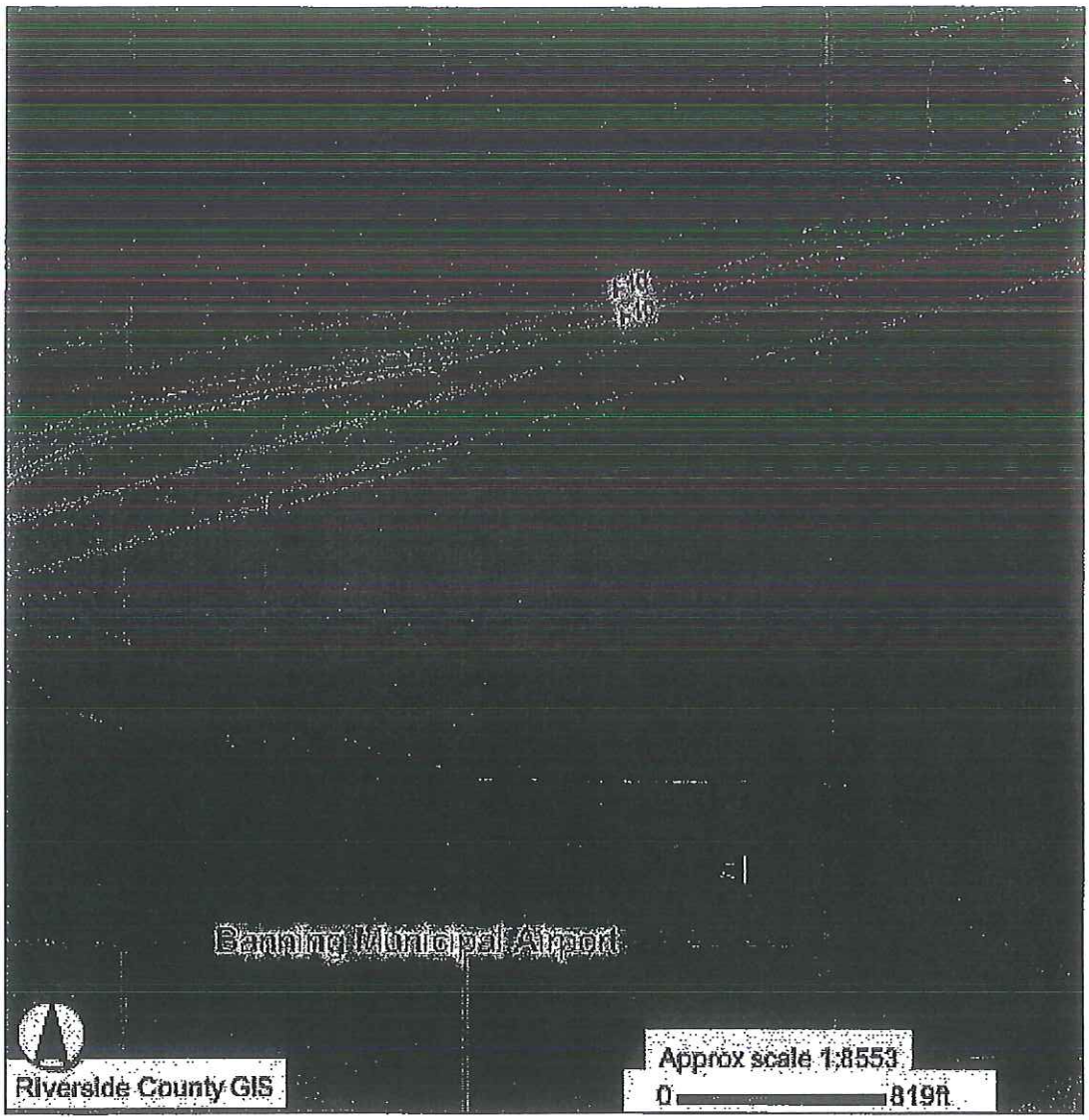
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(c) Open land requirements for each compatibility zone are to be applied with respect to the entire zone. Individual parcels may be too small to accommodate the minimum-size open area requirement. Consequently, the identification of open land areas must initially be accomplished at the general plan or specific plan level or as part of large (10 acres or more) development projects.

(d) Clustering of development, subject to the limitations noted below, and providing contiguous landscaped and parking areas is encouraged as a means of increasing the size of open land areas.

(e) Building envelopes and the airport compatibility zones should be indicated on all development plans and tentative maps for projects located within the influence area of airports covered by this *Compatibility Plan*. Portraying this information is intended to assure that individual development projects provide the open land areas identified in the applicable general plan, specific plan, or other large-scale plan.

RIVERSIDE COUNTY GIS



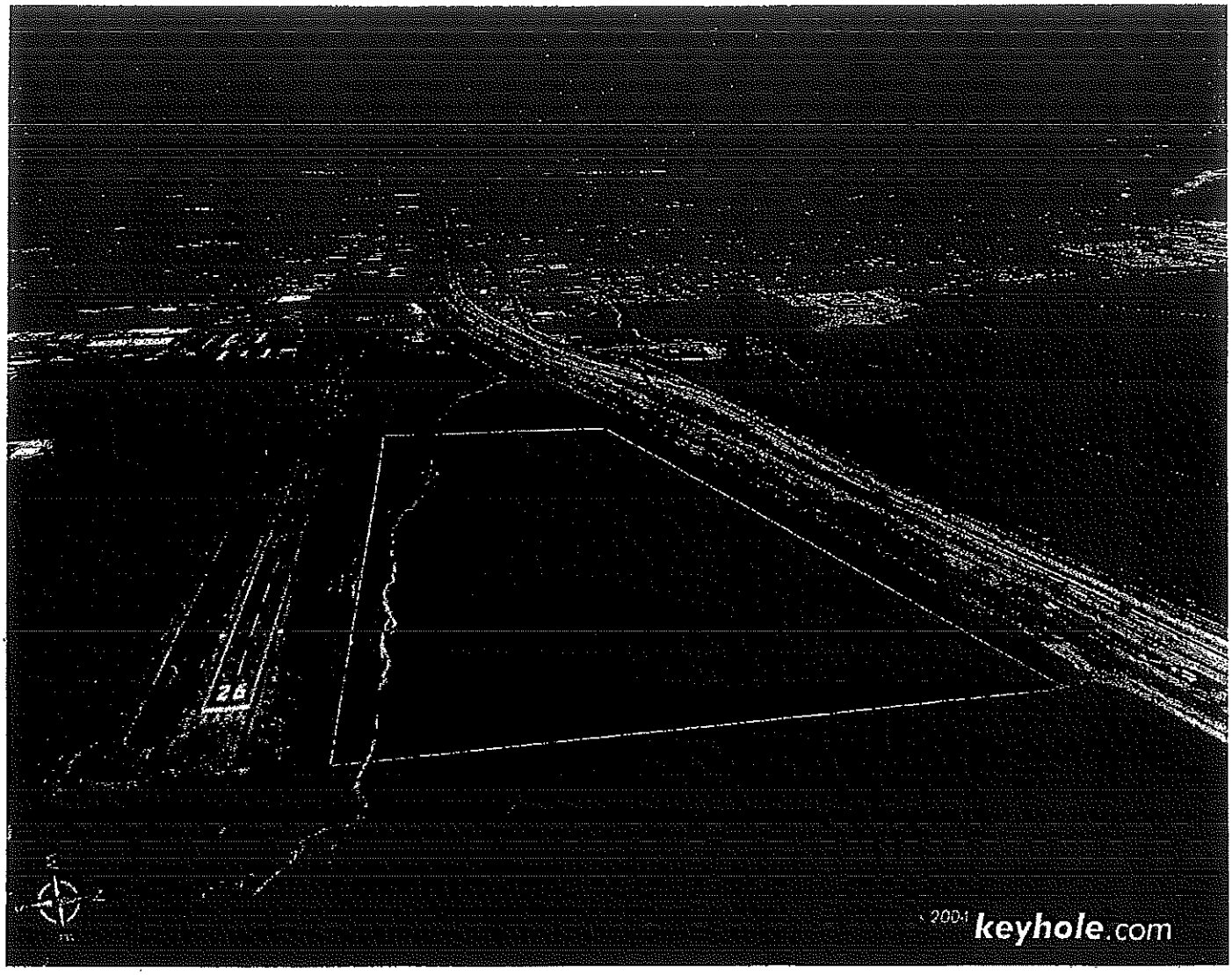
Selected parcel(s):
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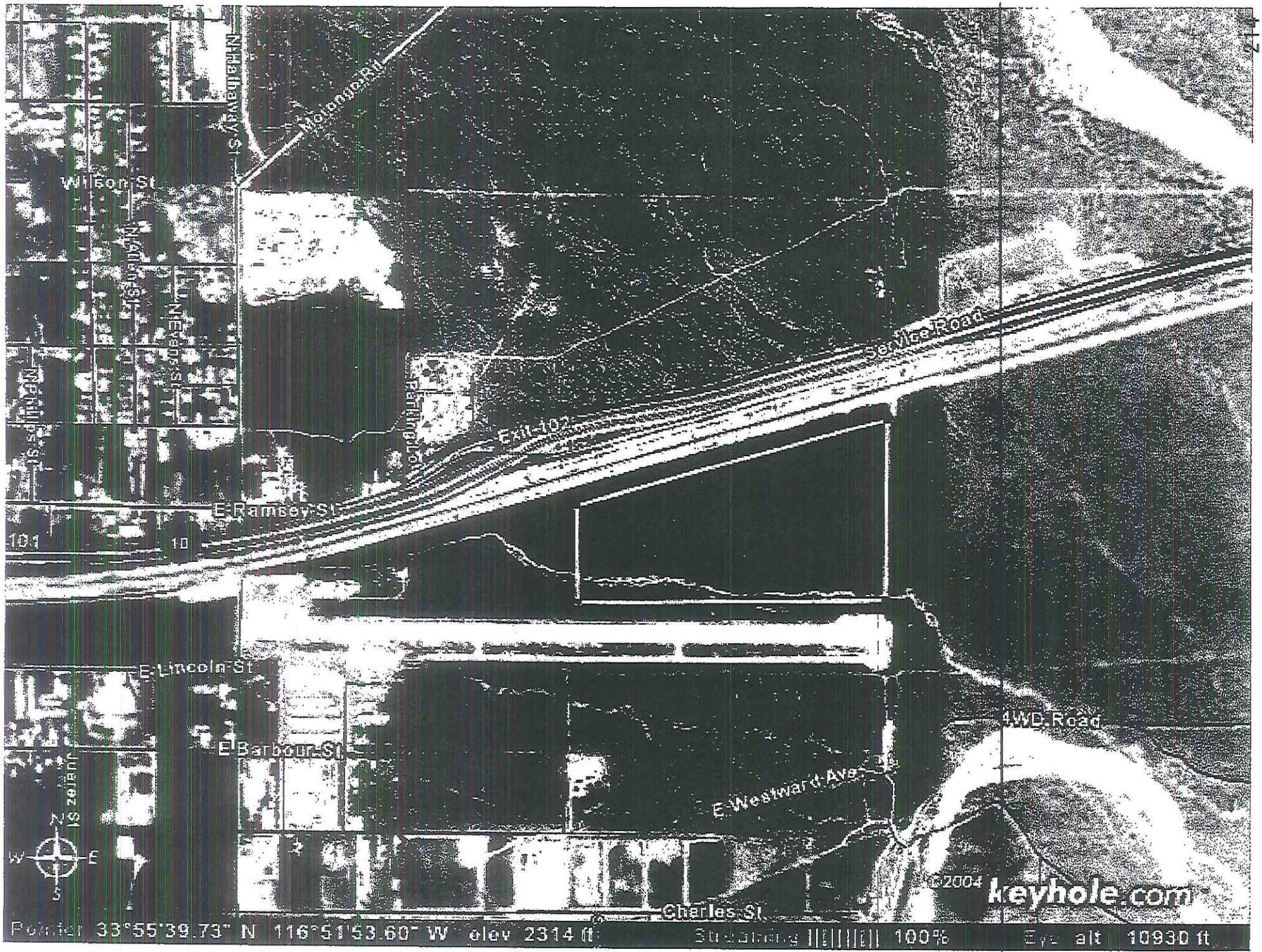
AIRPORTS

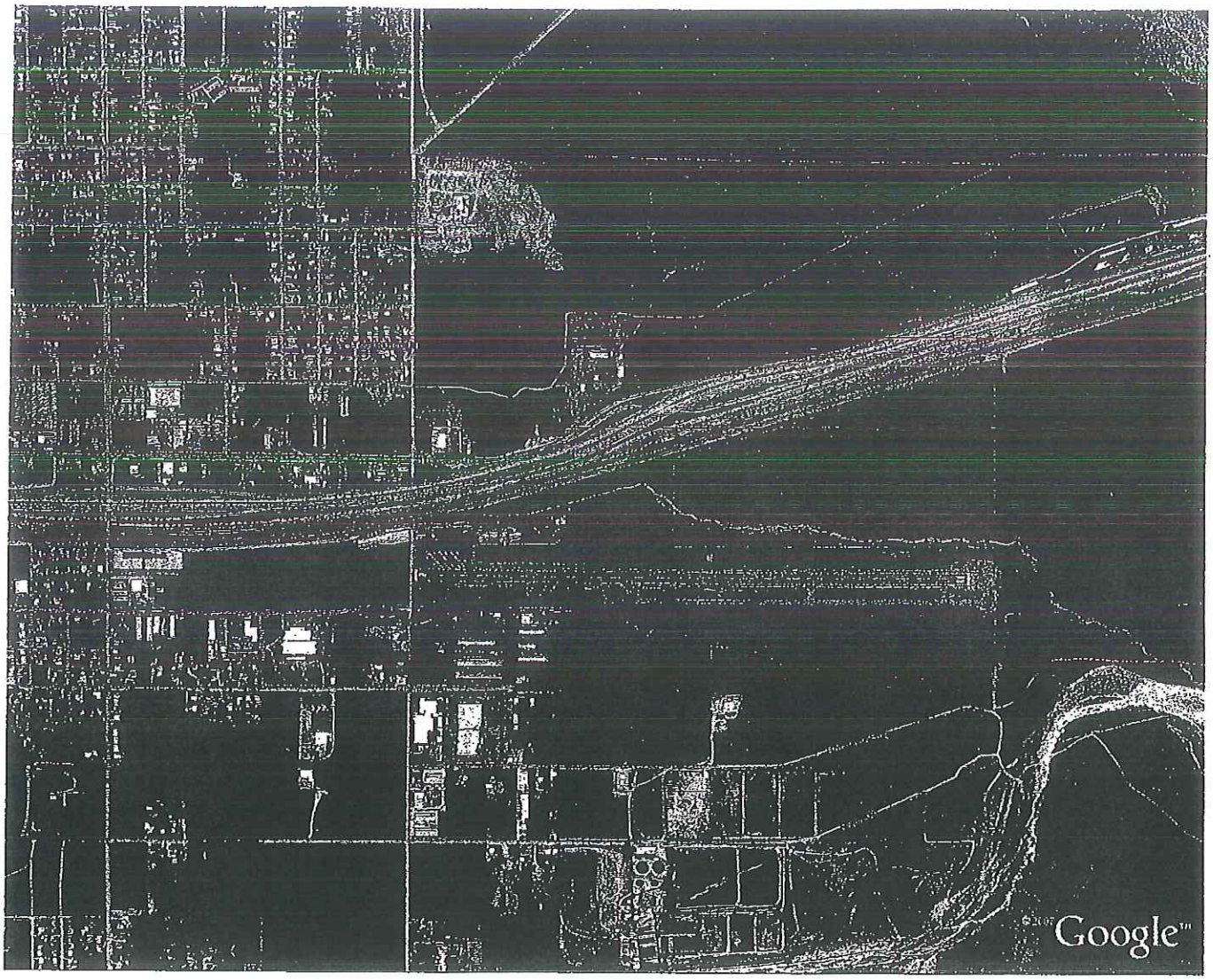
- SELECTED PARCEL
- PARCELS
- AIRPORT RUNWAYS
- CIRCULATION ELEMENT ULTIMATE RIGHT-OF-WAY (APPROX)
- AIRPORT INFLUENCE AREAS
- AIRPORT BOUNDARIES
- HIGHWAYS

IMPORTANT
This information is made available through the Riverside County Geographic Information System. The information is for reference purposes only. It is intended to be used as base level information only and is not intended to replace any recorded documents or other public records. Contact appropriate County Department or Agency if necessary. Reference to recorded documents and public records may be necessary and is advisable.

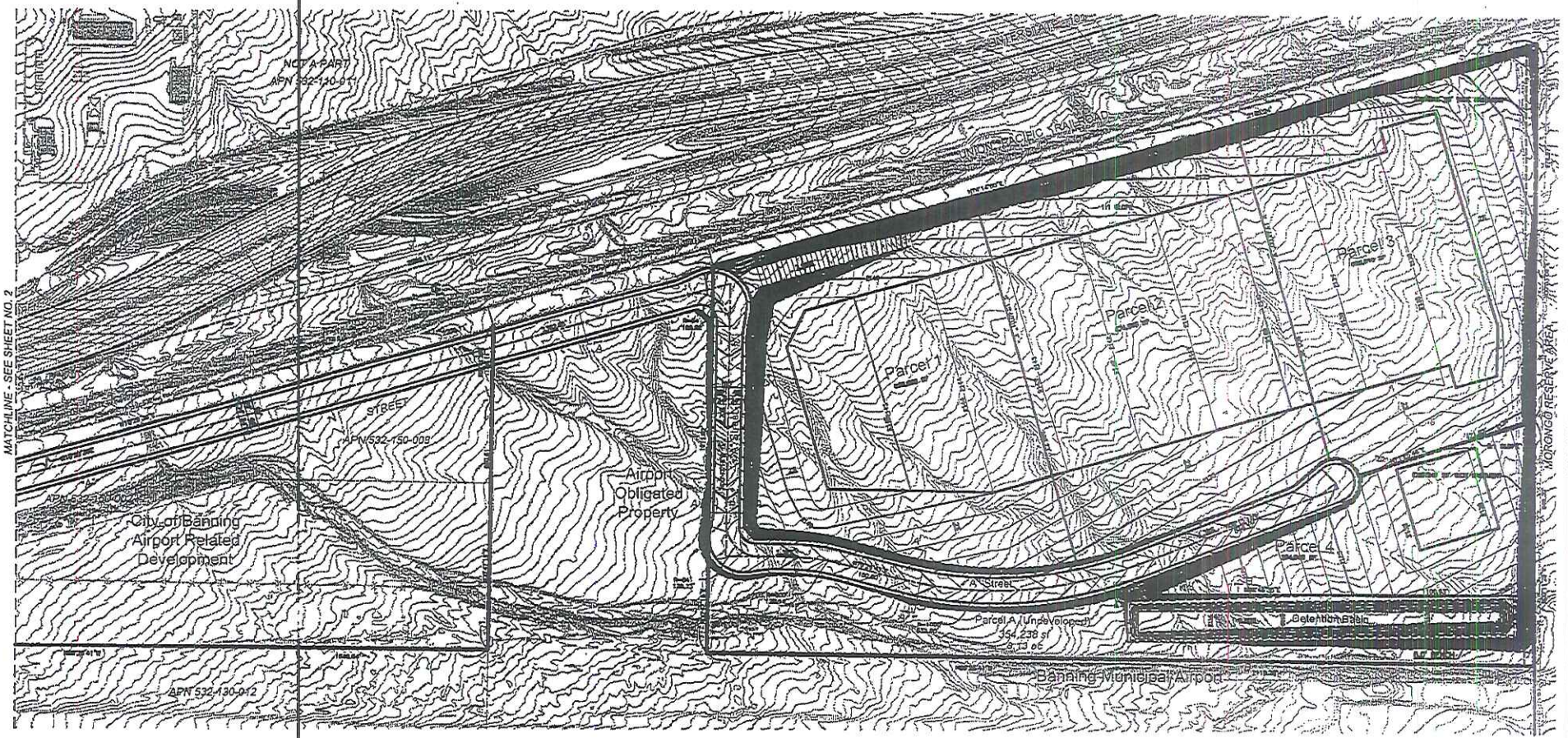
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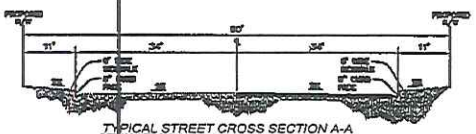

26
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Wilson St
N Main St
N Hallidie Way
Norcross Rd
Service Road
Exit 102
E Ramsey St
E Lincoln St
E Barbour St
E Westward Ave
4WD Road
Charles St
©2004 keyhole.com
33°55'39.73" N 116°51'53.60" W elev 2314 ft
100%
alt 10930 ft

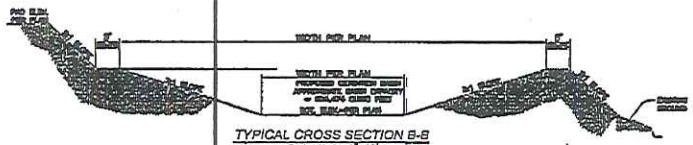

Google™

TENTATIVE PARCEL MAP NO. 34335





TYPICAL STREET CROSS SECTION A-A
Scale: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL CROSS SECTION B-B
Scale: Horiz. 1"=10'
Vert. 1"=5'

GRAPHIC SCALE
SCALE: 1" = 100'

PROJECT DATA:

GROSS AREA	3,793,413 SF	(87.09 AC)
"A" STREET	221,561 SF	(5.09 AC)
DETENTION BASIN	100,583 SF	(2.31 AC)
NET (BUILDABLE) AREA	1,971,840 SF	(45.26 AC)

OWNER/DEVELOPER

MC HOLDINGS, LLC.
220 NEWPORT CENTER DRIVE, SUITE 200
NEWPORT BEACH, CA. 92660
TELE (949) 721-0013
FAX (949) 644-0080
CONTACT: JEFF GORDON

SOILS ENGINEER

GEOTECHNICS INCORPORATED
1130 PALMYRITA, SUITE 200A
RIVERSIDE, CA. 92507
TELE (951) 222-0200
FAX (951) 222-0279
CONTACT: ANTHONY F. BOLFING

GENERAL PLAN

AIRPORT INDUSTRIAL

ZONING

IL

APN

532-130-001
532-130-003
532-110-009

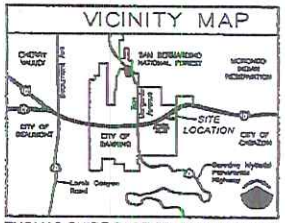
BENCH MARK

FOUND 3" BRASS DISK IN PLASTIC SLEEVE STAMPED "D 1311 1978" PER NATIONAL GEODETIC SURVEY, LOCATED 2.35 MILES EAST ALONG RAILROAD FROM THE SAN GORGONIO AVENUE CROSSING IN BANNING.

ELEVATION= 2118.44 FEET DATUM=NGVD 29

Date: December 8, 2006

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:

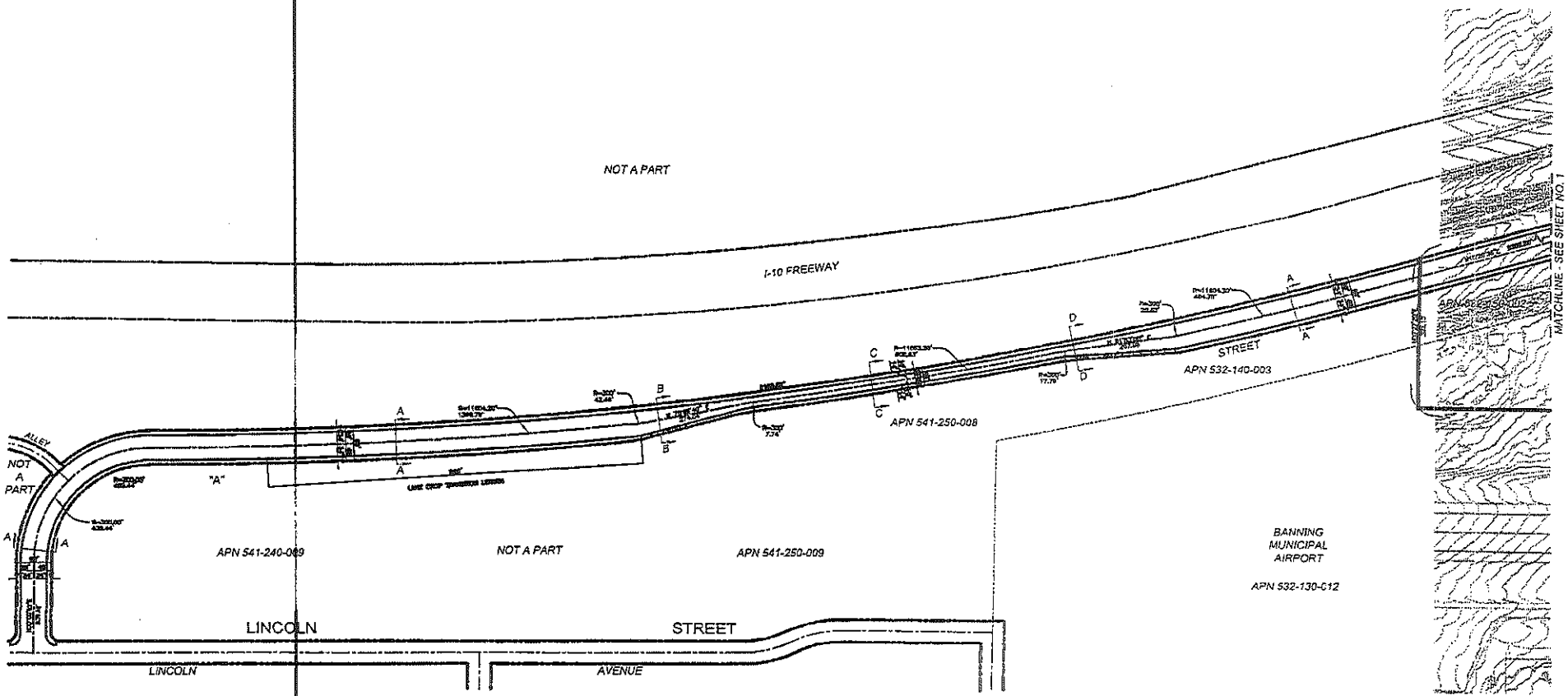
Kimley-Horn and Associates, Inc.

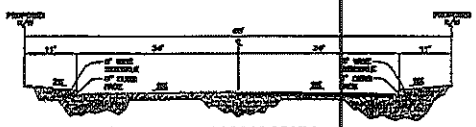
© 2006 KIMLEY-HORN AND ASSOCIATES, INC.

1770 Iowa Avenue, Suite 250, Riverside, CA 92507
TEL (951) 782-0041 FAX (951) 783-0948

SHEET NO. 1 OF 2

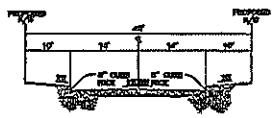
TENTATIVE PARCEL MAP NO. 34335





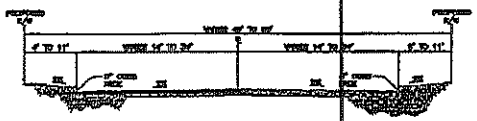
TYPICAL STREET CROSS SECTION A-A

Scales: Horiz. 1"=10'
Vert. 1"=5'



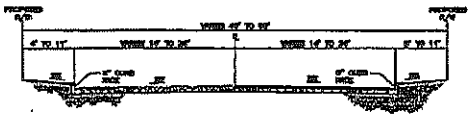
TYPICAL STREET CROSS SECTION C-C

Scales: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION B-B

Scales: Horiz. 1"=10'
Vert. 1"=5'



TYPICAL STREET CROSS SECTION D-D

Scales: Horiz. 1"=10'
Vert. 1"=5'

GRAPHIC SCALE

SCALE: 1" = 100'

PROJECT DATA:

GROSS AREA: 3,703,413 SF (85.00 AC)
"A" STREET: 221,261 SF (5.08 AC)
DETENTION BASIN: 198,063 SF (4.41 AC)
NET (BUILDABLE) AREA: 1,971,344 SF (45.26 AC)

GENERAL PLAN

AIRPORT INDUSTRIAL

ZONING

M

APN

541-130-001
541-130-002
541-110-004

OWNER/DEVELOPER

MC HOLDINGS, LLC.
2030 MAIN STREET, SUITE 1300
IRVINE, CA 92614
TEL: (949) 263-8400
FAX: (949) 263-8414
CONTACT: JEFF GORDON

SOILS ENGINEER

GEOTECHNICAL INCORPORATED
1192 KRAMERIA, SUITE 220A
RIVERSIDE, CA 92507
TEL: (951) 369-0051
FAX: (951) 369-0578
CONTACT: ANTHONY F. SOLIMAN

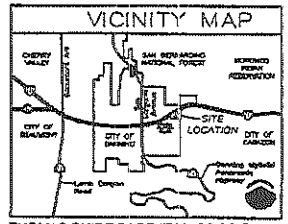
BENCH MARK

FOUND 3" BRASS DISC IN PLASTIC SLEEVE STAMPED "S 1311 1978" FOR HORIZONTAL GEODETIC CONTROL, LOCATED JUST WEST END ALONG RAILROAD FRONT THE SAN GORGONIO AVENUE CROSSING IN BANNING.

ELEVATION= 2119.44 FEET DATUM=NGVD 29

Date: December 6, 2006

VICINITY MAP



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:

Kimley-Horn and Associates, Inc.

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1770 Iowa Avenue, Suite 200, Riverside, CA 92507
Tel (951) 782-0241 Fax (951) 782-0245

SHEET NO. 2 OF 2

APPLICATION FOR MAJOR LAND USE ACTION REVIEW
RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

ALUC Identification No. ZAP1002BA07

PROJECT PROPONENT (TO BE COMPLETED BY APPLICANT)

Date of Application: 4-20-07

Property Owner: MIC Holdings, LLC — Phone Number: (949) 721-0013

Mailing Address: 250 Newport Center Dr
Suite 200
Newport Beach, CA 92660
ATTN: Jeffrey Gordon

Agent (if any) — Phone Number

Mailing Address

PROJECT LOCATION (TO BE COMPLETED BY APPLICANT)

Attach an accurately scaled map showing the relationship of the project site to the airport boundary and runways

BA

Street Address: 1500 (+/-) John Street
Banning, CA

Assessor's Parcel No.: 532-110-006 / 532-030-002 / 532-130-001 — Parcel Size: 60 +/- Acres

Subdivision Name: TPM 34335 — Zoning Classification: Airport Industrial

Lot Number: N/A

PROJECT DESCRIPTION (TO BE COMPLETED BY APPLICANT)

If applicable, attach a detailed site plan showing ground elevations, the location of structures, open spaces and water bodies, and the heights of structures and trees; include additional project description data as needed

Existing Land Use (describe): Vacant

Proposed Land Use (describe): Industrial Subdivision - Tentative Parcel Map
Subdividing into 4 Parcels of ultimate Industrial Park
NO Buildings planned at this time

For Residential Uses — Number of Parcels or Units on Site (exclude secondary units): N/A

For Other Land Uses (See Appendix C) — Hours of Use

Number of People on Site — Maximum Number: Unknown at this time

Method of Calculation: N/A

Height Data — Height above Ground or Tallest Object (including antennas and trees): N/A ft.

Highest Elevation (above sea level) of Any Object or Terrain on Site: N/A ft.

Flight Hazards — Does the project involve any characteristics which could create electrical interference, confusing lights, glare, smoke, or other electrical or visual hazards to aircraft flight? ☐ Yes ☒ No

If yes, describe

REFERRING AGENCY (TO BE COMPLETED BY AGENCY STAFF)

Date Received: 4-24-07

Agency Name: City of Banning

Staff Contact: Oscar Orci

Phone Number: (951) 922-3131

Agency's Project No.: Parcel Map 34335

Type of Project
- ☐ General Plan Amendment
- ☐ Zoning Amendment or Variance
- ☐ Subdivision Approval
- ☐ Use Permit
- ☐ Public Facility
- ☐ Other

ALUC REVIEW (TO BE COMPLETED BY ALUC EXECUTIVE DIRECTOR)

Application Receipt

Date Received _____ By _____

Is Application Complete? ☐ Yes ☐ No

If No, cite reasons _____

Airport(s) Nearby _____

Primary Criteria Review

Compatibility Zone(s) ☐ A ☐ B1 ☐ B2 ☐ C ☐ D ☐ E ☐ Ht.

Allowable (not prohibited) Use? ☐ Yes ☐ No _____

Density/Intensity Acceptable? ☐ Yes ☐ No _____

Open Land Requirement Met? ☐ Yes ☐ No _____

Height Acceptable? ☐ Yes ☐ No _____

Easement/Deed Notice Provided? ☐ Yes ☐ No _____

Special Conditions

Describe: _____

Supplemental Criteria Review

Noise _____

Safety _____

Airspace Protection _____

Overflight _____

ACTIONS TAKEN (TO BE COMPLETED BY ALUC EXECUTIVE DIRECTOR)

ALUC Executive Director's Action

☐ Approve Date _____

☐ Refer to ALUC

ALUC Action

☐ Consistent Date _____

☐ Consistent with Conditions (list conditions/attach additional pages if needed)

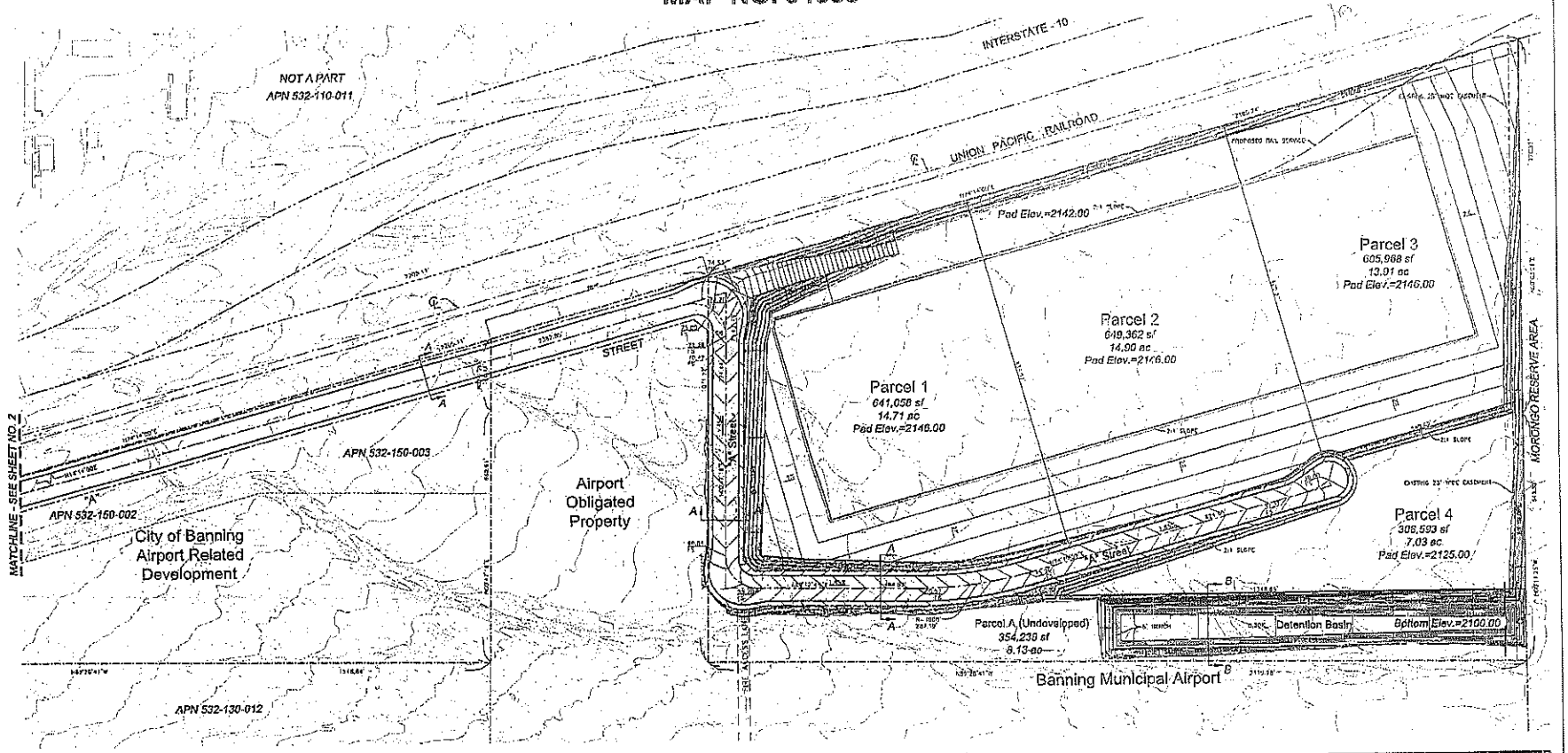
☐ Inconsistent (list reasons/attach additional pages if needed)

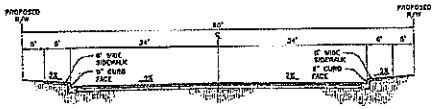
April 2005

ATTACHMENT 4

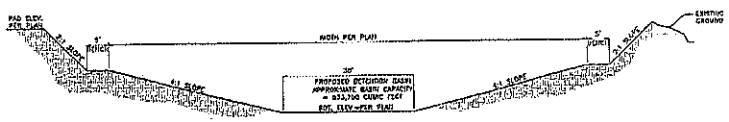
Copy of Tentative Parcel Map No. 34335

TENTATIVE PARCEL MAP NO. 34335





TYPICAL STREET CROSS SECTION A-A



TYPICAL CROSS SECTION B-B

GRAPHIC SCALE
SCALE: 1" = 100'

PROJECT DATA:

OWNER/DEVELOPER

SOILS ENGINEER

GENERAL PLAN
AIRPORT INDUSTRIAL

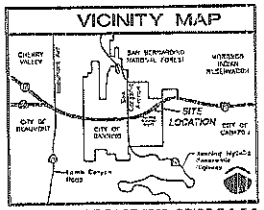
ZONING

APN
532-130-001
532-130-002
532-110-008

BENCH MARK

DATE: May 16, 2006

VICINITY MAP

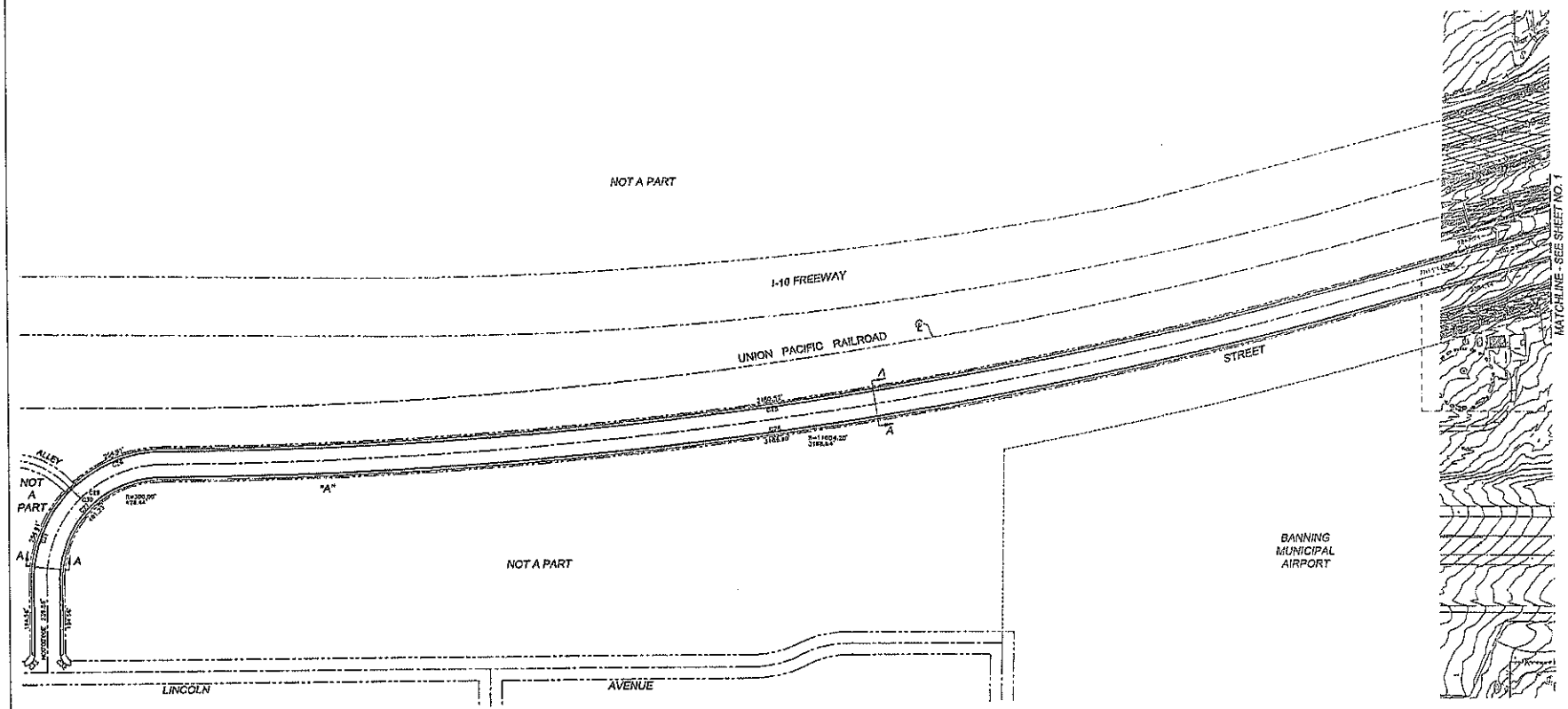


THOMAS GUIDE PAGE 1722, GRIDE E & F-3

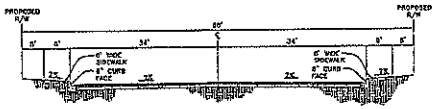
PREPARED BY:
Kimley-Horn and Associates, Inc.

SHEET NO. 1 OF 2

TENTATIVE PARCEL MAP NO. 34335



GRAPHIC SCALE
SCALE: 1" = 100'



TYPICAL STREET CROSS SECTION A-A
Scale: Horiz. 1"=10'
Vert. 1"=5'

PROJECT DATA:

GROSS AREA	2,787,958 SF	(63.997 AC)
"A" STREET	231,144 SF	(5.26 AC)
DEDICATION BASIN	69,310 SF	(1.67 AC)
NET (BUILDABLE) AREA	2,449,504 SF	(56.02 AC)

OWNER/DEVELOPER

MERIDIEN INVESTMENTS CO.
720 NEWPORT CENTER DRIVE, SUITE 200
NEWPORT BEACH, CA 92660
TEL: (949) 721-0013
FAX: (949) 644-4880
CONTACT: JEFF GORDON

SOILS ENGINEER

GEOTECHNIK INCORPORATED
1120 PALMYRA, SUITE 340A
RIVERSIDE, CA 92507
TEL: (951) 222-9388
FAX: (951) 222-9389
CONTACT: ANTHONY T. BELFAST

GENERAL PLAN

AIRPORT INDUSTRIAL

ZONING

AP-A

APN

532-120-001
532-120-002
532-130-008

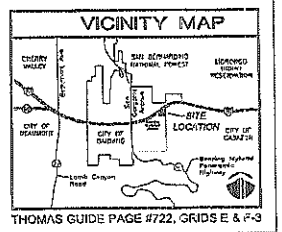
BENCH MARK

FOUND 3" BRASS DISK IN PLASTIC SLEEVE MARKED "B 1321 1975" FLUSH WITH CONCRETE SURFACE, LOCATED 2.30 MILES EAST ALONG RAILROAD FROM THE BAY CORNERING AVENUE CROSSING IN BANNING.

ELEVATION= 3115.44 FEET DATUM=NGVD 29

CURVE TABLE				
CURVE	LENGTH	RADIUS	DELTA	TANGENT
C25	3109.32	11570.00	15°23'59"	1561.60
C26	3193.79	11430.00	15°59'37"	601.00
C27	416.54	286.00	83°26'31"	255.71
C28	316.77	234.00	77°30'15"	183.22
C29	19.40	11.00	99°32'41"	13.13
C30	19.40	11.00	99°35'41"	13.15
C31	209.11	225.00	53°15'15"	112.37
C32	23.32	25.00	53°30'30"	12.58
C33	39.27	25.00	90°00'00"	25.00

DATE: NOVEMBER 23, 2005



THOMAS GUIDE PAGE #722, GRIDS E & F-3

PREPARED BY:
Kimley-Horn and Associates, Inc.
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3770 Iowa Avenue, Suite 220, Riverside, CA 92507
Tel: (951) 782-0881 Fax: (951) 788-0845

SHEET NO. 2 OF 2

ATTACHMENT 5

Public Hearing Notice

Record Gazette
218 N. Murray St.

Proof of Publication

(2015.5 C.C.P.)

129948 MAP NO. 34335

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:

April 1, 2016

Executed on: 04/01/2016

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. 34335 (TPM 34335), LOCATED GENERALLY SOUTH OF THE RAILROAD RIGHT OF WAY, IMMEDIATELY NORTH OF BANNING AIRPORT, AND EAST OF HATHAWAY STREET; APNS 532-110-006, 532-130-001 AND 532 130-002 NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning City Council, to be held on Tuesday, April 12, 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. 34335 (TPM 34335) The proposed project site is located generally, south of the railroad right of way, immediately north of Banning Airport, and east of Hathaway Street, APNs 532-110-006, 532-130-001 and 532-130-002. TPM No. 34335 was previously approved on October 22, 2007. Information regarding the request for a twelve (12) month extension of time for Tentative Parcel Map No. 34335 (TPM 34335) 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 29, 2016
Publish: April 1, 2016
Published in
The Record Gazette
No. 129948
4/01/16

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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: April 12, 2016

SUBJECT: Adopt Resolution No. 2016-19
General Plan Annual Progress Report for Calendar Year 2015

This item was continued from the regular City Council meeting of March 22, 2016.

RECOMMENDATION:

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).

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).

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.

OPTIONS:

The General Plan Annual Progress Report is required to supply the Governor's Office of Planning and Research (OPR) and the State Housing and Community Development Department (HCD) with information informing the State of the City's progress in implementing the General Plan. Providing a copy of the APR to HCD fulfills the statutory requirement to report certain housing information, including the local agency's progress in meeting its share of the regional housing needs to the State. Generally, failure to meet state statutes in particular those related to housing may have consequences such as affecting grant applications and State funding opportunities.

FISCAL IMPACT:

There is no direct fiscal impact to the City's General Fund as a result of the recommended action.

ATTACHMENTS:

1. Resolution No. 2016-19
2. General Plan Annual Progress Report for Calendar Year 2015
3. Copy of PC Resolution No. 2016-03

Reviewed By:

Brian Guillot
Community Development Director

Approved By:

Michael Rock
City Manager

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, on the 22rd day of March 2016, the City Council continued consideration of the General Plan Annual Progress Report for Calendar Year 2015 to the April 12, 2016, City Council meeting; and

WHEREAS, at this public meeting on the 12th day of April 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 12th day of April 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 12th day of April 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 Resolution No. 2016-19 was duly adopted at a regular meeting of said City Council on the 12th day of April 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)

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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 I
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	Low-Income	Moderate-Income	Above Moderate-Income	Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development. See Instructions	Deed Restricted Units. See Instructions	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.
(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.	Througout 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 1493, 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

LSL
CERTIFIED PUBLIC ACCOUNTANTS

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- Michael D. Mangold, CPA
- David S. Myers, CPA

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. Matz, 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

To the Honorable Mayor and Members of the
Banning Housing Authority
City of Banning, California

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
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• 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

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ATTACHMENT 3

(PC Resolution No. 2015-03)

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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: Fred Mason, Electric Utility Director
Brandon Robinson, Associate Electrical Engineer

MEETING DATE: April 12, 2016

SUBJECT: **Resolution No. 2016-21, "Awarding the Construction Contract for Project No. 2016-01EL 'West Barbour St. 12kV Underground Reconductoring' and Rejecting All Other Bids"**

RECOMMENDATION:

Adopt City Council Resolution No. 2016-21:

I. Approving the award of the Construction Contract for Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring" to M. Brey Electric Inc., of Beaumont, California, in the amount not to exceed $205,590.00 including taxes and allowing a 10% contingency of $20,559.00, and rejecting all other bids.

II. Authorizing the City Manager to execute the construction and professional services contract agreements and amendments related to Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring."

III. Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers related to the project and to approve change orders within the 10% contingency.

JUSTIFICATION:

Approval of this resolution would support the City of Banning Electric Utility ("Utility") in replacing inadequate underground facilities, while improving the overall reliability of the Utility's facilities.

BACKGROUND:

The underground conduit and wire within the neighborhood between 12th Street to the east, 16th Street to the west, on Barbour Street on the north, and Westward Ave on the

south was installed during the mid-1970s. It consists of unjacketed 3-phase primary voltage wire within 4" PVC conduit. During an outage in December 2014, the Utility discovered a primary cable fault in one section of the circuit lateral on Barbour St between 12th Street and 16th Street. The Utility's powerline crew had to use several methods for restoring power, which included running underground wire on overhead poles during the emergency to get customers energized while excavation occurred to repair the underground conduit and wire. Part of this temporary fix included installing primary voltage wires into conduit designated for secondary voltage wire due to this duct being the only spare available. Since this was only a temporary solution, the Utility has recommended that a permanent installation be completed, which includes replacing the old unjacketed wire with fully insulated 3-phase voltage wires in new PVC conduit.

The reconductoring of the underground primary voltage lateral is recommended due to the fact that the unjacketed cable was unable to be pulled from the existing conduit. After years of continued service in the neighborhood, the heat from the unjacketed wire had molded to the conduit in many areas. As a result of similar primary cable faults within the City, the Utility has determined that it is critical to begin reconductoring, not only this location, but also other locations where unjacketed cable is installed underground to bring our utility up to date with current regulations for underground electrical construction.

The principal items of work includes the furnishing of all labor, materials, equipment, services, and incidentals necessary for installation of underground electrical utilities for improvements at 12th Street, Barbour Street, 16th Street and Westward Avenue in the City of Banning, California. The work will be completed per the current Greenbook and the City of Banning Specifications.

On January 19 and January 25, 2016 Utility staff advertised Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring." The project was advertised in the Press Enterprise, Record Gazette, Desert Sun, City of Banning website and various industry plan rooms.

On February 8, 2016 the City Clerk received five (5) bids, publicly opened and read out loud the following results for "West Barbour St. 12kV Underground Reconductoring":

Company	Bid Results
1. M. Brey Electric, Inc. of Beaumont, CA	$205,590.00
2. Southern California West Coast Electric, Inc. of Beaumont, CA.	$219,945.00
3. VCI Construction LLC of Upland, CA	$230,252.29
4. Hotline Construction of Romoland, CA	$244,770.00
5. Vantage utility Services of Upland, CA	$268,293.00

A copy of the bid results are provided in Exhibit "A" and the documents for the lowest responsive bidder can be found attached as Exhibit "B".

At the conclusion of the bid opening, Southern California West Coast Electric issued a protest of M. Brey Electric's bid, which was submitted to the City Clerk's office on February 11, 2016. Southern California West Coast Electric had protested that some items in M. Brey Electric's bid were not complete, which should label their bid as non-

responsive. The complete document submitted with the bid protest can be found attached herewith as Exhibit "C".

M. Brey Electric officially responded to the bid protest on February 16, 2016 stating that their omissions were minor irregularities that do not constitute an advantage over other bidders. M. Brey Electric requested that the Utility move forward with awarding the contract to their company. The complete document submitted with the response to the bid protest can be found attached herewith as Exhibit "D".

After review of all information provided, the Utility considered the items omitted from the lowest responsive bidder, M. Brey Electric Inc., to be minor irregularities in that they do not (1) affect the price of the bid; (2) give the bidder an advantage or benefit not enjoyed by other bidders; or (3) adversely impact the interests of the procuring agency. The complete document submitted as City of Banning Electric Utility's response to the bid protest can be found attached herewith as Exhibit "E".

OPTIONS:

1. Approve the award of the Construction Contract for Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring" to M. Brey Electric Inc., of Beaumont, California, in the amount not to exceed $205,590.00 including taxes and allow a 10% contingency of $20,559.00, and reject all other bids.

2. Do not approve the award of the Construction Contract for Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring" to M. Brey Electric Inc., and instead award the bid to one of the other four bidders.

3. Reject all bids.

FISCAL IMPACT:

The Utility will require the approval of an appropriation of funds in the amount of $226,149.00 from the Electric Fund to account 673-7000-473.96-36, Undgr. Elec @ Barbour St.

ATTACHMENTS

Exhibit A: 2016-01EL Bid Results
Exhibit B: M. Brey Electric, Inc. Bid Documents
Exhibit C: So Cal West Coast Electric Bid Protest
Exhibit D: M. Brey Electric Bid Protest Response
Exhibit E: Utility Response to Bid Protest

Reviewed by:

Fred Mason
Electric Utility Director

Approved by:

Michael Rock
City Manager

Prepared by:

Brandon Robinson
Associate Electrical Engineer

RESOLUTION NO. 2016-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING THE CONSTRUTION CONTRACT FOR PROJECT NO. 2016-01EL 'WEST BARBOUR ST. 12KV UNDERGROUND RECONDUCTORING' AND REJECTING ALL OTHER BIDS"

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

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

WHEREAS, City of Banning Electric utility requires replacement of again underground electrical infrastructure at Barbour St, Westward Ave, 12th St, and 16th St in the City of Banning; and

WHEREAS, staff solicited bids for Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring; and

WHEREAS, M. Brey Electric, Inc. of Beaumont, CA is the lowest responsible bidder as shown on Exhibit A and B; and

WHEREAS, the City of Banning received a formal bid protest to the lowest bid, protest documents are attached herewith in Exhibit C, D, and E. As a result of all information received, the City determined that the minor irregularities in the lowest bid did not affect the price or provide an advantage over the other bidders; and

WHEREAS, the City of Banning will require an appropriation of funds from the Electric Fund equal to $226,149.00 to complete Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring;

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

SECTION 1. Adopt Resolution No. 2016-21, approving the award of the Construction Contract for Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring" to M. Brey Electric Inc., of Beaumont, California, in the amount not to exceed $205,590.00 including taxes and allowing a 10% contingency of $20,559.00.

SECTION 2. Authorizing the City Manager to execute the construction and professional services contract agreements and amendments related to Project No. 2016-01EL "West Barbour St. 12kV Underground Reconductoring."

SECTION 3. Authorizing the Administrative Services Director to make the necessary budget adjustments, appropriations, and transfers to fund this project.

PASSED, ADOPTED AND APPROVED this 12th day of April 2016.

Arthur L. 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"

SUMMARY OF BIDS RECEIVED
CITY OF BANNING

PROJECT NO.: 2016-01EL

DESCRIPTION: West Barbour Street 12kV Underground Reconductoring

BID OPENING DATE: February 8, 2016 TIME: 2:30 p.m.

NAME OF BIDDER:	Addendum 1+2	BID BOND		TOTAL BID AMOUNT:
Hot Line Construction Romoland, CA	✓	✓		$ 244,770.00
VCI Construction LLC Upland, CA	✓	✓		$ 230,252.29/100
M. Brey Electric, Inc. Beaumont, CA	✓	✓		$ 205,590.00
Southern California West Coast Electric, Inc. Beaumont, CA	✓	✓		$ 219,945.00
Vantage Utility Services Upland, CA	✓	✓		$ 268,293.00

VERIFIED BY: Bridi Kohler

Mari L. Calderon

EXHIBIT "B"

SECTION 1.3
OF
PROCEDURAL DOCUMENTS

BID

Proposal of M. Brey Electric, Inc,
hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as a Corporation.
*insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bids and Instruction to Bidders, Bidder hereby proposes to perform all work for the **Project No. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"** in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed and to achieve Substantial Completion **within Sixty (60) calendar days.** Final Completion shall be achieved within seven (7) calendar days following receipt of Substantial Completion punch-list.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of **$500.00** for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual damage.

BID SCHEDULE

PROJECT NO. PROJECT NO. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"

The Bid Schedule includes Bid Items 1 through 12. 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 **Schedule II Bid Price** shall be the sum of the amounts for Bid Items 1 through 12.

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 Schedule II pertains to all work as shown on drawing E-1228.

Bid Item	Description	Est. Qty.	Unit	Unit Price	Total
1	Potholing	1	LS		15,000.—
2	Permits and Licensing	1	LS		1000.—
3	Traffic Control	1	LS		7500.—

Bid Item	Description	Est. Qty.	Unit	Unit Price	Total
4	Trench Excavation and Native Backfill for primary up to 60" (36" minimum cover depth)	2,500	LF	1.—	2,500.—
5	Installation of Conduit (including all sweeps)	2,400	LF	18.—	43,200.—
6	Slurry Encasement Over Primary Conduit*	160	CY	100.—	16000.—
7	Installation of Concrete Hand Hole	3	EA	15000.—	45000.—
8	Installation of PVC Risers at Poles	20	LF	50.—	1000.—
9	Concrete Sidewalk and Pavement Restoration	10	CY	389.—	3,890.—
10	Asphalt Concrete Pavement Restoration, including Type II Aggregate Base Course	4,400	SF	7.—	30,8000.—
11	Grind and Overlay 1/10 ft. Thick (Street)	18,600	SF	2.—	37,200.—
12	Landscape Restoration	1	LS		2500.—
			BID PRICE		$ 205,590.—

BID AMOUNT IN WORDS: TWO HUNDRED FIVE THOUSAND FIVE HUNDRED NINETY & NO/100

* Slurry Backfill shall constitute a unit price adjustment to Bid Item 4. The unit price adjustment shall include all costs associated with the use of Slurry Backfill in lieu of native material for trench backfill, including the removal and disposal of surplus native material not used in the work. The unit price adjustment shall be made when Slurry Backfill is called for on the Drawings or as directed by the City. The unit price adjustment shall not be made when Slurry Backfill is used at the Contractor's decision in place of native backfill.

NOTE: This Bid Schedule will be included by the Contractor as a part of their bid. The City of Banning reserves the right to reduce quantities without a change in the Contractor's Bid Prices, due to a possible reduction in funding, at the time of contract award.

ADDENDA

Bidder acknowledges receipt of the following Addenda:

Addendum No.: 1 DATED: _____

Addendum No.: 2 DATED: _____

Addendum No.: _____ DATED: _____

Confirmed by Bidder: _____
(signature of authorized representative)

Print Name: Matthew Brey

Corporate Title: President.

NON COLLUSION AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF Riverside

Matthew Brey, being first duly sworn, the party making the
(Name of Bidder)

foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

(Signature)

Matthew Brey
(Typed Name)

SUBSCRIBED BEFORE ME on this 8th day of February, 2016.

Shelley Bates
Notary Public

My commission Expires:

7/14/18.

SHELLEY BATES
COMM. #2074524
Notary Public - California
Riverside County
My Comm. Expires July 14, 2018

SECTION 1.5
OF
PROCEDURAL DOCUMENTS

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, M. BREY ELECTRIC, INC., as Principal, and U.S. SPECIALTY INSURANCE COMPANY, as Surety, are hereby held and firmly bound unto the CITY OF BANNING as Owner in the penal sum of TEN PERCENT OF GREATER AMOUNT BID for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this 4TH day of FEBRUARY, 2016. The Condition of the above obligation is such that whereas the Principal has submitted to the CITY OF BANNING a certain Bid; attached hereto and hereby made a part hereof to enter into a contract in writing for the

Project No. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"

NOW, THEREFORE,

A. If said Bid shall be rejected, or

B. If said Bid shall be accepted and the Principal shall execute and deliver, within fifteen (15) days after the Notice of Award, a contract in the form attached hereto (properly completed in accordance with said Bid) and shall furnish a Bond for his faithful performance of said Contract and for the payment of all persons performing labor or furnishing materials in connection therewith, the required Insurance Certificates, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims there under shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Two Witnesses
(If Individual):

_____

_____

Principal: M. BREY ELECTRIC, INC.

By: _____

Title MATTHEW A. BREY, PRESIDENT

ATTEST (If Corporation):

By _____

Title President

(Corporate Seal)

SURETY: U.S. SPECIALTY INSURANCE COMPANY

By: _____

Title MARK D. IATAROLA, ATTORNEY-IN-FACT

ATTEST:

By _____

Title _____

(Corporate Seal)

IMPORTANT: Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance code.

Any claims under this bond may be addressed to:

(Name and Address of Surety)

U.S. SPECIALTY INSURANCE COMPANY
601 SOUTH FIGUEROA STREET, SUITE 1600
LOS ANGELES, CA 90017

(Name and address of Agent or Representative in California, if different from above)

MALONEY AND ASSOCIATES
435 WEST GRAND AVENUE
ESCONDIDO, CA 92025

(Telephone number and address of Surety and Agent or Representative in California)

SURETY: 310/649-0990
AGENT: 760/738-2610

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 SAN DIEGO)

On 02/04/2016 *Date* before me, JISSELLE MARIE SANCHEZ, NOTARY PUBLIC *Here Insert Name and Title of the Officer*,

personally appeared MARK D. IATAROLA *Name(s) of Signer(s)*

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

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

WITNESS my hand and official seal.

JISSELLE MARIE SANCHEZ
COMM # 2129586
SAN DIEGO COUNTY
NOTARY PUBLIC-CALIFORNIA
MY COMMISSION EXPIRES
OCT. 09, 2019

Signature _____ *Signature of Notary Public*

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: MARK D. IATAROLA	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney In Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

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California All-Purpose Certificate of 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 s.s.

On 2/8/16 before me, Shelley Bates,
(Insert Name and Title of the Officer)

personally appeared Matthew Bray
(Name(s) of Signer(s))

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

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

WITNESS my hand and official seal.

Shelley Bates
(Signature of Notary Public)

SHELLEY BATES
COMM. #2074524
Notary Public - California
Riverside County
My Comm. Expires July 14, 2018

Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☑ Individual(s)
- ☐ Attorney-in-fact
- ☑ Corporate Officer(s) President
  (Title(s))
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
(Name(s) of Person(s) or Entity(ies) Signer is Representing)

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

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POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

John G. Maloney, Mark D. Iatarola or Helen Maloney of Escondido, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed ******Fifteen Million****** Dollars ($ **15,000,000.00**).

This Power of Attorney shall expire without further action on December 20, 2017. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of December, 2014.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

Corporate Seals

By: _____
Daniel P. Aguilar, Vice President

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 Los Angeles SS:

On this 1st day of December, 2014, before me, Maria G. Rodriguez-Wong, a notary public, personally appeared Dan P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (Seal)

MARIA G. RODRIGUEZ-WONG
Commission # 2049771
Notary Public - California
Los Angeles County
My Comm. Expires Dec 20, 2017

I, Michael Chalekson, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 4TH day of FEBRUARY, 2016.

Corporate Seals

_____
Michael Chalekson, Assistant Secretary

Bond No. ----
Agency No. 4013

LIST OF SUBCONTRACTORS

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

LIST OF MATERIAL SUPPLIERS

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

LIST OF MATERIAL SUPPLIERS - cont.

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

LIST OF MATERIALS

The Contractor shall submit this sheet with his Bid, completed, to list details of materials he intends to use. It shall be understood that where the Contractor elects not to use the material manufacturers called for in the Contract documents he will substitute only items of equal quality, durability, functional character and efficiency as determined by the Engineer. It is the Contractor's responsibility to ascertain prior to bidding the acceptability of substitutes. No adjustment to the Contract price will be made for Contractor's failure to seek approval of substitutes prior to submitting its bid, except as permitted herein. Only one manufacturer shall be listed for each item.

Item #	Item or Material Description	Qty	Manufacturer	Make & Model Number	Vendor / Supplier

No change shall be allowed of any material manufacturer listed above after receipt of Bids unless the manufacturer so listed cannot furnish materials meeting the Specifications. Should such change be allowed, there will be no increase in the amount of the Bid originally submitted.

ANTI-TRUST CLAIM

In submitting a Bid to a public purchasing body, the Bidder offers and agrees that if the Bid is accepted, it will assign to the purchasing body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, materials, or services by the Bidder for sale to the purchasing body pursuant to the Bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Bidder.

DECLARATION OF ACCURACY

I, the undersigned, declare under penalty of perjury that the information presented in this bid, including without limitation the Contractor's license number and expiration date, are true and correct to the best of my knowledge. The bid of any Bidder not signed by the Bidder, or not containing the Bidder's license number and license expiration date, or containing information which is subsequently proven false, shall be considered nonresponsive and shall be rejected.

[signature]	1108 Elm ave.
Signature	Address
President	Beaumont, CA 92220
Title	City, State, Zip
2/8/16	(951) 845. 5438
Date	Telephone
581224	A, C-10
Contractor's License No.	Type of License
46-1020109	12/31/16
Federal ID No. (If applicable)	Expiration Date of License

(SEAL - if Bid is by a corporation)

ATTEST

CERTIFICATION
LABOR CODE - SECTION 1861

I, the undersigned Contractor, am aware of the provisions of Section 3700 et. Seq. of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor agrees to utilize federal job classifications for the submittal of the certified payrolls and further agrees to pay all of its employees the higher of the prevailing State or Federal wages.

CONTRACTOR:

M. Brey Electric, Inc
Firm Name

By

President
Title

QUESTIONNAIRE REGARDING BIDDERS

Number of years engaged in the contracting business under present business name 3 YRS

List of at least the last three contracts performed which show experience in working on a project of a nature similar to that covered in this proposal. If none, so indicate. Attach separate list of references if necessary.

	Year	Type of Work	Contract Amt.	Location	Contact person/phone
1	2014	Primary Ductbank circuit to sub.	187,000.00	NASA, Edwards AFB	Mike Gibson (760)986-9936
2	2013	Install power to Kilo 2	289,000.00	Camp Pendleton, CA	Debbie (951)845-2121
3	2015	Combat aircraft loading Apron	325,987.00	Yuma, AZ.	Mike (951)845-212
4					
5					
6					
7					

State of California Contractor's License No.: 581224

Contractor's License Expiration Date: 12/31/16

SECTION 1.4
OF
PROCEDURAL DOCUMENTS

BID SUBMITTAL CHECKLIST

Bidder confirms that the following documents are fully completed, included in and made a part of its Bid.

- ☐ Bid – Page I-8
- ☐ Bid Schedule – I-9 & I-10
- ☐ Addenda Acknowledgement – I-11
- ☐ Non-Collusion Affidavit – I-12
- ☐ Bid Security or Bond – I-13, I-22 & I-23
- ☐ List of Subcontractors – I-14
- ☐ List of Material Suppliers – I-15 & I-16
- ☐ List of Materials – I-17
- ☐ Declaration of Accuracy – I-18
- ☐ Labor Code Certification – I-19
- ☐ Questionnaire Regarding Bidders – I-20
- ☐ Corporate Certificate – I-28
- ☐ Preliminary Project Schedule
- ☐ Bid Submittal Checklist – I-21

Confirmed by Bidder _____
(signature of authorized representative)

Print Name: Matthew Brey

Corporate Title: President

EXHIBIT "C"

Southern California West Coast Electric Inc
252 W. 4th Street. Suite F. Beaumont. CA. 92223. (951)849-4223. CSL#462222

February 11, 2016

City of Banning
99 E. Ramsey St.
Banning, CA 92220
Attn: Brandon Robinson

Project: West Barbour Street 12kV Underground Reconductoring
Project Number: 2016-01EI.

Subject: Official protest of award to apparent low bidder

To Whom It May Concern:

The purpose of this letter is to formally provide the City of Banning with a written protest of the noted apparent lowest bidder.

The listing of apparent low bidder M. Brey Electric, Inc. is **non-responsive.**

Per Bidding Documents Section 1.4 Bid Submittal Check List, documents states **"bidder confirms that the following documents are fully completed in and made a part of this bid."** M. Brey Electric, Inc. failed to complete or include 4 out of the 14 required documents.

- **Bid Security or Bond** – I-13, I-22, I-23
  a) Document I-13 is missing in its entirety
  b) Document I-23 attest was not completed by surety
- **List of Subcontractors** – I-14
  a) Document was not filled out
  b) Without the listing of subcontractors, the prime contractor cannot use subcontractors with a dollar amount of not more than one half of one percent ($1,027.95).
- **List of Material Suppliers** – I-15
  a) Document was not filled out
  b) Project requires several items of material from several different vendors, none of which were listed.
- **List of Material** – I-17
  a) Document was not filled out
  b) Project requires several items of material none of which were listed.
- **Preliminary Project Schedule**
  a) Missing in its entirety

Southern California West Coast Electric Inc
252 W. 4th Street. Suite F. Beaumont. CA. 92223. (951)849-4223. CSL#462222

Per Public Contract Code, material typographical or numerical errors by the bidder cannot be waived by the public agency as "minor irregularities".

M. Brey Electric, Inc. is the apparent lowest bidder on the project. Please accept Southern California West Coast Electric, Inc.'s request that M. Brey Electric, Inc. bid be deemed non-responsive and award the project to Southern California West Coast Electric, Inc.

Sincerely,

Suzanne Birchard
Vice President/Treasurer/Secretary
252 W. 4th St. Suite F. Beaumont, CA 92223
Phone: (951) 849-4223 Email: Suzanne@SCWCE.com

SECTION I.3
OF
PROCEDURAL DOCUMENTS

BID

Proposal of M. Brey Electric, Inc,
hereinafter called "bidder", organized and existing under the laws of the State of California, doing business as a Corporation.
*insert "a corporation", "a partnership", or "an individual", as applicable.

To the CITY OF BANNING, hereinafter called "Owner":

In compliance with your Invitation for Bids and Instruction to Bidders, Bidder hereby proposes to perform all work for the **Project No. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"** in strict accordance with the Contract Documents, within the time set forth therein, and at the prices stated below.

By submission of this Bid, the Bidder certifies, and in the case of a joint Bid each party thereto certifies as to his own organization that this Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

Bidder hereby agrees that the Owner shall have a period of forty-five (45) calendar days after opening of bids within which to accept or reject the bids.

Bidder agrees to commence work under this contract on or before a date to be specified in the Notice to Proceed and to achieve Substantial Completion **within Sixty (60) calendar days.** Final Completion shall be achieved within seven (7) calendar days following receipt of Substantial Completion punch-list.

Bidder agrees that if the project is not fully completed within said time, he shall pay as liquidated damages, the sum of **$500.00** for each calendar day thereafter as provided in the General Conditions, and that this amount shall be presumed to be the amount of damages sustained by Owner in the event of such a breach by Bidder, as it would be impractical or extremely difficult to fix the actual damage.

*No preliminary project schedule.
*pg 13 missing

BID SCHEDULE

PROJECT NO. PROJECT NO. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"

The Bid Schedule includes Bid Items 1 through 12. 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 **Schedule II Bid Price** shall be the sum of the amounts for Bid Items 1 through 12.

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 Schedule II pertains to all work as shown on drawing E-1228.

Bid Item	Description	Est. Qty.	Unit	Unit Price	Total
1	Potholing	1	LS		15,000.-
2	Permits and Licensing	1	LS		1000.-
3	Traffic Control	1	LS		7500.-

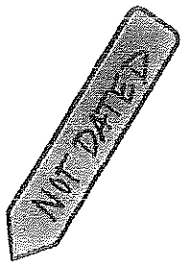
Bid Item	Description	Est. Qty.	Unit	Unit Price	Total
4	Trench Excavation and Native Backfill for primary up to 60" (36" minimum cover depth)	2,500	LF	1.—	2,500.—
5	Installation of Conduit (including all sweeps)	2,400	LF	18.—	43,200.—
6	Slurry Encasement Over Primary Conduit*	160	CY	100.—	16000.—
7	Installation of Concrete Hand Hole	3	EA	15000.—	45000.—
8	Installation of PVC Risers at Poles	20	LF	50.—	1000.—
9	Concrete Sidewalk and Pavement Restoration	10	CY	389.—	3,890.—
10	Asphalt Concrete Pavement Restoration, including Type II Aggregate Base Course	4,400	SF	7.—	30,800.—
11	Grind and Overlay 1/10 ft. Thick (Street)	18,600	SF	2.—	37,200.—
12	Landscape Restoration	1	LS		2500.—
				BID PRICE	$ 205,590.—

BID AMOUNT IN WORDS: TWO HUNDRED FIVE-THOUSAND FIVE HUNDRED NINETY & NO/100

* Slurry Backfill shall constitute a unit price adjustment to Bid Item 4. The unit price adjustment shall include all costs associated with the use of Slurry Backfill in lieu of native material for trench backfill, including the removal and disposal of surplus native material not used in the work. The unit price adjustment shall be made when Slurry Backfill is called for on the Drawings or as directed by the City. The unit price adjustment shall not be made when Slurry Backfill is used at the Contractor's decision in place of native backfill.

NOTE: This Bid Schedule will be included by the Contractor as a part of their bid. The City of Banning reserves the right to reduce quantities without a change in the Contractor's Bid Prices, due to a possible reduction in funding, at the time of contract award.

ADDENDA



Bidder acknowledges receipt of the following Addenda:

Addendum No.: 1 DATED: _____

Addendum No.: 2 DATED: _____

Addendum No.: _____ DATED: _____

Confirmed by Bidder: _____
(signature of authorized representative)

Print Name: Matthew Brey

Corporate Title: President.

NON COLLUSION AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF Riverside

Matthew Brey, being first duly sworn, the party making the
(Name of Bidder)

foregoing bid; that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

(Signature)

Matthew Brey
(Typed Name)

SUBSCRIBED BEFORE ME on this 8th day of February, 2016.

Shelley Bates
Notary Public

My commission Expires:

7/14/18.

SHELLEY BATES
COMM. #2074524
Notary Public - California
Riverside County
My Comm. Expires July 14, 2018

SECTION 1.5
OF
PROCEDURAL DOCUMENTS

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, M. BREY ELECTRIC, INC., as Principal, and U.S. SPECIALTY INSURANCE COMPANY, as Surety, are hereby held and firmly bound unto the CITY OF BANNING as Owner in the penal sum of TEN PERCENT OF GREATER AMOUNT BID for payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed, this 4TH day of FEBRUARY, 2016. The Condition of the above obligation is such that whereas the Principal has submitted to the CITY OF BANNING a certain Bid; attached hereto and hereby made a part hereof to enter into a contract in writing for the

Project No. 2016-01EL, "West Barbour Street 12kV Underground Reconductoring"

NOW, THEREFORE,

A. If said Bid shall be rejected, or

B. If said Bid shall be accepted and the Principal shall execute and deliver, within fifteen (15) days after the Notice of Award, a contract in the form attached hereto (properly completed in accordance with said Bid) and shall furnish a Bond for his faithful performance of said Contract and for the payment of all persons performing labor or furnishing materials in connection therewith, the required Insurance Certificates, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims there under shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety and its Bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Two Witnesses
(If Individual):

_____

_____

Principal: M. BREY ELECTRIC, INC.

By: _____

Title MATTHEW A. BREY, PRESIDENT

ATTEST (If Corporation):

By _____

Title President

(Corporate Seal)

NOT COMPLETED

SURETY: U.S. SPECIALTY INSURANCE COMPANY

By: _____

Title MARK D. IATAROLA, ATTORNEY-IN-FACT

ATTEST:

By _____

Title _____

(Corporate Seal)

IMPORTANT: Surety companies executing Bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in Section 105 of the California Insurance code.

Any claims under this bond may be addressed to:

(Name and Address of Surety)
U.S. SPECIALTY INSURANCE COMPANY
601 SOUTH FIGUEROA STREET, SUITE 1600
LOS ANGELES, CA 90017

(Name and address of Agent or Representative in California, if different from above)
MALONEY AND ASSOCIATES
435 WEST GRAND AVENUE
ESCONDIDO, CA 92025

(Telephone number and address of Surety and Agent or Representative in California)
SURETY: 310/649-0990
AGENT: 760/738-2610

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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 SAN DIEGO)

On 02/04/2016 before me, JISSELLE MARIE SANCHEZ, NOTARY PUBLIC,
Date *Here Insert Name and Title of the Officer*

personally appeared MARK D. IATAROLA
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

JISSELLE MARIE SANCHEZ
COMM # 2129586
SAN DIEGO COUNTY
NOTARY PUBLIC-CALIFORNIA
MY COMMISSION EXPIRES
OCT. 09, 2019

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: MARK D. IATAROLA	Signer's Name:
☐ Corporate Officer — Title(s):	☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☒ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

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California All-Purpose Certificate of 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 S.S.

On 2/8/11e before me, Shelley Bates
(Name of Notary Public)

personally appeared Matthew Bray
(Name(s) of Signer(s))

(Name(s) of Signer(s))

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

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

SHELLEY BATES
COMM. #2074524
Notary Public - California
Riverside County
My Comm. Expires July 14, 2013

WITNESS my hand and official seal.

Shelley Bates
(Signature of Notary Public)

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____,

containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- ☑ Individual(s)
- ☐ Attorney-in-fact
- ☑ Corporate Officer(s) President
  (Title(s))
- ☐ Guardian/Conservator
- ☐ Partner - Limited/General
- ☐ Trustee(s)
- ☐ Other: _____

representing: _____
(Name(s) of Person(s) or Entity(ies))

(Additional Information)

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:

☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

Page # _____ Entry # _____

Notary contact: _____

Other

☐ Additional Signer ☐ Signer(s) Thumbprints(s)

☐ _____

© 2009 Notary Rotary, Inc. All Rights Reserved. Item #5907 www.NotaryRotary.com

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

John G. Maloney, Mark D. Intarola or Helen Maloney of Escondido, California

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed *****Fifteen Million***** Dollars ($ **15,000,000.00**).

This Power of Attorney shall expire without further action on December 20, 2017. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of December, 2014.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

Corporate Seals

By: _____
Daniel P. Aguilar, Vice President

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 Los Angeles SS:

On this 1st day of December, 2014, before me, Maria G. Rodriguez-Wong, a notary public, personally appeared Dan P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 _____ (Seal)

MARIA G. RODRIGUEZ-WONG
Commission # 2049771
Notary Public - California
Los Angeles County
My Comm. Expires Dec 20, 2017

I, Michael Chalekson, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 4TH day of FEBRUARY, 2016

Corporate Seals

Bond No. _____
Agency No. 4013

Michael Chalekson, Assistant Secretary



LIST OF SUBCONTRACTORS

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	License No and Classification	DBE/MBE __Yes __No
ADDRESS:	Telephone: Fax:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid



LIST OF MATERIAL SUPPLIERS

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

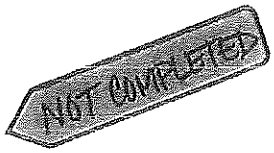
NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

LIST OF MATERIAL SUPPLIERS - cont.

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid

NAME:	MATERIAL(S) TO BE SUPPLIED	
ADDRESS:	Telephone:	Ownership (Circle One) Minority Women Not Applicable
City, Zip:	Bid Item No.	% of Total bid



LIST OF MATERIALS

The Contractor shall submit this sheet with his Bid, completed, to list details of materials he intends to use. It shall be understood that where the Contractor elects not to use the material manufacturers called for in the Contract documents he will substitute only items of equal quality, durability, functional character and efficiency as determined by the Engineer. It is the Contractor's responsibility to ascertain prior to bidding the acceptability of substitutes. No adjustment to the Contract price will be made for Contractor's failure to seek approval of substitutes prior to submitting its bid, except as permitted herein. Only one manufacturer shall be listed for each item.

Item #	Item or Material Description	Qty	Manufacturer	Make & Model Number	Vendor / Supplier

No change shall be allowed of any material manufacturer listed above after receipt of Bids unless the manufacturer so listed cannot furnish materials meeting the Specifications. Should such change be allowed, there will be no increase in the amount of the Bid originally submitted.

ANTI-TRUST CLAIM

In submitting a Bid to a public purchasing body, the Bidder offers and agrees that if the Bid is accepted, it will assign to the purchasing body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, materials, or services by the Bidder for sale to the purchasing body pursuant to the Bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Bidder.

DECLARATION OF ACCURACY

I, the undersigned, declare under penalty of perjury that the information presented in this bid, including without limitation the Contractor's license number and expiration date, are true and correct to the best of my knowledge. The bid of any Bidder not signed by the Bidder, or not containing the Bidder's license number and license expiration date, or containing information which is subsequently proven false, shall be considered nonresponsive and shall be rejected.

[signature]	1108 Elm Ave.
Signature	Address
President	Beaumont, CA 92223
Title	City, State, Zip
2/8/16	(951) 845. 5438
Date	Telephone
561224	A, C-10
Contractor's License No.	Type of License
46-1020109	12/31/16
Federal ID No. (If applicable)	Expiration Date of License

(SEAL - if Bid is by a corporation)

ATTEST

CERTIFICATION
LABOR CODE - SECTION 1861

I, the undersigned Contractor, am aware of the provisions of Section 3700 et. Seq. of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work of this Contract.

Contractor agrees to utilize federal job classifications for the submittal of the certified payrolls and further agrees to pay all of its employees the higher of the prevailing State or Federal wages.

CONTRACTOR:

M. Brey Electric, Inc
Firm Name

By

President
Title

QUESTIONNAIRE REGARDING BIDDERS

Number of years engaged in the contracting business under present business name 3 YRS

List of at least the last three contracts performed which show experience in working on a project of a nature similar to that covered in this proposal. If none, so indicate. Attach separate list of references if necessary.

	Year	Type of Work	Contract Amt.	Location	Contact person/phone
1	2014	Primary Ductbank/ circuit to Sub.	187,000.00	NASA, Edwards AFB	Mike Gibson (760)480-9936
2	2013	Install power to Kilo 1	289,000.00	Camp Pendleton, CA	Debbie-(951)845-2121
3	2015	Combat aircraft loading Apron	325,987.00	Yuma, AZ.	Mike-(951)845-212
4					
5					
6					
7					

State of California Contractor's License No.: 581224

Contractor's License Expiration Date: 12/31/10

SECTION 1.4
OF
PROCEDURAL DOCUMENTS

BID SUBMITTAL CHECKLIST

Bidder confirms that the following documents are fully completed, included in and made a part of its Bid.

- ☐ Bid – Page I-8
- ☐ Bid Schedule – I-9 & I-10
- ☐ Addenda Acknowledgement – I-11
- ☐ Non-Collusion Affidavit – I-12
- ☐ Bid Security or Bond – I-13, I-22 & I-23
- ☐ List of Subcontractors – I-14
- ☐ List of Material Suppliers – I-15 & I-16
- ☐ List of Materials – I-17
- ☐ Declaration of Accuracy – I-18
- ☐ Labor Code Certification – I-19
- ☐ Questionnaire Regarding Bidders – I-20
- ☐ Corporate Certificate – I-28
- ☐ Preliminary Project Schedule
- ☐ Bid Submittal Checklist – I-21

Confirmed by Bidder _____
(signature of authorized representative)

Print Name: Matthew Brey

Corporate Title: President

EXHIBIT "D"

MBE
M. Brey Electric, Inc.
BEAUMONT, CA

RESIDENTIAL-COMMERCIAL-INDUSTRIAL
408 Elm Ave. Beaumont, CA. 92223
951-845-5438 FX 951-845-5642
www.mbreyelectric.com
DIR #1000005926
Contractor License No. 581224 C-10

FEB 16 2016 mae
City Clerk Office

February 15, 2016

City of Banning
99 E Ramsey St.
Banning, Ca. 92220

Attention: Brandon Robinson

Project: West Barbour Street 12kv Underground Re-conductoring
Project No.: 2016-01EL

Subject: Response to the Official Protest by So. Calif. West Coast Electric

Mr. Robinson,
In response to the protest filed by So. Calif. West Coast Electric(SCWCE), we offer the following explanation:

- Bid Security or Bond-I-13, I-22, I-23

    a. Document I-13 was inadvertently excluded from the proposal. Sheet I-13 is a confirmation of securities. The Bidders Security bond in the amount of 10% was included with the proposal.

    b. SCWCE is incorrect in their statement that the surety bond signature was not attested. Attached to the bidder's bond is the California All-Purpose acknowledgment from Jisselle Marie Sanchez, attesting to Mark Iatarola signature.

- List of Subcontractors-I-14

    a. M Brey Electric, Inc. is a Licensed General Contractor in the State of California with an A and C-10 classification. We will be self-performing all work on this project utilizing in house resources therefore will not require the use of subcontractors for this project.

- List of Material Suppliers – I-15 and I-17

    a. These forms were inadvertently left blank. As the material on the project is not substantial, and the omission is inconsequential and does not provide and unfair advantage, we ask the City to waive the minor irregularity.

- Preliminary Project Schedule

    a. Per addenda 2, "a simple chart" schedule was required with the proposal. The schedule was inadvertently omitted from our submittal. With our signature, corporate seal, 10% Bid Bond and submission of our proposal, we agree to all terms and conditions of the contract including contract time. As the omission of this "simple chart" is minor and does not provide and unfair competitive advantage, we ask the City to waive the minor irregularity.

As these are minor irregularities, inconsequential, did not provide us an unfair competitive advantage, and at an additional cost to the City of $14,355.00, we ask the City to exercise their rights per the Award and execution section found on page I-4 of the project specifications and waive the irregularities as minor and award the project to the lowest, responsive, responsible bidder. M Brey Electric, Inc.

If you have any questions, please do not hesitate to call me at 951-845-5438.

Sincerely,

Matt Brey
President

EXHIBIT "E"

City of Banning
Electric Department

February 25, 2016

M. Brey Electric, Inc.
408 Elm Avenue
Beaumont, CA 92223

So. Calif. West Coast Electric
252 W. 4th Street, Suite F
Beaumont, CA 92223

RE: Southern California West Coast Electric Bid Protest Submitted February 11, 2016
M. Brey Electric Inc. Response t Bid Protest Submitted February 16, 2016

To Whom it May Concern:

The City of Banning Electric Department staff has considered all documentation presented in regards to the bidding and award of the 2016-01EL West Barbour Street 12kV Underground Reconductoring. After careful review, we have determined M. Brey Electric's bid for this project to be responsive and recommended for award.

The factors that have been considered by the City of Banning Electric Department, per the Public Contract Code, is whether the mistakes or deviations being protested are considered to be material variances or minor irregularities. The Electric Department considers the items omitted from the lowest responsive bidder, M. Brey Electric Inc., to be minor irregularities in that they do not (1) affect the price of the bid; (2) give the bidder an advantage or benefit not enjoyed by other bidders; or (3) adversely impact the interests of the procuring agency. Given this information, the Department has decided to waive the List of Material Suppliers, Materials, and Preliminary Project Schedule as minor irregularities. In regards to the requirement for a bid bond, the Bid requires either the Bid Security or Bond. The Bid Bond was provided on sheets I-22 and I-23 by the lowest responsive bidder, and they were properly attested in the California All-Purpose Acknowledgement on the following sheet.

It should also be noted that M. Brey Electric Inc. holds a Class A contractor's license and intends to do all aspects of the work for this project using direct labor and equipment either owned or rented by the business. Therefore, M. Brey Electric has confirmed that all work will be completed without the use of subcontractors for this contract.

If there are any questions, concerns, or opposition to the City of Banning Electric Department's decision, please feel free to contact either Brandon Robinson at brobinson@ci.banning.ca.us or Fred Mason at fmason@ci.banning.ca.us. Thank you.

Sincerely,

Fred Mason
Electric Utility Director

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CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Brian Guillot, Community Development Director
Rochelle Clayton, Deputy City Manager

MEETING DATE: April 12, 2016

SUBJECT: **Resolution No. 2016-27, Appropriating funding and Amending the job description, minimum qualifications, and title for the Economic Development Director to create the Economic Development Manager position under the Classification and Compensation Plan for the City of Banning.**

RECOMMENDATION:

Adopt Resolution No. 2016-27 (Attachment 2), authorizing the appropriation and amending the Classification and Compensation Plan for the City of Banning, to change the job description, minimum qualifications, and title for the Economic Development Director to create the Economic Development Manager position under the Classification and Compensation Plan for the City of Banning; and, authorize the City Manager to direct staff to recruit the Economic Development Manager upon approval.

JUSTIFICATION:

As part of the 2011 Budget Act, and in order to protect funding for core public services at the local level, the State of California Legislature approved the dissolution of the state's 400 plus redevelopment agencies. This resulted in the elimination of funding for redevelopment and many related economic development programs including those in the City of Banning. While the City is experiencing a mild recovery from the economic downturn of 2007, there continues to be a significant need to pursue economic development opportunities within the City even with limited funding.

BACKGROUND:

The overall health of the City's economy is a product of the complex interrelationships between the City's and regions physical and economic environment. The development and maintenance of the City's public services and facilities, and the enhancement of

natural and cultural resources certainly add to the City's appeal; however, management of the existing economic assets of the City is important as it directly impacts the City's ability to retain and attract businesses and residents, who support the local economy. The primary goal of the City's Economic Development Element of the General Plan 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".

Therefore, it is proposed to create the position of Economic Development Manager (Attachment 2) within the Community Development Department. The position would manage the ongoing economic development goals of the City Council, the goals and policies of the City's adopted General Plan along with other long range planning documents, and administer the necessary consultant agreements to support those programs. Included with the scope of work would be the following significant items:

- Monitor sales tax revenue and implement a business retention program.
- Develop and implement a marketing program to encourage new business development.
- Coordinate industrial, commercial, and residential projects within City departments, and propose incentive programs to encourage and facilitate development that benefits the City economically.
- Manage grant programs and consultant services within the various City departments related to City enhancement.
- Provide timely information to the public to keep them informed of City programs and policies as well as news events (public communication).
- Monitoring and reporting on tax sharing agreements.

OPTIONS:

The City has a consultant services contract with Hinderliter de Llamas and Associates (HdL) to provide limited economic development services, more specifically a community profile of the city's trade area, consumer demand and market supply report that includes a void analysis, and development of a two year economic development action plan. The City Manager, Administrative Services Director/Deputy City Manager, and Community Development Director manage all other activities on an as needed basis. While this arrangement is advantageous, having a full time manager to pursue economic development activities will provide more comprehensive benefits as outlined above. As an option the City Council may continue to utilize limited consultant services contracts; or, discontinue economic development activities entirely which would be counter to the number one goal adopted by the City Council as part of the Strategic Plan on March 29, 2016.

FISCAL IMPACT:

With the vast majority of jobs and tax revenues in the community emanating from a very small number of businesses, the City will need to manage its economic assets carefully.

Therefore, expenditures to manage the economic development activities of the City should be considered essential and a long range program. The estimate for consultant services is $30,000. The Economic Development Manager position cost for the annual salary and benefits for FY2016-17 is approximately is $163,953 (see Attachment 1 for Salary and Benefits Calculation).

ATTACHMENTS:

1. Salary & Benefits Calculation
2. Resolution No. 2016-27
3. Economic Development Director Job Description

Prepared by:

Brian Guillot
Community Development Director

Reviewed by:

Rochelle Clayton
Deputy City Manager

Approved by:

Michael Rock
City Manager

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ATTACHMENT 1

Salary & Benefits Calculation

Fiscal Year 2016-17 & 2017-18
Economic Development Manager
Salary and Benefits Calculation

Management Unit (SBPEA)			
SALARY RANGE 85		FY17	FY18
($42.212 - $57.1077)	Hourly	46.69	49.10
($87,801.00 - $118,784.00)	Annual	$ 97,107.30	$ 102,124.26
Auto Allowance		3,000.00	3,000.00
Benefit Allowance		14,400.00	14,400.00
Maximum Cash Out:			
Comp Payoff		2,801.17	2,945.89
Sick Payoff		4,481.88	4,713.43
Vacation Payoff		3,734.90	3,927.86
Total Salary Cost		125,525.24	131,111.43
Life Insurance		432.00	432.00
PERS Employer Cost		23,323.23	24,528.20
Medicare		1,820.12	1,901.12
Social Security		7,782.56	8,128.91
SUI		1,087.60	1,143.79
WC		3,981.98	4,187.71
Total Benefit Cost		38,427.49	40,321.73
Total Salary & Benefits		$ 163,952.73	$ 171,433.16

Calculation utilizes step 5 for FY 17 and step 7 increase for FY18
(FY18 is without consideration for PERS increase)

ATTACHMENT 2

Resolution No. 2016-27

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RESOLUTION 2016-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING THE CLASSIFICATION & COMPENSATION PLAN FOR THE CITY OF BANNING AND AUTHORIZING APPROPRIATION

WHEREAS, it is necessary to amend the City's Classification Plan from time to time to maintain a current plan which reflects the nature of work, organizational structure, or otherwise;

WHEREAS, changes to job descriptions, job titles and/or pay ranges require Council approval.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: That the City Council approve the job description for Economic Development Manager, Job Code 3115 and Salary Range 85 as Exhibit "A".

SECTION 2: That the City Council approve the amended Schedule "A" to the Classification and Compensation plan as Exhibit "B".

SECTION 3: Authorize appropriation of $163,953 in Fiscal Year 2016-2017 for the Economic Development Manager position in the Community Development Department's salary accounts, which is funded by the general fund.

PASSED, ADOPTED AND APPROVED this 12th day of April, 2016.

_____
Arthur L, Welch, Mayor
City of Banning, California

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- was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of April, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

EXHIBIT "A"

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CITY OF BANNING, CALIFORNIA

Economic Development Manager

Job Code: 3115

FLSA [x] Exempt [ ] Non-Exempt

JOB DEFINITION: Under general direction, plans, organizes and manages the City's economic development programs and; supervises the day-to-day activities related to economic development and redevelopment.

ESSENTIAL FUNCTIONS: *The following duties **ARE NOT** intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

REPRESENTATIVE DUTIES: Coordinates development projects and functions as liaison and facilitator between business, development professionals and City staff; responds to leads and inquiries for potential new business development; develops and manages marketing strategies to attract potential businesses.

Researches policies, procedures and programs relative to economic development and redevelopment including low and moderate income housing; recommends and implements appropriate policies, procedures and programs in accordance with City goals and objectives; develops and implements programs to assist with low/moderate income housing, economic development and redevelopment including negotiations and preparation of related agreements; identifies, manages, and pursues potential funding opportunities.

Selects, assigns, evaluates and manages assigned personnel; prioritizes, schedules and delegates work assignments of assigned staff; identifies and implements staff training programs.

Manages a comprehensive information and public relations program that promotes City accomplishments and activities; provides all City departments with communications and internal and external marketing support; act as spokesperson to the media; develop communication programs/activities to address critical issues facing the City; manages relations with news media through news releases, press conferences, briefings, interviews, media appearances, correspondence and reports; writes or edits material for the news media and the public.

Performs other duties as assigned or required.

KNOWLEDGE and SKILLS:

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives including community development and economic laws and regulations, California real estate law and relocation assistance law.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of practical methodology, techniques and objectives of community development and economic development.
- Knowledge of management and/or supervision principles.
- Knowledge of finance and/or accounting principles.
- Knowledge of research methods and procedures.
- Knowledge of marketing methods and procedures.
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in preparing clear and concise written reports and speaking before community groups
- Skill in effectively coordinating and monitoring the project planning and implementation effort.

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CITY OF BANNING, CALIFORNIA

Economic Development Manager

Job Code: 3115

- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.

MINIMUM QUALIFICATIONS: Any combination of education and experience that provides the knowledge, skills and abilities necessary for an Economic Development Manager. Ideally the required qualifications include possession of a Bachelor's or Associate's degree in Urban Planning, Economics, Public Administration, Business Administration, Accounting, Marketing, or a related field AND three (3) to five (5) years of experience in governmental and/or professional planning/economic development, including one year in a supervisory capacity.

A Master's Degree in Urban Planning, Public Administration, or Real Estate is highly desirable.

Experience in economic development and establishing programs related to business attraction and retention is highly desirable.

ADDITIONAL REQUIREMENTS: Must have at the time of application and must maintain a California driver license. May be required to work outside the traditional work schedule.

EXHIBIT "B"

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Schedule "A"

CITY OF BANNING
CLASSIFICATION & COMPENSATION PLAN
REVISED APRIL 12, 2016
RESOLUTION NO. 2016-27 (AMENDING RESOLUTION NO. 2016-15)

MATRIX BY CLASS SERIES/JOB CODE

Class Series/Occupational Job Group	Job Code	Classification/Position	Salary Range	Bargaining Unit
1000 – CITY ADMINISTRATION SERIES				
City Administration Group	1010	City Manager	113	Council Contract
	1020	City Clerk/Executive Assistant	57	Elected
	1606	Executive Assistant/Deputy City Clerk	57	Conf/Gen
Financial Services Group	1105	Administrative Services Director/Deputy City Manager	101	Contract
	1115	Deputy Finance Director	87	Mgmt/Conf
	1160	Purchasing Manager	77	SBPEA
	5028	Utility Financial Analyst	76	SBPEA
	1125	Accountant II	59	IBEW-G
	1140	Accountant	54	IBEW-G
	1136	Accounting Specialist	53	IBEW-G
	1130	Financial Services Specialist	47	IBEW-G
Human Resources Group	1215	Deputy Human Resources Director	83	Mgmt/Conf
	1230	Human Resources Technician	54	Conf/Gen
Utility Billing Group	1310	Customer Service & Billing Manager	71	SPBEA
	1340	Senior Utility Billing Rep	48	IBEW-G
	1350	Utility Billing Representative	43	IBEW-G
	1340	Lead Field Service Representative	55	IBEW-U
	1325	Field Service Representative	51	IBEW-U
Information/Cable Systems Group	1410	Information Technology Coordinator	59	IBEW-G
	1416	Police Information Technology Technician	59	IBEW-G
	1415	Information Technology/Media Technician	57	IBEW-G
	1510	Cable Services Specialist	44	IBEW-G

Office Support Group	1610	Executive Secretary	53	IBEW-G
	1601	Management Analyst	68	SBPEA
	1620	Office Specialist	44	IBEW-G
	1630	Receptionist	31	IBEW-G

2000 – POLICE SERIES

Police Group	2010	Police Chief	100	Contract
	2025	Police Lieutenant	87	Police Mgmt
	2030A	Police Staff/Master Sergeant	78	POA
	2040	Police Corporal	71	POA
	2050	Police Officer	67	POA
	2060	Police Recruit/Trainee	N/A	At-Will
Police Support Group	2143	Lead Public Safety Dispatcher	56	IBEW-G
	2110	Public Safety Dispatcher	52	IBEW-G
	2130	Community Services Officer	48	POA
	2151	Police Assistant II	48	IBEW-G
	2152	Police Assistant I	44	IBEW-G

3000-COMMUNITY DEVELOPMENT SERIES

Community Development Group	3010	Community Development Director	92	Contract
	3026	Development Project Coordinator	58	IBEW-G
	3050	Senior Planner	79	SBPEA
	3020	Associate Planner	68	SBPEA
	3015	Assistant Planner	63	SBPEA
	3115	Economic Development Manager	85	SBPEA
Development Services Group	3210	Development Services Manager (Building Official)	84	SBPEA
	3215	Senior Building Inspector	67	IBEW-G
	3230	Code Compliance Officer	58	IBEW-G
	3240	Building Permit Specialist	55	IBEW-G

3300-COMMUNITY SERVICES GROUP

Community Services Group	3310	Community Services Director	86	Contract
	3360	Transit Field Supervisor	59	IBEW-G
	3325	Recreation Coordinator	51	IBEW-G
	3328	Program Coordinator	43	IBEW-G
	3350	Lead Bus Driver/Trainer	55	IBEW-G
	3340	Bus Driver	47	IBEW-G

4000-PUBLIC WORKS SERIES

Public Works Management Group	4400	Public Works Director/City Engineer	100	Contract
Streets/Parks Group	4210	Public Works Superintendent	78	SBPEA
	4230	Work Release Crew Leader	47	IBEW-G
	4240	Senior Maintenance Worker	50	IBEW-G
	4250	Maintenance Worker	45	IBEW-G
	4260	Motor Sweeper Operator	50	IBEW-G
Engineering Group	4300	City Engineer	85	SBPEA
	4350	Senior Civil Engineer	82	SBPEA
	4320	Associate Civil Engineer	76	SBPEA
	4325	Assistant Civil Engineer	68	SBPEA
	4330	Public Works Inspector	62	IBEW-G
	4340	Engineering Services Assistant	48	IBEW-G
General Maintenance and Support Group	4420	Fleet Maintenance Mechanic	53	IBEW-G
	4430	Building Maintenance Specialist	49	IBEW-G
	4441	Community Center Caretaker	36	IBEW-G
	4450	Warehouse Services Specialist	52	IBEW-G
Water/Wastewater Group	4115	Water/Wastewater Superintendent	78	SBPEA
	4130	Water Crew Supervisor	60	IBEW-U
	4140	Water Services Worker	52	IBEW-U
	4155	Wastewater Collection System Supervisor	60	IBEW-U
	4145	Wastewater Collection System Technician	52	IBEW-U
	4132	Water Valve Flushing Crew Lead	56	IBEW-U
	4133	Water Construction Crew Lead	56	IBEW-U
	4131	Water Meter Crew Lead	56	IBEW-U

5000 ELECTRIC UTILITIES SERIES

Electric Services & Operations Group	5001	Electric Utility Director	100	Contract
	5021	Power Resource & Revenue Administrator	85	SBPEA
	5025	Associate Electrical Engineer	76	SBPEA
	5028	Utility Financial Analyst	76	SBPEA
	5029	Senior Electric Service Planner	79	IBEW-U7
	5030	Electric Service Planner	77	IBEW-U
	5050	Public Benefits Coordinator	55	IBEW-U

	5055	Utility Services Assistant	48	IBEW-U
	5053	Utility Engineering Services Assistant	48	IBEW-U
	5110	Electric Operations & Maintenance Manager	85	SBPEA
	5120	Powerline Crew Supervisor	79	IBEW-U
	5130	Powerline Technician	75	IBEW-U
	5140	Powerline Apprentice	67/ 73	IBEW-U
	5150	Electric Services Worker	52	IBEW-U
	5161	Substation Test Technician	75	IBEW-U
	5160	Electric Meter Test Technician	75	IBEW-U
	5170	Apprentice Electric Meter Test Technician	67 / 73	IBEW-U

ATTACHMENT 3

Economic Development Director Job Description

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CITY OF BANNING, CALIFORNIA

Economic Development Director

Job Code: 3110

FLSA [x] Exempt [ ] Non-Exempt

JOB DEFINITION: Under general direction, directs, manages and performs a variety of tasks associated with managing the economic development function for the City.

ESSENTIAL FUNCTIONS: *The following duties **ARE NOT** intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

REPRESENTATIVE DUTIES: Coordinates development projects and functions as liaison and facilitator between business, development professional and City staff. Responds to leads and inquiries for potential new business development, as well as retention, of existing businesses. Develops and manages marketing strategies to attract potential businesses.

Researches policies, procedures and programs relative to economic development. Recommends and implements appropriate policies, procedures and programs in accordance with City goals and objectives. Identifies and pursues potential funding opportunities.

Selects, assigns, evaluates and manages assigned personnel work activities. Prioritizes, schedules and delegates work assignments of assigned staff. Identifies and implements new employee and on-going staff training programs.

Performs other duties as assigned or required.

KNOWLEDGE and SKILLS:

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of management and/or supervision principles.
- Knowledge of finance and/or accounting principles.
- Knowledge of research methods and procedures.
- Knowledge of marketing methods and procedures.

- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.

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CITY OF BANNING, CALIFORNIA

Economic Development Director

Job Code: 3110

MINIMUM QUALIFICATIONS: A Bachelor's degree in Business Administration, Urban Planning, Economics or related field **AND** five (5) years of economic development experience that includes one (1) year of management and/or supervision.

ADDITIONAL REQUIREMENTS: Must have at the time of application and must maintain a California driver license. May be required to work outside the traditional work schedule.

CITY OF BANNING
CITY COUNCIL REPORT

TO: CITY COUNCIL

FROM: Michael Rock, City Manager

PREPARED BY: Alejandro Diaz, Chief of Police
Rochelle Clayton, Deputy City Manager

MEETING DATE: April 12, 2016

SUBJECT: Resolution No. 2016-30, Appropriating Funding for the Fiscal Year 2016-2017 Budget for the Community Service Officer (CSO) Position.

RECOMMENDATION:

Adopt Resolution No. 2016-30 (Attachment 2) authorizing the appropriation of funding for the Fiscal Year 2016-2017 Budget, and authorize the City Manager to direct staff to recruit the Community Service Officer position upon approval.

JUSTIFICATION:

Banning Police Department sworn staffing has significantly decreased since 2005, from 41 to 30 approved sworn positions; including an authorization for three additional positions was approved by Council during the current fiscal year. The 30 sworn positions allow us to maintain a 1 officer per 1,000 resident's ratio.

Although the additional 3 sworn officers bolstered productivity at the patrol level, new laws (Assembly Bill 109 and Proposition 47) have generated additional requirements, both through the jail system and the justice system, mandating additional booking requirements, and additional requirements when submitting cases through the courts.

In order to alleviate the additional workload from requirements mandated by Assembly Bill 109 and Proposition 47, additional resources are necessary. This can be mitigated by adding a Community Service Officer to our ranks, at a lower cost, but with the ability to perform many of the duties currently performed by patrol officers.

Some of the duties encompass:

- Providing response to non-emergency calls for service, and may process routine calls independently, to include arranging for the towing of vehicles,

retrieving stolen and recovered property, and providing assistance at traffic collision scenes;

- Participating in the preparation of written reports on incidents that are not in progress, to include, but not limited to: fraud, theft, criminal mischief, and other property crimes;

- Participating in the enforcement of parking control laws such as nuisance vehicle and traffic hazard removal, and the issuance of parking citations;

- Providing on-site operational support at major incident scenes and special events by providing traffic direction, or transporting supplies, or other logistical items;

- Participating, as needed, in various crime prevention programs, to include school education, Neighborhood Watch, Fraud Awareness; And operation of department vehicles and equipment, to include police radios and computer systems.

The position was eliminated from the budget in approximately fiscal year 2007; the addition of a Community Service Officer will significantly improve the Banning Police Department's service to the residents, businesses and visitors of the City of Banning.

BACKGROUND:

Upon surveying surrounding cities to determine the minimum qualifications for equivalent positions, it was determined that nearly all agencies employ a similar requirement for the Community Service Officer position.

FISCAL IMPACT:

The annual position cost for the Community Service Officer salary and benefits for FY2016-17 is approximately $80,212 (see Attachment 1 for Salary and Benefits Calculation).

OPTIONS:

1. Approve the Community Service Officer position to improve service to the Banning community.
2. Reject the request for a Community Service Officer position, which will maintain the service level provided to the community as it currently stands, and continue to task sworn officers with non-emergency and low priority duties.

ATTACHMENTS:

1. Salary & Benefits Calculation
2. Resolution No. 2016-30

Prepared by:

Alejandro Diaz
Chief of Police

Reviewed by:

Rochelle Clayton
Deputy City Manager

Approved by:

Michael Rock
City Manager

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ATTACHMENT 1

Salary & Benefits Calculation

Fiscal Year 2016-17 & FY 2017-18
Community Services Officer
Salary and Benefits Calculation

General Unit (BPOA)			
SALARY RANGE 48		FY17	FY18
($16.9298 - $22.9040)	Hourly	20.71	21.78
($35,214.00 - $47,640.23)	Annual	$ 43,074.51	$ 45,299.90
Benefit Allowance		14,450.00	14,450.00
Maximum Cash Out:			
Comp Payoff		1,242.53	1,306.73
Sick Payoff		1,988.05	2,090.76
Vacation Payoff		1,656.71	1,742.30
Total Salary Cost		62,411.81	64,889.70
Life Insurance		432.00	432.00
PERS Employer Cost		10,345.64	10,880.13
Medicare		904.97	940.90
Social Security		3,869.53	4,023.16
SUI		482.43	507.36
WC		1,766.31	1,857.57
Total Benefit Cost		17,800.89	18,641.12
Total Salary & Benefits		$ 80,212.70	$ 83,530.82

Calculation utilizes step 9 for FY 17 and step 11 increase for FY18
(FY18 is without consideration for PERS increase)

ATTACHMENT 2

Resolution No. 2016-30

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RESOLUTION 2016-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING APPROPRIATION

WHEREAS, it is the desire of Council to approve staff to recruit the Community Service Officer position prior to Fiscal Year 2016-2017;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1: That the City Council authorize appropriation of $74,058 in Fiscal Year 2016-2017 for the Community Service Officer position in the Police Department's salary accounts, which is funded by the general fund.

SECTION 2: Authorize the City Manager to direct staff to recruit the Community Service Officer position.

PASSED, ADOPTED AND APPROVED this 12th day of April, 2016.

Arthur L, Welch, Mayor
City of Banning, California

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- was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 12th day of April, 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

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: April 12, 2016

SUBJECT: **Adopt Resolution No. 2016-05 UA, "Awarding a Construction Agreement for Project No. 2016-01W, 'Repairs to Wells and Booster Pump' to Tri County Pump Company in the amount of $175,000.00 and establishing a total project budget of $201,250.00"**

RECOMMENDATION:

The Banning Utility Authority adopt Resolution No. 2016-05 UA and approve the following actions:

1. Approve an award of a Construction Agreement for Project No. 2016-01W, "Repairs to Wells and Booster Pump" to Tri County Pump Company of San Bernardino, CA in the amount of $175,000.00 and a 15% contingency in the amount of $26,250.00 to cover unforeseen conditions.

2. Authorize the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-01W, "Repairs to Wells and Booster Pump" and to approve change orders within the 15% contingency.

3. Authorize the City Manager to execute the Construction Agreement with Tri County Pump Company for Project No. 2016-01W, "Repairs to Wells and Booster Pump".

JUSTIFICATION: Well M-11 and C2 Booster Pump are currently out of operation and need repair in order to meet summer water production demands. Well 11 and 12 need repair and are utilized for backup purposes should Well 9 or 10 become non-operational.

BACKGROUND:

The City owns and operates its own water system which provides services for the entire City as well as unincorporated areas of the county that bound the south and north City limits. The City currently operates 21 active ground water production wells and co-owns 3 production wells with Beaumont Cherry Valley Water District for a total of 24 wells.

In order to maintain the system and meet demands, it is necessary to repair Wells 11, 12, M-11 and C2 Booster Pump which are currently out of operation due to operational deficiencies. These wells and pump were installed in the late 1980's and have not required repair since installation.

The scope of work under this project includes repairs to the City of Banning Wells 11, 12, M-11 and C2 Booster Pump #2 in accordance with the City of Banning Standard Specifications. The concerns are summarized below and the detailed scope of work is attached hereto.

Well 11
In 2015, the well operator observed the water meter decreasing in production indicating that a leak was present and that the pump bowls may be worn out. To verify, the well must be pulled, disassembled and video logged to determine what repairs are necessary. Considering the age of the pump, it is advantageous to check the remaining parts such as the screen, pump bowls, column, tube and shaft so that any concerns may be addressed before returning the well back to the well casing.

Well 12
In 2015, the well operator observed water coming up from beside the well casing and the water meter decreasing in production. This generally indicates that a hole in both the column and case is present. Similar to Well 11, to verify, the well must be pulled, disassembled and video logged to determine what repairs are necessary. Considering the age of the pump, it is advantageous to check the remaining parts such as the screen, pump bowls, column, tube and shaft so that any concerns may be addressed before returning the well back to the well casing.

Well M-11
The well operator observed that the well was decreasing in production. The well pump was removed and evaluated in order to identify why there was a loss. Following inspection, it was determined that the bowls of the well are worn out due to the presence of sand. It has been recommended to install a sand separator at the end of the pump to remove the future presence of sand, which will keep the brass bowls from eroding.

C2 Booster Pump
The booster pushes water from the main zone to the foothill pressure zone on an almost continuous basis. The pump rotates on a mechanical seal which is now worn out and needs replacement.

Public Works staff advertised the availability of project plans and specifications on March 2, 2016 and March 9, 2016 in the Press Enterprise and on the City's website. Additionally, notifications were sent to multiple plan rooms and direct solicitations were sent to three (3) qualified contractors. In response to these efforts, the Public Works Department received five (5) bids from the following contractors:

Companies	Bid Amount
1) Hidden Valley Pump Systems, Inc. of Valley Center, CA	$134,529.00
2) Tri County Pump Company of San Bernardino, CA	$175,000.00
3) Layne Christensen of Redlands, CA	$176,772.13
4) Best Drilling and Pump Inc. of Colton, CA	$187,592.00
5) Weber Water Resources of San Bernardino, CA	$197,771.00

Following the bid opening, Hidden Valley Pump Systems, Inc. requested the rejection of their bid due to an accounting error as shown in the attached letter. As a result, staff respectfully requests that the Construction Agreement be awarded to Tri County Pump Company in the amount of $175,000.00. A copy of the bid schedule is attached hereto. Once work commences, it is anticipated to be completed within 45 working days for all locations.

OPTIONS:

1. Adopt Resolution No. 0216-05 UA.

2. City Council may choose to take no action. Without the repairs and operational reinstatement of these wells and booster pump, the possibility exists that water production levels will not be sufficient to meet the summer demands of the City.

FISCAL IMPACT:

Funding for Project No. 2016-01W, "Repairs to Wells and Booster Pump" is available in the current approved budget (15/16) Water Capital Facility Fund, Account No. 661-6300-471.95-08 (Wells/Pumping Equipment), which currently has a balance of $750,000.00. The Construction Agreement with Tri County Pump Company is for an amount of $175,000.00 with a 15% contingency for a total project budget amount of $201,250.00.

ATTACHMENTS:

1. Resolution No. 2016-05 UA
2. Project No. 2016-01W Scope of Work
3. Hidden Valley Pump Systems – Letter Requesting Bid Rejection
4. Tri County Pump Company Bid

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. 2016-05 UA)

RESOLUTION NO. 2016-05 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF BANNING, CALIFORNIA, AWARDING A CONSTRUCTION AGREEMENT FOR PROJECT NO. 2016-01W, "REPAIRS TO WELLS AND BOOSTER PUMP" TO TRI COUNTY PUMP COMPANY IN THE AMOUNT OF $175,000.00 AND ESTABLISHING A TOTAL PROJECT BUDGET OF $201,250.00

WHEREAS, the City owns and operates its own water system which provides services for the entire City, as well as, unincorporated areas of the county that bound the south and north City limits with a total operation of 24 wells; and

WHEREAS, it is necessary to repair Wells 11, 12, M-11 and C2 Booster Pump which are currently out of operation due to deficiencies which have not required repairs since installation in the late 1980's; and

WHEREAS, Well M-11 and C2 Booster Pump are currently out of operation and need repair in order to meet summer water production demands while Well 11 and 12 need repair and are utilized for backup purposes should Well 9 or 10 become non-operational; and

WHEREAS, the scope of work under this project includes repairs to the City of Banning Wells 11, 12, M-11 and C2 Booster Pump #2 in accordance with the City of Banning Standard Specifications with the detailed scope of work attached hereto; and

WHEREAS, Public Works staff advertised the availability of project plans and specifications on March 2, 2016 and March 9, 2016 in the Press Enterprise and on the City's website; sent notifications to multiple plan rooms and directly solicited three (3) qualified contractors resulting in receiving five (5) bids in response to these efforts; and

WHEREAS, the initial apparent lowest bidder, Hidden Valley Pump Systems, Inc. later requested the rejection of their bid due to an accounting error as shown in the attached letter; and

WHEREAS, it is recommended that a Construction Agreement be awarded to the lowest responsible and responsive bidder, Tri County Pump Company, in the amount of $175,000.00; and

WHEREAS, funding for Project No. 2016-01W, "Repairs to Wells and Booster Pump" is available in the current approved budget (15/16) Water Capital Facility Fund, Account No. 661-6300-471.95-08 (Wells/Pumping Equipment) and the Construction Agreement with Tri County Pump Company is for an amount of $175,000.00 with a 15% contingency for a total project budget amount of $201,250.00.

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. 2016-05 UA approving the Construction Agreement for Project No. 2016-01W, "Repairs to Wells and Booster Pump" to Tri County Pump Company of San Bernardino, CA in the amount of $175,000.00 and a 15% contingency in the amount of $26,250.00 for a total project budget of $201,250.00.

SECTION 2. The Administrative Services Director is authorized to make necessary budget adjustments, appropriations and transfers related to the Construction Agreement for Project No. 2016-01W, "Repairs to Wells and Booster Pump" and to approve change orders within the 15% contingency.

SECTION 3. The City Manager is authorized to execute the Construction Agreement with Tri County Pump Company for Project No. 2016-01 W, "Repairs to Wells and Booster Pump".

PASSED, ADOPTED AND APPROVED this 12th day of April, 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. 2016-05 UA was duly adopted by the Banning Utility Authority of the City of Banning, California, at a Regular Meeting thereof held on the 12th day of April, 2016, by the following vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Marie A. Calderon, Secretary
Banning Utility Authority

ATTACHMENT 2

(Scope of Work)

4.1 Scope of Work

The scope of work under this project shall includes repairs to the City of Banning Wells 11, 12, M-11 and C2 Booster Pump #2 as required and detailed below in accordance with the City and of Banning Standard Specifications. The bid shall include all costs for furnishing all labor, materials, tools, equipment and necessary incidentals to perform work including but not limited to mobilization, participation in safety meetings and clean up.

A. Wells 11 and 12

The scope work for Wells 11 and 12 includes pulling of pumps, transportation, disassembling and inspection, and video logging the wells to identify necessary maintenance or repairs. The bid for Wells 11 and 12 shall consists of field labor including travel to and from jobsite, pulling pumps and transportation of pumps to contractor shop, video log wells, brush and bail wells. Shop labor shall include disassembling pumps, inspection and documentation. Materials shall include a wire brush and other materials identified by the contractor.

1. Field Labor
    a) Travel to and from jobsite; pull pump and transport to shop.
    b) Video log wells and provide a compact disc with video results.
    c) Provide well rehabilitation to consist of the following:
        a. Bail well to total dept. (Well 11 depth = 120' and Well 12 depth = 118')
        b. Perform 24 hours of wire brushing.
        c. Provide Sonar Jet cleaning.
        d. Perform 48 hours of dual swab airlifting.
        e. Provide post rehabilitation video log.

2. Shop Labor
    a) Disassemble pump, inspect (bowls, tubes, shaft, column casing) and document.

3. Materials
    a) 2-Wire brush
    b) 1- Lot; Miscellaneous Shop Supplies

B. Well M-11

In preparing for the repair of Well M-11 the following determinations have been identified:

1. The equipment consist of an American Turbine 12-L-55 8 stage bowl assembly (9.84"impeller diameter) 40' of 8" suction pipe (20' perforated) with SS cone strainer, 500' of 8"X 3" X1-11/16" oil lube column assembly, fabricated steel discharge head 3' column, ¼ " poly airline, and a US 150HP 460V 1785RPM VHS motor.

2. The pump has been damaged beyond repair by abrasive material.

3. The tension tube nipple had to be cut to facilitate equipment removal and must be replaced.

4. The suction pipes along with 7 pieces of column assembly are worn and pitted.

5. The majority of well perforations from 396' to 741' appear open while becoming restricted to plugged form 741' – 980' (bottom).

The scope of work for the repair of Well M-11 is as follows:

1. Replace bowl assembly. Original system design condition is unknown; however, based on impeller diameter and number, 590 GPM @ 618' TDH is the best efficiency point.

2. Replace suction pipes, (1) 8' x 20' blank and (1) 8" x 20' perforated with stainless steel cone strainer or install new Lakos DHS Series Downhole Sand Separator, or approved equal.

3. Replace (7) 8" X 20' oil lube column pipes.

4. Replace (2) 3" X 1-11/16" X 20' tube and shaft assembly.

5. Clean and straighten remaining shafts, replace couplings.

6. Replace (9) 3" X 8" spiders.

7. Replace 3" X 43" tension tube nipple.

8. Replace ¼" poly airline with ¼" stainless steel airline.

9. Sandblast and point discharge head, replace tension nut bearing.

10. Replace 1-11/16" X 95" head shaft.

11. Send motor out to Brithinee Electric for rewind or to a City approved shop.

12. Provide well rehabilitation to consist of the following:
    a) Bail well to total depth. (Depth =1000')
    b) Perform 24 hours of wire brushing.
    c) Provide Sonar Jet cleaning.
    d) Perform 48 hours of dual swab airlifting.
    e) Provide post rehabilitation video log.

13. Install pump equipment, adjust, startup and test run.

14. Provide as-built documentation for future reference.

C. C2 Booster Pump #2

The scope of work for C2 Booster Pump #2 includes pulling the pump; transportation to contractor shop; disassemble and inspection, furnish new bowl, column and shaft assembly and seal; transportation of motor to Brithinee Electric (or a City approved shop) for reconditioning; pick-up, clean and assemble; install, startup and test run.

1. Field Labor
    a) Travel to and from jobsite; pull pump and transport to shop.
    b) Travel to and from jobsite; install pump, adjust, startup and test run.

2. Shop Labor
    a) Disassemble pump, inspect (bowls, column, tubes, shaft) and document.
    b) Sandblast and paint discharge head and seal box.
    b) Test motor windings; replace bearings, balance, clean, dip and bake.
    c) Trim impellers, press in bearings; clean, assemble, prep and load out for installation.

3. Materials
    a) 1-Goulds 12CHC-4 Stage Turbine Bowl Assembly (Pump rate for 150 GMP @ 225" TDH; pump to be equipped with SS Impellers and Hardware)
    b) 1-8" X1-1/2" W/L Column Assembly.
    c) 1-SS Basket Strainer.
    d) 1- 1½" Mechanical Seal.
    e) 1- 1 ½" 416SS Intermediate Shaft with 304SS Coupling.
    f) 1-Rebuild Seal Box.
    g) 1- 1 ½" 416SS Head Shaft with Adjusting Nut and Gib Key.
    h) 1- Set; Base Bolts.
    i) 1- Base Gasket.
    j) 1- Set; Motor Bearings.
    k) 1- Lot; Flange Gasket and Miscellaneous Hardware.

l) 1- Lot, Miscellaneous Shop Supplies
m) Incoming Freight

4.2 Time of Completion

As set forth in the contract agreement, the Contractor shall begin work on the date as per NOTICE TO PROCEED and shall diligently prosecute the same to completion by **Thirty (30)** working days after date in said notice.

4.3 Payment

The Contractor shall include in his lump sum bid all costs for the above requirements. Full compensation for the repairs to Wells 11, 12, M-11 shall be considered as included in the Bid Item Nos. 1-4 and no additional allowance will be made.

ATTACHMENT 3

**(Hidden Valley Pump Systems, Inc.
Letter Requesting Bid Rejection)**

HIDDEN VALLEY
PUMP SYSTEMS INC

March 29, 2016

City of Banning,
P O Box 998
Banning, CA 92220

Attention: Perry Gerdes

Re: Project No. 2016-01W
"Repairs To Wells and Booster Pump"

Due to an accounting error re the above referenced bid, we would request that our bid be rejected.

Thank you for the opportunity to quote and look forward to bidding on future projects.

Sincerely,

Hidden Valley Pump Systems Inc.

Darryl Closter
Sales Engineer

DC/s

ATTACHMENT 4

(Tri County Pump Company Fee Schedule)

BID SCHEDULE

PROJECT NO. 2016-01W "REPAIRS TO WELLS AND BOOSTER PUMP"

ITEM NO.	DESCRIPTION OF ITEM	TOTAL
1.	WELL 11	33,000.00
2.	WELL 12	33,000.00
3.	WELL M-11	88,000.00
4.	C2 BOOSTER PUMP #2	21,000.00

TOTAL BID AMOUNT IN FIGURES: $ 175,000.00

(Bid Item No.'s 1 through 4)

TOTAL BID AMOUNT IN WORDS: One hundred seventy-five thousand

(Bid Item No.'s 1 through 4)

Note: Upon award of Contract, the contractor will be required to provide the city with a further breakdown of the cost to perform the work.

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CITY OF BANNING
BANNING UTILITY AUTHORITY REPORT

TO: BANNING UTILITY AUTHORITY

FROM: Michael Rock, City Manager

PREPARED BY: Michael Rock, City Manager
Sonja De La Fuente, Executive Assistant/Deputy City Clerk

MEETING DATE: April 12, 2016

SUBJECT: Reconsider Resolution No. 2016-03 UA Awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services

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RECOMMENDATION:

The Banning Utility Authority reconsider Resolution No. 2016-03 UA awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services at this meeting or a future meeting.

JUSTIFICATION:

According to the Manual of Procedural Guidelines for the Conduct of the City Council and Constituent Body/Commission Meeting for the City of Banning, specifically Article XI – Parliamentary Procedures, Section 11.4 Reconsider, a written request was submitted to the City Clerk by a member of the Legislative Body who voted with the majority to reconsider the approval of Resolution No. 2016-03 UA within sixty (60) calendar days of approval.

BACKGROUND:

On March 22, 2016, the Banning Utility Authority approved Resolution No. 2016-03 UA with a majority vote of 4-0, awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services in the amount of $110,000.00; authorized the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to the agreement; and authorized the City Manager to execute the agreement.

On April 3, 2016, the City Clerk received a written request from Board Member Peterson, who voted with the majority, to reconsider this action in accordance with the Manual of Procedural Guidelines for the Conduct of the City Council and Constituent Body/Commission Meeting for the City of Banning, specifically Article XI – Parliamentary Procedures, Section 11.4 Reconsider.

FISCAL IMPACT:

None

OPTIONS:

1. Reconsider Resolution No. 2016-03 UA at this Regular Meeting.
2. Reconsider Resolution No. 2016-03 UA at a future Regular Meeting.

ATTACHMENTS:

1. Email from Councilmember Peterson to the City Clerk
2. Section 11.4 Reconsider from Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings for the City of Banning
3. Staff Report and Attachments from March 22, 2016, Regular Meeting
4. Fee Proposal from Stoel Rives, LLP

Approved by:

Michael Rock
City Manager

Prepared by:

Sonja De La Fuente
Executive Assistant/Deputy City Clerk

ATTACHMENT 1

Marie Calderon

From: don@donpeterson.org
Sent: Sunday, April 03, 2016 10:29 PM
To: Marie Calderon; Marie Calderon
Subject: Motion to reconsider

Good Morning Marie,

Regarding: the Manual of Procedural Guidelines for the Conduct of the City Council and Constituent Body/Commission Meeting for The City of Banning, specifically Article XI – Parliamentary Procedures, Section 11.4 Reconsider.

I am requesting that Resolution No. 2016-03 UA, "Awarding a Professional Services Agreement to Stoel Rives, LLP, Attorneys at Law for Legal Counsel Services', be agendized for the next scheduled City Council Meeting for consideration, and ultimately reconsideration.

If you have any questions, please give me a call.

Thank you,

Don Peterson, Councilman
City of Banning, CA

ATTACHMENT 2

(iii) Bonds and Certificates of Participation - Authorizing these financial instruments the issuing requires a two-thirds vote of the total Council.

(iv) Eminent Domain - The exercise of Eminent Domain requires a two-thirds vote of the total Council.

(v) Certain Parliamentary Motions – Motions requiring a supermajority vote are noted in the Motions Chart attached hereto.

(c) Any official with a conflict of interest is not counted for purposes of establishing a quorum, and must not vote on, make, participate in any way in, or attempt to influence the decision. A Legislative Body member abstaining on any other grounds than a conflict under the Political Reform Act shall be counted as present for purposes of a quorum and such abstentions are counted with the majority. The Legislative Body member who leaves the dais solely to avoid participating in a specific item shall, in absence of a conflict, be counted as if they were present but abstaining and such abstentions are also counted with the majority.

11.4 Reconsider

Any Legislative Body member who voted with the majority may move to reconsider any action at the same meeting or, within sixty (60) calendar days, request in writing to the Clerk/Secretary that it be agendized for consideration at the following meeting, provided that reconsideration shall not be permitted where a party other than the City has acted in reliance on the Legislative Body's action and would be substantially prejudiced by such reconsideration. The Clerk shall apprise the City Attorney of any facts constituting substantial prejudice and may rely upon the determination of the City Attorney. In the event that the subject of the reconsideration is a motion that failed as the result of a tie vote, any Legislative Body member who voted against the earlier motion may move for reconsideration at the following meeting. The member seeking reconsideration must have the matter agendized unless the motion will be made at the same meeting where the original action was taken. If the motion to reconsider passes, then the original item may be reconsidered at that time or agendized for the next meeting which meets any applicable noticing requirements. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the Legislative Body.

11.5 Tie Votes

Tie Votes shall be lost motions unless an additional Motion is made which obtains a majority vote to break the tie. When all Legislative Body members are present, a tie vote on whether to grant an appeal from official action shall be considered a denial of such appeal. In such case the findings in support of the decision shall be those of the lower body. If a tie vote results at a time when less than all members of the Legislative Body are present, the matter shall automatically be continued to the agenda of the next regular meeting of the Legislative Body, unless otherwise ordered by the Legislative Body.

ATTACHMENT 3

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

STOEL RIVES LLP
ATTORNEYS AT LAW

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Sacramento, CA 95814
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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.

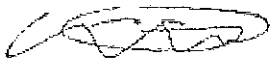
Specific to the City's water needs, and as a reminder, I led the litigation and development of the favorable settlement on behalf of the City in the *Mascaro* lawsuit, in which the Mascaros sought to establish a riparian water right to flume water. I also was instrumental in drafting the Operating and 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

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.*

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.

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.

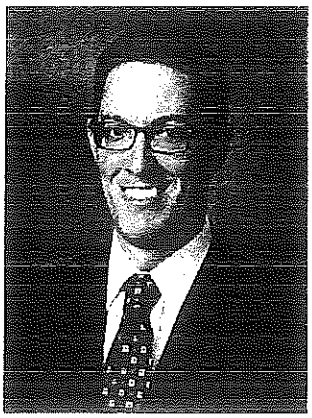
Specifically as to the flume, the FERC DRD process has been the means toward that end, though the outcome remains uncertain. Also uncertain (at least as of now, having not been with the City for the past 10 months) is whether that process appears more likely than not to bear a successful outcome for 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

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.



Associate
(415) 500-6556 direct
(415) 617-8907 fax
juliet.cho@stoel.com

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

- 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

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).

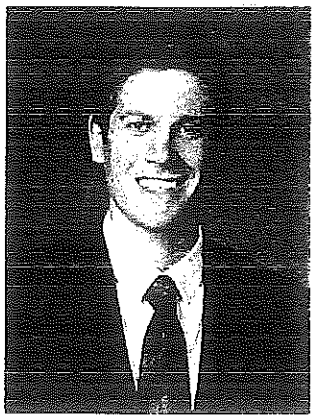
Representative Work

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.



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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



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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

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)



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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
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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.

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

Education

- MTI College, Paralegal Studies, 2007
- University of California, Davis, B.A., Sociology, 2002

Lesley D. Berger



Transactional Specialist
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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

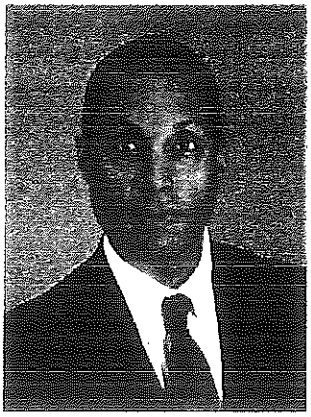
- Presenter/Panelist, "The Commercial Real Estate Transaction, Practical Management," National Federation of Paralegal Associations Annual Conference, June 1986

- 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



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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

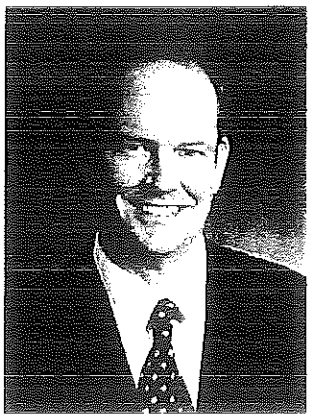
Experience

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.



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Education

- University of California, Davis, School of Law, J.D., 1998
- University of Texas, Austin, B.B.A., 1982

Admissions

- California

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

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.



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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.minerallawblog.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

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.



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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

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



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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



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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

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

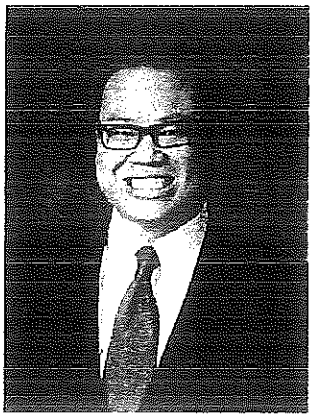
Experience

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.*



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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

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



Associate
Sacramento, CA
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connor.olson@stoel.com

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

ATTACHMENT 4

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 Miliband 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. Milliband, 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.

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